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Business Services Branch

August 10, 2020

Sent by email

Re: FOI Request # 20-05 Notice of Decision

Dear National Farmers Union (Ontario),

Under the *Freedom of Information and Protection of Privacy Act* (the Act), the Ministry began processing a request for the following information:

“List of all Ontario businesses with a Farm Business Registration (FBR). If possible I would like their FBR number as well, but at the very least, I just need the names of the businesses that are registered, and ideally contact information.”

The time period of the requested records is March 1, 2019 to February 28, 2020.

Prior to processing the request the Ministry received communication from the requester that refined the request to the names of the farm businesses with an active Farm Business Registration (FBR) and the FBR number for the requested time period. Thus, business contact information is not at issue in this request.

On June 11, 2020 the Ministry reached out to the farm organizations accredited under the *Farm Registration and Farm Organizations Funding Act* (FRFOFA), to let them know about the request for information made under the Act and that consultation would take place with a sample of producers. Later that month, on June 26, the Ministry sent notices of consultation to 490 producers regarding the request and sought feedback on release of the information, noting that responses should include detailed feedback regarding any concerns with disclosure and/or their views on potential harm which could result from the release of the information. The deadline for responses to the Ministry was July 17, 2020.

The Ministry would like to take this opportunity to thank the National Farmers Union again for submitting your response regarding the responsive information on behalf of your membership.



Decision on the record

In light of the requirements under the Act along with the considerations raised in representations received by the Ministry, the Ministry has decided to withhold the FBR number information and release the business name portion of the record. FBR numbers will be withheld under section 17(1) (Third Party Information), section 14(1)(e), (i) (Law Enforcement) and section 20 (Danger to Safety or Health) under the Act.

Please note that consent was received by a small number (15) of producers agreeing to release their information. In light of their representations and the requirements under the Act, the Ministry has decided to release the farm business name and FBR number portion of the record specific to those fifteen farm businesses only.

Personal Information

Your organization's response, in combination with others submitted to the Ministry, outlined a number of considerations regarding the release of information within the record. I would like to provide additional information regarding personal information, in relation to the requirements under the Freedom of Information and Protection of Privacy Act (the Act), as a number of responses received by the Ministry referred to the information as personal/private information.

Under the Act, information has to first be 'personal information' before the applicable exemption, section 21 – Personal privacy, can be considered. The Act defines personal information in section 2(1) as "identifiable information about an individual...". In section 2(3), the Act further states that personal information does not include business identifying information, namely "the name, title, contact information or designation of an individual that identifies the individual in a business, professional or official capacity" and further clarifies in section 2(4) that business identifying information "applies even if an individual carries out business, professional or official responsibilities from their home or dwelling, and the contact information for the individual relates to that dwelling". For this reason, the Ministry is unable to apply section 21 to the business information in the record.

Right to Appeal

You may request an appeal of this decision by contacting the Information and Privacy Commissioner (IPC) at <https://www.ipc.on.ca/access-individuals/filing-an-appeal/> or by phone at (416) 326-3333 / Toll Free: 1-800-387-0073.

The IPC has indicated that they are experiencing a service delivery interruption due to COVID-19. Should you file an appeal during this time, the Ministry understands that it will be received and processed by the IPC once their office resumes normal service delivery operations. Please refer to the IPC's website (please see: <https://www.ipc.on.ca/newsrelease/ipc-closure-during-covid-19-outbreak/>) for information regarding any time accommodations due to COVID-19 and their service operations. Should you file an appeal with the IPC, please advise the Ministry of this by email at FOIaccess.omafra@ontario.ca.

If you have any questions about this Notice, please contact the FOI unit via email at FOIaccess.omafra@ontario.ca

Yours truly,

A handwritten signature in black ink, appearing to read "Lee-Ann Walker". The signature is written in a cursive style with a prominent initial "L".

Lee-Ann Walker
Assistant Deputy Minister
Research and Corporate Services Division

Enclosures

Section 17 - Freedom of Information and Protection of Privacy Act

Third party information

17. (1) A head shall refuse to disclose a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, where the disclosure could reasonably be expected to,

- (a) prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
- (b) result in similar information no longer being supplied to the institution where it is in the public interest that similar information continue to be so supplied;
- (c) result in undue loss or gain to any person, group, committee or financial institution or agency; or
- (d) reveal information supplied to or the report of a conciliation officer, mediator, labour relations officer or other person appointed to resolve a labour relations dispute. R.S.O. 1990, c. F.31, s. 17 (1); 2002, c. 18, Sched. K, s. 6.

Tax information

(2) A head shall refuse to disclose a record that reveals information that was obtained on a tax return or gathered for the purpose of determining tax liability or collecting a tax. R.S.O. 1990, c. F.31, s. 17 (2).

Consent to disclosure

(3) A head may disclose a record described in subsection (1) or (2) if the person to whom the information relates consents to the disclosure. R.S.O. 1990, c. F.31, s. 17 (3).

Section 14 - Freedom of Information and Protection of Privacy Act

Law Enforcement

14 (1) A head may refuse to disclose a record where the disclosure could reasonably be expected to,

...

- (e) endanger the life or physical safety of a law enforcement officer or any other person;
- (i) endanger the security of a building or the security of a vehicle carrying items, or of a system or procedure established for the protection of items, for which protection is reasonably required; ...

Section 20 - Freedom of Information and Protection of Privacy Act

Danger to safety or health

20 A head may refuse to disclose a record where the disclosure could reasonably be expected to seriously threaten the safety or health of an individual. R.S.O. 1990, c. F.31, s. 20; 2002, c. 18, Sched. K, s. 8.