

Ward 4 Councillor Orientation

The Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)

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MFIPPA is a Balancing Act

- **Governs public access to information:**
 - Government information should be available to the public;
 - Any exemptions to the right of access to public information should be limited and specific;
 - Decisions on what is disclosed may be reviewed by the Information and Privacy Commissioner, an independent integrity officer appointed by the Province.
- **Provides rules with respect to privacy:**
 - Protecting personal information held by government organizations and
 - Providing individuals with a right of access to their own personal information.

About MFIPPA

- Municipalities, local boards and commissions are subject to MFIPPA
 - Including Police Services Boards, School Boards, Conservation Authorities, etc.
- Covers all records in the custody or under the control of the City of Ottawa
 - This includes: all machine readable information, including papers, electronic data, drafts, e-mails, voicemails, photos, videos, personal notes, post-it notes, etc.
- At the municipal level, it is administered by the “Head” of the institution
 - At the City of Ottawa, the delegated “Head” of institution is the City Clerk

MFIPPA Process

- Requests are received by the ATIP Office (\$5 fee)
- The ATIP Office retrieves the relevant records from the department(s) in possession
- A fee estimate or time extension is provided if necessary
- ATIP reviews mandatory and discretionary exemptions to disclosure
 - Sever and redact records where necessary
 - Obtain views of affected third parties
- Decision / notice to requester is issued within 30 days
- Requester and third-party both have right of appeal to the IPC

Councillors' Records and the Applicability of MFIPPA

Councillors' records are generally not subject to MFIPPA if:

- The records relate to a constituency matter – e.g., emails exchanged directly with residents
- They are political records – e.g., emails exchanged with another Councillor
- The records are unrelated to Council's mandate or services
- The records are unrelated to a Member's role as a Member of Council

Councillors' Records and the Applicability of MFIPPA

- Members' records are subject to MFIPPA if they are:
 - Official council/committee records, or pertain to City business – e.g., office expenses
 - Records of an “Officer or Employee” created in discharge of that function – e.g., a Liaison role assigned by Council
 - In the “*custody or under the control*” of the City – e.g., e-mails exchanged with the Mayor or City Staff

Custody and Control - Factors

- Did employee or officer create the record?
- Was it created for purpose linked to the City's mandate?
- Does content relate to the City's mandate/function?
- Does the City have right to possess/use/dispose of record?
- Has the record been relied on by City?
- Is the record integrated into City's records?
- Who paid for the record?
- What was the intended use of the record?
- Is the City's possession of record due to legal right or because it was voluntarily submitted?

Access by Elected Officials to City Records

- No special right of access for Members of Council
- MFIPPA provides access where:
 - Information required for duties as a Member of Council (e.g. for Council or Committee meetings, but info may still be confidential)
 - In specific circumstances such as grave health and safety issues
- IPC states that access should not be provided for:
 - Matters of convenience
 - Matters of “concern or interest”

Access related to Casework

- On behalf of a constituent
 - No special right of access in this case
 - Requires consent of individual if personal information sought (or other authority under MFIPPA)
 - Exemptions to disclosure in MFIPPA would apply

What Is Personal Information?

- Recorded information about an identifiable individual, including: race, national or ethnic origin, colour, religion, age, sex, sexual orientation, or marital or family status, phone number, address, employment history, education, financial status, medical condition, personal views or opinions and criminal history
- Correspondence sent to the City by an individual that is of a personal nature along with any responses that would reveal contents of original correspondence

What is Not Personal Information?

- The name, title, contact information or designation that identifies a person in a business, professional or official capacity
- Business information, while valuable, possibly even confidential, and important for organizations is not “personal information” under MFIPPA

Collection of Personal Information

- Like access to information requests, Councillors are generally not subject to the privacy provisions set out under MFIPPA
- That said, Councillors tend to adhere to the same rules and principles as City employees:
 - Collect directly from individual, unless other manner specifically authorized
 - Must provide “notice of collection”
 - In a letter, verbally or by notice on a form
 - If you are going to use the contact information in your database for a purpose other than why it was collected, you must explicitly ask permission

Example of collection statement

Personal information will be used by the Office of [insert Elected Official's name] the purposes of [list principal purposes for which the information may be used i.e. administration of a program, for the purposes of contacting residents about a site plan application, etc].

Personal information collected will not be used for any election-related purpose, consistent with the City of Ottawa's Election-related Resources Policy.

Questions about this collection and use of your personal information may be directed to [name and position title] at [telephone number], [mailing address], [email address optional].”

Contact Information

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