



City Clerk's Department • Bureau du Greffier

July 13, 2016

**Re: Your request for access to information under Part 2 of *The Freedom of Information and Protection of Privacy Act*: Application Number 16 06 543**

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On June 13, 2016, the City of Winnipeg received your request for access to the following records:

*Copy of briefing note prepared for CAO Doug McNeil labeled Briefing Note Home Based Business Appeals Part 2.doc*

I am pleased to inform you that your request for access to this record has been granted in part. In particular, access is granted with severing under s.23(1)(a) of *The Freedom of Information and Protection of Privacy Act*.

***Advice to a public body***

*23(1) The head of a public body may refuse to disclose information to an applicant if disclosure could reasonably be expected to reveal*

*(a) advice, opinions, proposals, recommendations, analyses or policy options developed by or for the public body or a minister;*

As required by subsection 7(2) of the Act, we have severed information that is excepted from disclosure and have provided you with as much information as possible. Specifically, we severed the subject line, as it contains advice provided to the CAO by the department. The recommendations are still being considered by the public body and so we also severed those. In the background section, we severed the information that constitutes analysis and proposed plans developed by the department for the CAO. We severed the contents of the Key Issues and Cautionary Notes sections because they constitute opinion and advice on action developed by the department for the CAO. And, finally, we severed information in the Current Status/Next



**2016 YEAR OF RECONCILIATION**  
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Steps section because it constitutes advice on actions developed by the department for the CAO.

As you requested a copy of these records, and as they can reasonably be reproduced, in accordance with clause 14(1)(a) of *The Freedom of Information and Protection of Privacy Act* a copy of the records is enclosed.

Subsection 59(1) of The Freedom of Information and Protection of Privacy Act provides that you may make a complaint about this decision to the Manitoba Ombudsman. You have 60 days from the receipt of this letter to make a complaint on the prescribed form to:

Manitoba Ombudsman  
750 - 500 Portage Avenue  
Winnipeg MB R3C 3X1  
982-9130  
1-800-665-0531

Sincerely,



Denise Jones  
Access and Privacy Coordinator

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## Confidential Briefing Note



To: Doug McNeil, Chief Administrative Officer

From: John Kiernan, Director, Planning, Property and Development Department

Date: February 3, 2016

Re:

23(1)(a)

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### **Recommendations:**

23(1)(a)

### **Background:**

On May 28, 2015, the Appeals Committee overturned a decision of the Public Service to deny an application for a Major Home-based Business at 145 Evanson St. This business included the manufacture, wholesale and retail sales of specialty perfumes. This effectively determined that the business was 'an accessory use' to the single family dwelling despite the fact that much of the testimony and neighbourhood support for the appellant was based on the fact that the community saw the property use 'as a business' – just one they wanted to see continue to exist.

On Jan 14, 2016, the Appeals Committee overturned a decision of the Public Service to deny an application for a Major Home-based Business at 423 Adsum Dr. The two family dwelling (duplex unit) has been converted to include a law office with two employees that is completely separate from the rest of the dwelling. The single-floor house now includes a kitchen that is not accessible from the business, and the owner purports to sleep in a bedroom in the basement despite the fact that his testimony indicated that he had relocated the business to the main floor due to a personal disability that doesn't allow him to navigate stairs. Effectively, the current layout converts all of the main floor (with the exception of a small kitchen) to a separate suite used solely for commercial purposes. It is neither integrated as part of a house nor accessory to that use.

23(1)(a)

The situation is further complicated by the fact that the residential portion of the building is already a unit of a duplex in which a secondary suite would not be allowed in zoning or building code.

23(1)(a)

**Key Issues:**

23(1)(a)

**Cautionary Notes**

23(1)(a)

**Current Status/Next Steps:**

23(1)(a)

APPENDIX:

**ZONING BY-LAW**

**Home-Based Business, Minor**

114. In addition to all standards applicable in the zoning district where the use is located, the following conditions apply to all minor home-based businesses, as defined in Part 2. Any Home- Based Business not able to meet any one of the following conditions is considered a Major Home- Based Business and is subject to the standards under section 115, Home-Based Business, Major.

- (1) All home-based businesses must be operated in accordance with all plans and documents approved as part of the application.
- (2) The operators of the home-based business must be residents of the dwelling unit.
- (3) A minor home-based business must not have non-resident employees.
- (4) More than one home-based business per dwelling may be permitted, provided that all applicable regulations are satisfied.
- (5) An accessory structure may be used for conducting a home-based business, provided that the structure complies with all other requirements of this By-law.
- (6) The cumulative size of all home-based businesses within a dwelling unit or accessory building must not exceed 25 percent of the total gross floor area of the dwelling unit and accessory building or 800 square feet, whichever is less.
- (7) Work or activity must be conducted entirely within the residential unit or accessory building.
- (8) No home-based businesses may have any outdoor storage of any items related to the business, including without limitation, materials, inventory, or equipment, unless such items are stored in an enclosed accessory building meeting the requirements of this Bylaw.
- (9) There must be no exterior indication of the existence of the home-based business, and no indoor display of the business visible from the outside, except that a home-based business may have one non-illuminated identification sign not exceeding 2 square feet in area, provided the sign is attached to and parallel with a wall of the principal or accessory building.
- (10)repealed 121/2008
- (11)Clients, customers, and suppliers are not permitted to visit the home-based business with the exception of day cares.
- (12)DAY CARE RELATED

**Home-Based Business, Major**

115. In addition to all standards applicable to the zoning district where the use is located, the following conditions apply to all major home-based businesses, as defined in Part 2.

- (1)
  - (a) All home-based businesses must be operated in accordance with all plans and documents approved as part of the application. amended 95/2014
  - (b) The operators of the home-based business must be residents of the dwelling unit.
- (2) A major home-based business may have a maximum of two non-resident employees or business partners working on the premises.
- (3) A major home-based business may provide instructional classes for not more than 4 pupils at a time.
- (4) BED AND BREAKFAST RELATED
- (5) DAY CARE RELATED
- (6) There must be no exterior indication of the existence of the home-based business and no indoor display of the business visible from the outside, except that a home-based business may have one non-illuminated identification sign not exceeding 2 square feet in area, provided the sign is attached to and parallel with a wall of the principal or accessory building.
- (7) Notwithstanding subsections 113(5) and (10), all existing Conditional Use Orders for auto dealers and auto repair operations, are not affected by the By-law. Conditional Use Orders with expiration dates shall be allowed to continue to operate in compliance with the conditions contained in their respective Orders until January 1, 2025, at the discretion of the Director of Planning, Property and Development.