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

ORDER M-234

Appeal M-9300200

Regional Municipality of Ottawa-Carleton

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ORDER

BACKGROUND:

The Regional Municipality of Ottawa-Carleton (the Municipality) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for the correction of personal information relating to the requester. The requester identified one sentence contained in a letter dated September 17, 1990 from the Chairman of the Municipality to himself, which he wished to have corrected by being deleted from the letter.

In its decision letter, the Municipality advised the appellant that it was not prepared to delete the sentence in question, since doing so would not be in accordance with section 36(2) of the Act. The Municipality also advised the appellant that he was entitled to have a statement of disagreement attached to the record, and have it sent to any persons or agencies to whom the record was disclosed during the previous year. The requester did not pursue this option and appealed the Municipality's decision to not delete the sentence.

Mediation of the appeal was not successful, and notice that an inquiry was being conducted to review the Municipality's decision was sent to the appellant and the Municipality. Representations were received from both parties.

The sentence which is the subject of the appeal reads as follows:

> I have not made any enquiries about you at [a named agency], however, in the interim between your two letters, correspondence came into my hands from [another named agency] that relates to complaints by one [an individual's name] (I presume it is you) which gave no credibility to the complaints you filed.

The appellant had gained access to the communication containing this sentence as a result of an access request pursuant to the Municipal Freedom of Information and Protection of Privacy Act.

ISSUES:

The issues arising in this appeal are as follows:

A. Whether the information to be corrected qualifies as "personal information" as defined in section 2(1) of the Act.

B. If the answer to Issue A is yes, whether there are errors or omissions in the personal information which should be corrected pursuant to section 36(2)(a) of the Act.

SUBMISSIONS/CONCLUSIONS:

ISSUE A: Whether the information to be corrected qualifies as "personal information" as defined in section 2(1) of the Act.

Section 2(1) of the Act reads, in part, as follows:

> "personal information" means recorded information about an identifiable individual, including,
>
> ...
>
> (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;

I have reviewed the sentence which the appellant wishes to delete, and find that it satisfies the definition of personal information as it contains the appellant's name, along with other personal information relating to him. I find, therefore, that the sentence at issue qualifies as the personal information of the appellant.

While the sentence also includes information provided by the writer, it was drafted in the course of his employment responsibilities and is, accordingly, not his personal information within the meaning of the Act.

ISSUE B: If the answer to Issue A is yes, whether there are errors or omissions in the personal information which should be corrected pursuant to section 36(2)(a) of the Act.

Section 36(2) of the Act states that:

> Every individual who is given access under subsection (1) to personal information is entitled to,
>
> (a) request correction of the personal information if the individual believes there is an error or omission;
>
> (b) require that a statement of disagreement be attached to the information reflecting any correction that was requested but not made; and
>
> (c) require that any person or body to whom the personal information has been disclosed within the year before the time a correction is requested or a statement of disagreement is required be notified of

the correction or statement of disagreement.

In Order 186, Commissioner Tom Wright set out the requirements necessary for granting a request for correction as follows:

1. the information at issue must be personal and private information; **and**

2. the information must be inexact, incomplete or ambiguous; **and**

3. the correction cannot be a substitution of opinion.

In order for a request for correction to be granted, all three requirements set out above must be met.

I have determined under Issue A that the information in question contains the appellant's personal information, and I also find this information to be private in nature. Therefore, the first requirement of the test set forth above has been met.

With respect to the second requirement, the Municipality submits that the sentence in question is clear and forthright. It contains the Chairman's statement of fact that he had not made inquiries of a particular agency concerning the appellant. The Chairman goes on to describe correspondence which he received from another agency and he states a presumption which he made regarding the identity of the author of a letter. In its representations, the Municipality states that it has received no indication from the appellant as to what aspects of the sentence are inexact, incomplete or ambiguous.

The appellant had made an earlier access request to the Municipality under the Municipal Freedom of Information and Protection of Privacy Act for the correspondence referred to by the Chairman in the sentence. The Municipality was not able to locate the correspondence. The appellant submits that since the correspondence referred to by the Chairman in the sentence cannot be located by the Municipality, the sentence must be inexact, incomplete or ambiguous.

The Commissioner's office has not been empowered to make suggested corrections, including deletions, to information unless the information has been demonstrated to be inexact, incomplete or ambiguous. I have reviewed the personal information contained in the sentence and considered the representations and, in my view, it contains the opinion of the Chairman, who believed it to be accurate and complete when it was written. I have not been provided with any evidence, and therefore have no reason to conclude that factual errors exist in the personal information which may be corrected by my order. In my view, the second requirement of the test enunciated by Commissioner Wright in Order 186 has not been met. I find that the information contained in the sentence is not "inexact, incomplete or ambiguous" and that the remedy provided by section 36(2)(a) of the Act is not applicable to this appeal.

In Order M-201, I found as follows:

> Section 36(2) of the Act provides certain remedies to individuals who disagree with the contents of records containing their personal information. In my view, these remedies will vary depending upon the types of information in question. For example, when errors in factual information are shown by the requester to exist in such a record, the proper remedy, under section 36(2)(a) of the Act, is to correct that information.
>
> However, where a party who has been granted access to a record disagrees with non-factual, evaluative or opinion information contained in the document, the appropriate remedy is provided by section 36(2)(b). There, the requester may require an institution to attach a statement of disagreement to the information, reflecting any correction requested by the requester but not made by the institution.

I find that this statement also applies to the circumstances of this appeal. It is my view, therefore, that the sole remedy available to the appellant under section 36(2) of the Act is to request that the Municipality attach to the personal information a statement of disagreement.

ORDER:

I uphold the Municipality's decision.

Original signed by: December 6, 1993
Donald Hale
Inquiry Officer