

**ALBERTA  
INFORMATION AND PRIVACY COMMISSIONER**

**Report on the Investigation into a  
Breach of Privacy**

**July 25, 2000**

**Lethbridge Housing Authority**

**Investigation # 1876**

**Nature of Complaint**

On April 14, 2000, the Office of the Information and Privacy Commissioner received a privacy complaint concerning the Lethbridge Housing Authority. The complainant is a former tenant of the housing body. She alleged the following occurred:

1. That the public body disclosed personal information regarding the complainant's tenancy to at least two separate third parties.
2. That the public body disclosed personal information regarding the complainant's tenancy to at least two separate third parties.
3. That the personal information disclosed was:
  - that the complainant was evicted by the public body;
  - that the complainant did not pay her rent;
  - that the complainant owed the public body \$400.00; and,
  - the social insurance number of the complainant.
4. That the personal information disclosed was not accurate in the case of the first three items.

The questions that were investigated in relation to the complaints were:

1. Was the information at issue personal information under the Act?
2. Did the public body disclose personal information to third parties?
3. Did the public body have the authorization either from the complainant or through provisions of the Act to disclose the personal information?

The final question regarding accuracy was not pursued. After a preliminary investigation with the public body and subsequent discussions with the complainant, she agreed that the matter could be dropped because the public body acknowledged the more substantive issue of the *occurrence* of disclosure. By agreement, this left the accuracy of the information to be considered a lesser matter not requiring resolution by this office.

## **Commissioner's Authority to Investigate**

The Freedom of Information and Protection of Privacy (FOIP) Act was extended to local government bodies on October 1, 1999. The Lethbridge Housing Authority is defined as a local government body further to section 1(1)(i)(xiii) of the FOIP Act and is therefore subject to its provisions.

Under section 51(I)(a) of the FOIP Act, the Commissioner may conduct an investigation to ensure compliance with any provision of this Act. In addition, section 51(2) of the FOIP Act states:

***51(2) Without limiting section (1), the Commissioner may investigate and attempt to resolve complaints that***

***(e) personal information has been collected, used or disclosed by a public body in violation of Part 2.***

## **Findings**

### **1. Was the information that was disclosed personal information?**

The public body acknowledged that the following information about the complainant was disclosed to a third party who purported to be the complainant's new landlord looking for a reference.

- That the complainant lived in the housing authority from October 1998 until December 1999,
- That she left owing the authority \$470.65.
- That, when asked if she left on her own or was asked to leave, the authority asked her to leave.

The public body also agreed that the social insurance number of the complainant was disclosed to businesses with which the complainant had a contracted employment relationship.

Personal information is defined in the Act under section 1(I)(n).

***1 (I)(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,***

***(iv) an identifying number, symbol or other particular assigned to the individual,***  
***(viii) information about the individual's educational, financial, employment or criminal history, including criminal records where a pardon has been given,***  
***(viii) anyone else's opinion about the individual.***

The information disclosed was the complainant's personal information.

## **2. Did the public body disclose personal information to third parties?**

The public body agreed to, and the records they provided show, that personal information was disclosed to different third parties; one purported landlord on March 20, 2000 and to more than one business during October 1999.

## **3. Did the public body have the authorization either from the complainant or through provisions of the Act to disclose the personal information?**

This will be dealt with in two parts. Part one will deal with the disclosure of personal information relating to the complainant's tenancy. Part two will deal with the disclosure of the complainant's social insurance number.

### Part One Analysis

The public body routinely has tenants sign a "Release" form. The form appears to be used for two reasons:

- to advise tenants of who, and under what circumstances, personal information is disclosed to or collected from; and,
- to obtain a tenant's authorization to collect and disclose certain personal information.

There is no space to allow for a date.

The complainant signed the form when she first obtained housing from the public body. The document is not dated. The complainant revoked her release in a letter, dated February 5, 1999, she sent to a Collection Agency. The Agency was collecting a disputed debt for the Lethbridge Housing Authority. The Agency forwarded the letter to the public body on February 8, 2000. (It would seem that the date of the complainant's letter was intended to be February 5, 2000 not 1999.)

The FOIP Act allows for the disclosure of personal information only under certain circumstances. Those circumstances are provided for in section 38(1) of the Act. There are no provisions under section 38(1) that would allow for the disclosure of personal information to a private landlord unless the public body had the consent of the complainant pursuant to section 38(1)(c). The public body did not have the consent of the complainant because:

- The release form was not specific enough. Section 6 of Alberta Regulation 200/95 states that consent must be in writing and "must specify to whom the personal information may be disclosed and how the personal information may be used". The release form notes only generic disclosure categories, i.e., landlords.
- Even if this were sufficient -and in some circumstances, the generic may be appropriate - the category of "landlord" appeared in the portion of the release form that would authorize the public body to *verify* personal information (which is to say *collect* it) *not disclose* it.

Additionally:

- The release form had no space for the date and was not dated. Though a date is not specifically mentioned as a requirement in the regulation, it is reasonable to expect that consent to release information is time sensitive and should be time specific.
- Even if the form were dated and specific, it was revoked prior to disclosure.

### Conclusion to Part One

The public body did not have the authority to disclose the personal information of the complainant to the landlord. There was no consent on the part of the complainant and no other allowable reason under the Act to disclose information to a private landlord.

### Part Two Analysis

Part two deals with the disclosure of the complainant's social insurance number to a business without the consent of the complainant. Section 38(1) supplies the circumstances that allow for the disclosure of personal information, including details where no consent is required. For the purposes of this case;

#### ***38(1) A public body may disclose personal information only***

***(b) for the purpose for which the information was collected or compiled or for a use consistent with that purpose,***

***(d) for the purpose of complying with an enactment of Alberta or Canada or with a treaty, arrangement or agreement made under an enactment of Alberta or Canada,***

***(i) for the purpose of determining or verifying an individual's suitability or eligibility for a program or benefit.***

#### *Collection*

For section 38(1)(b) to apply, the original reason and authority for collection must be considered. Under section 32(a)

#### ***32 No personal information may be collected by or for a public body unless (a) the collection of that information is expressly authorized by an enactment of Alberta or Canada,***

Social housing accommodation and the applicable social allowance rental rate is provided to individuals based on need and income. Pursuant to section 5 of the Social Housing Accommodation Regulation, "[a] management body must verify the total annual and adjusted incomes of a household for all social housing accommodation...".

Furthermore, pursuant to section 4(2)(b) of the Housing Accommodation Tenancies Regulation, "information provided under clause (a) {gross household income} is subject to verification by the management body".

### *Use and Disclosure*

The complainant is self-employed. She provides services to businesses through a contracted arrangement as opposed to an employee/employer relationship. Direct verification of the income earned from these sources is necessary. The complainant provided the public body with her social insurance number and with the names of the businesses for which she completed work. The public body asked the businesses for the income the complainant received from them. The public body provided the social insurance number to ensure that the correct person's information was provided back to the public body. As a result, the disclosure was consistent with the purpose the information was originally collected, i.e. to verify income pursuant to section 38(1)(b).

The social insurance number was also disclosed for the purpose of complying with the Social Housing Accommodation Regulation and the Housing Accommodation Tenancies Regulation, as allowed under section 38(1)(d). The public body must verify income and the use of social insurance numbers is often the best way to do that.

Lastly, the disclosure was clearly used to determine eligibility for a program of the public body consistent with section 38(1)(j). Income relates directly to whether or not a social housing unit is provided and is directly related to the rate charged for that unit.

### *Accuracy*

Section 34(a) of the FOIP Act states that a "public body must make every reasonable effort to ensure that the information is accurate and complete" when using the personal information of an individual to "...make a decision that directly affects the individual. ...". Thus, the public body is obligated to ensure the accuracy of the information they receive so as to ensure that a decision to grant social housing to an individual~ or, more to the point, not grant it ~ is based on solid evidence of his or her ability to pay.

### *Extent of Disclosure*

Section 38(2) sets out the degree of disclosure allowed under section 38(1). Section 38(2) states that "[a] public body may disclose personal information only to the extent necessary to enable the public body to carry out the purposes described in subsections (1), (1.1) and (1.2) in a reasonable manner".

### Conclusion to Part Two

The disclosure of the social insurance number was, on balance, allowed for under the circumstances. It may be appropriate, however, for the public body to disclose the social insurance number only in limited circumstances. Income confirmation or verification can be accomplished in most cases without the disclosure. Only in the rare case of duplicate or similar names would the disclosure of the social insurance number likely be necessary.

## **Summary and Recommendations**

Personal information was disclosed by the public body to a landlord and to more than one third party business. The public body was not authorized under the Act to disclose the information in the first circumstance but was authorized in the second.

It is recommended that the public body adopt the following practices.

- The public body should not release personal information of present or former tenants to private landlords without the current written consent of the present or former tenant to whom the information relates. The public body is under no obligation to obtain this directly; the onus to obtain consent and provide it to the public body rests with the entity seeking the tenant's information.
- When the requesting party (i.e. the landlord) purports to have consent from a former or present tenant, the public body must verify that the consent is legitimate, current and in writing.
- The public body should disclose social insurance numbers only if it is necessary to obtain/verify the income.
- The public body should discontinue the use of the "release" form as a blanket consent used to disclose personal information for purposes not otherwise allowed for under the FOIP Act. (Further to section 33(2) of the FOIP Act, using the form to advise tenants of the potential purposes should continue unless another means of advisement is considered.)
- Unless otherwise allowed for under section 38, the public body should disclose personal information only when a signed, dated and specific consent document is obtained.

## **Additional Comments**

I think it is important to comment on the actions of the public body during the investigation. I found the Lethbridge Housing Authority to be very cooperative during this investigation and found no evidence of a deliberate attempt to breach the complainant's privacy. The public body was candid in their comments, helpful with providing the requested documents, willing to change to improve, and receptive to understanding the importance of privacy related concepts.

Submitted by,

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Portfolio Officer