

From: Kerry Morris <kerry.morris1249@gmail.com>

Date: March 17, 2016 at 3:00:06 PM PDT

To: Ken Tollstam <KTollstam@cnv.org>, Karla Graham <kgraham@cnv.org>

Cc: Linda Buchanan <lbuchanan@cnv.org>, Holly Back <hback@cnv.org>, Rod Clark <rclark@cnv.org>, Darrell Mussatto <DMussatto@cnv.org>, Don Bell <dbell@cnv.org>, Craig Keating <ckeating@cnv.org>, Pam Bookham <pbookham@cnv.org>, "premier@gov.bc.ca" <premier@gov.bc.ca>, "Peter Fassbender.MLA" <Peter.Fassbender.MLA@leg.bc.ca>, Edward Tanaka <etanaka@bccpa.ca>, Jennifer Ficocelli <JFicocelli@cnv.org>, Patrick Egan <PEgan@oipc.bc.ca>

Subject: Fwd: information about OIPC "refer back" policy

Dear Mr. Tollstam:

I am in receipt of your letter dated March 8th 2016, a copy of which will be posted to my website for tomorrow morning.

In that letter you make a series of false and misleading statements. In this email I will deal with only your allegation that the Office of the Information & Privacy Commissioner has dismissed my appeal.

Attached to this email are a series of communication with the OIPC all of which have taken place today. The respondent on behalf of the OIPC is Mr. Patrick Egan, the Director of Investigations.

Mr. Egan makes clear that, contrary to the allegation made out in your March 8, 2016 letter, the OIPC "...HAS NOT DISMISSED..." my complaint. The process is ongoing. I have once again been instructed to work to better improve your understanding of the documents and access I seek so there can be no doubt as to exactly what is being requested. While I am hard pressed to imagine a first year CPA who could not achieve that goal from the information already provided (repeatedly), the process compels me to continue to help you. I would take this time to impress upon you that the law also imposes a duty on the City to help facilitate this process. That obligation is spelled out in the Act.

In hopes of facilitating your compliance with the law, I will set out the documents and access in precise terms, once again, that are easily recognizable to a CPA holding a valid designation with CPABC. That material will follow in the next day or two.

In closing, I would encourage you to change tactics and simply comply with the law by fulfilling our request. The documents exist, and we are entitled to see them. I would hope this process can be achieved without forcing the matter to Judicial Review. I am sure City taxpayers would similarly appreciate it if you didn't once again needlessly waste monies on yet another lawyers bill.

Please review the attached email string so that you do not continue to misrepresent the facts to council, staff and the public.

Thank you,
Kerry Morris
'For A Better Tomorrow'

Begin forwarded message:

From: Patrick Egan <PEgan@oipc.bc.ca>
Date: March 17, 2016 at 1:48:49 PM PDT
To: 'Kerry Morris' <kerry.morris1249@gmail.com>
Subject: RE: information about OIPC "refer back" policy

Thanks. If after attempting to resolve your concerns you still believe the public body is not complying with FIPPA, send your complaint, with documentation, to the OIPC "info" email address. Be sure to reference your previous OIPC file numbers.

Sincerely,

Patrick Egan, CIPP/C, CIPM

Director of Investigations

Office of the Information and Privacy Commissioner for B.C.

tel. 250-356-2529 | fax 250-387-1696

This email and any attachments are only for the use of the intended recipient and must not be distributed, disclosed, used or copied by or to anyone else. If you receive this in error please contact the sender by return email and delete all copies of this email and any attachments.

From: Kerry Morris [<mailto:kerry.morris1249@gmail.com>]
Sent: March-17-16 1:02 PM
To: Patrick Egan
Subject: Re: information about OIPC "refer back" policy

Thank you for your detailed and timely response. You have answered all my questions. I will continue to try and gain the City's cooperation.

Kerry Morris
'For A Better Tomorrow'

On Mar 17, 2016, at 12:49 PM, Patrick Egan <PEgan@oipc.bc.ca> wrote:

Correct. FOI rights are the same whether access is electronic, on paper or in person. The only limitation is if access could not, for example, be reasonably provided in of the formats.

Sincerely,

Patrick Egan, CIPP/C, CIPM

Director of Investigations

Office of the Information and Privacy Commissioner for B.C.

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From: Kerry Morris [<mailto:kerry.morris1249@gmail.com>]
Sent: March-17-16 12:08 PM
To: Patrick Egan
Subject: Re: information about OIPC "refer back" policy

I am aware of the exceptions. I was seeking clarification as a result of your email if that access was distinguishable as to an electronic copy versus a paper copy. I can find no exception in this regard so I take it that paper or electronic, FOI rights remain equal for both provided the copies sought are in the standard form produced by the government upon whom the request is being served. Thank you.

Kerry Morris
'For A Better Tomorrow'

On Mar 17, 2016, at 11:32 AM, Patrick Egan <PEgan@oipc.bc.ca> wrote:

Dear Kerry Morris:

See sections 4(1) and 4(2) of FIPPA.

You have a right to access records but that right does not apply if one or more of the exceptions to disclosure in FIPPA apply to the information. The exceptions are described in sections 12 – 22.1.

Whether you get a copy or examine them in person, your access to information is still subject to the exceptions.

For a copy of FIPPA to to:
http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/96165_00

Sincerely,

Patrick Egan, CIPP/C, CIPM

Director of Investigations

Office of the Information and Privacy Commissioner for B.C.

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From: Kerry Morris [<mailto:kerry.morris1249@gmail.com>]
Sent: March-17-16 10:00 AM
To: Patrick Egan
Subject: Re: information about OIPC "refer back" policy

Given that the records exist, I am correct I have a right to the records even if they won't let me view them in advance. Is that correct?

Kerry Morris
'For A Better Tomorrow'

On Mar 17, 2016, at 9:52 AM, Patrick Egan <PEgan@oipc.bc.ca> wrote:

Dear Kerry Morris:

Intake Officer Morag Ross is away at this time so I am responding to your email. My response below should explain our processes with regard to your case.

The Office of the Information and Privacy Commissioner (OIPC) has not "dismissed" your complaint because the OIPC did not begin a complaint investigation in the first place.

What the OIPC has done is used its authority under s. 44(3.1) of the *Freedom of Information and Protection of Privacy Act* (FIPPA) to send you back to the public body and direct you to make a reasonable attempt to resolve your dispute with the public body. For example, if you are alleging the public body has misinterpreted your request, go back to them and bring this to their attention, using as evidence your access request and point out the difference between the language you used to describe your request and the language the public body used to describe your request. If you are alleging that the public body failed to find all the records responsive to your request, gather your evidence that supports this allegation and provide it directly to the public body and give them an opportunity to respond. In any case we expect complainants to make a reasonable effort to resolve their dispute. The OIPC does not consider opening an investigation file until the complainant has made a reasonable attempt to resolve their disputes and has come back to us claiming that the public body has still not met its duty under FIPPA.

There has been no change in the OIPC's processes. For at least as long as I have worked at this office (10+ years) we have used this "refer-back" policy. We encourage complainants to attempt to resolve their disputes because we have an approximately six month waiting list for complaints to be assigned to investigators.

To clarify, you have a right to examine the records in person if the public body has informed you that it will be giving you access to the records you requested. If the public body has informed you that they are not giving you access to the records, you do not have a right under FIPPA to examine the records in person.

I hope this is helpful.

Sincerely,

Patrick Egan, CIPP/C, CIPM

Director of Investigations

Office of the Information and Privacy Commissioner for B.C.

tel. 250-356-2529 | fax 250-387-1696

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From: Kerry Morris [<mailto:kerry.morris1249@gmail.com>]

Sent: March-16-16 6:36 PM

To: Info-oipc; Ken Tollstam

Subject: Fwd: Request to inspect on-line records before ordering same from the accounting systems of the City of North Vancouver and Lonsdale Energy Corp (LEC)

I have today received a letter dated March 8, 2016 in which The City of North Vancouver's CAO states "...the Office of the information and Privacy Commissioner of BC has advised us that it will be dismissing your request for a review of the City's response to your request for records...".

Is this true? You asked that I make a follow up request upon the City which was served on the City electronically in accordance with your instructions and delivered to them on March 7th 2016 at 10:15PM. Mr Tollstam's letter stating you were dismissing my request for review was madden the very next day. 1st, is this true? I understood the process operates a little different than the process which Mr Tollstam claims has been followed in this circumstance. Why has the process be altered as alleged by Ken Tollstam.

Mr Tollstam goes on to make several misleading statements, once again mischaracterizing our request as pertaining to the annual audited financial statements of the City. We have made it quite clear these are not the documents we have requested or seek. The records we seek exist, are available, and are being wrongfully withheld. Finally, why would the oipc be in communication with the City and have the City convey its decision to me as if the City was in equal parts speaking for and influencing the decision of the oipc.

Your earliest response would be appreciated. Thank you.

Kerry Morris

'For A Better Tomorrow'

Begin forwarded message:

From: Kerry Morris <kerry.morris1249@gmail.com>

Date: March 7, 2016 at 10:15:17 PM PST

To: Karla Graham <kgraham@cnv.org>, Linda Buchanan <lbuchanan@cnv.org>, Holly Back <hback@cnv.org>, Rod Clark <rclark@cnv.org>, Darrell Mussatto <dmussatto@cnv.org>, Don Bell <dbell@cnv.org>, Craig Keating <CKeating@cnv.org>, pam Bookham <pbookham@cnv.org>, "info@oipc.bc.ca" <info@oipc.bc.ca>

Subject: Request to inspect on-line records before ordering same from the accounting systems of the City of North Vancouver and Lonsdale Energy Corp (LEC)

Attention Ms. Karla Graham:

This complaint is filed in relation to City of North Vancouver FOI file No.:[0580-20 0001/2016/02](#), [0580-20 0001/2016/03](#) and [0580-20 0001/2016/04](#)

In accordance with a letter received from the Office of the Information and Privacy Commissioner dated March 3, 2016 in which I have been asked to request that the City correct its failure to comply with my original FOI requests, a copy of which is located at the link located below, please see the attached 'Complaint To A Public Body' in the form specified, OIPC File: F16-65118. The request to which this complaint and complaint request for repair pertains is detailed in its original form at page 2-10 of the documents found at the link. The altered requests and incorrect / untruthful responses of the City are set out in your letters dated February 22nd, 2016, located at page 2-10 of the documents found at the link.

Please contact the undersigned by email at this address if you remain in any way confused as to the precise documents which I wish to view and then subsequently order.

<http://kerrymorris.ca/wp-content/uploads/2016/03/FOI-Responses.pdf>

OIPC officer to which this file document is to be directed: Morag Ross / Intake Officer