

**Office of the Information and Privacy Commissioner
Province of British Columbia
Order No. 100-1996
April 24, 1996**

INQUIRY RE: A decision by the Larkin Water Works District to refuse access to water usage records containing personal information about third parties

**Fourth Floor
1675 Douglas Street
Victoria, B.C. V8V 1X4
Telephone: 604- 387-5629
Facsimile: 604-387-1696
Web Site: <http://www.cafe.net/gvc/foi>**

1. Description of the review

As Information and Privacy Commissioner, I conducted a written inquiry at the Office of the Information and Privacy Commissioner in Victoria on March 20, 1996 under section 56 of the *Freedom of Information and Protection of Privacy Act* (the Act). This inquiry arose out of a request for review of the decision of the Larkin Water Works District (the Water District), located around Armstrong, to refuse access to the personal information of third parties contained in water usage records.

2. Documentation of the inquiry process

The applicant wrote to the Water District on August 15, 1995 to request various documents. His letter included a request for "documented copies of every Ratepayer in the District showing the amount of rebate each ratepayer received in 1993 and how the rebate was computed." The Water District provided information and copies of other records requested by the applicant. On November 6, 1995, it advised the applicant that his request for information about other ratepayers in the Water District was refused. During mediation, the Water District offered to provide the applicant with information which would reveal the total water use and rebate for each (unidentified) ratepayer. The applicant confirmed, on January 4, 1996, that he had "requested the names of the people who have received rebates in 1993, and the amounts received." He then renewed his request on January 20, 1996 for "the names, and description, of each owner who received a rebate for conserving water, showing the amount of water used per unit and the amount of the rebate received."

3. The issue under review at the inquiry and the burden of proof

The issue under review in this inquiry is whether the release of the personal information of the ratepayers would constitute an unreasonable invasion of their privacy under section 22 of the Act.

The relevant portions of section 22 of the Act are as follows:

22(1) The head of a public body must refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party's personal privacy.

(2) In determining under subsection (1) or (3) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the head of a public body must consider all the relevant circumstances, including whether

(a) the disclosure is desirable for the purpose of subjecting the activities of the government of British Columbia or a public body to public scrutiny,

...

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

...

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

...

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

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

...

(f) the personal information describes the third party's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness,

....

(4) A disclosure of personal information is not an unreasonable invasion of a third party's personal privacy if

...

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

...

(j) the disclosure reveals details of a discretionary benefit of a financial nature granted to the third party by a public body, not including personal information that is supplied in support of the application for the benefit or is referred to in subsection (3)(c).

Under section 57(2) of the Act, if the records in dispute contain personal information about a third party, it is up to the applicant to prove that disclosure of the personal information would not be an unreasonable invasion of the third party's personal privacy. In this case, therefore, the applicant has to prove that disclosure of the information in dispute will not unreasonably invade the personal privacy of the other Water District ratepayers.

4. The records in dispute

The information in dispute is a six-page printout listing the names, addresses, water usage information, and amount of "low water use credits" (rebates) for all Water District ratepayers as contained in water usage records kept by the Water District.

5. The applicant's case

Although he has received a considerable amount of information from the Water District, the applicant still wants the names of persons who received water rebates and the amount for each. His argument is that it should be made available to him under sections 22(4)(f) and 22(4)(j) of the Act, which are discussed below.

6. The Water District's case

The chairman of the Trustees of the Larkin Water Works District alleges that the applicant "has publicly used individual names in the past to their detriment and this is one of our reasons for refusing him access to names and addresses." In his view, ratepayers do not want the applicant or anyone else "to know the amount of water they use nor the amount of their rebate and call this a needless intrusion into their lives."

The chairman further states that the applicant has been given "a complete list of all the units of water, the amount each used, and the rebate given and the method of calculating the rebates ... He does not need individual names to compare his water usage to others."

The chairman adds that the Water District holds annual meetings to present its budget to all ratepayers and to answer any concerns. Its books are also audited and a report sent to the Ministry of Municipal Affairs.

7. Discussion

Section 22(4)(f): the disclosure reveals financial and other details of a contract to supply goods or services to a public body,

The applicant claims that this section supports his right of access to the personal information in dispute. In fact, this section has no relevance to disclosure of the personal information in dispute in this case, since it does not involve a contract to supply goods or services to a public body.

Section 22(4)(j): the disclosure reveals details of a discretionary benefit of a financial nature granted to the third party by a public body, not including personal information that is supplied in support of the application for the benefit or is referred to in subsection (3)(c)

The applicant claims that this section supports his request for access to the personal information in dispute. This section also has no relevance to the personal information in dispute in this case. Among other reasons, the water rebates are not "discretionary benefits" but are available on the same basis to other water users in the District on the basis of lowered water use at certain seasons of the year.

Section 22

I have generally reviewed section 22(2) of the Act to see if there are any "relevant circumstances" that would support the applicant's claim for access to the personal information in dispute. In particular, I find that sections 22(2)(a) and (c) do not apply in the circumstances of the present case.

One of the goals of the Act is to minimize intrusiveness in the lives of individuals in this province. I can understand why the Water District collects the personal information used to calculate water rebates, but I can think of no reason why such information should be disclosed to the applicant, at least in the circumstances of the present case.

I find that the applicant has not met his burden of proof in this case.

8. Order

Under section 22(1) of the Act, I find that disclosure of the personal information severed from the record in dispute would be an unreasonable invasion of the privacy of third parties. I find that the Larkin Water Works District is required to refuse access to the information. Under section 58(2)(c), I require the chairman of the Trustees of the Larkin Water Works District to refuse access to the severed information.

April 24, 1996

David H. Flaherty
Commissioner