

Information and Privacy Commissioner,
Ontario, Canada



Commissaire à l'information et à la protection de la vie privée,
Ontario, Canada

ORDER MO-3378

Appeal MA15-295

Town of Ajax

November 18, 2016

Summary: The Town of Ajax (the town) received a request under the *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)* for records exchanged between planning staff and members of council (including the mayor) relating to three projects. The town denied access to some of the responsive information, relying on the discretionary exemptions in sections 6(1)(b) (closed meeting) and 7(1) (advice or recommendations). This order partly upholds the town's decision.

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, sections 6(1)(b), 6(2)(b), 7(1), 7(2)(a).

OVERVIEW:

[1] The Town of Ajax (the town) received a request under the *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA or the Act)*, which after revision, sought:

Copies of all written, electronic correspondence (email), memorandum and notes, as well as any documentation in the public domain, between planning staff and members of council (including the mayor) relating to [three projects].

The time period from January 1, 2013 to present only (April 8, 2015).

[2] The town issued its access decision, granting partial access to 78 records and providing an index of records. The town claimed the discretionary exemptions in sections 6(1)(b) (closed meeting), 7(1) (advice or recommendations) and 11(c) and (e) (economic and other interests) with respect to the withheld information in Records 27, 32, 33, 34, 35, 55, 63, 64, 65, 66, 67, 71, 76, 77 and 78.

[3] The requester, now the appellant, appealed the town's access decision.

[4] During the mediation stage of the appeal, the town agreed to disclose Records 33, 34, 35, 64, 65, 66 and 67, therefore, these records are no longer at issue. In addition, as Records 55 and 63¹ are duplicates, these two records are no longer at issue.

[5] No further mediation was possible and the file was transferred to the adjudication stage of the appeal process where an adjudicator conducts an inquiry. Representations were sought and received from the town, which were shared with the appellant in accordance with section 7 of the Information and Privacy Commissioner of Ontario's (the "IPC's") *Code of Procedure and Practice Direction 7*. The appellant provided representations in response.

[6] During the processing of this appeal, I provided the town with a copy of a public document (the public document),² which appears to include some information contained in the records. I invited the town to address what impact, if any, this public document had on its decision. The town responded and continued to maintain its decision to deny access to all of the information at issue in the records.

[7] In this order, I partially uphold the town's decision under sections 6(1)(b) and 7(1).

RECORDS:

[8] As per the Mediator's Report and the town's Index of Records, the following discretionary exemptions are at issue in this appeal:

- Section 6(1)(b) to Records 27, and 76 to 78,
- Section 7(1) to Records 32,³ and 71, and
- Sections 11(c) and (e) to Record 71.

¹ Record 55 is a duplicate of Record 27 and Record 63 is a duplicate of Record 32.

² Which I cannot describe in any greater detail in this order as disclosure may reveal the contents of some of the records.

³ The town's index of records indicates that it has claimed section 7(1) for Record 32, not section 6(1)(b) as set out in the Mediator's Report. It also made no representations on section 6(1)(b) for Record 32.

[9] The town has described these records, as follows:

- Record 27 - Email from Manager of Planning to Council dated September 17, 2014, with a cc. to: Chief Administrative Officer, Director of Legislative and Information Services/Town Clerk, Deputy Clerk, Director of Planning and Development Service, and Town Solicitor, - regarding [a specific project (the project)] – Proposed General Government Committee Resolution with attached resolution.
- Record 32 - Email from Manager of Planning to Mayor, with a cc. to: named solicitor, and Director of Planning and Development Service, dated January 20, 2015, - regarding [the project # 1's zoning by-law].
- Record 71 - Email from Director of Planning and Development Services to Mayor, with a cc. to: Manager of Communications, and Government Relations Advisor, dated March 27, 2015 – regarding [another project] with attachment.
- Record 76 - In Camera Agenda and Minutes of General Government Committee [GGC] Meeting, dated April 24, 2014, - regarding item 3.3.
- Record 77 - In Camera Agenda and Minutes - General Government Committee Meeting, dated June 19, 2014, - regarding item 4.2.
- Record 78 - In Camera Agenda and Minutes - General Government Committee Meeting, dated September 18, 2014, - regarding item 4.4.

ISSUES:

- A. Does the discretionary closed meeting exemption at section 6(1)(b) apply to Records 27, and 76 to 78?
- B. Does the discretionary advice or recommendations exemption at section 7(1) apply to Records 32 and 71?
- C. Did the institution exercise its discretion under sections 6(1)(b) and 7(1)? If so, should this office uphold the exercise of discretion?

DISCUSSION:

A. Does the discretionary closed meeting exemption at section 6(1)(b) apply to Records 27, and 76 to 78?

[10] Section 6(1)(b) reads:

A head may refuse to disclose a record,

that reveals the substance of deliberations of a meeting of a council, board, commission or other body or a committee of one of them if a statute authorizes holding that meeting in the absence of the public.

[11] The town was asked as part of its representations on this exemption, to provide answers to the following questions:

1. Did a council, board, commission or other body, or a committee of one of them, hold a meeting? If so, was the meeting held in the absence of the public? Please explain.
2. What is the statute and specific section that authorizes the holding of the meeting in the absence of the public? Was there a resolution closing the meeting to the public? Please explain, and provide a copy of the section and/or resolution.
3. Has a procedural by-law been passed under section 238(b) of the *Municipal Act* or any applicable analogous provision? Does the by-law include requirements for closed meetings? Please describe any such requirements and provide a copy of the by-law. Do these requirements pertain to the type of closed meeting that occurred in this case?
4. Were all required conditions for holding a closed meeting met? Were all required notices for holding a closed meeting provided to those entitled to notice? Please explain, and provide any relevant documentation.
5. Was a vote taken at the closed meeting? Was the vote authorized to be held at a closed meeting? If so, on what authority was the vote taken?
6. How would disclosure of the record reveal the actual substance of the deliberations at the meeting, and not merely the subject of the deliberations? Please explain, and provide evidence in support of your position.
7. Would the disclosure of any part of the record reveal the actual substance of the deliberations that took place at the closed meeting? If so, could any part of the record be disclosed?⁴

[12] In response, the town states that it is opposed to a specific zoning by-law of the City of Pickering, which is before the Ontario Municipal Board (the OMB) and the records at issue (except for Record 71) pertain to the staff comments,

⁴ *St. Catharines (City) v. IPCO*, cited above.

recommendations or in-camera meetings held to discuss this issue.

[13] The town states that Records 27, 76, 77 and 78 are documents which describe the substance of an in-camera deliberation on the issue of the project and the municipal position or action on this matter. It states that meetings of the GGC in Records 76 to 78 were properly held in-camera on the basis of sections 239(2)(e) and (f) of the *Municipal Act, 2001* (the *MA*), which is mirrored in section 5.9 to 5.21 of the Town of Ajax Procedural By-law Number 86-2015.

[14] The town states that the resolution to convene in-camera was duly noted in the Report of the GGC for each meeting.

[15] The town states that access was denied to Record 27 as it is a confidential communication between staff and council which pertains to the in-camera meeting identified in Record 78 and that release of Record 27 would disclose the actual substance of the deliberations at that meeting.

[16] The town states that point 3.3 of Record 76 deals with the issue of the project and that disclosure would reveal confidential comments by the Town Solicitor on the matter.

[17] The appellant states that the town has failed to establish or explain how the disclosure of the records at issue would reveal the actual substance of the deliberations of the meeting.

[18] The appellant points out that section 5.15 of the town's by-law states:

[w]hen appropriate, staff shall be encouraged to prepare an 'open' report to supplement the *in camera* report, which shall contain non-confidential information on the matter that is to be discussed *in camera*.

Analysis/Findings

[19] The town has applied section 6(1)(b) to Records 27, 76, 77 and 78. For this exemption to apply, the town must establish that:

1. a council, board, commission or other body, or a committee of one of them, held a meeting
2. a statute authorizes the holding of the meeting in the absence of the public, and
3. disclosure of the record would reveal the actual substance of the deliberations of the meeting⁵

⁵ Orders M-64, M-102 and MO-1248.

[20] Previous orders have found that:

- “deliberations” refer to discussions conducted with a view towards making a decision;⁶ and
- “substance” generally means more than just the subject of the meeting.⁷

[21] Section 6(1)(b) is not intended to protect records merely because they refer to matters discussed at a closed meeting. For example, it has been found not to apply to the names of individuals attending meetings, and the dates, times and locations of meetings.⁸

Part 1 of the test

[22] The first and second parts of the test for exemption under section 6(1)(b) require the institution to establish that a meeting was held by the institution and that it was properly held *in camera*.⁹

[23] Upon my review of these records, I find that part 1 of the three-part test has been met for each of the records at issue as they all contain information about meetings of the town’s GGC, which is a committee of the town’s Council.

Part 2 of the test

[24] In determining whether there was statutory authority to hold a meeting *in camera* under part two of the test, the purpose of the meeting has to be to deal with the specific subject matter described in the statute authorizing the holding of a closed meeting.¹⁰

[25] The town relies on sections 239(2)(e) and (f) of the *MA*, which read:

A meeting or part of a meeting may be closed to the public if the subject matter being considered is,

(e) litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board;

(f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

⁶ Order M-184.

⁷ Orders M-703 and MO-1344.

⁸ Order MO-1344.

⁹ Order M-102.

¹⁰ *St. Catharines (City) v. IPCO*, 2011 ONSC 2346 (Div. Ct.).

[26] Record 27 is an email with an attachment dated September 17, 2014. It contains information about the matters to be discussed at the closed meeting to be held at the September 18, 2014 GGC meeting at Record 78. The information at issue from Record 27 is also found in item 4.4 of Record 78. In Record 78, the authority to hold the meeting in-camera is specifically referenced to section 239(2)(f) of the *MA*.

[27] In Record 76, the authority to hold the meeting in-camera is specifically referenced to section 239(2)(f) of the *MA*.

[28] In Record 77, the authority to hold the meeting in-camera is specifically referenced to sections 239(2)(e) and (f) of the *MA*.

[29] Therefore, I find that part 2 of the three-part test has been met for each of the records at issue as a statute authorizes the holding of the meeting referred to in each record in the absence of the public.

Part 3 of the test

[30] With respect to the third requirement set out above, the wording of the provision and previous decisions of this office make it clear that in order to qualify for exemption under section 6(1)(b), there must be more than merely the authority to hold a meeting in the absence of the public. Section 6(1)(b) of the *Act* specifically requires that disclosure of the record would reveal the actual substance of deliberations which took place at the institution's *in camera* meeting, not merely the subject of the deliberations.¹¹

[31] Record 27 contains an email dated September 17, 2014, concerning a resolution, which is the attachment to the email in Record 27.

[32] Record 78, at item 4.4, contains the resolution attached to Record 27.

[33] I find that disclosure of the email in Record 27, will reveal the actual substance of the deliberations of the September 18, 2014 GGC meeting in Record 78. The closed meeting minutes at item 4.4 of Record 78 contains the discussion of the resolution found in both Records 27 and 78.

[34] In the circumstances, I find that part 3 of the test has been met for the information at issue in Records 27 and 78.

[35] Record 76 contains the agenda and minutes of the April 24, 2014 GGC meeting. Item 3.3 is at issue.

[36] Record 77 contains the agenda and minutes of the June 19, 2014 GGC meeting.

¹¹ Orders MO-1344, MO-2389 and MO-2499-I.

Item 4.2 is at issue.

[37] I find that part 3 of the test has also been met for both Records 76 and 77, as disclosure of these records would reveal the actual substance of the deliberations of the meetings.

[38] As part 3 of the test has been met for all four records at issue, these records are exempt under section 6(1)(b), subject to my review of the exception to section 6(1)(b) in section 6(2)(b) and the town's exercise of discretion.

Section 6(2)(b)

[39] I will now consider whether the exception to section 6(1)(b) in section 6(2)(b) applies. This section reads:

Despite subsection (1), a head shall not refuse under subsection (1) to disclose a record if,

in the case of a record under clause (1)(b), the subject matter of the deliberations has been considered in a meeting open to the public.

[40] The town did not provide representations on section 6(2)(b) in response to the Notice of Inquiry. In particular, the town was asked in the Notice of Inquiry whether a vote was taken in a public meeting concerning the subject matter of the deliberations. The town did not respond to this question.

[41] In response to the information in the public document, the town states, concerning Records 76 to 78, that the subject matter of the deliberations in question had not been considered in a meeting that was open to the public.

[42] Nevertheless, I find that section 6(2)(b) applies to certain information in the records at issue. I am making this finding based on the town's non-response to the question in the Notice of Inquiry with respect to section 6(2)(b), which asked whether a vote was taken in a public meeting concerning the subject matter of the deliberations and also on my review of the specific information in the records at issue.

[43] The records at issue are dated between April and September 2014. I note that in each of these records there is reference to events or meetings that will be considered in the near future. I will discuss each record individually.

Records 27 and 78

[44] Item 4.4 of Record 78 contains the same resolution that comprises the attachment to Record 27.

[45] Much of the information in Record 27 and item 4.4 of Record 78 is contained in the public document. However, I do not have evidence that the subject matter of the deliberations in these records has been considered in a meeting open to the public. As such, I find that the information in these two records is exempt under section 6(1)(b), subject to my consideration of the town's exercise of discretion.

Record 76

[46] This record contains the agenda and minutes of the April 24, 2014 GGC meeting. Item 3.3 is at issue. Item 3.3 consists of three paragraphs.

[47] The first paragraph refers to the information therein being subject to a public decision of Council. The third paragraph refers to the information being discussed in an upcoming open meeting of a committee of the town's Council.

[48] The minutes of the open meeting referred to in paragraph 3 of item 3.3 of Record 76 contain detailed information about the matter discussed in paragraph 3 of item 3.3 of Record 76. These minutes are available on the town's website.

[49] Therefore, I find that for both paragraphs 1 and 3 of item 3.3 of Record 76 fit within the exception in section 6(2)(b). These portions of Record 76 are, therefore, not exempt under section 6(1)(b) of the *Act*.

[50] I find, however, that the information in the second paragraph of item 3.3 of Record 76 is subject to section 6(1)(b). I will consider whether the town exercised its discretion in a proper manner with respect to this paragraph.

Record 77

[51] This record contains the agenda and minutes of the July 19, 2014 GGC meeting. Item 4.2 is at issue. Item 4.2 consists of two paragraphs. The minutes of the open meeting referred to in paragraph 3 of item 3.3 of Record 76, contains detailed information about the information at issue in the first paragraph of item 4.2.

[52] Therefore, I find that paragraph 1 of item 4.2 of Record 77 fits within the exception in section 6(2)(b). This information is, therefore, not exempt under section 6(1)(b) of the *Act*.

[53] The public document reveals much of the information set out in the second paragraph of item 4.2 of Record 77. However, I do not have evidence that the subject matter of the deliberations in these records has been considered in a meeting open to the public. As such, I find that the information in paragraph 2 of item 4.2 of Record 77 is exempt under section 6(1)(b), subject to my consideration of the town's exercise of discretion.

Conclusion

[54] In conclusion, I find that only paragraphs 1 and 3 of item 3.3 of Record 76 and paragraph 1 of item 4.2 of Record 77 are subject to the exception in section 6(2)(b). As such this information is not exempt under section 6(1)(b). Therefore, as no other discretionary exemptions have been claimed for this information, and no mandatory exemptions apply, I will order this information disclosed.

[55] The remaining information at issue, namely that in Record 27 and item 4.4 of Record 78, in paragraph 2 of item 3.3 of Record 76 and in paragraph 2 of item 4.2 of Record 77, is subject to section 6(1)(b). I will consider whether the town exercised its discretion in a proper manner concerning this information.

B. Does the discretionary advice or recommendations exemption at section 7(1) apply to Records 32 and 71?

[56] Section 7(1) states:

A head may refuse to disclose a record where the disclosure would reveal advice or recommendations of an officer or employee of an institution or a consultant retained by an institution.

[57] The purpose of section 7 is to preserve an effective and neutral public service by ensuring that people employed or retained by institutions are able to freely and frankly advise and make recommendations within the deliberative process of government decision-making and policy-making.¹²

[58] "Advice" and "recommendations" have distinct meanings. "Recommendations" refers to material that relates to a suggested course of action that will ultimately be accepted or rejected by the person being advised, and can be express or inferred.

[59] "Advice" has a broader meaning than "recommendations". It includes "policy options", which are lists of alternative courses of action to be accepted or rejected in relation to a decision that is to be made, and the public servant's identification and consideration of alternative decisions that could be made. "Advice" includes the views or opinions of a public servant as to the range of policy options to be considered by the decision maker even if they do not include a specific recommendation on which option to take.¹³

[60] "Advice" involves an evaluative analysis of information. Neither of the terms "advice" or "recommendations" extends to "objective information" or factual material.

¹² *John Doe v. Ontario (Finance)*, 2014 SCC 36, at para. 43.

¹³ See above at paras. 26 and 47.

[61] Advice or recommendations may be revealed in two ways:

- the information itself consists of advice or recommendations
- the information, if disclosed, would permit the drawing of accurate inferences as to the nature of the actual advice or recommendations.¹⁴

[62] The application of section 7(1) is assessed as of the time the public servant or consultant prepared the advice or recommendations. Section 7(1) does not require the institution to prove that the advice or recommendation was subsequently communicated. Evidence of an intention to communicate is also not required for section 7(1) to apply as that intention is inherent to the job of policy development, whether by a public servant or consultant.¹⁵

[63] Section 7(1) covers earlier drafts of material containing advice or recommendations. This is so even if the content of a draft is not included in the final version. The advice or recommendations contained in draft policy papers form a part of the deliberative process leading to a final decision and are protected by section 7(1).¹⁶

[64] Examples of the types of information that have been found *not* to qualify as advice or recommendations include

- factual or background information¹⁷
- a supervisor's direction to staff on how to conduct an investigation¹⁸
- information prepared for public dissemination¹⁹

[65] The town did not address this exemption in its original representations. When asked about the public document, it responded as follows:

Record 32 - Email from Manager of Planning to Mayor, with a cc. to: named solicitor, and Director of Planning and Development Service, dated January 20, 2015, - regarding [the project's zoning by-law].

Contains advice/recommendation of staff on the strategy to be used in a litigation matter that is still ongoing.

¹⁴ Order P-1054.

¹⁵ *John Doe v. Ontario (Finance)*, cited above, at para. 51.

¹⁶ *John Doe v. Ontario (Finance)*, cited above, at paras. 50-51.

¹⁷ Order PO-3315.

¹⁸ Order P-363, upheld on judicial review in *Ontario (Human Rights Commission) v. Ontario (Information and Privacy Commissioner)* (March 25, 1994), Toronto Doc. 721/92 (Ont. Div. Ct.).

¹⁹ Order PO-2677.

Record 71 - Email from Director of Planning and Development Services to Mayor, with a cc. to: Manager of Communications, and Government Relations Advisor, dated March 27, 2015 – regarding [the project] with attachment.

Contains advice/recommendation of staff on strategy to be used in a litigation matter that is still ongoing. Attached document also relates to another litigation matter that, if released, could have a negative impact on not only this litigation but could have negative repercussions on the other issue. There are also social/economic issues for consideration should this document be released.

[66] The appellant points out that the town did not provide representations in response to the Notice of Inquiry on these two records.

Analysis/Findings

[67] Although the town has provided additional information about Records 32 and 71 included in its response to the public document, I have primarily based my findings concerning section 7 on my review of the information in Records 32 and 71.

[68] Based on my review of Record 32, I agree with the town that section 7(1) applies as it contains advice or recommendations within the meaning of section 7(1).

[69] Section 7(2) lists mandatory exceptions to the section 7(1) exemption. If the information falls into one of these categories, it cannot be withheld under section 7.

[70] I find that some of the information in Record 32 is subject to one of the mandatory exceptions to section 7(1), namely section 7(2)(a),²⁰ as being factual information.

[71] The exceptions in section 7(2) can be divided into two categories: objective information, and specific types of records that could contain advice or recommendations.²¹ Section 7(2)(a) is an example of objective information. This exception refers to information that does not contain a public servant's opinion pertaining to a decision that is to be made but rather provides information on matters that are largely factual in nature.

[72] Factual material refers to a coherent body of facts separate and distinct from the

²⁰ Section 7(2)(a) reads:

Despite subsection (1), a head shall not refuse under subsection (1) to disclose a record that contains,
factual material;

²¹ *John Doe v. Ontario (Finance)*, cited above, at para. 30.

advice and recommendations contained in the record.²² Where the factual information is inextricably intertwined with the advice or recommendations, section 7(2)(a) may not apply.²³

[73] I find that the factual information in Record 32 is not exempt under section 7(1). It is a coherent body of facts separate and distinct from the advice and recommendations contained in the record. As no other discretionary exemptions have been claimed for this information, and no mandatory exemptions apply, I will order the factual information in Record 32 disclosed.

[74] Based on my review of Record 71, I find that the entire record contains advice or recommendations concerning the three items in the appellant's narrowed request. This record consists of an email from the town's Director of Planning and Development Services (the director) to the Mayor, copied to the town's Manager of Communications, and Government Relations Advisor. The email provides advice and recommendations on the attachment. The attachment to this record is a letter from the Durham Region Police Services to the director. The attachment also contains advice and recommendations.

[75] Based on my review of the exceptions in section 7(2) and this record, I find that none of these exceptions apply to Record 71. Therefore, I find that Record 71 is subject to section 7(1). As I have found that Record 71 is subject to section 7(1), there is no need for me to also consider whether it is also subject to sections 11(c) or (e).

[76] I will consider whether the town exercised its discretion in a proper manner with respect to the information I have found subject to section 7(1) in Records 32 and 71.

C. Did the institution exercise its discretion under sections 6(1)(b) and 7(1)? If so, should this office uphold the exercise of discretion?

[77] The sections 6(1)(b) and 7(1) exemptions are discretionary and permit an institution to disclose information, despite the fact that it could withhold it. An institution must exercise its discretion. On appeal, the Commissioner may determine whether the institution failed to do so.

[78] In addition, the Commissioner may find that the institution erred in exercising its discretion where, for example,

- it does so in bad faith or for an improper purpose
- it takes into account irrelevant considerations

²² Order 24.

²³ Order PO-2097.

- it fails to take into account relevant considerations.

[79] In either case, this office may send the matter back to the institution for an exercise of discretion based on proper considerations.²⁴ This office may not, however, substitute its own discretion for that of the institution.²⁵

[80] Relevant considerations may include those listed below. However, not all those listed will necessarily be relevant, and additional unlisted considerations may be relevant:²⁶

- the purposes of the *Act*, including the principles that
 - information should be available to the public
 - individuals should have a right of access to their own personal information
 - exemptions from the right of access should be limited and specific
 - the privacy of individuals should be protected
- the wording of the exemption and the interests it seeks to protect
- whether the requester is seeking his or her own personal information
- whether the requester has a sympathetic or compelling need to receive the information
- whether the requester is an individual or an organization
- the relationship between the requester and any affected persons
- whether disclosure will increase public confidence in the operation of the institution
- the nature of the information and the extent to which it is significant and/or sensitive to the institution, the requester or any affected person
- the age of the information
- the historic practice of the institution with respect to similar information.

[81] Neither party provided direct representations on this issue. Nevertheless, I have made my determination on the town's exercise of discretion based on my review of the

²⁴ Order MO-1573.

²⁵ Section 43(2).

²⁶ Orders P-344 and MO-1573.

parties' representations and on my review of the information I have found subject to sections 6(1)(b) and 7(1), namely:

- the information in Record 27, item 4.4 of Record 78, along with the second paragraph of item 3.3 of Record 76 and the second paragraph of item 4.2 of Record 78,²⁷ and
- some of the information in Record 32 and all of the information in Record 71,²⁸

[82] I find that the town exercised its discretion in a proper manner concerning most of this information, taking into account relevant considerations and not taking into account irrelevant considerations, except for the information at issue in Records 27, 77, and 78. These three records contain information that is also found in the public document.

[83] Concerning this information in Records 27, 77, and 78, I find that the town did not take into account the following factors:

- the nature of the information and the extent to which it is significant and/or sensitive to the institution,
- information should be available to the public, and
- exemptions from the right of access should be limited and specific.

[84] Accordingly, I will order the town to re-exercise its discretion concerning the information in Record 27, the second paragraph of item 4.2 of Record 77, and item 4.4 of Record 78.

[85] I uphold the town's exercise of discretion concerning the remaining records and find that the following information is exempt under section 6(1)(b):

- the second paragraph of item 3.3 of Record 76.

[86] I also find that the following information is exempt under section 7(1):

- The remaining information at issue in Record 32, and
- all of the information in Record 71.

²⁷ Which I found subject to section 6(1)(b).

²⁸ Which I found subject to section 7(1).

ORDER:

1. I order the town to re-exercise its discretion respecting access to Record 27, item 4.4 of Record 78, and paragraph 2 of item 4.2 of Record 77, taking into consideration the public document²⁹ and the factors listed above and provide the appellant with an access decision under section 19 of the *Act*, treating the date of this order as the date of the request.
2. I order the town to disclose to the appellant by **December 19, 2016** paragraphs 1 and 3 of item 3.3 of Record 76, and paragraph 1 of item 4.2 of Record 77, and the information I have found not exempt in Record 32. For ease of reference, I have provided the town with this order a copy of this information highlighting the information to be disclosed.
3. I uphold the town's decision to deny access to Record 71, paragraph 2 of item 3.3 of Record 76, and the remaining information in Record 32.

Original Signed by: _____
Diane Smith
Adjudicator

_____ November 18, 2016

²⁹ A copy of the public document is enclosed with the copy of the order sent to the town.