



Prince Edward Island Île-du-Prince-Édouard

Legislative Assembly

Assemblée législative

Information and  
Privacy Commissioner  
PO Box 2000, Charlottetown PE  
Canada C1A 7N8

Commissaire à l'information et  
à la protection de la vie privée  
C.P. 2000, Charlottetown PE  
Canada C1A 7N8

PRIVATE AND CONFIDENTIAL

February 22, 2024



Via Email

Dear [REDACTED]

**Re:** Request for review under *Freedom of Information and Protection of Privacy Act*  
**Public Body:** Environment, Energy and Climate Action  
**Public Body File No.:** EECA 2023-383  
**Our File No.:** FI-24-574

Thank you for your request for review of the decision of the Department of Environment, Energy and Climate Action (the "Public Body") in your access request EECA 2023-383, dated February 1, 2024 and which we received via regular mail on February 13, 2024.

In your request for review, you indicated the Public Body denied you "several pieces of significant information". However, it appears the Public Body has not yet provided you with any records responsive to your request. Therefore, your request for review is premature.

Respectfully, it appears the misunderstanding may have been that the Public Body was notifying you of their intended decision, which you may have mistaken for their final decision. However, they also indicated they were conducting consultations with one or more third parties before making their final decision and providing you access to responsive records.

Under the *Freedom of Information and Protection of Privacy Act* (the "FOIPP Act"), the Public Body is required to consult with third parties if they are considering giving an applicant access to records that may contain information that affects the business interests of a third party or the disclosure of which would be an unreasonable invasion of a third party's personal privacy.

Once a public body makes a final decision on whether they are going to give an applicant access to records containing information about a third party, they have to notify the third party of their decision and then the public body must wait at least 20 days from that date before they can give responsive records to the applicant. The reason for this is that a third party has 20 days to request our office to conduct a review of the public body's decision to give an applicant access to records containing information about them, and the public body can't give access to those records before that time has expired. The Public Body has not refused you access to the

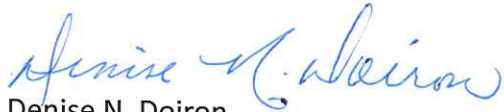
records at this point, they just have to wait until the third parties' time to request a review has expired. This is why your request for review on the basis of refusing you access is premature.

Section 64.1 of the *FOIPP Act* authorizes me to refuse to conduct a review if, in my opinion, the circumstances warrant refusing to conduct a review. Because you have not yet received the responsive records from the Public Body, there is nothing for me to review at this time. For this reason, pursuant to subsection 64.1(b) of the *FOIPP Act*, I am refusing to conduct a review.

However, once you receive the Public Body's decision letter and the responsive records, you can still request a review of the actual decision. Once you have received the responsive records, please review them carefully. If there is any information withheld from the responsive records you wish us to review, or if there is anything missing you reasonably expected to be there, you can ask for review at that time. Just remember that you have to have the request for review to us within 60 days of receiving the final decision letter and records from the Public Body.

I note that you sent this request for review by regular mail. If it is more convenient for you, if you decide to request a review of the Public Body's decision on access after you have received the records, you may do so by email ([infoprivacy@assembly.pe.ca](mailto:infoprivacy@assembly.pe.ca)) or submit a request for review online through our website (<https://www.assembly.pe.ca/offices/information-and-privacy-commissioner/request-a-review> ).

Sincerely,



Denise N. Doiron

Information and Privacy Commissioner

c. Access and Privacy Services Office