
June 11, 2014

CLIENT BULLETIN

Court Of Appeal Confirms That Municipal Councillors Are “Officers” For The Purposes of FIPPA

In May, 2011, the Provincial Court found that a Prince George Councillor was guilty of breaching section 30.4 of the *Freedom of Information and Protection of Privacy Act* (“FIPPA”) by improperly disclosing personal information. Section 30.4 prohibits employees, officers and directors of public bodies from disclosing personal information, except as authorized under FIPPA.

Councillor Skaken had disclosed to the media a confidential investigative report provided to City Council involving City staff working in the local RCMP detachment. The Court found that a council member is an “officer” of a local government and is thus obligated to not disclose personal information under FIPPA, except as authorized.

In July, 2012, the British Columbia Supreme Court upheld the conviction of Councillor Skaken, confirming that council members are included within the definition of “officer” under Section 30.4 of FIPPA. Councillor Skaken appealed his conviction to the British Columbia Court of Appeal, which issued its decision on June 11, 2014.

The only issue on appeal was whether a municipal councillor is an “officer” of a public body under section 30.4 of FIPPA. The Court of Appeal confirmed that the term “officer” in Section 30.4 of FIPPA includes both elected and appointed officials, and dismissed the appeal.

To our knowledge, this remains the first and only conviction under this provision of FIPPA involving a public official. This case is a reminder to local government employees and elected officials of the seriousness with which courts will treat breaches of privacy under FIPPA.

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