COR/2018/05220

December 11, 2018

Dear Applicant:

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act [Our File #: TW/090/2018]

On November 20, 2018, the Department of Transportation and Works received your request for access to the following records:

Any and all communications or information concerning the land owned by the provincial government located on Snows Lane, St. John’s. This includes, but is not limited to, any meetings, emails, directions, meetings scheduled in calendars, etc. since September 2017.

Note: Scope narrowed to exclude records used to create a cabinet paper, and anything pertaining to a survey of the land. Would like all records pertaining to the appraisal or any discussion to transfer or sell the land.

I am pleased to inform you that a decision has been made by the Deputy Minister for Transportation and Works to provide access to some of the requested information. Access to the remaining records, and/or information contained within the 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):

Subsection 35(1)(b) - The head of a public body may refuse to disclose to an applicant information which could reasonably be expected to disclose financial, commercial, scientific or technical information that belongs to a public body or to the government of the province and that has, or is reasonably likely to have, monetary value;

Subsection 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.

As required by 8(2) of the Act, we have severed information that is unable to be disclosed and have provided you with as much information as possible. In accordance with your request for a copy of the records, the appropriate copies have been enclosed.

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 is 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 Completed Access to Information Requests 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 709-729-5351 or by email at ATTW@gov.nl.ca.

Sincerely,

Angela McIntyre  
ATIPP Coordinator
Disclosure harmful to the financial or economic interests of a public body

35. (1) The head of a public body may refuse to disclose to an applicant information which could reasonably be expected to disclose

(a) trade secrets of a public body or the government of the province;

(b) financial, commercial, scientific or technical information that belongs to a public body or to the government of the province and that has, or is reasonably likely to have, monetary value;

(c) plans that relate to the management of personnel of or the administration of a public body and that have not yet been implemented or made public;

(d) information, the disclosure of which could reasonably be expected to result in the premature disclosure of a proposal or project or in significant loss or gain to a third party;

(e) scientific or technical information obtained through research by an employee of a public body, the disclosure of which could reasonably be expected to deprive the employee of priority of publication;

(f) positions, plans, procedures, criteria or instructions developed for the purpose of contractual or other negotiations by or on behalf of the government of the province or a public body, or considerations which relate to those negotiations;

(g) information, the disclosure of which could reasonably be expected to prejudice the financial or economic interest of the government of the province or a public body; or

(h) information, the disclosure of which could reasonably be expected to be injurious to the ability of the government of the province to manage the economy of the province.

(2) The head of a public body shall not refuse to disclose under subsection (1) the results of product or environmental testing carried out by or for that public body, unless the testing was done

(a) for a fee as a service to a person or a group of persons other than the public body; or

(b) for the purpose of developing methods of testing.
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.

(2) A disclosure of personal information is not an unreasonable invasion of a third party’s personal privacy where

(a) the applicant is the individual to whom the information relates;

(b) the third party to whom the information relates has, in writing, consented to or requested the disclosure;

(c) there are compelling circumstances affecting a person’s health or safety and notice of disclosure is given in the form appropriate in the circumstances to the third party to whom the information relates;

(d) an Act or regulation of the province or of Canada authorizes the disclosure;

(e) the disclosure is for a research or statistical purpose and is in accordance with section 70;

(f) the information is about a third party’s position, functions or remuneration as an officer, employee or member of a public body or as a member of a minister’s staff;

(g) the disclosure reveals financial and other details of a contract to supply goods or services to a public body;

(h) the disclosure reveals the opinions or views of a third party given in the course of performing services for a public body, except where they are given in respect of another individual;

(i) public access to the information is provided under the Financial Administration Act;

(j) the information is about expenses incurred by a third party while travelling at the expense of a public body;

(k) the disclosure reveals details of a licence, permit or a similar discretionary benefit granted to a third party by a public body, not including personal information supplied in support of the application for the benefit;

(l) the disclosure reveals details of a discretionary benefit of a financial nature granted to a third party by a public body, not including
(i) personal information that is supplied in support of the application for the benefit, or

(ii) personal information that relates to eligibility for income and employment support under the Income and Employment Support Act or to the determination of income or employment support levels; or

(m) the disclosure is not contrary to the public interest as described in subsection (3) and reveals only the following personal information about a third party:

(i) attendance at or participation in a public event or activity related to a public body, including a graduation ceremony, sporting event, cultural program or club, or field trip, or

(ii) receipt of an honour or award granted by or through a public body.

(3) The disclosure of personal information under paragraph (2)(m) is an unreasonable invasion of personal privacy where the third party whom the information is about has requested that the information not be disclosed.

(4) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy where

(a) the personal information relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation;

(b) the personal information is an identifiable part of a law enforcement record, except to the extent that the disclosure is necessary to dispose of the law enforcement matter or to continue an investigation;

(c) the personal information relates to employment or educational history;

(d) the personal information was collected on a tax return or gathered for the purpose of collecting a tax;

(e) the personal information consists of an individual's bank account information or credit card information;

(f) the personal information consists of personal recommendations or evaluations, character references or personnel evaluations;

(g) the personal information consists of the third party's name where

(i) it appears with other personal information about the third party, or
(ii) the disclosure of the name itself would reveal personal information about the third party; or

(h) the personal information indicates the third party's racial or ethnic origin or religious or political beliefs or associations.

(5) In determining under subsections (1) and (4) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the head of a public body shall consider all the relevant circumstances, including whether

(a) the disclosure is desirable for the purpose of subjecting the activities of the province or a public body to public scrutiny;

(b) the disclosure is likely to promote public health and safety or the protection of the environment;

(c) the personal information is relevant to a fair determination of the applicant's rights;

(d) the disclosure will assist in researching or validating the claims, disputes or grievances of aboriginal people;

(e) the third party will be exposed unfairly to financial or other harm;

(f) the personal information has been supplied in confidence;

(g) the personal information is likely to be inaccurate or unreliable;

(h) the disclosure may unfairly damage the reputation of a person referred to in the record requested by the applicant;

(i) the personal information was originally provided to the applicant; and

(j) the information is about a deceased person and, if so, whether the length of time the person has been deceased indicates the disclosure is not an unreasonable invasion of the deceased person's personal privacy.
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
November 23, 2017

Via Courier

 Honourable Steve Crocker  
 Minister of Transportation and Works  
 Minister’s Office  
 Department of Transportation & Works  
 5th Floor, West Block, Confederation Building  
 PO Box 8700  
 St. John’s, NL A1B 4J4

Dear Minister:

We are the lawyers for 80521 Newfoundland and Labrador Limited. Our clients are interested in discussing the purchase from the Crown of the land described in the attached Schedule “A”.

We look forward to discussing this with you or someone from your Department.

Thank you.

GOODLAND BUCKINGHAM

[Redacted]

Encl.
Potential copyright material

If you wish to obtain a copy please contact the ATIPP Office at (709) 729-7072 or atippoffice@gov.nl.ca.
Hello Mike

Hope things are well for you. I am inquiring about a piece of land that is near the city limits between Snows Lane, Logy Bay Road and the Outer Ring Road. I have a document that shows it was acquired by the province in 1982 which is attached below. I am wondering if the province still owns this piece of land and if so what the plans might be for that land. I am working for someone who would be interested in having a discussion about purchasing some or all of it. Any help you can provide is appreciated.

regards

--

JON E WILLIAMS SURVEYS LIMITED
Potential copyright material

If you wish to obtain a copy please contact the ATIPP Office at (709) 729-7072 or atippoffice@gov.nl.ca.
From: Nolan, Mike
Sent: Wednesday, January 24, 2018 4:17 PM
To: [redacted]
Subject: RE: Outer Ring Road-Snows Lane-Logy Bay Road (+/- 26 acres)

Hello, I’ll let you know what the plan is, likely public tender.

Mike

From: [redacted]
Sent: Wednesday, January 24, 2018 3:39 PM
To: Nolan, Mike
Subject: Re: Outer Ring Road-Snows Lane-Logy Bay Road (+/- 26 acres)

Hello again
OK this is good news. I am interested to know what it is appraised for and how one could go about buying or bidding on this piece of land.
and thanks again for the quick reply

On Wed, Jan 24, 2018 at 2:38 PM, Nolan, Mike <MNolan@gov.nl.ca> wrote:
Hello yes it’s TW owned land, and there are plans to put that land on the market soon as far as I know. I’m looking into getting it appraised next week.

Mike

From: [redacted]
Sent: Wednesday, January 24, 2018 9:55 AM
To: Nolan, Mike
Subject: Outer Ring Road-Snows Lane-Logy Bay Road (+/- 26 acres)

Hello Mike
Hope things are well for you. I am inquiring about a piece of land that is near the city limits between Snows Lane, Logy Bay Road and the Outer Ring Road. I have a document that shows it was acquired by the province in 1982 which is attached below. I am wondering if the province still owns this piece of land and if so what the plans might be for that land. I am working for someone who would be interested in having a discussion about purchasing some or all of it. Any help you can provide is appreciated.

regards

--

JON E WILLIAMS SURVEYS LIMITED

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From: Nolan, Mike
Sent: Friday, March 16, 2018 12:36 PM
To: [Redacted]
Subject: RE: Outer Ring Road-Snows Lane-Logy Bay Road (+/- 26 acres)

We have no appraisal yet, if its public tender we won’t bother with an appraisal.

Should make for an interesting AGM, yes I agree it should have been a call for proposals by the association, not sole source with IBL.

From: [Redacted]
Sent: Friday, March 16, 2018 12:31 PM
To: Nolan, Mike
Subject: Re: Outer Ring Road-Snows Lane-Logy Bay Road (+/- 26 acres)

I am being asked about the appraised value if your able to release that info.

My issue has been more about what happens in the future if we make something out of this IBL starts making some money. Furthermore if am forced to pay anything because of the ANLS I would like the money to go directly to the ANLS and not some third party private business started by another surveyor.

On Fri, Mar 16, 2018 at 12:17 PM, Nolan, Mike <MNolan@gov.nl.ca> wrote:
My issue with it is that the membership was not told that IBL is effectively insolvent before it was voted on, as it has no revenue stream other than forced subscription rates paid by the members. [Redacted] admitted as much in the email sent out when [Redacted] was complaining, my understanding is the subscription rate would have to be over 2G for each member for IBL to break even, and that is where it is headed now that we have voted it in.

From: [Redacted]
Sent: Friday, March 16, 2018 12:12 PM
To: Nolan, Mike
Subject: Re: Outer Ring Road-Snows Lane-Logy Bay Road (+/- 26 acres)

Indeed i did. two in fact. I am going to try a get the by-law changed. Unfortunately I missed the 30 day window [Redacted] said over 50% got the letters. I am wondering what the best way to handle this is. I do want to speak about it at the AGM.

On Fri, Mar 16, 2018 at 12:00 PM, Nolan, Mike <MNolan@gov.nl.ca> wrote:
Hello [Redacted] looks as if it will be out on either public tender or list with a real estate agent, in the coming weeks..

Did you get a letter from council on the land gazette like I received?

From: [Redacted]
Sent: Friday, March 16, 2018 9:16 AM
To: Nolan, Mike
Subject: Re: Outer Ring Road-Snows Lane-Logy Bay Road (+/- 26 acres)

Hello
Mike not to bother but wondering if anything was happening with this property.
thanks
On Wed, Feb 7, 2018 at 10:46 AM, Nolan, Mike <MNolan@gov.nl.ca> wrote:
Hello not yet, we are working through some easements that need to go on the land first, will advise when we have it ready.

Thanks

From: ___________________________
Sent: Wednesday, February 07, 2018 9:30 AM
To: Nolan, Mike
Subject: Re: Outer Ring Road-Snows Lane-Logy Bay Road (+/- 26 acres)

Hello Mike
Just wondering if the land went out to be appraised after last week.

On Wed, Jan 24, 2018 at 10:08 AM, Nolan, Mike <MNolan@gov.nl.ca> wrote:
Hello yes its TW owned land, and there are plans to put that land on the market soon as far as I know. I'm looking into getting it appraised next week.

Mike

From: ___________________________
Sent: Wednesday, January 24, 2018 9:55 AM
To: Nolan, Mike
Subject: Outer Ring Road-Snows Lane-Logy Bay Road (+/- 26 acres)

Hello Mike
Hope things are well for you. I am inquiring about a piece of land that is near the city limits between Snows Lane, Logy Bay Road and the Outer Ring Road. I have a document that shows it was acquired by the province in 1982 which is attached below. I am wondering if the province still owns this piece of land and if so what the plans might be for that land. I am working for someone who would be interested in having a discussion about purchasing some or all of it. Any help you can provide is appreciated.

regards

[...]

--
JON E WILLIAMS SURVEYS LIMITED

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Hello [Redacted] yes no problem,
Mike

From: [Redacted]
Sent: Tuesday, June 12, 2018 2:36 PM
To: Nolan, Mike <MNolan@gov.nl.ca>
Cc: [Redacted]
Subject: Land Snow’s Lane area

Mike:

Further to our conversation this morning regarding the land in the Snow’s Lane vicinity, would it be possible for you to notify me when that land is going to tender for disposal.

Thanks.
From: Bursey, Robyn
Sent: Wednesday, August 22, 2018 9:15 AM
To: English, Tracy
Subject: Snow's Lane Appraisal Information
Attachments: Altus Group appraisal - Land on Outer Ring Rd at Logy Bay Road (June 2018).pdf

The attached report was completed by Altus Group. In the report, it indicated that there is no access to the land. The parcel is landlocked.

Thanks

Robyn

Director of Planning, Accommodations and Realty Services
(709) 729-4422

From: [redacted]
Sent: Tuesday, June 05, 2018 10:50 AM
To: Bursey, Robyn
Subject: RE: Quote on an appraisal

Hi again Robyn.

Please find attached my appraisal report on the Outer Ring Road – Logy Bay Road land parcel.

If you have any questions, please call.

Please can you confirm receipt of this e-mail and attachment.

Kind regards,

Altus Expert Services, Altus Group
www.altusgroup.com

186 Duckworth Street, Suite 300
St. John’s, NL A1C 1G5

Altus Group is a leading provider of commercial real estate advisory services, software and data solutions.

From: Bursey, Robyn [mailto:rbursey@gov.nl.ca]
Sent: Monday, June 04, 2018 3:54 PM
To: [redacted]
Subject: RE: Quote on an appraisal

Hi [redacted]
Thank you very much.

Robyn

Director of Planning, Accommodations and Realty Services
(709) 729-4422

From: [Redacted]
Sent: Monday, June 04, 2018 3:22 PM
To: Bursey, Robyn
Subject: RE: Quote on an appraisal

Hi Robyn.

The appraisal will be ready for you tomorrow morning. My value is [Redacted].

Just for your information, I didn’t check the contract due date when you called last week, but I was thinking over the weekend I thought I had my schedule timed correctly. The actual agreed due date was 3 to 4 weeks from the date instructions to proceed were provided, and Mike instructed me on the 7th May. So this week up until Thursday was the agreed time period. Anyway, I worked the weekend to polish it off so you could have the report by Tuesday, not a problem.

Kind regards,

[Redacted]

Altus Expert Services, Altus Group
www.altusgroup.com
186 Duckworth Street, Suite 300
St. John’s, NL A1C 1G5

Altus Group is a leading provider of commercial real estate advisory services, software and data solutions.

From: Bursey, Robyn [mailto:rbursey@gov.nl.ca]
Sent: Thursday, May 31, 2018 9:20 AM
To: [Redacted]
Subject: Re: Quote on an appraisal

Thanks

Sent from my iPhone

On May 31, 2018, at 8:41 AM, [Redacted] wrote:

I know and apologise for that. I got caught up in a complicated hearing that I couldn’t escape from.
Altus Expert Services, Altus Group
www.altusgroup.com

| T: 709.726.4059 | F: 709.726.9217 |
186 Duckworth Street, Suite 300
St. John’s, NL A1C 1G5

Altus Group is a leading provider of commercial real estate advisory services, software and data solutions.

From: Bursey, Robyn [mailto:rbursey@gov.nl.ca]
Sent: Thursday, May 31, 2018 8:37 AM
To: [redacted]
Subject: RE: Quote on an appraisal

Hi [redacted],

Just wondering why is there a delay? The delivery time in the proposal said 3-4 weeks.

Thanks

Robyn

Director of Planning, Accommodations and Realty Services
(709) 729-4422

From: [redacted]
Sent: Thursday, May 31, 2018 8:07 AM
To: Bursey, Robyn
Subject: RE: Quote on an appraisal

Hi Robyn,

I’m expecting the appraisal to be completed by Wednesday or Thursday next week.

Kind regards,

[redacted]
Subject: RE: Quote on an appraisal

Hi [Name]

Wondering when we can expect the appraisal for Snow’s Lane?

Thanks

Robyn Bursey
Director of Planning, Accommodations and Realty Services
(709) 729-4422

From: [Name]
Sent: Sunday, April 29, 2018 3:18 PM
To: Nolan, Mike
Cc: Bursey, Robyn; Petten, Rhonda
Subject: RE: Quote on an appraisal

Hi Mike.

Thank you for requesting Altus Group to prepare a quote for undertaking this work. You have indicated that the land is landlocked. This factor will require us to carry out a fair deal of investigation in terms of determining how access could be gained, who are the adjacent owners, what arrangements might be made with the Town of Logy Bay/Middle / Outer Cove, how the land might be serviced from the St. John’s side, determining highest and best use, etc.

Here’s our proposal:

Property to be appraised
33.3 ac north of the TCH (Outer Ring Road) west of Logy Bay Road

Effective date
Date of inspection

Purpose of appraisal
To determine market value for pending land disposition by the Provincial Government

Title
Fee simple

Report requirement
Full narrative report to be provided in PDF format. If hard copies are required, there will be an additional cost of $75 per report.

Unusual conditions regarding market value and disposition
None

Request for information
We would require:
  o Legal description and survey plan
  o Information regarding known neighbouring property ownership
  o Details of any inquiries you may have had regarding purchasing the property

Fee
$4,400 + HST

Delivery time
Between 3 and 4 weeks from receiving instructions to proceed

Invoicing & Payment
Invoice will be delivered on completion of the report and payment within 30 days.

Kind regards,

Altus Expert Services, Altus Group
www.altusgroup.com
186 Duckworth Street, Suite 300
St. John’s, NL A1C 1G5

Altus Group is a leading provider of commercial real estate advisory services, software and data solutions.

From: Nolan, Mike [mailto:MNolan@gov.nl.ca]
Sent: Thursday, April 26, 2018 2:39 PM
To: [Redacted]
Cc: Bursey, Robyn; Petten, Rhonda
Subject: Quote on an appraisal

Hi [Redacted]

TW requires a market value appraisal on the attached property, survey to follow. No known access, current zoning as is.

Please send along a quote
Thanks
Mike

Sent from my BlackBerry 10 smartphone on the Bell network.

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