

Privacy Access Review Committee

83 Thorburn Road

St. John's NL A1B 3M2

Fax 709 729 2724

Friday, May-09-14

On Nov 09, 2013 I made a request for information to the Public Accountants Licensing Board.

On Nov 17, 2013 the board refused my request (attached). Basically the Public Accountant Licensing Board claims it is not a public body. To my mind this claim is absurd on its face. It is also absurd because up until recently all the members were appointed by the Lieutenant-Governor.

The Public Accountant Licensing Board perhaps sees itself as unaccountable to the public or the Government or anyone other than the accounting bodies that it is supposed to be regulating.

Sincerely

[REDACTED]

Section 30

Fred Cole CD

[REDACTED]

Section 30

Pasadena NL A0L 1K0

[REDACTED]

Section 30

cc. [REDACTED] Law Office.

Section 30

Attachments

PUBLIC ACCOUNTANTS LICENSING BOARD

510 Topsail Road
St. John's, NL
A1E 2C2

www.palbnl.ca 709-725-1439 info@palbnl.ca

Chair: Brad Wicks, QC

*Members: Terrance Hutchings, FCGA
David Kirkland*

Treasurer: Jeff Pardy, FCA

*Adam Lippa, CMA
Morris Pinsent, CGA*

Registrar: Dennis Hanlon, PhD

Jesse DeVilla, FCMA

November 17, 2013

Mr. Fred Cole

[REDACTED]
Pasadena, NL
AOL 1K0

Section 30

Dear Mr. Cole:

On behalf of the Public Accountants Licensing Board (the "PALB"), I acknowledge receipt of your recent Access to Information Request in relation to records of the PALB. Please be advised that the PALB is not a Public Body as defined in ATTIPPA (the "Act") and is not, therefore, subject to the disclosure requirements set out in, inter alia, Section 5 of the Act. Specifically, the PALB is not a Public Body, as the definition of Public Body in the Act set out below does not include any body "...the majority of the members of which, or the majority of directors of which are appointed by an Act, the Lieutenant-Governor in Council or a minister." As the majority of the members of the PALB are elected by their respective accounting bodies, the PALB is, accordingly, not a Public Body and not subject to the Act. The

p) "public body" means

- (i) a department created under the *Executive Council Act* , or a branch of the executive government of the province,
- (ii) a corporation, the ownership of which, or a majority of the shares of which is vested in the Crown,
- (iii) a corporation, commission or body, the majority of the members of which, or the majority of members of the board of directors of which are appointed by an Act, the Lieutenant-Governor in Council or a minister,

The PALB shall not, therefore, be responding further to your request.

Yours very truly,

[REDACTED]

Section 30

D. Bradford L. Wicks, Q.C.
Chair



OFFICE OF THE INFORMATION
AND PRIVACY COMMISSIONER
NEWFOUNDLAND AND LABRADOR

Nov 26, 2013

Mr. Fred Cole

[REDACTED]
Pasadena, NL
A0L 1K0

Section 30

Dear Mr. Cole:

Section 30

Re: Request for Review Regarding an Access Request to the Public Accountants
Licensing Board – Our File [REDACTED]

On November 21, 2013, our Office received a Request for Review form from you in relation to an access request you made to the Public Accountants Licensing Board.

Our Office is unable to accept this as a valid request for review because the Public Accountants Licensing Board is not a public body under the *Access to Information and Protection of Privacy Act* (the “ATIPPA”).

Section 2(p) of the *ATIPPA* sets out the definition of which institutions and organizations are considered public bodies for the purpose of the act. This definition does not include the Public Accountants Licensing Board. Specifically, the Board does not fit within the definition of public body found in paragraph (iii) of section 2(p), which provides that a public body includes:

(iii) a corporation, commission or body, the majority of the members of which, or the majority of members of the board of directors of which are appointed by an Act, the Lieutenant-Governor in Council or a minister

Neither the majority of the members nor the majority of the board of directors of the Public Accountants Licensing Board are not appointed by an Act, the Lieutenant-Governor in Council or a minister. The majority of Board is elected by the bodies which the Board represents.

The *Public Accountants Act* S.N.L. 2009 c.P-35.1 states in section 3(2):

3. (2) The board shall consist of
 - (a) 6 members elected in accordance with subsection (3); and
 - (b) 3 members appointed under section 4 who are not members of a body referred to in subsection (3).

(3) *The members of the board referred to in paragraph (2)(a) shall be elected as follows:*

(a) 2 persons, who are members of the Institute of Chartered Accountants of Newfoundland and Labrador, elected by the institute;

(b) 2 persons, who are members of the Certified General Accountants Association of Newfoundland and Labrador, elected by the association; and

(c) 2 persons, who are members of the Society of Management Accountants of Newfoundland and Labrador, elected by the society.

The Public Accountants Licensing Board does not fit the definition of public body set out in the *Access to Information and Protection of Privacy Act*. Since the Public Accountants Licensing Board is not a public body under the *ATIPPA*, this Office has no jurisdiction over any decisions or actions of the Board.

Section 43 of the *ATIPPA* deals with making a request for review to our Office as follows:

43. (1) A person who makes a request under this Act for access to a record or for correction of personal information may ask the commissioner to review a decision, act or failure to act of the head of the public body that relates to the request.

In addition, I will point out to you that because the Public Accountants Licensing Board is not a public body under the *ATIPPA*, the Board is not subject to any of the obligations or deadlines imposed on public bodies under the *ATIPPA* regarding access to information requests.

As a result, our Office has no statutory authority to proceed with a review in this matter and we will be closing our file.

If you require any further information in this matter, then please contact this Office.

Yours truly,



Section 30

Janet O'Reilly
Access and Privacy Analyst