



**Information and Privacy  
Commissioner/Ontario**

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

# **ORDER M-331**

**Appeal M-9300389**

**The Corporation of the City of York**



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# ORDER

## BACKGROUND:

The Corporation of the City of York (the City) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to records concerning renovations made on a particular residential property between April 1987 and September 1992, including all blueprints, surveys, permits, City Inspector's notes and correspondence.

The City located records responsive to the request and notified the previous owner of the property, who was the owner during the time the renovations were made, pursuant to section 21 of the Act. The previous owner objected to disclosure of the records, and raised the possible application of section 10(1)(c). The City then denied access to the records under section 14(2)(g) of the Act. The requester appealed the City's decision.

During mediation, the City notified two other individuals (the current owners) regarding disclosure of the information contained in the records. Mediation was not successful and notice that an inquiry was being conducted to review the City's decision was sent to the City, the appellant and the three owners. Representations were received from the appellant and the two current owners.

The records at issue in this appeal consist of 10 documents relating to certain proposed renovations to the particular residential property, including building permit applications, a building permit, and technical plans and drawings.

Although the previous owner raised the possible application of section 10(1)(c) of the Act to the information contained in the records, he did not provide representations regarding this section. Because section 10(1) is a mandatory exemption, I have independently reviewed the contents of the records to determine if there is anything on their face which would indicate that they qualify for exemption under this section. I am of the view that none of the information contained in the records qualifies for exemption under section 10(1) of the Act.

## ISSUES:

The issues in this appeal are as follows:

- A. Whether the records contain "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 records contain "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;

I have examined the records, which consist of the building permit application form, the actual building permits, a zoning check sheet, information sheets, receipts and technical drawings and plans. The building permit application form requires the name, address and telephone number of the owner and applicant. In my view, where the owner or applicant is an individual, as in this case, the name, address and telephone number qualify as personal information as defined in sections 2(1)(d) and (h) of the Act (Order M-138).

I am of the view that the name, telephone number and address of the owner or applicant which appear on the records at issue in this appeal qualify as the personal information of these individuals.

The remaining information contained in the records relates to renovations made to the specific residential property and does not, in my view, qualify as personal information (Order 23).

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

Given my conclusion with respect to Issue A, the following will apply only to the names, address and telephone number of the individuals identified in the records.

Section 14(1) of the Act prohibits the disclosure of personal information to any person other than the individual to whom the information relates, except in certain circumstances listed under the section. In my view, the only exception to the section 14(1) mandatory exemption which has potential application in the circumstances of this appeal is section 14(1)(f), which reads:

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

if the disclosure does not constitute an unjustified invasion of personal privacy.

Because section 14(1)(f) is an exception to the mandatory exemption which prohibits the disclosure of personal information, in order for me to find that section 14(1)(f) applies, I must find that disclosure of the personal information would **not** constitute an unjustified invasion of personal privacy.

In determining whether section 14(1)(f) of the Act applies, consideration should be given to sections 14(2) and (3) of the Act, which provide guidance in determining whether or not disclosure of personal information would constitute an unjustified invasion of personal privacy, and section 14(4) of the Act, which lists a number of specific types of information the disclosure of which does not constitute an unjustified invasion of personal privacy.

In the circumstances of this appeal, neither the City nor the previous owner submitted representations. The representations submitted by the current owners address the portions of the records which I have found do not qualify as personal information.

Having reviewed the records, I find that they contain no information which falls within the scope of the provisions in sections 14(3) or (4) of the Act.

Section 14(2) of the Act provides a non-exhaustive list of criteria to be considered in determining whether disclosure of personal information would constitute an unjustified invasion of personal privacy.

The appellant argues that the considerations referred to in sections 14(2)(a) and (d) of the Act, factors which favour the disclosure of personal information, are relevant in the circumstances of this appeal. These sections provide that:

A head, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, shall consider all the relevant circumstances, including whether,

- (a) the disclosure is desirable for the purpose of subjecting the activities of the institution to public scrutiny;
- (d) the personal information is relevant to a fair determination of rights affecting the person who made the request;

In my view, the appellant's submissions relate to a previous private matter involving himself, the previous owners and the City which is unrelated to information requested in the current request. I am, therefore, of the view that section 14(2)(a) is not a relevant consideration.

Further, the appellant has provided no evidence to support his claim that section 14(2)(d) is applicable in the circumstances of this appeal, and I find that this section is, therefore, not a relevant consideration.

After considering all of the relevant circumstances in this matter, and in the absence of any factors under section 14(2) of the Act which weigh in favour of disclosure, I find that disclosure of the personal information contained in the records would constitute an unjustified invasion of the personal privacy of the individuals referred to in the records and the mandatory exemption in section 14 of the Act applies.

The appellant has argued that the "public interest override" found in section 16 of the Act applies in the circumstances of this appeal for the reasons provided in his representations concerning section 14(2). In my view, the appellant's concerns raise only a **personal** interest in the records, rather than a **public** interest (Order M-217). Accordingly, section 16 is not relevant in the circumstances of this appeal.

As no other exemptions have been claimed for the remaining information contained in the records, the portions of these records which do not contain personal information should be disclosed to the appellant. For greater certainty, I have highlighted on the copy of the records I have provided to the City's Freedom of Information Co-ordinator with a copy of this order, the portions of the records which should **not** be disclosed to the appellant as they contain the personal information of individuals identified in the records.

## **ORDER:**

1. I order the City to disclose the records to the appellant in accordance with the highlighted copy of the records which has been sent to the City's Freedom of Information Co\_ordinator with a copy of this order. The information which is highlighted should **not** be disclosed.
2. I order the City to disclose the records described in Provision 1 within thirty-five (35) days from the date of this order, and **not** earlier than the thirtieth (30th) day following the date of this order.
3. In order to verify compliance with this order, I order the City to provide me with a copy of the records which are disclosed to the appellant pursuant to Provision 1, **only** upon request.

Original signed by: \_\_\_\_\_  
Laurel Cropley  
Inquiry Officer

\_\_\_\_\_ June 8, 1994