

**ALBERTA**

**OFFICE OF THE INFORMATION AND PRIVACY  
COMMISSIONER**

**ORDER F2012-11**

May 14, 2012

**COUNTY OF THORHILD NO. 7**

Case File Numbers F5726 and F5810

**Office URL:** [www.oipc.ab.ca](http://www.oipc.ab.ca)

**Summary:** The Applicant requested a copy of the County of Thorhild's (the Public Body) cheque register report for the year 2010. She also requested copies of two cheques issued to two individuals as refunds of their utility deposits.

The Public Body provided the cheque register report, but severed the names of individuals and the amounts refunded to them on the basis of section 17 (information harmful to personal privacy) of the *Freedom of Information and Protection of Privacy Act* (the FOIP Act). The Public Body withheld the cheques and their accompanying vouchers in their entirety.

The Adjudicator confirmed the decision of the Public Body to withhold the names, signatures, addresses, the vendor identification numbers, and the utility and bank account numbers of third parties from the records. She ordered the Public Body to disclose the remaining information, including the amounts refunded, to the Applicant.

**Statutes Cited:** **AB:** *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 1, 6, 17, 72;

**Cases Cited:** *University of Alberta v. Pylypiuk*, 2002 ABQB 22

## **I. BACKGROUND**

[para 1] On February 28, 2011, the Applicant requested a copy of a vendor cheque register report for January 2010 – December 2010 from the County of Thorhild (the Public Body). The vendor cheque register report is a listing of all cheques issued by the Public Body in a given period. The Public Body severed the names of individuals whose names appeared on the register where the cheques related to refunds made by the Public Body to individuals.

[para 2] On April 4, 2011, the Applicant requested copies of cheques issued to specific individuals referred to in the register who had been refunded deposits they had paid for utilities. The Public Body refused to provide copies of these cheques also on the basis of section 17(1).

[para 3] The Applicant requested review by the Commissioner of the Public Body's decision to withhold the names of individuals who had received refunds of the deposits they had paid for utilities, permits and courses.

[para 4] The Commissioner authorized mediation to resolve the issues between the Applicant and the Public Body. As mediation was unsuccessful, the matter was scheduled for a written inquiry.

[para 5] The parties provided initial and rebuttal submissions. On reviewing their submissions, I noticed that the issue for the inquiries had been misstated in the Notice of Inquiry prepared by this office, as the notice suggested that the only issue for inquiry was whether a provision of section 17(2) (disclosure of information not harmful to personal privacy) applied to the records. I therefore wrote the parties to inform them that the issue that would be addressed at the inquiries was the following:

### **Did the Public Body properly withhold information under section 17 of the Act (information harmful to personal privacy)?**

I provided the parties with the opportunity to address the issue as stated above. The Public Body provided additional submissions.

## **II. INFORMATION AT ISSUE**

[para 6] The information at issue is information withheld under section 17 of the FOIP Act from the vendor cheque register report and from cheques and cheque vouchers.

## **III. ISSUE**

**Issue A: Did the Public Body properly withhold information under section 17 of the Act (information harmful to personal privacy)?**

#### IV. DISCUSSION OF ISSUE

##### **Issue A: Did the Public Body properly withhold information under section 17 of the Act (information harmful to personal privacy)?**

[para 7] Section 1(n) defines personal information under the Act:

*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,*
  - (ii) *the individual’s race, national or ethnic origin, colour or religious or political beliefs or associations,*
  - (iii) *the individual’s age, sex, marital status or family status,*
  - (iv) *an identifying number, symbol or other particular assigned to the individual,*
  - (v) *the individual’s fingerprints, other biometric information, blood type, genetic information or inheritable characteristics,*
  - (vi) *information about the individual’s health and health care history, including information about a physical or mental disability,*
  - (vii) *information about the individual’s educational, financial, employment or criminal history, including criminal records where a pardon has been given,*
  - (viii) *anyone else’s opinions about the individual, and*
  - (ix) *the individual’s personal views or opinions, except if they are about someone else;*

Personal information under the FOIP Act is information about an identifiable individual that is recorded in some form.

*Is the information withheld from the vendor cheque register report personal information?*

[para 8] The Public Body severed the following kinds of information from the vendor cheque register report where the information referred to individuals who were being issued refunds:

- The vendor identification code
- The name of the individual to whom the cheque was issued
- The amount of the cheque

[para 9] I find that the vendor identification code, which is a code created from the individual's name, and the name of the individual are information that can be said to be "about an identifiable individual". Because the names of the individuals appear in the context of the amounts of the cheques, this information is also personal information, as one can learn from reading the line in the vendor cheque register report that particular individuals were refunded certain amounts by cheque.

[para 10] As I find that the vendor identification number, the name of the individual, the date of the cheque and the amount of the cheque are the personal information of identifiable individuals, I will consider whether this information is properly withheld under section 17.

*Is the information withheld from the cheques the personal information of third parties?*

[para 11] The cheques withheld in their entirety contain the following information:

- The name and location of the Public Body
- The name of the Public Body's banking institution and its location
- The name and address of the payee
- A cheque number
- The date of the cheque
- The amount paid to the payee
- The banking institution at which the cheque was cashed
- The signature of the payee
- The banking institution's transit number

[para 12] Vouchers attached to the cheques, which were also withheld, contain the following information:

- The date of the approvals
- The names of the payees
- The addresses of the payees
- The reason for the payments
- The utilities account numbers of the payees
- A numeric code referring to the reason for the payment
- The total amounts of the cheques
- The signature of the employee who approved the payment
- Instructions regarding the completion of the voucher
- The logo of the Public Body

[para 13] Of this information, I find that the names of the individual payees, their account numbers, their signatures, and their addresses are information about the payees, and therefore the personal information of the payees. I also find that because of the presence of the payees' names in these records, one can learn from reviewing these records that the payees bank at specific banking institutions, and were refunded the

remaining amounts of their utilities deposits. Therefore, the reason for the payments, the amounts of the cheques, and the names and addresses of their banking institutions are also personal information given that when this information is associated with the payees' names it would enable one to learn information about the payees.

[para 14] As I find that the cheques and voucher forms do contain the personal information of third party individuals, in this case, the payees, who are individuals who were refunded their utilities deposits, I will consider whether the Public Body properly applied section 17 when it withheld this personal information.

[para 15] However, I find that the name of the Public Body, its logo, the name of its banking institution, the instructions relating to the completion of the voucher and the signature of the employee of the Public Body are not personal information about the payees. It follows that I find that this information cannot be withheld under section 17.

*Does section 17 require the Public Body to withhold the information it severed?*

[para 16] Section 17 requires a public body to withhold personal information when it would be an unreasonable invasion of a third party's personal privacy to disclose the third party's personal information. This provision states in part:

*17(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) 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,*

*(g) the information is about a licence, permit or other similar discretionary benefit relating to*

*(i) a commercial or professional activity, that has been granted to the third party by a public body, or*

*(ii) real property, including a development permit or building permit, that has been granted to the third party by a public body,*

*and the disclosure is limited to the name of the third party and the nature of the licence, permit or other similar discretionary benefit...*

*...*

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

...

*(e.1) the personal information consists of an individual's bank account information or credit card information,*

...

*(g) the personal information consists of the third party's name when*  
*(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...*

...

*(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 must consider all the relevant circumstances, including whether*

- (a) the disclosure is desirable for the purpose of subjecting the activities of the Government of Alberta 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 any person referred to in the record requested by the applicant, and*
- (i) the personal information was originally provided by the applicant.*

[para 17] Section 17 does not say that a public body is *never* allowed to disclose third party personal information. It is only when the disclosure of personal information would be an unreasonable invasion of a third party's personal privacy that a public body must refuse to disclose the information to an applicant under section 17(1). Section 17(2) establishes that disclosing certain kinds of personal information is not an unreasonable invasion of personal privacy.

[para 18] Section 17(2)(f) states that it is not an unreasonable invasion of personal privacy to disclose personal information if the disclosure reveals financial and other

details of a contract to supply goods or services to a public body. The Applicant argues that sections 17(2)(f) and (g) apply to the information in this case and that it would not be an unreasonable invasion of a third party's personal privacy to disclose the information withheld by the Public Body for this reason. This argument will be addressed below.

[para 19] When the specific types of personal information set out in section 17(4) are involved, disclosure is presumed to be an unreasonable invasion of a third party's personal privacy. To determine whether disclosure of personal information would be an unreasonable invasion of the personal privacy of a third party, a public body must consider and weigh all relevant circumstances under section 17(5), (unless section 17(3), which is restricted in its application, applies). Section 17(5) is not an exhaustive list and other relevant circumstances must be considered.

[para 20] In *University of Alberta v. Pylypiuk*, 2002 ABQB 22, the Court commented on the interpretation of what is now section 17. The Court said:

In interpreting how these sections work together, the Commissioner noted that s. 16(4) lists a set of circumstances where disclosure of a third party's personal information is presumed to be an unreasonable invasion of a third party's personal privacy. Then, according to the Commissioner, the relevant circumstances listed in s. 16(5) and any other relevant factors, are factors that must be weighed either in favour of or against disclosure of personal information once it has been determined that the information comes within s. 16(1) and (4). In my opinion, that is a reasonable and correct interpretation of those provisions in s. 16. Once it is determined that the criteria in s. 16(4) is (sic) met, the presumption is that disclosure will be an unreasonable invasion of personal privacy, subject to the other factors to be considered in s. 16(5). The factors in s. 16(5) must then be weighed against the presumption in s. 16(4).

[para 21] Section 17 requires a public body to withhold personal information when disclosing the information would be harmful to the personal privacy of an identifiable individual. However, it also contains provisions that establish situations when it would not be an unreasonable invasion of personal privacy to disclose personal information, such as when a provision of section 17(2) applies. I will first consider whether any of the provisions of section 17(2) apply to the information I have found to be the personal information of third parties. If the personal information severed from the records is not subject to a provision of section 17(2), I will consider whether the factors set out in section 17(5) weigh in favor of, or against, disclosing the personal information in the records.

[para 22] Section 6 of the FOIP Act states, in part:

*6(1) An applicant has a right of access to any record in the custody or under the control of a public body, including a record containing personal information about the applicant.*

*(2) The right of access to a record does not extend to information excepted from disclosure under Division 2 of this Part, but if that information can reasonably be severed from a record, an applicant has a right of access to the remainder of the record...*

If information subject to an exception to disclosure can reasonably be severed from a record, an applicant has a right of access to the remaining information in the record and a public body has a duty to provide it. Therefore, if I find that section 17(1) requires the Public Body to withhold some personal information from the records, I will consider whether this information can be severed from the records and the remainder provided to the Applicant.

*Does section 17(2)(f) apply to the information severed from the records?*

[para 23] The Applicant argues that the information is subject to section 17(2)(f). She reasons:

In the FOIP Act Section 17(2) 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. [*sic*]

The Public Body is supplying a service. In this case a utility service of some type. I would have no way of knowing this information. The only information on the cheque would be the person's name, amount, date, and cheque no. I did not ask for the entry from which the customer got reimbursed or why the customer was reimbursed or for what reason he or she got reimbursed. I would have never known this information had the County not supplied it.

[para 24] The Public Body argues that section 17(2)(f) does not apply to the information severed from the records as section 17(2)(f) applies only to personal information that would reveal details of a contract to supply goods and services to a public body. Instead, the information in the records contains details of a refund paid by the Public Body to individuals who did not provide services to the Public Body whether under a contract or otherwise. The Public Body states that these refunds were issued for such things as utilities deposits, overpayments, programs for which individuals registered but then withdrew, and development permits where the development did not proceed.

[para 25] I agree with the Public Body that information subject to section 17(2)(f) is not present in the records. None of these payments relate to contracts to provide goods or services to the Public Body or reveal information of this kind.

*Does section 17(2)(g) apply to the information withheld from the records?*

[para 26] The Applicant argues that as some of the payments referred to are refunds for development permits and for courses in which individuals had originally registered but did not ultimately take, that the information is about a permit or discretionary benefit for the purposes of section 17(2)(g).

[para 27] In my view, section 17(2)(g) applies to personal information in situations where the personal information would reveal information about a permit or license, or a discretionary benefit that is similar to a permit or license. The personal information severed from the records does not reveal any information about permits or licenses or similar kinds of benefits; rather, the information documents that individuals were refunded money they had paid to the Public Body.



[para 28] In addition, I find that a course that the Public Body makes available to individuals in exchange for payment is not an example of a benefit; rather, it is a service. Moreover, the information severed by the Public Body does not provide any details about the course. As a result, even if I were to find that a course offered for a fee were a discretionary benefit, I find that details of a refund issued to someone who did not take the course would not be information about the course itself.

[para 29] For these reasons, I find that section 17(2)(g) does not apply to the information withheld by the Public Body.

*Does a provision of section 17(4) apply to the information withheld by the Public Body?*

[para 30] I find that the names of the payees, their account numbers, vendor identification numbers and the amounts they were paid is information falling under section 17(4)(g) of the FOIP Act, (reproduced above), as it consists of the name of an individual in the context of other information about the individual. Moreover, from reviewing the cheques that were withheld, it is possible to learn the identities of individuals who received refunds, to review their signatures, and to learn the amounts they were refunded, as well as the bank branches where the payees deposited their refunds and the date on which they deposited their refunds. As a result, it follows that I find that this information also falls under section 17(4)(g).

[para 31] The Public Body argues that the information on the cheques is also subject to the presumption set out in section 17(4)(e.1).

The Public Body reiterates that the cheques in question contain financial information of the individuals [to whom] the cheques were issued, including the individual's bank account information which is recognized by Section 17(4)(e.1) of the FOIP Act as a presumed unreasonable invasion of privacy.

Cited above, section 17(4)(e.1) addresses information that consists of an individual's bank account information or credit card information. While the Public Body refers to individual bank account information as appearing on the cheques, from my review of the cheques, I find that this is the case with only one of the cheques. Section 17(4)(e.1) applies to the bank account number appearing on one of the cheques and gives rise to a strong presumption that it would be an unreasonable invasion of personal privacy to disclose this information. However, I find that section 17(4)(e.1) does not apply to any of the other information in the records.

[para 32] I take the Public Body's point that the information it has withheld would reveal the financial information of individuals. This concern is addressed by the presumption set out in section 17(4)(g), which I have already found applies. A presumption therefore arises that it would be an unreasonable invasion of personal privacy to disclose the personal information of the individuals who received refunds from the Public Body from the vendor cheque register report and from the cheques they received.

*Is the presumption that it would be an unreasonable invasion of personal privacy to disclose the personal information of the third parties outweighed by any of the factors listed in section 17(5)?*

[para 33] The Applicant made no arguments in relation to the application of any of the provisions of section 17(5). However, from the exhibits she submitted, I infer that she takes the position that all details of the Public Body's expenditures must be revealed in order to ensure that the Public Body is held to account in relation to them. If so, then this is an interest recognized by section 17(5)(a) of the FOIP Act. As cited above, section 17(5)(a) states:

*17(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 must consider all the relevant circumstances, including whether*

*(a) the disclosure is desirable for the purpose of subjecting the activities of the Government of Alberta or a public body to public scrutiny*

If disclosing personal information would serve the purpose of holding a public body to account, then this is a factor weighing in favor of disclosure.

[para 34] In *Pylypiuk*, supra, the Court commented on the first part of the test for public scrutiny:

In addition, having referred to no evidence or analysis regarding why the University's activities should be subject to public scrutiny, the Commissioner then moved on to his three part test. *Pylypiuk* did not meet the first part of that test. While it may not be necessary to meet all three parts of the test, the analysis should demonstrate some rationale as to why one person's decision that public scrutiny is necessary is sufficient to require disclosure, particularly where that person's rights are not affected by the disclosure under s. 16(5)(c).

The Court in *Pylypiuk* found that it was necessary to answer the question of why one person's decision that public scrutiny is called for is sufficient to require disclosure. I do not interpret the Court as saying that it is automatically undesirable to subject personal information to public scrutiny if only one person has requested the information, or conversely, that it is automatically desirable to subject personal information to public scrutiny if more than one person requests the information. Rather, the Court means that when determining whether section 17(5)(a) applies to personal information, one must consider whether disclosing the personal information would serve a public interest, such as promoting public fairness or accountability, as opposed to private interests only. In the case before me, the Applicant's position is consistent with the view that disclosing all the personal information withheld from the records, including the names of individual third parties, would promote public accountability. In other words, her position is that

disclosing the information withheld from the records would serve the public interest by enabling the public to hold the Public Body to account with regard to its expenditures.

[para 35] The vendor cheque register report is a list of all cheques issued by the Public Body for the year 2010, and is not restricted to refunds of utilities deposits or money paid for permits or courses. As a result, disclosure of this report would enable the Applicant to determine all amounts the Public Body has paid out from public funds, and to whom, and to raise any concerns she has regarding this information. This result is consistent with the public interest of promoting transparency in the manner in which a public body expends public funds.

[para 36] In this case, the Public Body has disclosed the majority of information contained in the vendor cheque register report, but has withheld only the names of individual third parties who have received particular kinds of refunds and the amounts they were refunded. The Public Body has also taken the step of explaining the reasons for the refunds in this inquiry.

[para 37] While I agree with the Applicant that disclosing details of all expenditures of public funds, including the amounts refunded to individuals, would serve the general purpose of promoting transparency in relation to these expenditures, I find that disclosing the names or other identifying information of individuals who received refunds in this case would not serve this purpose for the following reasons.

[para 38] There is no evidence before me that would support a finding that disclosing the identities of the individuals who received the refunds would serve the purpose of promoting the accountability of the Public Body. There is no evidence that there is anything that requires public scrutiny as to the manner in which the Public Body has issued these refunds to the third parties or its reasons for doing so. The public interest in transparency is served by making the facts of any refunds known, and the reasons for them. Moreover, as will be discussed below, I find that it is possible in this case for the Public Body to sever the personally identifying information of third parties from the records, and to provide the remainder to the Applicant so that she may review the details of the refunds.

[para 39] With regard to the names, addresses, signatures, vendor identification numbers, and bank account numbers of individual third parties, I find that there are no factors under section 17(5) that weigh in favour of disclosure of this personal information. As a result, the presumption that it would be an unreasonable invasion of the third parties' personal privacy to disclose this information has not been rebutted.

*Can the amounts of refunds reasonably be severed from the records and the remainder of the information provided to the Applicant?*

[para 40] As discussed above, I find that the information I have found to be personal information, other than the names, signatures, addresses, signatures, vendor identification numbers and account numbers of third parties, is personal information because it appears

in the context of personally identifying information about the third parties, and would therefore enable the Applicant to learn information about the third parties. The question is whether the names, addresses, vendor identification numbers, and account numbers can be severed from the records so that the Applicant may be provided with the remaining information.

[para 41] The Public Body argues that the amount of a cheque “can be identifiable of the nature of the refund or reimbursement to individuals and an individual’s financial standing with the Public Body.” I interpret this argument to contemplate the situation where names of third parties are *not* severed from the records. Certainly, the Public Body has not made specific arguments to establish that an individual could be identified by the amount the Public Body has refunded to them. In the absence of argument or evidence to establish that the third parties could be identified by information other than their names, signatures, addresses, the vendor identification number or their account numbers, I am unable to find it reasonably likely that they would be.

[para 42] Having reviewed the information in the records at issue, I am satisfied that if the names, addresses, the vendor identification numbers and account numbers of third parties are severed from the records, the remaining information would not enable the Applicant to learn their identities or other personal information about them. I will therefore confirm the decision of the Public Body to withhold the names, signatures, addresses, the vendor identification numbers, and account numbers of third parties from the records, but I will order it to disclose the remainder of the information to the Applicant.

## **V. ORDER**

[para 43] I make this Order under section 72 of the Act.

[para 44] I confirm the decision of the Public Body to withhold the names, signatures, addresses, the vendor identification numbers, and the utility and bank account numbers of third parties from the records.

[para 45] I order the Public Body to give the Applicant access to the remaining information from the records.

[para 46] I further order the Public Body to notify me, in writing, within 50 days of receiving a copy of this Order, that it has complied with the Order.

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Teresa Cunningham, Adjudicator