

Submission to the Statutory Review Committee on *Access to Information and Protection of Privacy Act*

An e-mail from William Fagan, Ph. D. to the ATIPPA Review Committee

Wednesday, August 06, 2014 9:12 PM

August 5/2014

**A key question is “What information is or should be available from Government agencies/bodies with or without going through the ATIPP process?” Below are two examples.**

**Example 1:**

A new Municipal Council was elected in the Town of Portugal Cove-St. Philip’s in September 2013. Shortly after in reports of the Planning and Development Committee appeared reference to an “administrator” who apparently had a role recommending resolution to applications to that Committee.

I requested information from the Town on who this person was. I received nothing – not even an acknowledgement.

I then requested this information under ATIPPA. I was told by the ATIPPA Information Officer that this was not an ATIPPA request and I should be able to get the information from the Town. Once again the Town was not forthcoming with the information and I still have not received it.

Who has responsibility in this case for supplying the information?

How can the request be enforced?

**Example 2:**

The details of this are given below re a request to the Department of Municipal Affairs. There have been at least five requests for this information. On July 29, a request was filed through ATIPPA.

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On 2014-07-18, at 2:27 PM, William Fagan <[REDACTED]> wrote:

To: Marshall/Crummell

Section 30

Hopefully, things have now settled in re cabinet positions and this matter can be addressed.

William Fagan, Ph. D.

On 2014-07-14, at 12:38 PM, William Fagan <[REDACTED]> wrote:

Section 30

To: Marshall/Jackman

This had been sent before Mr. Kent moved out of Municipal Affairs.

I still believe in the Premier's direction to caucus to listen to the people and I am looking forward to a resolution to this problem created by Municipal Affairs.

William Fagan, Ph. D.

Begin forwarded message:

**From:** William Fagan <[REDACTED]>

Section 30

**Subject:** Conflict of interest

**Date:** 3 July, 2014 12:44:50 PM NDT

**To:** [stevekent@gov.nl.ca](mailto:stevekent@gov.nl.ca), Premier <[premier@gov.nl.ca](mailto:premier@gov.nl.ca)>

July 3, 2014

Minister Steve Kent

Department of Municipal Affairs

Government of NL

Premier Tom Marshall

Government of Newfoundland and Labrador

## INFORMATION 1

Portugal Cove-St. Philip's Council Minutes

December 17, 2013

Item from Councillor XXXXX regarding Campaign Contribution Statement:

Councillor XXXXX advised that further to his disclosure on the required Campaign Contribution Statement filed and reviewed by Council after the Election, he is requesting a decision regarding Council's position on whether or not he is in conflict of interest as follows:

Councillor XXXXX advised that he received a \$500 campaign contribution from a company known as XXXXX who has affiliate companies (i.e .XXXXX , and possibly others) who may have future dealings with the Town. As chair of Planning & Development, Councillor XXXXX asked that Council make a ruling on whether or not he would be in conflict in dealing with applications and other matters concerning this company or its affiliates.

The Mayor and each Councillor stated that, in their opinion, Councillor XXXXX would not be in conflict.

Therefore, all Councillors are in agreement that there is no conflict and Councillor XXXXX can remain in any committee and/or Council meetings dealing with any and all matters concerning XXXXX and any of its affiliates.

## INFORMATION 2

Portugal Cove-St. Philip's Council Minutes

January 14, 2014

Declaration of Conflict question from Councillor XXXXX

For the record: Councillor XXXXX left the Chambers for the following item:

Mayor Tucker noted that further to the meeting of December 17, 2013, wherein Councillor XXXXX put forward a question regarding a conflict of interest situation in reference to a campaign contribution he received and which Council gave a consensus that he was not in conflict, Councillor XXXXX has since requested that the decision be ratified in a motion of Council. Deputy Mayor Will presented and spoke to the following motion:

Motion: Will/Facey 2014-010 Resolved that, in accordance with Section 207 of the Municipalities Act 1999, Councilor XXXXX's receipt of an election campaign contribution in 2013 from the XXXXX does not constitute a conflict of interest. Furthermore, he is not in conflict of interest in attending any meetings and/or dealing with applications and other matters concerning the XXXXX or any of its affiliates.

Carried Unanimously. For the record: Councillor XXXXX returned to the Council meeting after the vote on this item.

## INFORMATION 3:

The Northeast Avalon Times (January, 2014) carried an article “Council OK with Campaign Donation” and in which is stated: “In a subsequent interview, XXXXX said he went to the Department of Municipal Affairs first and was told the campaign contribution did not constitute a conflict.”.

## INFORMATION 4:

In a letter which I received from Municipal Affairs under ATIPPA, dated June 18, 2014, it is stated that Mr. XXXXX was informed by Mr. XXXXX of his status under Section 207 of the Municipalities Act that there is no conflict of interest.

## QUESTIONS AND COMMENTS:

**Has Section 207 of the Municipalities Act been rescinded or declared invalid? If so, what is the date and appropriate reference?**

**If not, how can a Councilor be in violation of the three conditions of Section 207 (speak/discuss /at a meeting of Council/on a matter in which the councilor has a monetary interest) and not be in conflict of interest?**

If Section 207 of the Municipalities Act has been rescinded or is no longer valid, then the Provincial Government has an obligation to inform all municipalities governed by this Act of this change. If there has been confusion within Municipal Affairs, then the Department has an obligation to clarify the situation with the Town of PCSP.