



STAFF REPORT INFORMATION ONLY

Confidentiality of Legal Actions taken by Municipal Licensing and Standards Staff

To report on the disclosure of information related to inspection and enforcement activities.

Date:	May 25, 2007
To:	Licensing and Standards Committee
From:	Executive Director
Wards:	All
Reference Number:	5116

SUMMARY

Generally, the public is entitled to any information that will not compromise the Municipal Licensing and Standards Division (ML&S) investigation and when disclosure is not prohibited under *Municipal Freedom of Information and Protection of Privacy Act*, (MFIPPA).

City staff engaged in law enforcement investigations are provincial offences officers. Requests for and disclosure of enforcement information should not infringe their independence and discretion as it relates to investigations and potential legal actions.

A large number of records maintained by the ML&S, that do not contain confidential information, are publicly available and should be available to the public whether it is routinely disclosed, actively disseminated or otherwise. This includes information and documentation such as inquiries to confirm the license status of a business, general inquiries on regulations, standards related to by-laws and materials presented to Committee and stakeholders. Additionally, Notices or Orders to Comply and information on the status of legal actions may be released to the public, provided that the information is duly reviewed to ensure compliance with MFIPPA.

Routine disclosure of information is the preferred method of granting access to information held by ML&S. ML&S is in the process of finalizing a routine disclosure plan to provide easier access to information.

This report was prepared in consultation with Legal Services and Corporate Access and Privacy (CAP) Office.

FINANCIAL IMPACT

This report will have **no** financial impact beyond what has already been approved in the current year's budget.

DECISION HISTORY

At its meeting of May 4, 2007, the Licensing and Standards Committee received a letter from Councillor Jenkins asking the Committee to request a report to the Licensing and Standards Committee on the policy of maintaining the confidentiality of legal actions initiated by Municipal Licensing and Standards Division (ML&S) staff.

The Licensing and Standards Committee requested that the Executive Director, ML&S, in consultation with Legal Services and Corporate Access and Privacy staff, report to the next meeting of the Licensing and Standards Committee on the policy of maintaining the confidentiality of legal actions initiated by ML&S staff and recommendations with respect to the policy of not disclosing enforcement actions before the courts regarding zoning and/or property standards matters.

COMMENTS

Enforcement Related Information

The Courts have held that police officers are entitled to independence and discretion in carrying out their investigations and other duties as they perform a public service instead of acting in the corporate interest of the City, their duties are derived from law and they act in the interest of the public at large. The same reasoning applies to provincial offences officers, the City staff engaged in law enforcement investigations. Requests for and disclosure of information should not infringe this independence and discretion.

ML&S receives requests for information from individuals through a variety of means, including e-mails, phone calls, or an invitation to a meeting. Responses to these requests are handled on a case by case basis.

Generally, the public is entitled to any information that will not compromise the ML&S investigation and when disclosure of personal information is not prohibited under MFIPPA. This means information and documentation produced at the end of a process (e.g., a copy of a Notice or Order to Comply, duly reviewed to ensure compliance with MFIPPA, or whether a legal action has been commenced) may be released to the individual or parties who have requested the information.

Routine Disclosure

Part I of the MFIPPA establishes a right of access by the public to certain information in the custody or control of the City when requested under the Act, subject to certain exceptions. A significant portion of the ML&S records are not confidential and individual members of the public need not make formal requests for access to such records.

In these circumstances the CAP Office encourages staff to provide informal access to the information – that is access in the absence of a formal MFIPPA request. Informal disclosure of information directly by division staff is encouraged in order to avoid delays and cost to requesters in providing access to the information under MFIPPA.

Routine disclosure usually involves an identified class or series of records maintained by a division. However, it would not be uncommon for the public to contact a division directly to request specific information that has not been previously evaluated for routine disclosure.

ML&S is in the process of drafting and finalizing a routine disclosure plan.

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SIGNATURE

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