COR/2019/00358

February 7, 2019

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/005/2019]

On January 10, 2019, the Department of Transportation and Works received your request for access to the following records:

> Any and all records related to Mr. John Allan or Mr. Glenn Barnes in the crown lands or realty division (Anyone below ADM level). This includes, but is not limited to, text messages, BBMs, hand written notes, emails, calendar requests, etc. The date range is December 1, 2015 to Present Day.

Note: With your approval, this request was amended to remove the portion on Crown Lands.

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 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 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
As per our conversation ... can you give me an update? [REDACTED] is anxious to close.

Thanks,
Margot

Good morning Margot
Please see attached letter, if you can follow up and see if closing can proceed
Thanks john

Sent from my BlackBerry - the most secure mobile device - via the Bell Network

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FYI
Sent: Monday, March 27, 2017 9:25 AM
To: MNolan@gov.nl.ca; Woodrow, Denise
Subject: Mill Building and adjoining lands at Come-by-Chance

Please see the attached letter.

Regards,

[Image of letterhead]

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March 27, 2017

Mr. Mike Nolan NLS
Transportation Planning Supervisor
Government of Newfoundland and Labrador
Department of Transportation and Works
Realty Services Division
P. O. Box 8700
St. John’s, NL A1B 4J6
MNolan@gov.nl.ca

Ms. Denise Woodrow
Government of Newfoundland and Labrador
Department of Justice and Public Safety
4th Floor, East Block
P. O. Box 8700
St. Johns’, NL A1B 4J6
denisewoodrow@gov.nl.ca

Dear Mike and Denise:

RE:  Mill Building and adjoining lands at Come-by-Chance

I represent RochLochston Realty Ltd. I write further to Mr. Nolan’s letter to my client dated October 7, 2015, a copy of which is attached for ease of reference.

Further to the subsequent discussions, my client accepts the offer to purchase the property for the sum of $81,585.00. Please provide a draft Deed of Conveyance for review so that we can proceed to close this transaction.

I look forward to hearing from you.

Yours truly,
RothLochston Realty Ltd.
179 McNamara Drive
Paradise, NL
A1L 0A7

Attention: [Redacted]

Dear Sir:

RE: Mill Building and adjoining lands at Come-by-Chance

This letter is further your request to acquire title to surplus Department owned property at Come-by-Chance known as the Mill Building. The Department holds title to 4.41 Hectares of land on which the building is located, as per the attached transfer document, and is prepared to transfer title to your company for the appraised land value of $81,585.00.

The property (land and building located on the property) is being offered on an as-is where-is basis. The building itself is in a dilapidated condition. It was built in late 1960's and has been leased up until 1988 for storage associated with the refinery and a local fish plant. The age of the building suggest it would have a number of know as well as suspected unknown hazardous materials such as asbestos in various forms, lead paints, PCB's, mold and chemicals from operational uses over the years both in and around the perimeter. Please note the Department has not undertaken a condition assessment on the building nor undertaken any environmental assessments on the property. No warranty is given, either expressed or implied as to the current status of the building.

Please advise if you are in agreement with these terms. A favorable reply of acceptance in writing will enable us to complete this transaction in the very near future. Should you require further information or clarification please contact the undersigned at your convenience directly at 729-3697

Yours truly,

[Signature]

Mike Nolan NLS
Transportation Planning Supervisor

cc. G. Gosse ADM (Trans)
D. Woodrow QC Solicitor

P.O. Box 8700, St. John's, NL, Canada A1B 4J8 telephone: 709.729-3690 fax: 709.729-0984
TRANSFER
ADMINISTRATION & CONTROL OF CROWN LAND TO THE HONOURABLE THE MINISTER OF TRANSPORTATION AND WORKS

Under the Provisions of subsection (2) of Section 54 of the Lands Act, Chapter 36 of the Statutes of Newfoundland and Labrador, 1991, as amended, Her Majesty the Queen in Right of Newfoundland and Labrador represented herein by the Honourable the Minister of Municipal and Intergovernmental Affairs for the Province of Newfoundland and Labrador (hereinafter called the "Minister") does hereby ORDER THAT the administration and control of land situate at Come By Chance, as more particularly described in the Schedule(s) annexed hereto, is hereby transferred to the Honourable the Minister of Transportation and Works.

IN WITNESS WHEREOF the Minister of Municipal and Intergovernmental Affairs for the Province of Newfoundland and Labrador has hereunto subscribed his or her hand and the Seal of the Department of Municipal and Intergovernmental Affairs has been hereunto affixed on the 8 day of December A.D. 2015.

SIGNED AND SEALED
by the Minister of Municipal and Intergovernmental Affairs and
the Seal of the Department of Municipal and Intergovernmental Affairs
was hereunto affixed in the presence of:

Witness

[Signature]

Minister of Municipal and Intergovernmental Affairs

A Commissioner for Oaths in and for the Province of Newfoundland and Labrador.
My commission expires on December 31, 2018.
SCHEDULE “A”

ALL THAT piece or parcel of land situate at Come By Chance, in the Electoral District of Bellevue, in the Province of Newfoundland and Labrador, abutted and bounded as follows, that is to say:

BEGINNING at a survey marker, the said marker having Grid Coordinates of North 5 297 299.394 metres and East 229 877.311 metres, as referenced to the meridian of fifty three (53) degrees west longitude of the Three Degree Modified Transverse Mercator Projection, Zone 1, NAD83 (1992 adjustment);

TENENCE running by Crown Land, south twenty two degrees fifty nine minutes thirty one seconds east (S 22° 59’ 31” E), a distance of two hundred and twelve decimal zero seven six (212.076) metres to a survey marker;

TENENCE running by Crown Land, south fifty nine degrees fifty nine minutes nine seconds west (S 59° 59’ 09” W), a distance of one hundred and one decimal six nine six (101.696) metres to a survey marker;

TENENCE running by land described in Crown Title No. 101263 issued to the Department of Environment and Conservation and by Crown Land, north zero degrees zero minutes zero seconds east (N 00° 00’ 00” E), a distance of thirty eight decimal two one five (38.215) metres to a survey marker;

TENENCE running by Crown Land and by the aforesaid land described in Crown Title No. 101263 issued to the Department of Environment and Conservation, north ninety degrees zero minutes zero seconds west (N 90° 00’ 00” W), a distance of two hundred and forty decimal six zero nine (240.609) metres to a survey marker;

TENENCE running along the southeasterly limit of an Access Road, twenty decimal zero (20.0) metres wide, north thirty one degrees eight minutes forty seconds east (N 31° 08’ 40” E), a distance of one hundred and thirty three decimal six one zero (133.610) metres to a survey marker;

TENENCE running along the aforesaid southeasterly limit of an Access Road, twenty decimal zero (20.0) metres wide, following in a clockwise direction the arc of a curve having a radius of ninety decimal zero (90.000) metres, for an arc distance of fifty six decimal three two nine (56.329) metres, to a survey marker, the said marker being chord distant fifty decimal four one four (55.414) metres as measured on a bearing of north forty nine degrees four minutes twenty nine seconds east (N 49° 04’ 29” E) from the previously described point;

TENENCE running along the southerly limit of the abovementioned Access Road, twenty decimal zero (20.0) metres wide, north sixty seven degrees zero minutes seventeen seconds east (N 67° 00’ 17” E), a distance of one hundred and forty six decimal five zero zero (146.500) metres, more or less, to the point of beginning and being more particularly shown and delineated on the attached plan;

CONTAINING an area of four decimal four one (4.41) Hectares, more or less;

ALL BEARINGS being referred to the meridian of fifty three (53) degrees west longitude of the Three Degree Modified Transverse Mercator Projection (NAD83).

Barrow & Hodder Surveys Ltd.

No. 148150

July 09, 2015
Potential copyright material

If you wish to obtain a copy please contact the ATIPP Office at (709) 729-7072 or atippoffice@gov.nl.ca.
No sorry Andrea. I never had an email for him. Just a cell number for his wife. However I have recently started a new notebook and the number is in my old book which is on my desk! Sorry! I can call John Allan in the morning and get an email address for you. Hope that’s not too late?
Margot

Sent from my BlackBerry 10 smartphone on the Bell network.

Do either of you have an email address for [redacted] of [redacted]?

Thanks,
Andrea
From: Nolan, Mike
Sent: Friday, June 9, 2017 8:06 AM
To: Pitcher, Margot; McKenna, Andrea
Subject: RE: Mill Building and adjoining lands at Come-by-Chance

I have the deed prepared, [redacted] is requesting to review. If we are proceeding with the sale then I can forward a draft deed along to [redacted] for his review.

From: Pitcher, Margot
Sent: Thursday, June 8, 2017 3:30 PM
To: McKenna, Andrea
Cc: Nolan, Mike
Subject: FW: Mill Building and adjoining lands at Come-by-Chance

Hi Andrea / Mike;

Looking for an update on this file for Rothlochston?

Thanks,
Margot

From: Pitcher, Margot
Sent: Wednesday, May 10, 2017 10:07 AM
To: Grandy, Cory <corygrandy@gov.nl.ca>
Cc: McKenna, Andrea <AndreaMcKenna@gov.nl.ca>; Nolan, Mike <MNolan@gov.nl.ca>
Subject: FW: Mill Building and adjoining lands at Come-by-Chance

Good morning:

Was just speaking with John Allen. He was wondering if there was any movement on this. I told him that [redacted] and that I would put the bug in your ear!

Thanks,
Margot

From: Pitcher, Margot
Sent: Thursday, May 4, 2017 4:05 PM
To: McKenna, Andrea <AndreaMcKenna@gov.nl.ca>
Cc: Nolan, Mike <MNolan@gov.nl.ca>
Subject: FW: Mill Building and adjoining lands at Come-by-Chance

Hi Andrea / Mike;

See below the email from John Allen that RochLochston wishes to proceed with the closing.

Thanks,
Margot

From: jdallan@cabotbusiness.ca [mailto:jdallan@cabotbusiness.ca]
Sent: Thursday, May 4, 2017 4:04 PM
To: Pitcher, Margot <MargotPitcher@gov.nl.ca>
Subject: RE: Mill Building and adjoining lands at Come-by-Chance
Hi Margot,
Yes the client Rothlochston wish to proceed with closing.
Regards John

Sent from Mail for Windows 10

From: Pitcher, Margot  
Sent: May 3, 2017 11:05 AM  
To: 'John Allan'  
Subject: RE: Mill Building and adjoining lands at Come-by-Chance

Got it John. Sorry for the inconvenience.

Margot

From: John Allan [mailto:jdallan@cabotbusiness.ca]  
Sent: Wednesday, April 26, 2017 9:25 AM  
To: Pitcher, Margot <MargotPitcher@gov.nl.ca>  
Subject: Fw: Mill Building and adjoining lands at Come-by-Chance

Good morning Margot
Please see attached letter, if you can follow up and see if closing can proceed
Thanks john

Sent from my BlackBerry - the most secure mobile device - via the Bell Network

From:  
Sent: April 25, 2017 11:43 AM  
To: jdallan@cabotbusiness.ca  
Subject: FW: Mill Building and adjoining lands at Come-by-Chance

Rothlochston
179 McNamara Drive, Paradise, NL Canada A1L 0A7
Phone: 709-773-2052 | Facsimile: 709-738-2530 | Email: ********

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From:  
Sent: March-27-17 9:27 AM  
To:  
Subject: FW: Mill Building and adjoining lands at Come-by-Chance

FYI

From:  
Sent: Monday, March 27, 2017 9:25 AM  
To: MNolan@gov.nl.ca; Woodrow, Denise
Subject: Mill Building and adjoining lands at Come-by-Chance

Please see the attached letter.

Regards,

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