January 4, 2017

Dear Applicant:

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act FLR/64/2017

On December 4, 2017, the Department of Fisheries and Land Resources (FLR) received your request for access to the following records:

"I am requesting any and all correspondence, including emails, reports and more, relating to the ongoing audit and investigation of anomalies in controls at the department. This request stems from an announcement in April that the auditor general was being asked to carry out an audit of policies and procedures, and that the RCMP is also being asked to investigate. The specific branch of the department related to my request is Forestry and Wildlife. I am requesting any key correspondence to or from the minister, deputy minister or assistant deputy minister relating to the ongoing audit and investigation of anomalies in controls at the department. Timeframe? 2017."

Please be advised that a decision has been made by the Deputy Minister of FLR that access to these records has been refused in accordance with the following exceptions to disclosure, as specified in the Access to Information and Protection of Privacy Act (the Act):

Section 31(1) The head of a public body may refuse to disclose information to an applicant where the disclosure could reasonably be expected to
(a) Interfere with or harm a law enforcement matter
Section 33(2) The head of a public body shall refuse to disclose to an applicant all relevant information created or gathered for the purpose of a workplace investigation

Please be advised that you may appeal this decision and ask the Information and Privacy Commissioner to review the decision to deny access to the requested information, as set out in section 42 of the Act (a copy of this section of the Act has been enclosed for your reference). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner. Your appeal should identify your concerns with the request and why you are submitting the appeal.

The appeal may be addressed to the Information and Privacy Commissioner as follows:
Office of the Information and Privacy Commissioner
2 Canada Drive
P.O. Box 13004, Stn. A
St. John’s, NL. A1B 3V8

Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act (a copy of this section of the Act has been enclosed for your reference).

Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Office of Public Engagement's website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please contact me by telephone at 709-729-3730 or by email at hollyphilpott@gov.nl.ca

Sincerely,

Holly Philpott
ATIPP Coordinator

Enclosures;

**Access or correction complaint**

42. (1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.

(2) A complaint under subsection (1) shall be filed in writing not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).
(3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.

(4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.

(5) The commissioner may allow a longer time period for the filing of a complaint under this section.

(6) A person or third party who has appealed directly to the Trial Division under subsection 52 (1) or 53 (1) shall not file a complaint with the commissioner.

(7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.

(8) A complaint shall not be filed under this section with respect to
   (a) a request that is disregarded under section 21;
   (b) a decision respecting an extension of time under section 23;
   (c) a variation of a procedure under section 24; or
   (d) an estimate of costs or a decision not to waive a cost under section 26.

(9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.

Direct appeal to Trial Division by an applicant

52. (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.

(2) An appeal shall be commenced under subsection (1) not later than 15 business days
   (a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or
   (b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.
(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner’s refusal under subsection 45 (2).

Disclosure harmful to law enforcement

31. (1) The head of a public body may refuse to disclose information to an applicant where the disclosure could reasonably be expected to

(a) interfere with or harm a law enforcement matter;

(b) prejudice the defence of Canada or of a foreign state allied to or associated with Canada or harm the detection, prevention or suppression of espionage, sabotage or terrorism;

(c) reveal investigative techniques and procedures currently used, or likely to be used, in law enforcement;

(d) reveal the identity of a confidential source of law enforcement information or reveal information provided by that source with respect to a law enforcement matter;

(e) reveal law enforcement intelligence information;

(f) endanger the life or physical safety of a law enforcement officer or another person;

(g) reveal information relating to or used in the exercise of prosecutorial discretion;

(h) deprive a person of the right to a fair trial or impartial adjudication;

(i) reveal a record that has been confiscated from a person by a peace officer in accordance with an Act or regulation;

(j) facilitate the escape from custody of a person who is under lawful detention;

(k) facilitate the commission or tend to impede the detection of an offence under an Act or regulation of the province or Canada;

(l) reveal the arrangements for the security of property or a system, including a building, a vehicle, a computer system or a communications system;

(m) reveal technical information about weapons used or that may be used in law enforcement;

(n) adversely affect the detection, investigation, prevention or prosecution of an offence or the security of a centre of lawful detention;

(o) reveal information in a correctional record supplied, implicitly or explicitly, in confidence; or

(p) harm the conduct of existing or imminent legal proceedings.
(2) The head of a public body may refuse to disclose information to an applicant if the information

(a) is in a law enforcement record and the disclosure would be an offence under an Act of Parliament;

(b) is in a law enforcement record and the disclosure could reasonably be expected to expose to civil liability the author of the record or a person who has been quoted or paraphrased in the record; or

(c) is about the history, supervision or release of a person who is in custody or under supervision and the disclosure could reasonably be expected to harm the proper custody or supervision of that person.

(3) The head of a public body shall not refuse to disclose under this section

(a) a report prepared in the course of routine inspections by an agency that is authorized to enforce compliance with an Act; or

(b) a report, including statistical analysis, on the degree of success achieved in a law enforcement program unless disclosure of the report could reasonably be expected to interfere with or harm the matters referred to in subsection (1) or (2); or

(c) statistical information on decisions to approve or not to approve prosecutions.