



F15-04-MS

Municipal watchdog requests engineering report on soil stability

A municipality decided to build a community centre and needed to determine that the soil at the chosen location could support the structure. The engineering consultant hired to assess the situation prepared a comprehensive report that then became the subject of an access request by a resident. The applicant was a structural expert and wanted to satisfy himself that the report dealt adequately with the issue of soil stability.

The municipality concluded it was appropriate to release the report and notified the consultant of its intention to do so, as required by s. 23 of the *Freedom of Information and Protection of Privacy Act* (“FIPPA”), in the belief that release of some of the information in the report could be harmful to the consultant’s business interests. Section 21 of FIPPA requires a public body to withhold information that would reveal, among other listed business information, “technical information of or about a third party.” The consultant asked our office to review the decision of the municipality to release the report.

With the knowledge of the municipality, we contacted both the resident and the consultant. The consultant told us one of his primary concerns was that if a full copy of the report were to be released, portions might subsequently be publicized that by themselves could create a misleading impression as to how he reached his conclusions. He also argued that the report contained what he considered to be technical business information that, if revealed, might benefit his competitors – namely, information that described his proprietary techniques in conducting such an assessment.

The expertise of the applicant requesting the report was such that he knew precisely what type of information he needed to see to assess the findings of the report and had no need to see the entire document. We facilitated an agreement among all the parties whereby the resident was able to go to the municipal offices and satisfy his concerns by viewing the parts of the report of interest to him, which did not include the “business information” of concern to the consultant.