

**ALBERTA**

**OFFICE OF THE INFORMATION AND PRIVACY  
COMMISSIONER**

**ORDER F2007-026**

March 11, 2008

**ALBERTA ENERGY AND UTILITIES BOARD**

Case File Number 3709

**Office URL:** <http://www.oipc.ab.ca>

**Summary:** The Complainant alleged that the Alberta Energy and Utilities Board disclosed, in contravention of section 40 of the *Freedom of Information and Protection of Privacy Act*, the Complainant's personal information to two organizations, Argali Oil Inc. and Antelope Land Services.

The Adjudicator found that there was insufficient information and evidence to conclude that the Alberta Energy and Utilities Board disclosed the Complainant's personal information to these two organizations.

**Legislation Cited: AB:** *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 1(n)(i), 1(n)(ix), 40, 72.

**I. BACKGROUND**

[para 1] On March 8, 2006, the Complainant wrote to the Alberta Energy and Utilities Board ("EUB") alleging that the EUB had inappropriately disclosed a record, containing the Complainant's personal information, to two organizations, Argali Oil Inc. and Antelope Land Services. The record consisted of several proposed amendments to the terms and conditions of a surface lease agreement.

[para 2] On March 14, 2006, the EUB wrote to the Complainant in response to concerns raised in the Complainant's letter. The EUB stated that the record was received from the Complainant's representative, Landcore International Corporation ("Landcore") and was subsequently forwarded, at Landcore's request, to ExxonMobil Canada Ltd. ("ExxonMobil"). The EUB stated that it was not aware nor could provide an explanation as to how Argali Oil Inc. or Antelope Land Services came into possession of the record.

[para 3] On May 26, 2006, the Complainant requested a review by this Office. The Complainant alleged that the EUB did not have the authority under the *Freedom of Information and Protection of Privacy Act* (the "Act") to disclose the Complainant's personal information.

[para 4] Mediation was authorized but did not resolve the issue.

[para 5] On October 24, 2006, the Complainant requested that the matter proceed to inquiry. The EUB submitted an initial submission but did not submit a rebuttal. The Complainant did not submit an initial submission or a rebuttal.

## **II. RECORD**

[para 6] The record at issue consists of several proposed amendments to the terms and conditions of a surface lease agreement.

## **III. ISSUE**

[para 7] The inquiry notice for this inquiry identified one issue: Did the Public Body collect, use and disclose the Complainant's personal information in contravention of Part 2 of the Act?

[para 8] In the Complainant's request for review, the Complainant alleged that the EUB had inappropriately disclosed the Complainant's personal information to Argali Oil Inc. and to Antelope Land Services in contravention of the Act. As such, the issue to be decided in this inquiry is as follows:

*Did the EUB disclose the Complainant's personal information to Argali Oil Inc. and/or Antelope Land Services in contravention of Part 2 of the Act?*

## **IV. DISCUSSION: Did the EUB disclose the Complainant's personal information to Argali Oil Inc. and/or Antelope Land Services in contravention of Part 2 of the Act?**

### **1. Did the record contain the Complainant's personal information?**

[para 9] The EUB states that the record at issue did not contain the Complainant's personal information. The EUB states that the record contained a reference to the Complainant's surname and contained several proposed amendments to a surface land

agreement regarding the Complainant's land. The EUB states that the Complainant's surname is not the Complainant's personal information as defined in section 1(n) of the Act. The EUB also states that the proposed amendments are not the Complainant's personal information because they were created by the Complainant's representative and were not unique to the Complainant. The EUB states that the Complainant's representative acts as a representative for a number of individuals and has proposed similar amendments to surface lease agreements for other clients.

[para 10] Personal information is defined in section 1(n) of the Act. The relevant portions read as follows:

*I In this Act,*

...

*(n) "personal information" means recorded information about an identifiable individual, including*

*(i) the individual's name, home or business address or home or business telephone number,*

...

*(ix) the individual's personal views and opinions, except if they are about someone else;*

[para 11] I have reviewed the record at issue. The record contains the Complainant's surname as well as the Complainant's personal views and opinions regarding several proposed amendments to a surface lease agreement. I find that this information is personal information as defined by sections 1(n)(i) and 1(n)(ix) of the Act.

[para 12] Section 1(n)(i) clearly states that the definition of personal information includes an individual's name. Although the record at issue only contains the Complainant's surname, I find that this information nevertheless falls within the definition of personal information.

[para 13] I also find that the proposed amendments to the surface lease agreement which were submitted by the Complainant's representative to the EUB consist of the Complainant's views and opinions and, as such, consist of personal information as defined in section 1(n)(ix) of the Act. Although these proposed amendments may be similar to other amendments proposed by the Complainant's representative on behalf of its other clients, these amendments nevertheless present the views and opinions of the Complainant. I also find that the proposed amendments were "recorded information about an identifiable individual" as they were included as part of a record that identified the Complainant by name.

**2. If the record contained the Complainant's personal information, did the EUB disclose the record to Argali Oil Inc. and/ or Antelope Land Services?**

[para 14] The EUB states that it disclosed the record at issue to ExxonMobil. However, the EUB maintains that it did not disclose the record to either Argali Oil Inc. and/ or Antelope Land Services.

[para 15] In support of its position, the EUB referred to the fax headers on the record at issue. There are three headers that repeat on each page of that record. The EUB states that the first header shows that the document was faxed from the EUB on October 16, 2003. The EUB states that, on this date, the EUB faxed the record to ExxonMobil. In support, the EUB also attached a copy of a letter, dated November 26, 2003, from ExxonMobil to the Complainant which acknowledges that ExxonMobil received the record by fax on October 16, 2003. The EUB states that the other two headers show that the record was subsequently faxed on June 28, 2004 from Argali Oil Inc. and also from Antelope Land Services. The EUB submits that the record does not, however, indicate who provided the two organizations with the record in the first instance.

[para 16] After a review of all of the information and evidence before me, I find that there is insufficient information and evidence that the EUB disclosed the Complainant's personal information to either Argali Oil Inc. or to Antelope Land Services. As Adjudicator, I must base my determination of the issue on the information and evidence before me. Although the record shows that Argali Oil Inc. and Antelope Land Services came into possession of the Complainant's personal information, there is insufficient evidence that the EUB disclosed this information to those two organizations. The EUB states that it did not. The Complainant did not provide a submission in this inquiry. I also note that, the issue of whether another entity, other than the EUB, disclosed the record to either Argali Oil Inc. or to Antelope Land Services is not within the scope of this inquiry and, therefore, not within my jurisdiction to decide.

**3. Did the EUB have the authority under section 40 of the Act to disclose the Complainant's personal information?**

[para 17] I have found that there is insufficient information and evidence that the EUB disclosed the Complainant's personal information to either Argali Oil Inc. or to Antelope Land Services. As such, I will not address whether the EUB had the authority under section 40 to disclose this personal information to those same organizations.

**V. ORDER**

[para 18] I make the following Order under section 72 of the Act.

[para 19] I find that the EUB did not disclose the Complainant's personal information to Argali Oil Inc. and/or Antelope Land Services in contravention of section 40 of the Act.

Lisa McAmmond  
Adjudicator