



**Information and Privacy
Commissioner/Ontario**

**Commissaire à l'information
et à la protection de la vie privée/Ontario**

ORDER M-114

Appeal M-9200247

Halton Board of Education



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ORDER

BACKGROUND:

The Halton Board of Education (the Board) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to:

- (a) The rationale used by [a named individual] for his failed motions on Key Communicators in January 1992; and,
- (b) Copies of all documentation supplied to trustees on this issue.

Pursuant to section 21 of the Act, the Board invited the named individual to make representations as to why the records, or parts thereof, should not be disclosed. Despite the named individual's objection to disclosure, the Board decided to grant access to the records. The named individual appealed the Board's decision.

The records identified as responsive to this request are:

- (a) a three-page document entitled, "Background to Key Communicator motion of January 15, 1992 (Record 1);
- (b) a one-page letter dated December 5, 1991 (Record 2);
- (c) a seven-page document entitled, "A Report on the Key Communicator Program of the Halton Board of Education" dated December 12, 1991 which is an attachment to Record 2 (Record 3); and,
- (d) a two-page document which is a report on the Key Communicator Program, dated December 20, 1991, which is an attachment to Record 2 (Record 4).

Mediation was not successful, and notice that an inquiry was being conducted to review the Board's decision was sent to the appellant, the Board, and the requester. Written representations were received from the appellant, the Board, and the requester.

ISSUES:

The issues arising in this appeal are:

- A. Whether the information contained in the records 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.

SUBMISSIONS/CONCLUSIONS:

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

"Personal information" is defined in section 2(1) of the Act, in part, as follows:

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

...

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

(e) the personal opinions or views of the individual except if they relate to another individual,

...

(g) the views or opinions of another individual about the individual, and

...

The Board submits that parts of the records consist of the personal opinions or views of the appellant about the Key Communicator program, and this information qualifies as the personal information of the appellant. The Board submits that other parts of the records consist of the appellant's personal opinions or views

about other identifiable individuals (the affected persons), and this information qualifies as the personal information of the affected persons.

The appellant did not address the issue of whether the records contain his personal information. The appellant's submissions relate only to the issue of whether disclosure of the records would be an unjustified invasion of his personal privacy.

The appellant is an elected school trustee. Many of the opinions and views expressed by the appellant are in relation to a Board program, and are identified as background material to a motion the appellant, within his responsibilities as a trustee, made in a public Board meeting. Having reviewed the records, in my view, the appellant's views and opinions about the Board program were expressed in the appellant's capacity as a publicly elected official, and are not "personal" opinions or views. These views and opinions cannot be categorized as "personal information" as defined in section 2(1) of the Act.

The views and opinions expressed by the appellant in relation to the affected persons are, in my view, properly considered the personal information of the affected person to whom the views and opinions relate and do not qualify as the personal information of the appellant.

Part of Record 1 contains the appellant's home address and, in my view, only this part of the record qualifies as the appellant's personal information.

ISSUE B: If the answer to Issue A is yes, whether the mandatory exemption provided by section 14 of the Act applies.

Once it has been determined that a record contains personal information, section 14(1) of the Act prohibits the disclosure of this information except in certain circumstances. Specifically, sections 14(1)(a) and (f) of the Act read:

A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,

- (a) upon the prior written request or consent of the individual, if the record is one to which the individual is entitled to have access;
- (f) if the disclosure does not constitute an unjustified invasion of personal privacy.

In Issue A, I found that the views and opinions which relate to the affected persons qualify as the personal

information of the affected person to whom the views and opinions relate. Each affected person has been notified of the request, and each has provided written consent to disclosure of their personal information to the requester. In my view, section 14(1)(a) of the Act applies to the appellant's views and opinions about the affected persons. Accordingly, the mandatory exemption provided by section 14(1) of the Act does not apply, and this information should be disclosed to the requester.

The only personal information remaining at issue is the appellant's home address, which appears in Record 1. In order for me to find that the section 14(1)(f) exception applies, I must find that disclosure of the appellant's home address would **not** constitute an unjustified invasion of personal privacy.

In the circumstances of this appeal, the representations I have been provided with are focused on disclosure of the appellant's views and opinions, and do not address disclosure of the appellant's home address. Having found that the appellant's home address qualifies as personal information, and in the absence of any evidence or argument weighing in favour of finding that disclosure of the personal information would **not** constitute an unjustified invasion of personal privacy, I find that the exception contained in section 14(1)(f) does not apply, the appellant's home address is properly exempt from disclosure under section 14(1) of the Act.

ORDER:

1. I uphold the Board's decision to disclose Record 1 (with the exception of the appellant's home address), Records 2, 3 and 4 and I order the Board to disclose this information to the requester within 35 days of the date of this order and **not** earlier than the thirtieth (30th) day following the date of this order.
2. In order to verify compliance with the provisions of this order, I order the Board to provide me with a copy of the records which are disclosed to the requester pursuant to Provision 1, **only** upon my request.

Original signed by: _____
 Holly Big Canoe
 Inquiry Officer

_____ March 31, 1993