

Interim Decision PP- 08-002

**Re: Provincial Treasury, Registrar of Deeds and GeoLinc Plus
Prince Edward Island Information and Privacy Commissioner**

Karen A. Rose, Acting Commissioner

April 30, 2008

I. Details of Complaint and Process to Date

On June 5, 2007, the Office of the Information and Privacy Commissioner received a privacy complaint dated May 31, 2007, relating to the disclosure of information under the custody and control of the Registry of Deeds, and by the online information system, GeoLinc Plus. The Complainant is of the opinion that Part II of the *Freedom of Information and Protection of Privacy Act* (the “FOIPP Act”) is being violated by the disclosure of personal information, including banking information, contained in documents on file at the Registry of Deeds. The Complainant states that their personal information was disclosed to a private mortgage specialist without the Complainant’s consent.

The Registry of Deeds and the GeoLinc Plus information system which relates to this complaint fall under the responsibility of the Department of Provincial Treasury (the “Public Body”). This office advised the Public Body of the complaint by letter dated June 14, 2007, inviting it to forward any jurisdiction questions it might wish to raise as a preliminary issue, and requesting that the Public Body conduct its own internal review of the complaint. On the main issue, the Public Body was asked to (i) identify all circumstances in which mortgagors’ personal information is disclosed and list which particular personal information is disclosed; (ii) provide a description of the online GeoLinc Plus system presently used by the Geomatics Information Centre in the Taxation and Property Records Division; and (iii) cite the purpose and authority for disclosing each circumstance of disclosure of information.

The Public Body responded by letter dated June 29, 2007, stating its position that this complaint relates to records made from information filed with the Registrar of Deeds, and that pursuant to clause 4(1)(h) of the FOIPP Act the Office of the Information and Privacy Commissioner is without jurisdiction to conduct an investigation. The Public Body acknowledged the authority provided the Commissioner under clauses 50(1)(d) and (e) of the FOIPP Act, and invited the Commissioner to attend at the office of the Public Body to obtain further information and explanation with respect to the GeoLinc Plus program. As a general description, this program is an online system that provides access to assessment, tax, registry and property mapping information for any parcel of land in Prince Edward Island via the internet.

On July 11, 2007 the Acting Commissioner wrote to both the Public Body and the Complainant with regard to the subsection 4(1)(h) issue, questioning whether this subsection refers only to freedom of information requests, or whether it also applies to the protection of privacy provisions found in Part II of the FOIPP Act. The Commissioner also requested submissions from each party supporting their positions.

Submissions of the Public Body dated July 31, 2007, relating to the jurisdiction issue, were received at this office on August 6, 2007, and a copy of same was provided to the Complainant by letter dated August 7, 2007. The Complainant was requested to provide a response to the Public Body's submissions and to provide any final comments to be considered by the Commissioner. The Complainant replied verbally on August 10, 2007, indicating their position that only authorized persons should be able to have access to sensitive information such as the banking information at issue, namely, mortgage account numbers and mortgage balances. The Complainant points out that the particularly small size of Prince Edward Island also contributes to a real threat of identity theft.

II. Submissions of the Parties

The Public Body's Position:

Submissions of the Public Body on the issue of the jurisdiction of this office to investigate the complaint support its position that this particular complaint is not one within the jurisdiction of the office of the Information and Privacy Commissioner. Set out below is the Public Body's rationale for this contention:

Based on Interim Order No. PP-07-001 of this office, a copy of which was provided to the parties, the Public Body made submissions regarding three issues to be considered in order to determine the question of jurisdiction in this matter:

- (i) Does the Registry of Deeds constitute a public body in accordance with the FOIPP Act?
- (ii) Are records of the Registry of Deeds excluded from the application of the FOIPP Act? and
- (iii) Does the exclusion of records affect the jurisdiction of the Information and Privacy Commissioner to investigate this complaint?

Does the Registry of Deeds constitute a public body in accordance with the FOIPP Act?

Based on the definition of a public body set out in the FOIPP Act, combined with the fact that the Registry of Deeds is established and governed by the provisions of the *Registry Act* as an office of government under the mandate of the Department of Provincial Treasury, the Public Body states that the Registry of Deeds is a public body subject to the provisions of the FOIPP Act.

Are records of the Registry of Deeds excluded from the application of the FOIPP Act?

The Public Body submits that this complaint relates to records made from information in the office of the Registrar of Deeds and, as such, the FOIPP Act exempts such records from the application of its provisions.

In support of its position that this complaint falls outside the jurisdiction of the FOIPP Act, the Public Body sets out certain provisions of the *Registry Act*, as follows:

- 14. (3) . . . every registered document shall be entered in full in the records,
 - (a) by filing therein the original documents; or
 - (b) by making a copy thereof.

. . .

- 41. (1) The registry records shall be open to the public to make searches within office hours.

. . .

- (3) A certified copy of any document shall be made by the Registrar for the party ordering it, on payment of the prescribed fees.

. . .

- (5) The search must be made by the party searching . . .
- (6) The Registrar may, upon payment of the prescribed fees, provide a copy of any record filed in the registry office and, instead of certifying it to be a true copy of the original, shall mark on it a statement stating it to be "Copied but not compared".

For further clarification, the Public Body points out that the Registry of Deeds files copies or originals of mortgages and deeds that are available by search to members of the public. The circumstances leading up to this complaint likely involved someone obtaining a mortgage document, which would include the complainant's name and address (or the address of the property being mortgaged), the lending institution involved, and the original amount of the mortgage. The Public Body further points out that all of this information is contained in a standard mortgage document. The Public Body describes the disclosure of information as both legislatively authorized and FOIPP Act-exempt.

The Public Body was asked to comment on whether, for the purposes of the exclusion of Registry of Deeds records from the application of the FOIPP Act, there is a distinction between the access to records provisions found in Part I of the FOIPP Act and the protection of personal information provisions found in Part II. Based in part on section 12 of the *Interpretation Act*, the Public Body submits that there is no such distinction. The *Interpretation Act* states as follows:

12. Definitions or interpretation provisions in an enactment shall, unless the contrary intention appears in the enactment, be construed as being applicable to the whole enactment including the section containing the definitions or interpretation provisions.

The Public Body points out that the FOIPP Act does not state that section 4(1)(h)(iii) is to be interpreted as applying to Part I but not Part II, so that it must be interpreted as applying to the entire enactment. Further, since “personal information” and “record” both mean “recorded information”, there is no distinction between those terms which might lead to section 4(1)(h)(iii) applying to one part of the FOIPP Act and not the other.

In the event that a distinction between Part I and Part II is warranted, the Public Body suggests that what it disclosed in this instance was a record (a copy of a mortgage document). It was the person conducting the search who extracted the information from the record.

The Public Body also refers to the FOIPP Manual for Prince Edward Island, a guide which is often used by provincial FOIPP coordinators to guide them in their interpretation of the FOIPP Act.

With regard to section 4(h), the FOIPP Manual states:

This provision recognizes that there are a number of public registries that record information for particular purposes and have been recognized as important to the functioning of a variety of social, economic and regulatory activities. These include transfer of land, corporate ownership and the securing of debt.

Most public registries contain personal information that would otherwise be protected from disclosure. However, the disclosure of this information, and procedures for obtaining access to the information, are already regulated by law.

The exclusion applies to any record made from such a registry, whether in the custody of the public body operating the registry or of another public body. ***The exclusion applies only to the records.*** The Act still applies to the collection of the information. [emphasis added]

The FOIPP Manual is based on the manual for the province of Alberta, and many of the guidelines are gleaned from orders or opinions given by the Alberta Information and Privacy Commissioner. Indeed, the Public Body referred me to the Alberta Guidelines and Practices Manual online for further information. As will be discussed below, the Alberta Commissioner has stated that the subsection 4(1)(h) exclusion applies to the use and disclosure provisions of the FOIPP Act, but not to the collection provisions. This interpretation by the Alberta Commissioner was set out in Investigation Report 99-IR-001, also referred to me by the Public Body. Since that complaint deals with collection of personal information, jurisdiction was not an issue.

Does the exclusion of records affect the jurisdiction of the Information and Privacy Commissioner to investigate this complaint?

Based on its arguments as described, the Public Body concludes that since the complaint does not concern the collection of personal information, but rather the disclosure of personal information, the complaint is not within the jurisdiction of the FOIPP Act.

The Complainant's Position:

Although the burden of proof rests with the Public Body to show that this complaint is outside the jurisdiction of the FOIPP Act, the Complainant was invited to make submissions. The Complainant's position is succinct. It is the Complainant's submission that property owners' names, addresses, mortgage information, and the names of the corresponding institutions who hold the mortgages, should not be available to third parties who have no legislated authority to access it. Disclosing such personal information to an unauthorized third party is, in the Complainant's submission, an invasion of privacy. The Complainant further states that only authorized persons should be able to have access to sensitive information such as the banking information at issue, namely, mortgage document numbers and mortgage balances, and that in a small province such as Prince Edward Island (unlike Alberta or Ontario, for example) access to this information poses a threat of identity theft.

III. Related Research

The relevant section of the FOIPP Act which requires interpretation is subsection 4(1)(h)(iii), which states as follows:

4. (1) This Act applies to all records in the custody or under the control of a public body, including court administration records, but does not apply to the following:

- ...
- (h) a record made from information
- ...
- (iii) in the office of the Registrar of Deeds,

I have conducted additional research relating to the interpretation of this subsection, as well as the larger issue of "public" information being made available online. The results are summarized below.

Alberta:

The Information and Privacy Commissioner of Alberta has had the opportunity to review this and similar subsections in the past. In Investigation #1530, issued April 20, 1999, and cited by the Public Body, Portfolio Officer Marilyn Munn reviewed this same subsection as it applied to the office of Vital Statistics. She reached the conclusion that while the *Freedom of Information and Protection of Privacy Act* applies to the collection of information by Vital Statistics, the use and disclosure of information in the Vital Statistics Registry is outside the *Freedom of Information and Protection of Privacy Act*. As noted above, Investigation #1530 dealt with collection of information; the issue of jurisdiction did not arise.

One year earlier, on April 15, 1998, the Alberta Information and Privacy Commissioner partnered with the Auditor General for Alberta to conduct an audit of Alberta Registries. The result was a report which included 21 recommendations for improvement in registry operations. At page 4 of the report, the issue of jurisdiction arose as follows:

In essence, the purpose of the Act is to ensure that public bodies are accountable to the public and, at the same time, protect personal privacy. However, the application of the Act to Alberta Registries was an issue given section 4(1)(h)(ii) of the Act which excludes a record made from information in the office of the Registrar of Motor Vehicles.

With regard to this issue, the auditors made their first recommendation, which was described at page 5, as follows:

The collection of information by Alberta Registries is subject to the Act, however, section 4(1)(h)(ii) of the Act excludes a record made from information in the Office of the Registrar of Motor Vehicles. This section implies that the use, disclosure and protection of information in the Motor Vehicles Registry is not subject to the provisions of the Act.

It is our opinion that the Motor Vehicles Registry should be subject to all the protection of privacy provisions contained in Part 2 of the Act. This opinion is based on the following observations:

- Albertans may reasonably expect that the protection of privacy provisions in Part 2 of the Act should apply not only to the collection of their personal information but also to the use, disclosure, and protection of that information.
- Albertans have an expectation that Alberta Registries is safeguarding their privacy and not using the personal information in its custody for revenue generation.
- Alberta Registries has been entrusted with the personal information of Albertans and therefore has a responsibility to ensure that personal information in its custody is safeguarded from unauthorized access, use and disclosure.
- Alberta Registries has the responsibility to ensure that it manages the risk of the potential misuse of personal information contained in the Motor Vehicles Registry.

In order to protect the personal information of Albertans from inappropriate disclosure and consequent misuse, it is recommended that the Minister responsible for Alberta Registries consider the advisability of making personal information in the Office of the Registrar of Motor Vehicles Services fully subject to Part 2 of the Freedom of Information and Protection of Privacy Act.

At page 32 of the Alberta report, the Deputy Minister of Municipal Affairs responded with its concern that this recommendation has major legislative, policy and financial implications, and took it under advisement. As is evident from a reading of the current Alberta *Freedom of Information and Protection of Privacy Act*, the Ministry did not follow this recommendation, as the exception remains.

British Columbia:

I have reviewed the British Columbia FOIPP Act equivalent, but have found no similar section to the one being considered here. Indeed, at about the same time as the Alberta audit, the British Columbia Information and Privacy Commissioner undertook an investigation into the disclosure of personal information through public property registries. The report, dated March 31, 1998, arose out of public concern for privacy when the City of Victoria became the first municipality in Canada to provide property assessment information via the Internet.

At pages 2-3 of the B.C. Report's executive summary, it makes the following comments and recommendations:

Property databases are made available for inspection to permit the comparison of the value of one property to another for taxation purposes. However, these databases can be used for inappropriate purposes. They can be used to compile mailing lists for solicitation; as a locational device to track down the address of another person; as part of a financial profile or simply to satisfy a curiosity about another person.

The Office of the Information and Privacy Commissioner does not believe that information collected for the purposes of property tax assessments should be accessible for unauthorized purposes nor exempt from the privacy protections set out in Part 3 of the *Freedom of Information and Protection of Privacy Act*.

This Office acknowledges that obvious benefits accrue to society through the availability of public databases such as the Assessment Roll, the Corporate Registry, and Land Title Registry. Volumes of business transactions depend on the quick availability of such information. Furthermore, the availability of other sorts of records, such as court records, promotes greater accountability of public bodies and serves an educative function. The debate concerning public records centers on striking the balance between providing personal information that is necessary and useful to realize a public policy goal, while

at the same time protecting the privacy of the data subjects as much as possible. The challenge, from our perspective, is to develop information guidelines which promote the policy goal while at the same time give individuals some control over the use of their personal information contained in a particular database.

To achieve this goal, we make four recommendations.

The first is that property registries such as the Assessment Roll should be searchable by *property address only*. This would prevent the Assessment Roll from being used as a locational device and protect, to a certain extent, those vulnerable people who have an interest in suppressing information which would reveal their home address.

Second, we are recommending that those public bodies which make available property information clearly state the legitimate purposes for which property registries may be inspected, and discourage any other use of those registries.

Our third recommendation is that in the case of bulk sales of property registry data, whether in electronic, microfiche or hard copy format, the name of property owners should be suppressed.

Finally, provisions should be made to suppress personal information in cases where individuals can reasonably demonstrate that disclosure of their personal information would jeopardize their safety, or that of their family.

Further, at page 17 of the B.C. report, the issue of function creep is raised, as follows:

The reason the Assessment Roll is open for inspection is to permit comparisons of similar properties to promote an equitable taxation system. In our view, the uses of the names and addresses on the Roll for activities such as canvassing who is living in a neighbourhood for the purpose of developing a selling plan is an example of ‘function creep.’ “Function creep” refers to secondary uses of a database which are not connected or only vaguely connected with the original purpose for which the database was created.

The report quotes Roger Clarke of the Australia National University at page 19, as follows:

The original purposes for which ‘public registers’ were created were often implicit rather than being expressed in any official form, and are hence open to interpretation. In some cases, it has suited the interests of various parties to presume that the purposes were all encompassing, and access to use accordingly completely open. The result has been that considerable function creep has occurred in respect of some collections (i.e. there are many uses for purposes that have little to do with the apparent purpose of the database ... this situation was somewhat problematical before information technology matured; but it is now exacerbated by a range of new capabilities, most critical of these are greatly enhanced abilities to search data. Collections that were once searchable using a primary key only (such as the address of a property or the name of a telephone subscriber) , can now be readily trawled, or to apply the currently fashionable term, ‘mined’ [33].

The B.C. report then goes on to comment:

The rapid advances of digital technology and the ability for systems to compile, analyze, and disseminate massive amounts of information, including personal information, create new problems, since the information is used for purposes beyond the public policy reason for making it public. Commercial interests support the easy and quick availability of this information and we do not dispute the commercial value of public records. We simply make the statement that the public does have a duty to safeguard the personal information of ordinary citizens from misuse and suggest that the current system of data protection is inadequate for this purpose.

Saskatchewan:

Although I could find no reports from the Saskatchewan Information and Privacy Commissioner which deal with this same issue, I did review Investigation Report 2005-001, dated January 27, 2005, dealing with access to decisions of quasi-judicial bodies, which I found to be quite useful for a review of background research.

Ontario:

Similar to British Columbia, Ontario does not have an equivalent provision to subsection 4(1)(h) of the FOIPP Act. However, Ontario has dealt with the issue of public access to property information. In Order MO-2030, issued March 10, 2006, a Toronto City Councillor requested access to the Ontario Assessment System database in order to obtain the names, addresses and property information of constituents. Ontario Assistant Commissioner Brian Beamish stated, at page 29, as follows:

Although taking a walk to another floor or city office to obtain assessment information may not be convenient for the staff of municipal councillors, this inconvenience must be weighed against the privacy implications of disclosing an electronic database containing the personal information attached to many of the 623,389 Toronto properties to all municipal councillors.

...

If the Ontario legislature had intended that assessment information be gathered for the purposes of assisting elected officials with contacting and assisting constituents, it would have stated so in the *Assessment Act* or another statute.

Assistant Commissioner Beamish also cited, at page 28, *MPAC v. IPC* [2004] O.J. No 2118, wherein the court held as follows:

By contrast, in *MPAC v. IPC*, the Divisional Court did not explicitly consider the application of the section 16 public interest override but found that there were no “compelling public policy considerations” that overrode the privacy interests at stake:

... the information being sought by the respondent SRG, a collection agency, would be used by it for purely commercial purposes. The information contained in the electronic database was obtained by statutory compulsion and the individuals providing it were told that the information was “protected” under *MFIPPA*. Clearly, members of the public who were required to provide the personal information in question would reasonably expect their legitimate privacy interests to be protected. The information at stake here was gathered for four main purposes: to allow for the

creation of assessment rolls for municipalities (*Assessment Act*, s. 14); to identify those entitled to vote in municipal elections (*Assessment Act*, s. 15); to create an annual school support list (*Assessment Act*, s. 16); and to generate a list of eligible potential jurors (*MPAC Act*, s. 9(2)).

I have provided the parties with the above review of decisions and reports from other provinces so that they are aware of how Alberta has dealt with the section 4(1)(h) exception in the FOIPP Act, but also so that they are aware of the protection of privacy concerns which other provinces have dealt with relating to public registries. The foregoing review of similar orders and reports from other provinces indicates the accepted perception that there is a clear distinction between providing public information in hard copy and posting it on the World Wide Web. This distinction is discussed more fully under “Fair Information Practices” below.

IV. Fair Information Practices

The FOIPP Act, although not proclaimed in Prince Edward Island until November, 2002, derives from Alberta legislation originally proclaimed in 1995. Although the World Wide Web was certainly active in 1995, it was likely not foreseen by the Legislature that public registries would one day provide the information from their databases online for a fee.

Before internet access to property registry information, any citizen who wished to obtain information regarding ownership of a parcel of land on Prince Edward Island and associated encumbrances, such as mortgages, would have to attend in person at the Registry of Deeds office to conduct a search. Programs such as GeoLinc Plus have significantly changed the availability and, hence, the uses of public registry information.

To illustrate this point, before the city of Victoria made its property assessment information available online, it recorded that approximately 25 to 30 citizens per day made inquiries about property assessments. In contrast, on the first day of its online assessment information, it received more than 15,000 visitors, most of whom were local (Investigation Report P98-011, B.C. Information and Privacy Commissioner, March 31, 1998, pp. 1-24, at page 2).

There are both quantitative and qualitative differences between online access to personal information and traditional forms of public access. This point was recognized by the Canadian Judicial Council in a report of May, 2003, prepared on behalf of the Judges Technology Advisory Committee, *“On Open Courts, Electronic Access to Court Records, and Privacy”*, when it sought public submissions relating to online access to court records.

Similar conclusions have been made about online public registries, as the following comments from the B.C. Information and Privacy Commissioner in Investigation Report P98-011, March 31, 1998, at page 2, illustrate:

It is this Office’s position that public records pose a challenge to the privacy rights of citizens and, once in digital format, pose an even greater challenge to those privacy rights. Digital technology fundamentally changes the nature of public records as the paper record decomposes and becomes discrete pieces of information that can be searched, manipulated and reconfigured in ways that may improve efficiencies but were never intended by the legislature. [3]

There are valid concerns relating to internet access to personal information of citizens from public registries. These concerns include function creep, described below, increased risk of identity theft, and increased susceptibility to data mining.

In 2002, Beth Givens presented a paper entitled *Public Records on the Internet: The Privacy Dilemma*, to the Computers, Freedom and Privacy Conference in San Francisco (found at <http://www.privacyrights.org/ar/onlinepubrecs.htm>). Although Ms. Givens points out several risks associated with posting “public” records on the internet, she also addresses the benefits, as follows:

The public policy reasons for making public records available electronically are irrefutable - promoting easier access to government services as well as opening government practices to the public and fostering accountability.

Ms. Givens offers several approaches government agencies could take to minimize the harm to individuals when sensitive personal information is to be posted on the internet, while at the same time promoting government accountability. These include limiting what is posted online, or limiting access to the information posted. She cites an example, as follows:

Another example of restricting online access to certain personal information is already in practice regarding property tax assessor files. The San Diego County (California) Assessor decided to not post the *names* of property holders on its web site. Rather, users must seek property valuation data by searching under the *address* of the property. The primary use of this file, after all, is to determine the taxable value of property and to check that similar property is taxed at the same rate. Name searches are not possible via the web site, and indeed are not necessary to ensure the policy objective that property is being assessed fairly.

The above examples deal with fair information practices, which form the foundation to all protection of privacy legislation. I raise these issues to illustrate that even where the FOIPP Act does not have jurisdiction over a particular activity of a public body, fair information practices may still be adhered to if a public body chooses to do so.

Online registries can exist in harmony with fair information practices. Similar to online access to court documents, custodians of personal information can cooperate with those who provide the personal information in order to limit public disclosure of personal information. Just as filing processes within courts can be altered to prevent public access to financial information, for example, so too can other personal information be protected while achieving public accountability.

V. Findings

Does the Registry of Deeds constitute a public body in accordance with the FOIPP Act?

The parties are in agreement that the Provincial Treasury and the Registry of Deeds are public bodies. I agree with the parties and conclude that the Provincial Treasury is a public body pursuant to section 1(k)(ii) of the FOIPP Act and Schedule 1, Part XI of the regulations to the FOIPP Act. Further, the Registrar of Deeds is a public body pursuant to section 1(k)(i) of the FOIPP Act. As GeoLinc Plus falls under the mandate of the Provincial Treasury, it is also a part of that public body.

Are records of the Registry of Deeds excluded from the application of the FOIPP Act?

Based on the arguments of the Public Body and the Alberta reports and orders noted above, I agree with the Public Body that while the collection of personal information by the Registry of Deeds is subject to the jurisdiction of the FOIPP Act, the use and disclosure of personal information contained in records of the Registry of Deeds is not.

Although it has been found by the Information and Privacy Commissioner of this province, as well as that of Alberta, that there is a distinction between Part I and Part II of the FOIPP Act, I agree with the Public Body that the distinction should not be applied in this case. Rather, the intention of the Legislature is found in the wording of subsection 4(1)(h) of the FOIPP Act, that the responsibilities of the Registry of Deeds under the FOIPP Act are limited to those requirements pertaining to the collection of personal information from individuals.

Does the exclusion of records made from information in the Registry of Deeds affect the jurisdiction of the Information and Privacy Commissioner to investigate this complaint?

Without yet having had the opportunity to fully investigate the origins of the information provided by GeoLinc Plus, I am unable to make a definitive finding regarding my jurisdiction to investigate this particular complaint. In order for me to conclude that my office has no jurisdiction to investigate the disclosure of personal information from GeoLinc Plus, I must be able to conclude that the information from GeoLinc Plus is indeed derived directly from the records of the Registry of Deeds, and that the information relates to the functions of the Registry of Deeds. This reasoning is consistent with Order 2000-024 of the Alberta Information and Privacy Commissioner, wherein an applicant was requesting all the names and mailing addresses of residential property owners from the Assessment Roll of the City of Calgary in CD-ROM format. The Commissioner stated as follows:

[para. 51.] I do not believe that this information is the same information that is publicly available at the Southern Land Titles Registry. Furthermore, while some property tax assessment information may exist also at the Southern Land Titles Registry, the information requested is not made from that source.

[para. 52.] In Order 2000-022, I discussed what "a record made from information in a Land Titles Office" means. I stated (paragraph 41) that considering the definition of "record" in the Act, the information a Land Titles Office must maintain, and the statutory functions of a Land Titles Office, a "record made from" information in a Land Titles Office is a record made from information in a Land Titles Office that relates to the search, registration or filing functions of a Land Titles Office.

[para. 53.] Just because a person's name and mailing address appears at the Land Titles Office, and is in a record elsewhere does not make that record a "record made from information in a Land Titles Office". In this case, I do not accept that section 4(1)(h)(iii) encompasses such a record. If I accepted the Applicant's argument, there would be very little of Albertans' personal information protected by the FOIP Act. Such an interpretation would unduly broaden the scope of records excluded from the application of the Act by section 4(1)(h)(iii). I do not think the Legislature intended this.

I agree with the above-noted findings of the Information and Privacy Commissioner of Alberta in Order 2000-024, which were made upon the background of evidence that names and mailing addresses are provided by a direct electronic link from the Land Titles Office to the Calgary Ownership On Line data information system (at paragraph 48). Once I have an opportunity to fully examine the records used and disclosed by the GeoLinc Plus information system, I will be in a position to make determinative findings relating to the jurisdiction of the Information and Privacy Commissioner to investigate this complaint. Depending on the factual findings relating to GeoLinc Plus, it may be that the use and disclosure of information from GeoLinc Plus cannot be dealt with in an order from the Information and Privacy Commissioner. The Acting Information and Privacy Commissioner will apply the foregoing analysis to the facts as they are determined.

VI. Conclusion

I thank the head of the Public Body for well-organized submissions relating to the jurisdiction issue. Supporting their argument with legislative references, as well as orders and guidelines, certainly makes it easier for me to render a decision. I also thank the Complainant for bringing this important issue forward.

Accordingly, my interim findings are threefold, as follows:

1. The Registry of Deeds is a public body subject to the FOIPP Act. Similarly, as an activity of the Provincial Treasury public body, the online information system GeoLinc Plus is also subject to the FOIPP Act.
2. The use and disclosure of personal information in records of the Registry of Deeds are not subject to the jurisdiction of the FOIPP Act. However, the collection of personal information by the Registry of Deeds is subject to the jurisdiction of the FOIPP Act.
3. Before I make a conclusion regarding whether the exclusion of records made from information in the Registry of Deeds affects the jurisdiction of the Information and Privacy Commissioner to investigate this complaint, I will require further information relating to the online information system GeoLinc Plus, specifically with regard to the nature and origin of the records in that database.

In keeping with the invitation extended to this office by the head of the Public Body in his letter of June 29, 2007, a meeting will be necessary, with representatives of the Public Body, to allow this office to obtain further information with respect to the GeoLinc Plus online information system.

This interim decision will be incorporated into the final decision in this matter, bearing the same decision number as noted on the first page hereof.

Karen A. Rose
Acting Information and Privacy Commissioner