



## FOIP Discussion Paper: Assessment Roll

*FOIP Discussion Papers are intended to highlight how the Freedom of Information and Protection of Privacy Act may apply to a particular issue or situation, and are intended to promote discussion within interested public bodies. They are not a substitute for legal advice.*

### **What are the rules around disclosing names and mailing addresses from the assessment roll?**

Municipalities are required to prepare an assessment roll by the *Municipal Government Act* (MGA). The assessment roll contains the names and contact information for property owners. The MGA requires that the assessment roll be available for inspection by the public.

The most common question directed to the FOIP Help Desk concerns disclosing contact information on the assessment roll. Callers ask, "Is the assessment roll a public document? If anyone can inspect the roll, why can't we give out the same information over the phone?"

This paper attempts to provide some simple answers to these questions.

Issues around disclosing personal information from the assessment roll have been addressed in Alberta IPC Order 2000-024, in British Columbia IPC Investigation Report P98-011, and in B.C. IPC Orders 248-1998 and 217-1998.

### **What is the basis for public availability of the assessment roll?**

The assessment roll is available for inspection to permit the comparison of the assessed value of one property to another for taxation purposes. This promotes equity and confidence in the tax system. Inspection of the roll is one of the primary tools that forms the basis for an assessed person to determine if they wish to file a complaint regarding an assessment. The ability of an assessed person to view their assessment is a key principle. Denial of access would have a severe impact on the assessed individual as well as local complaint processes.

However, now that assessment information has migrated from handwritten ledgers and typed lists to databases that can be searched by any field, the information can readily be used for other purposes beyond the original public policy reasons for making it available.

For example, a database of assessment roll information could be used to compile mailing lists for solicitation, as a means to track down the address or location of another person, as part of a financial profile, or simply to satisfy the curiosity of another person.

The question then becomes, how much personal information must be disclosed to promote fair and equitable property assessments, and are there ways to accomplish this without unduly jeopardizing the privacy of citizens?

## **Is the assessment roll a public record?**

The FOIP Act does not designate certain documents as public records. Records and public bodies are defined as either subject to the Act or excluded from the Act. Municipalities, and their assessment rolls, are subject to the FOIP Act.

## **Does the assessment roll contain personal information?**

Section 303 of the MGA defines the information that must be contained in the assessment roll for each assessed property. This includes the name and mailing address of the assessed person, and public or separate school support.

The FOIP Act defines personal information as "recorded information about an identifiable individual", including the individual's name, home address, telephone number, and religious beliefs or associations.

Therefore the assessment roll contains personal information.

## **Can an individual view the assessment roll, including the names and addresses, in municipal offices?**

Personal information may be disclosed in accordance with section 40 of the FOIP Act. Section 40(1)(f) of the FOIP Act says:

**40(1)** A public body may disclose personal information only

**(f)** for any purpose in accordance with an enactment of Alberta or Canada that authorizes or requires the disclosure

The MGA is an enactment of Alberta that requires disclosure, in section 307:

**307** Any person may inspect the assessment roll during regular business hours on payment of the fee set by the council.

"Inspect" is not defined in the MGA or in the *Interpretation Act*. However, the MGA does state that the records are to be available during business hours, implying that the public must go to a specific location to inspect the records. This also implies inspection of the roll must be done in person at the location designated by the municipal council, and upon payment of the fee set by council.

This has the practical effect of limiting disclosures to those who have sufficient interest in the information to travel to the municipal office to look up the information, and who are willing to pay a fee (if the municipality has decided to charge a fee). By requiring personal viewing of the assessment roll, a measure of privacy protection is built in as mainly those with a legitimate interest in the roll are likely to make the effort to view it.

It is contemplated that when a review of the MGA occurs it will include a consideration of amending section 307 to place stricter parameters to withhold the names and mailing addresses of property addresses.

## **What if the request is not a written request under the FOIP Act, for example, a phone call?**

Other disclosures of personal information may be made as long as they fall within the list of permitted disclosures in section 40 of the FOIP Act. For example, the name and address may be given out with consent (section 40(1)(d)). It may be given out to comply with an enactment of Alberta or Canada, such as the *Income Tax Act* (section 40(1)(e)).

Other disclosures that do not fall within section 40 cannot be made. For example, bill collectors or bailiffs may want information from the assessment roll to locate an individual. As this does not fit one of the permitted disclosures under section 40, municipalities should not give out this information. More examples of disclosures under section 40 can be found in the *Frequently Asked Questions for Municipalities*.

## **What happens when a municipality receives a FOIP request for names and mailing addresses on the assessment roll?**

Alberta's Information and Privacy Commissioner addressed this question in IPC Order 2000-024. The Calgary Real Estate Board asked for an electronic copy of the entire assessment roll. The City of Calgary withheld the names and mailing addresses of property owners from the electronic file. Property addresses were released.

The Commissioner agreed with the City's position and determined that the names and mailing addresses must be withheld.

The Commissioner found that section 301 of the MGA does not apply to the names and mailing addresses on the assessment roll. This section says:

**301** A municipality may provide information in its possession about assessments if it is satisfied that necessary confidentiality will not be breached.

Section 301 of the MGA is paramount over the FOIP Act. If section 301 applied, then municipalities could disclose the information if satisfied that "necessary confidentiality would not be breached", rather than following the FOIP Act.

Since the FOIP Act applies, the Commissioner found that the names and mailing addresses must be withheld under section 16(2) of the FOIP Act, which says:

**16(2)** The head of a public body must refuse to disclose to an applicant information about a third party that was ... collected for the purpose of determining tax liability or collecting a tax.

If a FOIP request is received for assessment roll information, the municipality must refuse to disclose information about the third party (the property owner). In IPC Order 2000-024, this information was the property owners' names and mailing addresses. This is a mandatory exception to disclosure.

## **Other Considerations**

Sections 299 to 301 of the MGA are paramount over the FOIP Act and apply to assessment information released by municipalities (not the assessment roll). Order 2000-024 did not address disclosures of personal information under sections 299 and 300, but we can speculate as to how this decision might apply.

Section 299 allows an assessed person to receive information about their own property assessment. Order 2000-024 does not affect this right because the name and mailing address would be disclosed to the person the information is about.

The release of assessment summary information under section 300 allows a comparison of property assessments in a municipality by any assessed person "if necessary confidentiality will not be breached." As discussed above, since the Commissioner found that section 301 did not apply to the names and mailing addresses when releasing information about assessments, it seems likely that the same argument would apply to a disclosure under section 300. Therefore, when disclosing information under section 300 of the MGA, it seems prudent that application of "necessary confidentiality" would include protecting (i.e. not releasing) the names and mailing addresses of property owners.

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Note: In its Final Report, November 2002, the Select Special FOIP Act Review Committee made the following recommendation: That the *Municipal Government Act* be amended to protect the name and mailing address of the property owner from routine disclosure under section 307 of the *Municipal Government Act*.