



Information and Privacy  
Commissioner/Ontario  
Commissaire à l'information  
et à la protection de la vie privée/Ontario

# **ORDER M-14**

**Appeal M-910063**

**City of Cambridge**



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O R D E R

BACKGROUND:

The City of Cambridge ("the institution") received a request for the following information under the Municipal Freedom of Information and Protection of Privacy Act (the "Act"):

Copies of work orders which have been issued by your municipality against various rental residential properties from Jan. 1, 1990.

The institution replied to the requester as follows:

Upon searching our files we found that the Planning Department has three (3) orders that fit your request. One order has been released as it appears in the file with the exception of a personal name associated with the corporate owner. This is withheld under Section 14-1(f) because it was felt that the disclosure of the name would constitute an unjustified invasion of personal privacy. See also Section 14-2(i) [disclosure may unfairly damage the reputation of any person referred to in the record]. The municipal address is withheld because its release would directly aid the identification of the owner.

The other two orders have not yet been complied with. These orders are being withheld under Section 8-1(f) which allows documents to be withheld if release could reasonably be expected to deprive a person of the right to a fair trial or adjudication. These documents could be entered as evidence in court and it is felt that premature release of the documents could jeopardize their value as evidence.

In addition to these orders, the Cambridge Fire Department has issued seventeen (17) work orders that meet your requirements. Of these eleven (11) are being released with certain information deleted.

Where the owners are individuals as opposed to corporate entities, the names and addresses of the owners have been withheld under Section 14-1(f) and Section 14-2(i) for the reasons listed above.

The remaining six (6) orders are being withheld under Section 8-1(f), once again for the reasons listed above.

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The requester appealed the decision of the head to deny access. Notice of the appeal was sent to the appellant and the institution.

The records were received and reviewed by the Appeals Officer. The Appeals Officer contacted the appellant to clarify the request. The

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appellant stated that he was interested in those orders which were submitted to the Residential Rental Standards Board. Those are orders which have not been complied with by the property owners.

The Appeals Officer's attempts at mediation were unsuccessful and the matter proceeded to inquiry. The appellant, institution and the owners of the properties to which the records refer (the "affected parties") were given notice of the inquiry.

The institution indicated that 22 records were responsive to the request. Of these records, three are orders issued by the institution pursuant to its Minimum Standards By-law 117-84 and contain the date and time of issuance, the name and title of the person issuing the Order, the name and address of the owner, the "file number", which is the municipal address of the property, the legal description of the property, a statement that the Notice of Violation concerning the property was not complied with, particulars of repairs to be effected, the period for compliance, the right of appeal of the owner or the person served and a statement of the penalty for contravention.

The remaining 19 records were issued by the Cambridge Fire Department. They are in the form of letters and contain the name and mailing addresses of the owners or persons having an interest in the property, the municipal address of the property, the deficiencies found, the date for rectification and the name and position of the issuer.

The Appeals Officer asked the institution whether the letters from the Fire Department to property owners were responsive to the appellant's request, that is, whether they have the same effect as the previously described work orders and whether they are submitted to the Residential Rental Standards Board, as are work orders which are not complied with.

The institution stated that these letters were issued as a result of investigations conducted pursuant to section 18 of the Fire Marshals Act. These letters have the same effect as work orders which are issued by the institution, and were submitted to the Residential Rental Standards Board. The Fire Department has since changed its procedures and these letters are no longer submitted to the Board.

One of the affected parties has contended that the letter issued by the

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local Fire Department was not in the form prescribed by the Fire Marshals Act to constitute an order; for example, it did not mention the right to request a review of the order, as stipulated in section 18(8) of that Act. In my view, it is not necessary for me to comment on the Fire Marshals Act and/or whether prescribed procedures were followed. The institution has stated that these records were responsive to the request in that they have the same force as a work order and were in fact submitted to the Residential Rental Standards Board and, therefore, I am of the opinion that they are responsive to the appellant's request.

The appellant has indicated that he is not interested in obtaining the names and addresses of the owners of the properties.

In dealing with the various records, I have adopted the numbering used by the institution. Records 1 and 12 were released to the appellant except for a personal name associated with the name of the corporate owner. As the appellant is no longer interested in the names and addresses of the owner, this information is not relevant, and I will not consider these records in this Order. Records 8, 10 and 11 were released in full. In addition, the institution has indicated that record 21 could be released. Therefore, there are 16 records at issue in this appeal: 2, 3, and 15 to 20, which were completely withheld, and 4 to 7, 9, 13 and 14, which were released except for the municipal address of the property.

Representations were received from the institution, the appellant and four affected parties. I have considered all of these representations in making this Order.

**ISSUES:**

The issues arising in this appeal are as follows:

- A. Whether the information contained in the requested records  
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qualifies as "personal information", as defined in section 2(1) of the Act.

- B. If the answer to Issue A is yes, whether the mandatory exemption provided by section 14 of the Act applies.
- C. Whether the discretionary exemption provided by section 8(1)(f) of the Act applies.

**ISSUE A: Whether the information contained in the requested records qualifies as "personal information", as defined in section 2(1) of the Act.**

The institution claims that the information contained in the records are exempt under section 14 of the Act. In order to qualify for exemption under section 14, the information contained in the record must be "personal information", as defined in section 2(1) of the Act.

Section 2(1) of the Act states, in part:

"personal information" means recorded information about an identifiable individual, including,

...

(d) the address, telephone number, fingerprints or blood type of the individual,

...

(h) the individual's name if it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual;

As the appellant is not interested in the names and addresses of the owners of the properties, the only issue I must consider is whether the municipal addresses of the properties contained in the records constitute personal information. In Order 23, dated October 21, 1988, former Commissioner Sidney B. Linden dealt with several appeals arising from requests for estimated market values of all properties in Metropolitan Toronto, together with the municipal address of each property. In those appeals, the Ministry of Revenue claimed that such information should not be disclosed as disclosure would constitute an unjustified invasion of personal privacy. The first issue considered in Order 23 was whether the municipal address of the property was personal



information. Commissioner Linden stated the following:

The municipal address of a property is a description identifying the location of the property in a municipality ...

An individual's address, on the other hand, is his or her "place of residence". The owner of a property may or may not be an individual, and individual property owners may or may not reside in the property they own ... It is clear to me that the municipal location of a property cannot automatically be equated with the address of its owner ...

In considering whether or not particular information qualifies as "personal information" I must consider the introductory wording of subsection 2(1) of the Act, which defines "personal information" as "... any recorded information about an identifiable individual ...". In my view, the operative word in this definition is "about". The Concise Oxford Dictionary defines "about" as "in connection with or on the subject of". Is the information in question, i.e., the municipal location of a property and its estimated market value, about an identifiable individual? In my view, the answer is "no"; the information is about a property and not about an identifiable individual.

I agree with the reasoning of Commissioner Linden. In my view, the municipal address does not constitute personal information under the Act. As I have determined that the records do not contain personal information, I need not consider Issue B.

**ISSUE C: Whether the discretionary exemption provided by section 8(1)(f) of the Act applies.**

The institution claims that section 8(1)(f) applies to the requested records. Section 8(1)(f) states the following:

A head may refuse to disclose a record if the disclosure  
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could reasonably be expected to,

- (f) deprive a person of the right to a fair trial or impartial adjudication;

The institution explained its procedures as to how the issuance of this kind of work order can result in a trial or adjudication. It stated:

The orders issued by the Planning Department can be appealed by the owner within 30 days to the Property Standards Committee ... This committee reviews the orders, hears arguments from both sides and issues decisions. If the owner is unhappy with the decision he can further appeal to a County Court Judge who will review the original orders, hear evidence and review the proceedings of the Property Standards Committee.

If the owner does not comply with the original order or enter an appeal to the Property Standards Committee within 30 days, the orders can be taken to a Justice of the Peace as evidence to have charges laid against the owner. The last resort against a recalcitrant owner is the Provincial Court where, once again, the original orders will be submitted as evidence.

...

In the case of the records prepared by the Fire Department there are two appeal possibilities open to the owner. Depending on the section of the Fire Marshall's Act that is used, the owner may appeal to the Office of the Fire Marshall or directly to Divisional Court where hearings are held according to the Rules of Court.

As with the Planning Department documents, the records under appeal can be entered as evidence at the Fire Marshall's Appeal or at Divisional Court.

I am satisfied that the processes described above may result in a trial or adjudication, and I must decide whether disclosure of the records could reasonably be expected to deprive a person of the right to a fair trial or impartial adjudication.

In Order 188, dated July 19, 1990, I discussed the meaning of the phrase "could reasonably be expected to" in the context of section 14 of the  
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provincial Act, which phrase also appears in section 8 of the municipal Act:

It is my view that section 14 ... requires that the expectation of one of the enumerated harms coming to pass, should a record be disclosed, not be fanciful, imaginary or contrived, but rather one that is based on reason.

Of the affected parties who submitted representations, one consented to disclosure, and three stated that they had complied fully and did not wish the records disclosed. Compliance has been indicated in writing on some records which the institution has supplied to me. In cases where compliance has occurred, it cannot be said that section 8(1)(f) is relevant, as no trial or adjudication will occur.

The institution has stated that "to date, only one case has proceeded to court with charges laid against the owner," and that "there is no indication of when, or if, the other cases will proceed to court." In my view, the representations made by the institution in support of the application of section 8(1)(f) to the records which have not resulted in court proceedings are at best speculative, and I am not satisfied that disclosure of these records could reasonably be expected to deprive a person of the right to a fair trial or impartial adjudication.

In Order 48, dated April 6, 1989, Commissioner Linden considered the corresponding section 14(1)(f) of the provincial Freedom of Information and Protection of Privacy Act. In that appeal, two legal actions had been commenced. Commissioner Linden stated:

The exemption provided by subsection 14(1)(f) should be considered in the context of the governing principles of the Act as outlined in section 1, and, in my view, in order to demonstrate unfairness under subsection 14(1)(f), an institution must produce more evidence than mere commencement of a legal action. Had the legislators intended the Act to

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exempt all records held by government institutions whenever they are involved as a party in a civil action, they could have done so through use of specific wording to that effect.

In that appeal, the Ministry of Industry, Trade and Technology had offered no evidence in support of the application of the exemption other than stating that the records in question might not be producible in the legal action and release, therefore, might circumvent the rules of court concerning production.

In this appeal, the institution submitted the following:

In any step in these proceedings premature discussion of the case in the press could influence either consciously or subconsciously the people hearing the evidence. Opinions can be established before all the evidence is heard and this can hinder an impartial adjudication.

... It has been the experience of the Fire Department that evidence used in court proceedings that had been made available to the press and had been the subject of discussion in the newspaper prior to the court proceedings has been compromised and cases lost. To preclude this possibility, the records, as potential evidence in court proceedings, were withheld.

With regard to the one record where charges have been laid against a property owner (Record 3), I am not persuaded by the submissions of the institution that disclosure of the record could reasonably be expected to result in depriving a person of the right to a fair trial or impartial adjudication.

**ORDER:**

1. I order the head to disclose Record 21, which the head has indicated should be released.

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2. I order the head to disclose Records 2, 3, 4, 5, 6, 7, 9, 13, 14, 15, 16, 17, 18, 19 and 20 with the names and addresses of the owners severed.
3. I order that the head not disclose the records referred to in provision 2 until thirty (30) days following the date of the issuance of this Order. This time delay is necessary in order to give any party to the appeal sufficient opportunity to apply for judicial review of my decision before the records are actually disclosed. Provided notice of an application for judicial review has not been served on the Information and Privacy Commissioner/Ontario and/or the institution within this thirty (30) day period, I order that these records be disclosed within thirty-five (35) days of the date of this Order. The institution is further ordered to advise me in writing within five (5) days of the date on which disclosure was made.
4. The notice concerning disclosure should be forwarded to my attention c/o Information and Privacy Commissioner/Ontario, 80 Bloor Street West, Suite 1700, Toronto, Ontario, M5S 2V1.
5. In order to verify compliance with this order, I order the head to provide me with a copy of the records which are disclosed to the appellant pursuant to provision 2, upon request.

Original signed by: \_\_\_\_\_  
Tom Wright  
Commissioner

\_\_\_\_\_ May 7, 1992