



F06-07-MS Why Accusers Deserve Privacy: The Case of the Barking Dogs

A couple in the BC interior who provided periodic dog-sitting and grooming services were surprised to be paid a visit by their regional district's bylaw enforcement officer. The officer told them he was investigating a complaint that they were running a boarding kennel without a licence and that dogs were constantly barking on their property. Two days later, the officer sent them a letter notifying them that they had 30 days to close the operation. Later, following a second inspection, the bylaw enforcement officer became satisfied that the couple was not in fact boarding dogs overnight and withdrew the long arm of the law.

The couple demanded that the regional district send them all information in its possession about the complaint, including the name of the complainant, who was suspected of being a certain neighbour. The regional district wrote to them that it was unable to provide access to the records, under section 15(1)(c) of the *Freedom of Information and Protection of Privacy Act*, because disclosure might be harmful to the effectiveness of investigative techniques and procedures used or likely to be used in bylaw enforcement.

Past orders from our office have confirmed that, in order to withhold information under the discretionary section 15(1)(c) exception, a public body must be able to produce clear and cogent evidence, not speculation, of a rational connection between disclosure and the alleged harm. In this case, the regional district acknowledged to us that the harm it envisioned in withholding the records was speculative at best. Following discussion on this point, the regional district agreed to release to the couple the bylaw enforcement officer's notes about the kennel complaint, while blacking out the identity and contact information of the complainant (who wasn't, incidentally, the suspected neighbour).

Names of people complaining about legal infractions are sometimes withheld both under section 15(1)(d), which authorizes the withholding of information the disclosure of which could reasonably be expected to reveal the identity of a confidential source of law enforcement information. They are sometimes also withheld under section 22(3)(b), which provides that disclosure of personal information is presumed to be an unreasonable invasion of privacy if it was compiled and is identifiable as part of an investigation into a possible violation of the law (except to the extent disclosure is necessary to prosecute the violation or continue the investigation).