March 27, 2018

Dear Applicant:

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act FLR/23/2018

On February 26, 2018, the Department of Fisheries and Land Resources (FLR) received your request for access to the following records:

“I want a copy of the audio & visual footage of my visit to Crown Lands front desk at Howley Building St. Johns date August 28, 2017 between 11am and 2pm on that day. I was told my crown lands application approval letter could not be done up because an employee never had access to a computer while I wait. The other employee said he would mail it out in 2 or 3 days and now 6 months have passed and I still don’t have my approval letter my CL application 151233.

I would like a copy of the appeals process for decisions made by Agriculture for Land approved in principle by SNL because it is not under any municipality. I would also like a copy of the third party independent soil sample testing that was done for my site CL by Agriculture after the decision of was made Jan. 2018.”

Please be advised that the Deputy Minister for FLR has reviewed this request and the department has no records responsive to your request.

There is no surveillance system in the front area of the Howley Building, this includes video footage and/or audio footage. Application has been refused as the land was determined to be unsuitable for the proposed use therefore no approval letter exists. There is no appeals process for refused Crown Lands applications except where applications are within a legislated Agricultural Development Area as per Section 7 of the St. John’s Urban Region Agriculture Development Area Regulations under the Lands Act (O.C. 96-249), and specifically refused by the associated Land Development Advisory Authority. This is not the case for application as it is outside a legislated Agriculture Development Area. Crown Lands does not have access to any third party independent soil samples. The Agriculture and Lands Branch soils staff have extensive expertise in evaluating and assessing land suitability for various agricultural practices. Any “third party soil sampling” would be the responsibility of the applicant and they would assume all costs. The Department has not been informed of any “third party” sampling being conducted on this site.
Please be advised that you may appeal this decision and ask the Information and Privacy Commissioner to review the decision to provide partial 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 this letter 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

Right of access

8. (1) A person who makes a request under section 11 has a right of access to a record in the custody or under the control of a public body, including a record containing personal information about the applicant.
(2) The right of access to a record does not extend to information excepted from disclosure under this Act, but if it is reasonable to sever that information from the record, an applicant has a right of access to the remainder of the record.

(3) The right of access to a record may be subject to the payment, under section 25, of the costs of reproduction, shipping and locating a record.

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 personal privacy**

40. (1) The head of a public body shall refuse to disclose personal information to an applicant where the disclosure would be an unreasonable invasion of a third party’s personal privacy