

Transcript of the Public Hearings of the Statutory Review Committee
on Access to Information and Protection of Privacy

Date: Wednesday, July 23, 2014

Presenter: Gavin Will

ATIPPA Review Committee Members:

Clyde K. Wells, Chair

Doug Letto, Member

Jennifer Stoddart, Member

Commissioner Wells: Good afternoon Mr. Will, whenever you're ready.

Mr. Will: Okay.

Commissioner Wells: You're first up.

Mr. Will: Well, thank you very much.

Commissioner Wells: As a matter of fact you're the only up this afternoon, the other gentleman who was to have been here, had to cancel at the last minute. You've got the afternoon available to you.

Mr. Will: Yes. I will say it's a pleasure to meet you again after all these years and in different capacities on both sides and Doug Letto

is actually...I'm a book publisher now and Doug Letto was one of my authors for this coming season.

Commissioner Wells: I'm glad you disclosed that.

Mr. Will: Yes.

Commissioner Wells: We would have to re-evaluate all our agreements.

Commissioner Stoddart: I think we have no previous relationship.

Mr. Will: Well, I'm not sure how you do any of this so I'm not...I know that...I believe as you know I did submit a letter to the committee earlier this month. Did you want me to read it or you just want me to answer questions?

Commissioner Wells: No, I'd like you to just summarize for us the real basis for your concern and the thrust of your submission.

Mr. Will: Yes.

Commissioner Wells: We had the sense not from you alone, but from others who have made representations to the committee that there is some misunderstanding or some apprehension in municipal council about the extent to which they can disclose the information about applicants who have made applications for development or people who have been corresponding with the council and whether or not they can table their letters in a public meeting and there seems to be a real mixture. We've done some minor exploring ourselves and have concluded that there appears to be a variety of practices. And we were wondering if you would be able to shed some light for us on how your council came to follow the practice that it appears to be following.

Mr. Will: Well, thank you and I'm newly elected as of last September. And previous to that I've been a journalist and being a former journalist I'm of course sensitive to access to information and I have a long standing interest in basically ensuring that the public has the information that it needs in order to make decisions because...and as a politician I'm also sensitive as well. I think that an informed public is necessary in a democratic society and that just doesn't apply at the federal level or the municipal level, but it also applies at the municipal level. And the municipal level is where the government has its most immediate impact on individuals.

The decisions that I as a councilor make regarding permitting, re-zoning of lands, development permits for businesses etcetera, those have impacts on people within the community. And people have the right to know who it is that is proposing to make changes to the community that they live in. And I've been doing some thinking about this, about why it is that municipalities actually require permits. And I think there is a bit of an impression out there that permits, they are basically revenue-generating tool for governments, for municipal governments in particular.

And in actual fact, well that it is a fact a revenue generating tool isn't particularly significant, but the reason that we do that is because what an individual does to their property at least from the street level has an impact on their neighbors, on the community as a whole. So we require people to...if they wish to change their property, if they wish to construct a building, we require them to obtain a permit so that the rest of the community is basically aware of what is going on, what is happening.

Commissioner Wells: It's not a law in ensuring awareness, its control.

Mr. Will: Control as well.

Commissioner Wells: There is zoning laws to be...and zoning laws are meaningless and people can do what they want.

Mr. Will: Yes.

Commissioner Wells: And the means of controlling what people is the permitting process and that's a means of control and conforming to zones and maintaining a proper structure in organizations in the community.

Mr. Will: That's correct. And when individuals ask for changes for re-zoning application or they're looking for a permit, the people in the rest of the community have a right to know who exactly it is making those requests. I'll give you an example why that's important.

The...it comes to my attention in the few short months that I've been elected that a developer in my community is interested in building a subdivision, not a large subdivision but a subdivision nevertheless. It so happens that he does not own much of the land. He does however...apparently so he's informed us, he does have agreements with those land owners that when he does receive a permit then the purchase agreements will be enacted. But under the way that our town operates however when the request for...if a request for the re-zoning or for the permitting was to come through, the permit actually, it would actually...we would...as a councilor I would see that it would be Mr. Developer X who has...who...

Commissioner Wells: Why?

Mr. Will: Because when I go to the planning and development committee meeting and we consider the application we have...there is a visual projector and we see a copy of the actual document that was signed by the individual. However when the...

Commissioner Wells: You do not say the individual's name?

Mr. Will: We do. As a councilor we do say the individual's name. So we know that. So when...if we approve that, even if turn it down, when the report goes to the public the person's name is...

Commissioner Wells: You mean to a public meeting?

Mr. Will: Correct, in a public meeting and in documentation. The civic number is included and is in fact recorded. The names of the individual or individuals are not. And in fact just today I was speaking with a resident of the community, a constituent and she opened up a copy of the local newspaper and asked me, she said, what is this? There was a notice in there for a development...a business permit and had the street number in there and because I'm on council, she said to me, I saw this in the newspaper. Where is it? What is it? Who owns this? And so I told her it is in fact the old fish plant on the Portugal Cove ferry terminal and an individual is proposing to build a very large restaurant and...on the lake. She wasn't disagreement with this but she wanted to know but she couldn't, but she does not know who it is.

Commissioner Wells: Why wouldn't you tell her?

Mr. Will: I did tell her.

Commissioner Wells: Yeah, so where is the problem? I mean except the council is not doing it, would you tell us why the council is not discussing it openly in the public meeting.

Mr. Will: I believe that it's the issue of a privacy that it's been interpreted by the information officer and I'm not disagreeing with the information officer by the way.

Commissioner Wells: I'm sorry, you don't? I'm sorry; you said you didn't disagree with?

Mr. Will: I do not necessarily disagree with the interpretation of the privacy laws of the...

Commissioner Wells: And what privacy laws would you agree with that causes this?

Mr. Will: This would be the legislation as it was changed in Bill 29.

Commissioner Wells: And how does that cause that? Can you point to it so I can see what...?

Mr. Will: Yeah well I...

Commissioner Wells: Because it's something you have to address.

Mr. Will: There was a Section...there is a Section...I looked at the changes last night. I think it was section...was it Section 15 or was it changed?

Commissioner Wells: Well there is a lot of sections that's changed, but what particular area? How did...I can't point to anything.

Mr. Will: There is a disclosure of individuals' names.

Commissioner Wells: And where is...businesses...applying for business permits in the community? Where does that prohibited?

Mr. Will: I do not believe it is but that's the...

Commissioner Wells: Well, but you told us you didn't disagree.

Mr. Will: Well, I have no reason...I don't really have a basis for disagreeing with it. When the information officer tells me and she's the person who has been charged with interpreting access to information...

Commissioner Wells: Is she a lawyer?

Mr. Will: No, she's not.

Commissioner Wells: Did she obtain legal advice?

Mr. Will: I do not know the answer to that question.

Commissioner Wells: I ask you these questions Mr. Will because the brief exploration that we have done indicates that other municipalities, many other municipalities, the names of the person, what's proposed, in details.

Mr. Will: Yes.

Commissioner Wells: You are aware of that and your council is aware of that?

Mr. Will: I'm aware of that. We are aware of that.

Commissioner Wells: And why do you take this...

Mr. Will: Because....

Commissioner Wells: ...closed position?

Mr. Will: Well I'm not taking a closed...what I mean to say is that the interpretation by our information officer of the privacy legislation as it exists is as far as I can tell there is a...that's basically I wish to go to war with the information officer. It is very, very difficult to argue with an individual who's been placed in this position.

Commissioner Wells: Just look at this in perspective...

Mr. Will: Yes.

Commissioner Wells: ...from our point of view. If there's something in the ATIPPA legislation which we are reviewing, that's our task and that is the limit also of our jurisdiction, to review it to see what if anything in it needs to be changed or what if anything is not in it that ought to be added and so on. But in the ATIPPA context, if the situation is that the ATIPPA legislation is not causing this and this is simply a practice that this municipal officer is following that's beyond our jurisdiction. We can't suggest that this municipal officer must do this, that or the other thing. That's somebody else...

Mr. Will: It's a privacy legislation that has been identified and has been pointed out to me on...

Commissioner Wells: ...and what specific provision in the privacy legislation?

Mr. Will: Just another occasion.

Commissioner Wells: What...do you have a specific provision that...

Mr. Will: I cannot point to a specific provision. I do know that in my reading of the amendments that individuals, the names of individuals can be basically be redacted by public institutions.

Commissioner Wells: Where there is personal information involved.

Mr. Will: Yes, personal information.

Commissioner Wells: Medical information...

Mr. Will: There seems to be more wide...it seems to be...the net seems a bit wider than that.

Commissioner Letto: In terms of how it's being applied you mean?

Mr. Will: Yes.

Commissioner Wells: In your case? In the case of your municipal council?

Mr. Will: Yes.

Commissioner Wells: But you are aware that it is not still applied in the case of other municipal council?

Mr. Will: I am indeed aware of that.

Commissioner Wells: So wouldn't that lead you to believe that it's really not a legislation at all, it's the interpretation your particular officer is giving it and isn't that particular officer answerable to your council?

Mr. Will: That's a very good question. I do not...if somebody's been appointed as the information officer...

Commissioner Wells: Appointed by whom?

Mr. Will: I guess by...well, when I got elected she was the information officer. We didn't appoint her.

Commissioner Wells: Well somebody must have. Somebody did.

Mr. Will: I do not know who did.

Commissioner Wells: And who would have authority to do it other than your council?

Mr. Will: Well there are two legislative...well there were two positions that are legislative that are identified in the Municipalities Act where...

Commissioner Wells: The town manager?

Mr. Will: ...the town manager and the town clerk.

Commissioner Wells: Well that's all?

Mr. Will: Yeah. And the...

Commissioner Wells: And other than that it's the council that makes the appointment?

Mr. Will: Yes but the...

Commissioner Wells: So if that person is not performing as that person should, isn't that an issue for your council, not really for this review committee?

Mr. Will: It is but it's also...it's the use of the...she herself seems to be unclear about the Act. She's pointed the Act on several occasions as...she was saying that because of the Act that to disclosure of personal information, correspondence from individuals cannot be

tabled, with names attached the...on several occasions we had this issue so the...

Commissioner Wells: Why can't correspondence directed to the mayor and councilors not be tabled at a public meeting? I don't know of anything...

Mr. Will: It can be. We have to apply specific...basically we had to make a motion each and every time and there are examples where...well she has actually...she has gone to...and there is one piece of correspondence that stands out. She said that according to the privacy legislation we could not table it unless the person who sent the letter acquiesced to this and the person did not and was...

Commissioner Wells: Can you be more specific?

Mr. Will: Yes. Earlier this year we received a letter from a lawyer who represented a property owner who was attempting to sell a

piece of property. The lawyer was not threatening with a lawsuit or anything but he was pointing out that the road needs to be re-paved. It was in such a poor condition that he was unable to sell his home because of the condition of a portion of the road.

Commissioner Wells: That is, the lawyer's client was unable to sell?

Mr. Will: Correct. And I agreed that the road was in a terrible condition and I also agreed with the rest of council that we should in fact re-pave this section of the road, but I also asked the information officer. I said, this piece of correspondence should be tabled, and she said that according to the privacy legislations she had to go ask the attorney whether this could be tabled or not and so whether this correspondence could be tabled. And the answer I got back was, no, the individual did not want that. And...

Commissioner Wells: Well, I'm not going to be giving you legal advice now, but I can't think of anything in the Access to Information and Protection of Privacy Act that would prevent that letter to be tabled

as your information officer suggests. Now maybe I'm overlooking something I don't know, but nothing comes to mind. I just can't think of anything that could preclude that from being tabled in a public meeting of council. It was a specific request directed to the council by a lawyer...

Mr. Will: I agree, yeah.

Commissioner Wells: ...acting on behalf of a client. Is not the problem with your information officer and the position she's taken rather than...

Mr. Will: I don't believe that.

Commissioner Wells: ...the Act.

Mr. Will: I mean that is one interpretation. However, it's the uncertainty about the legislation itself. There is an impression that this legislation is so broad, that it is extremely broad and people don't...and we don't want to be taking a chance so basically making the mistake. And we've seen certainly either provincial government has used this legislation to basically keep a lot of information from the public that I think should be available to the public and has been interpreted, at least in my community that people do listen to the media, they've seen the provincial government and how it has acted and they've seen this piece of legislation go through and I believe that there is a fear of releasing too much information and basically breaching the privacy legislation. So I think...

Commissioner Letto: Can I ask you, do you have any sense of where the information officer gets the interpretation they do which is that names ought to be redacted and so on?

Mr. Will: She has received training.

Commissioner Letto: From?

Mr. Will: I do not know from whom, but she has informed us that she has received advice and training. I can find out.

Commissioner Wells: Do you know of any other council that follows the same practice as yours does?

Mr. Will: I do not know. I know that it's not as restrictive in other neighboring municipalities such as Torbay for example.

Commissioner Wells: Torbay is not so restrictive?

Mr. Will: No, that's correct.

Commissioner Letto: I think you said that you've made motions that such letters be tabled as they were with names attached and so on.

Mr. Will: Yes.

Commissioner Letto: Is there any support for your position on council? But I guess what I'm ultimately getting at is does council itself at one point want to challenge that kind of interpretation?

Mr. Will: We do, but we don't know...we don't really have...we don't have enough knowledge or the basis to challenge it. I know that...I am certain that we actually have a majority on council who want to be...

Commissioner Letto: Be more open?

Mr. Will: Oh yes, I'm certain of that. I have a lot of respect for my fellow councilors, but we don't know what...

Commissioner Wells: I'm not going to give you legal advice that's a practical advice but...

Mr. Will: Thank you very much.

Commissioner Wells: ...did your council ever think of consulting an outside lawyer to ask them to interpret the legislation and see if the position taken by your information officer is sound or unsound?

Mr. Will: I mean it just seems...yes.

Commissioner Wells: If you want a practical approach it, consult your lawyer. Ask your lawyer.

Mr. Will: We should. We could definitely do that, but I'm not certain that...

Commissioner Wells: That's not legal advice that's practical advice.

Mr. Will: Practical advice. That's what...okay, we could, but at the same time I myself I'm not so secure in my own position to challenge the information officer. I myself I'm not certain...

Commissioner Wells: Would you say considerable comfort from the fact that no other municipality that you know of applies it in the same way? Doesn't that comfort...

Mr. Will: Well some of the...

Commissioner Wells: ...give you some comfort in your position?

Mr. Will: Not really...

Commissioner Wells: Okay.

Mr. Will: ...because they're also interpreting the Act. I mean as I said it could well be as far as I'm concerned that the information officer is correct in her interpretation.

Commissioner Wells: It could well be that she's wrong.

Mr. Will: It could well be that she's wrong, but a legislation that's...but there is such...it appears to me that there's been such a...that there's been a culture of secrecy that has kind of crept into the body politic as a whole and it's trickled down, sorry to the

municipal level, but this was an unintended consequence perhaps of the legislation as it exists.

Commissioner Letto: So it seems that at least from what you're saying that at the root of this interpretation is some training or direction that came from some event outside the council that gave the information officer the sense that...

Mr. Will: She's been...I said I've only been elected since September so I'm not in a position to know. I could ask but I haven't, when she was appointed and how she got her training but she has informed us that she has received training. I don't know whether from Mr. Ring's Office, I doubt it. But you know that's something I'm unable to say.

Commissioner Stoddart: Mr. Will, could you talk to us about another aspect of municipal or indeed any public body's transparency now and that is your policy about the internet, publishing names on your website and what went on a while ago and what you put on your website now?

Mr. Will: I don't understand the nature of the question.

Commissioner Stoddart: Maybe it's because you can't hear me.
Thank you. Can you tell me...we've talked about the policy in terms of having names in the open council meetings, about what personal information councilors can see, but I'd like to know about what you do in relation to information that's published on your website. I presume you have a website...

Mr. Will: Yes we do.

Commissioner Stoddart: ...and I haven't had time to check it out, but...

Mr. Will: Yes we do.

Commissioner Stoddart: And you inform your citizens via this website. What is your policy regarding what kind of information you put on the website?

Mr. Will: We publish...well there is...I guess there's two things. There's...one there are voice transcripts of meetings themselves, there are also...the official minutes are published every week. Not all information that is presented at the committee session is presented to the public. It could have...

Commissioner Wells: You have closed committee meetings?

Mr. Will: Yes we have several committees. We have finance of which I'm chair, planning and development which I am a member, protective services, I'm a member of that. We have public works and we also have economic development and marketing and...

Commissioner Stoddart: And which ones are closed and which ones are opened?

Mr. Will: People can appear...

Commissioner Stoddart: Are there some...

Mr. Will: People are allowed to appear before them, but none of them are open to the public. They are all closed.

Commissioner Stoddart: But their transcripts are made available?

Mr. Will: No. The minutes from those meetings are provided in a condensed form for the public.

Commissioner Wells: In a redacted form?

Mr. Will: Correct, in a redacted format.

Commissioner Stoddart: Okay, so all these specialized kinds of subcommittees are closed meetings?

Mr. Will: Yes.

Commissioner Stoddart: To which citizens though can appear or which if they have their own personal concerns?

Mr. Will: Correct.

Commissioner Stoddart: The audio registration then is not on the website, but a redacted form in which I presume the name of the citizen who appeared before the subcommittee is redacted as well are made available to the public?

Mr. Will: I'm having...I'm looking at...I'm thinking about...let's see. I believe, I will check this out, but I think that if somebody appears before the committee that we do in fact report their name in this.

Commissioner Stoddart: In the summary that goes on the internet?

Mr. Will: Yes.

Commissioner Stoddart: And once it goes on the internet you probably...this is probably not a detail that you would follow. Do you take any steps so that that person's name is not able to be downloaded or cannot be downloaded and therefore catalogued by search engines?

Mr. Will: I have to get back to you on that one.

Commissioner Stoddart: Well if you would I think that would be very helpful...

Commissioner Wells: Okay.

Commissioner Stoddart: ...because as you probably know if you don't take special steps to use an exclusion protocol in coding that information, then various search engines that are continually sweeping the internet will pick up that personal information or other information and so on.

Mr. Will: Yes. Yeah just so the committee that...excuse me, before which people most often appear is before the planning and development committee. That's the...usually what happens with

planning and development, we have a Planning and Development Office and people apply for permits. If people...if it's straightforward, then the permit is issued. If there are any issues whatsoever in terms of adherence to regulations regarding development then that will be brought to the committee whereupon we will decide the merits of the case and basically override certain regulations or not. And sometimes people will come to council, to committee meetings to plead their case, other times they come to council to talk about development proposals that they have, sometimes we ask people in to discuss issues.

Commissioner Wells: And when they come to council those meetings are opened surely?

Mr. Will: To the council, yes. I thought you were talking about...I'm just talking specifically about committee meetings.

Commissioner Letto: I wanted to develop a further sense of how the interpretation of what the information officer refers as the privacy

legislation works. So let's say I'm a resident in the town, I apply to the town to construct some kind of an out-building or a shed or something on my property, when that application comes before the council in some form, is my name redacted?

Mr. Will: Yes.

Commissioner Letto: It's been said before this committee that there is a community in this region where if there's a public petition drive, the names and the petition is presented to a council, but the names themselves are redacted before they come to a public meeting. Is that your council?

Mr. Will: That sounds like my council, yes.

Commissioner Letto: What impact does this kind of interpretation of what's being referred to as privacy legislation what impact does this then have on the ability to have open local government?

Mr. Will: It makes it a bit more difficult for sure and it's also opened an avenue for I think abuse of the system as well and has affected me personally as you saw in the correspondence where redaction of a petitioner has actually been used, in my opinion as cover, to attack me personally and I wasn't very happy about that.

Commissioner Letto: So it can have all kinds of consequences, is your point?

Mr. Will: Yes, unintended consequences.

Commissioner Letto: I think the Chair talked earlier that different communities and different municipalities interpret this in various ways and the limited examination that we did of various minutes from various councils show that many of them, they name the developers in their minutes. It's quite obvious that...

Commissioner Wells: The amounts proposed.

Commissioner Letto: I'm just wondering if...

Commissioner Wells: Great detail.

Commissioner Letto: ...I'm just wondering if again on a practical level if the Federation of Municipalities is probably a good source to get some direction was the proper way to do this, because some of these towns that I'm thinking off are quite large, probably have their own legal advice, but people have obviously thought about this stuff and seemed to feel no hesitation in naming names.

Mr. Will: Yeah. Well, indeed there is a...and I'm certain as municipal councilor, I'm willing and I sure do so. However when the privacy legislation is used basically as a rationale for current practices at a practical level, it's difficult to challenge that.

Commissioner Wells: Why...this is what I don't understand. If so far as you know yours is the only town that follows this, the only municipality that follows this rigid practice, why would you follow it without asking a lawyer to provide you with legal advice as to the effect of the privacy legislation asking the Federation of Mayors and Municipalities to provide guidance generally for all municipalities on the issue, asking the department of municipal affairs to provide guidance on the issue? It seems to me that those are three possible practical solutions that could deal with this properly.

Mr. Will: Well, we've done that. We've done some of that. We had municipal consultants very experienced in the field, advisors.

Commissioner Wells: And they had formed this view, this interpretation of the access to information and privacy legislation?

Mr. Will: Not specifically they did not. What they told us is that...and they were very clear about this. They said that, as a municipal

councilor you do not have the right to more or less information than any other member of the public except on some very limited areas of scope, personal issues, illegal issues that are ongoing.

Commissioner Wells: Or any issue before the court?

Mr. Will: Yes, those things, very, very limited and I have pointed this out that there is...

Commissioner Wells: I'm going to take you back to what you've just said.

Mr. Will: Yes.

Commissioner Wells: Those advisors said to you, as a municipal councilor you don't have any more right to information than does any member of the public.

Mr. Will: Correct.

Commissioner Wells: Doesn't that say to you that the public has a right to all this information that you have on this development issue? Isn't that what it says?

Mr. Will: It does.

Commissioner Wells: Well, why wouldn't you follow it?

Mr. Will: Because I'm only one of seven people on council and everybody seems to be equally confused about this and unsure about

it because the privacy legislation held up has been the guide to which we must follow and we follow particular...

Commissioner Wells: Held up by whom?

Mr. Will: Well, certainly by the information officer and some...and one or two people involved.

Commissioner Wells: Well it seems to me...

Mr. Will: I know the people in council, isn't just...

Commissioner Wells: ...it seems...

Mr. Will: We have others too.

Commissioner Wells: ...to me you have not accepted the advice of the municipal consultants to whom you referred who told you, you didn't have any greater right to information than the general public, you've ignored their advice, you've not pursued the personal views, the feelings of the majority of your councilors, you've stuck with this advice that you're getting from your information officer that you appointed, notwithstanding that you're only council that's following that.

Mr. Will: Well we are not the only council.

Commissioner Wells: But you are the only council that applies it that rigidly, that...

Mr. Will: I'm not so certain that that's the case, but I take you're...we have no...

Commissioner Wells: Well, maybe I don't know the detail of every council, but I don't understand why you don't do something about disabusing your information officer of the view that she appears to hold if that's where the impediment exists.

Mr. Will: I'd like...but I'd also like to have...I'd like the legislation to be clearer, I like the restrictions ... I do believe that the legislation doesn't offer some succor to, if you want to put it that way, to our information officer. I believe it does. That the naming of names should be...redaction of names is in fact permitted and...

Commissioner Wells: Permitted or required? There's two different things.

Mr. Will: Well, permitted.

Commissioner Wells: Then it's a choice that she appears to make, if it's not required.

Mr. Will: Indeed. I'd like the legislation to be stronger, basically that if you are...just giving you an example. If...

Commissioner Wells: Stronger in what way?

Mr. Will: Well, at the municipal level. If you're going to make it that people should not be able to apply for a permit in their community or apply for a business in their community without their names being available to their fellow community members.

Commissioner Wells: And you think that that should find expression in the Access to Information and Protection of Privacy Act?

Mr. Will: Yes I think...

Commissioner Wells: Isn't that in...

Mr. Will: I believe it should be.

Commissioner Wells: ...isn't the in the Municipalities Act?

Mr. Will: Not really, no.

Commissioner Wells: I mean this is what guides the operation of municipalities not this Act.

Mr. Will: But...

Commissioner Wells: You're asking us to recommend changes to this Act to give direction to municipalities as to how they manage information and so on.

Mr. Will: I think that that will be...it'll certainly be useful. We're talking...we are...municipalities are after all they are an organ as well of the provincial government. They are subset of the provincial government itself.

Commissioner Wells: They are creatures of the creators..

Mr. Will: Creatures of the creators, yes, thank you. Yes. And as such there are parallels between the provincial government and its interpretation of the Act and the municipalities' side. I think that the legislation should be stronger that municipalities should be required to basically name names ... that people should not be able to hide...well it's not hide, have their names redacted simply because they don't want it to be there.

Commissioner Letto: If the information officer in this case, and as the Chair said we have no idea how many communities practice this approach but if they are leaning on some aspect of disclosure that's harmful to personal privacy part of ATIPPA. I don't know what the situation is there, but I'm wondering if it would be helpful to the committee when Mr. Will writes in response to a couple of questions Ms. Stoddart asked to gain some understanding of where this training came from that informs the information commissioner of how to approach the interpretation ... that could be revealing.

Mr. Will: Perhaps what's required is better training of...

Commissioner Wells: There's a fourth source of information for you and the source is right behind you. It's the Office of the Chief Information and Privacy Commissioner.

Commissioner Stoddart: Mr. Will, to continue a bit in that vein nobody has spoken to you about ... within and it was probably

Section 30 of the Act that you were referring to, but that's going to be a legal detail that you don't have to worry about...

Mr. Will: Yes, certainly.

Commissioner Stoddart: ...but in it there is a Section number 5 which talks about the head of a body considering all relevant circumstances in order to determine whether the disclosure of personal information constitutes an unreasonable invasion of privacy. In the very first one, there is quite a set of them, the disclosure is desirable for the purpose of subjecting the activities of the province or the public to public scrutiny. The second one is: the disclosure is likely to promote public health and safety or the protection of the environment.

No one has mentioned these to you as being clear of public interest overrides to the right of protection of personal information, because there are situations where the public does have a right to know your personal information and these are two examples given in very clear cases. Nobody mentions this to you as being a possibility for you to

exercise your discretion and say, well it is a person's name, but this is municipal powers or municipal money or license to develop land. It concerns all the citizens. Nobody mentions that.

Mr. Will: No, that's...I mean they have not done that, no.

Commissioner Stoddart: Thanks. Well as my colleague said, it would be interesting to know where this training came from, because I'm reading to you from the Act and arguably that would form part of any relevant training.

Mr. Will: I suppose that's the...rather your...part of this is the overall...no, I think there's been...but there's...it seems to be that there's a culture of secrecy that has crept into public institutions in this province and it started at the provincial level and certainly as far as my council is concerned that this legislation is held out as being reasons for non-disclosure of what I consider to be publicly relevant information.

Commissioner Wells: There's one more thing that I want to...the summary of your position...

Mr. Will: Yes.

Commissioner Wells: ...in your letter is this, I request that your committee recommend all correspondence and development applications presented in municipal councils be publicly disclosed. There is absolutely nothing in the ATIPPA Legislation that I know of that prevents that...

Mr. Will: No.

Commissioner Wells: ...or says anything whatsoever about it or deals with what municipal councils do procedurally with applications for development. So, it seems a little odd to ask us to do it instead of asking the minister of municipal affairs to make sure if necessary there is an amendment to the municipalities Act which will require

it... which would seem to be...well, not to be regulation in this particular example yes...

Mr. Will: It should be.

Commissioner Wells: So that might be a better focus for that request, because when such exemptions are granted I suggest councils be required to disclose their existence in a timely manner. This is for any exemptions. Again that's sort of regulating how municipal councils work and is an area that's best dealt with by the municipalities Act. That's the only thing I wanted to add.

Mr. Will: Okay, thank you. Yeah.

Commissioner Wells: Is there anything else that you want to add...

Mr. Will: No, I think...

Commissioner Wells: ...Mr. will?

Mr. Will: I think you...I think we've been over everything. And I just want to absolutely clear about information that you want back from me and Miss Stoddart you want to have information about exclusion protocols in terms of personal information?

Commissioner Stoddart: Yes, your policy about putting information on your website in general, more particularly personal information, and then when you put personal information on the website, do you use exclusion protocols to protect them from being picked up by search engines?

Mr. Will: Okay. All right and also training. Where does it come from?

Commissioner Letto: That's right. You mentioned has advice and training. I'd say the source of it is there any documentation or anything that can enlighten us on that I think that would be useful.

Mr. Will: I'd be happy to forward that.

Commissioner Stoddart: Thank you.

Commissioner Wells: Thank you Mr. Will.

Mr. Will: Thank you very much.

Commissioner Wells: We appreciate your making the presentation.
Thank you very much.

Mr. Will: Well, I thank you very much. I appreciate this.

Commissioner Stoddart: Thank you.

Commissioner Wells: We are adjourned until 09:30 a.m. tomorrow morning.