



**Information and Privacy
Commissioner/Ontario**

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

ORDER M-412

Appeal M-9400117

Regional Municipality of Haldimand-Norfolk



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NATURE OF THE APPEAL:

This is an appeal under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The requester initially asked the Regional Municipality of Haldimand-Norfolk (the Region) for access to a series of credit card receipts which listed the expenses incurred by a named employee during 1991 and 1992. The requester represents a taxpayer's organization.

The Region located the receipts in question and released the front sides of the slips to the requester with the exception of the employee's credit card number. The Region also agreed to disclose the names of 19 people who were listed on the back of one or more of these receipts where these individuals were elected or appointed officials.

The Region declined, however, to release the names of the remaining individuals referred on the receipts based on the third party information exemption found in section 10(1) of the Act. The requester appealed this decision to the Commissioner's office but subsequently decided not to fully proceed with the matter.

The requester then made a second request to the Region for access to the names listed on the back of 10 of the credit card receipts. The Region again decided not to disclose these names based on the following exemptions contained in the Act:

- information furnished by a confidential source - section 8(1)(d)
- third party information - section 10(1)
- economic and other interests - sections 11(c) and (d).

The requester then filed a second appeal with the Commissioner's office.

A Notice of Inquiry was provided to the parties to the appeal. These included six individuals whose names appeared on the back of one or more of the credit card receipts where it was possible to ascertain their current addresses. This notice also asked the parties to comment on whether the mandatory exemption contained in section 14(1) of the Act (invasion of privacy) applied to the information at issue. Representations were received from the appellant, the Region and one of the named individuals. This individual consented to the release of his name.

DISCUSSION:

INVASION OF PRIVACY

Under section 2(1) of the Act, "personal information" is defined, in part, to mean recorded information about an identifiable individual, including the individual's name where 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.

In this appeal, the information at issue consists of the names of 18 individuals who are listed on the back of the 10 credit card receipts.

In his representations, the appellant argues that the names in question relate to the individuals in their business rather than their personal capacities. He goes on to state that there is nothing personal about a business lunch which is paid for by taxpayer funds. The Region takes a similar position and submits that the individuals referred to in the credit card slips were the employee's business contacts. The Region also submits that meetings between the employee and these individuals would occur for business reasons. None of the other parties who were notified of this appeal chose to make representations on this subject.

I have carefully reflected on these submissions in conjunction with the contents of the records. Based on the evidence before me, I find that the records refer to the individuals in a business as opposed to a personal capacity. For this reason, I conclude that the names do not constitute personal information for the purposes of the Act.

Since I have found that the contents of the credit card slips do not contain personal information, it follows that the release of this information would not constitute an unjustified invasion of personal privacy for the purposes of section 14(1) of the Act.

INFORMATION FURNISHED BY A CONFIDENTIAL SOURCE

The Region claims that section 8(1)(d) of the Act applies to exempt the names of the 18 individuals from disclosure. This section provides that the Region may refuse to release a record if such disclosure could reasonably be expected to disclose the identity of a confidential source of information in respect of a law enforcement matter or disclose information furnished only by the confidential source.

In order for this exemption to apply to a record, the Region must establish that the release of the document would create a reasonable expectation of probable harm. At a minimum, the Region must establish a clear and direct linkage between the disclosure of the information in question and the harm which is alleged.

In its representations, the Region indicates that both the Ontario Provincial Police and the Region, itself, have investigated the accuracy of the expense claims. The Region then submits that the release of the names of the 18 individuals could disclose the identity of a confidential source of information with respect to this law enforcement matter.

I have carefully considered the representations put forward by the Region which are quite general in nature. I find that the evidence before me is insufficient to establish that the release of the names of these individuals could reasonably be expected to disclose (1) the identity of a confidential source of information in respect of a law enforcement matter or (2) information furnished only by the confidential source. The result is that the section 8(1)(d) exemption does not apply to the information contained in the records.

THIRD PARTY INFORMATION

The Region also claims that sections 10(1)(a) and (b) of the Act apply to the names listed on the credit card receipts. For a document to qualify for exemption under these provisions, the Region must satisfy each part of the following three-part test:

1. the record must reveal information that is a trade secret or scientific, technical, commercial, financial or labour relations information; **and**
2. the information must have been supplied to the institution in confidence, either implicitly or explicitly; **and**
3. the prospect of disclosure of the record must give rise to a reasonable expectation that one of the harms specified in sections 10(1)(a) or (b) will occur.

I will first consider the second component of the test.

To satisfy part two of the test, the Region must establish that the information contained in the credit card receipts was **supplied** to the Region by a third party and secondly that such information was supplied **in confidence** either implicitly or explicitly.

In its representations, the Region indicates that it is common practice for municipal governments to undertake confidential discussions with clients on the subjects of industrial or commercial development. To emphasize the importance of preserving these confidential relationships, the Region points out that one of its Procedural By-laws permits Regional Council to discuss the preliminary stages of such development projects in camera.

The Region's submissions do not, however, indicate whether the information at issue in this appeal was supplied to the Region by one or more third parties, which is a requirement under section 10(1) of the Act. Based on my review of the records, it is clear that the employee, and not the individuals who met with him, placed the relevant information on the credit card slips. As a result, I find that the information was not supplied to the Region by the individuals (third parties) in question.

In addition, there is no specific evidence before me to indicate that the individuals mentioned in the records had an expectation that the Region would hold their names in confidence.

For these reasons, I find that the second part of the section 10(1) test has not been satisfied. The result is that the third party information exemption does not apply to the names on the credit card receipts. Finally, because of the findings which I have made, it is not necessary for me to consider the first or third parts of the section 10(1) test.

ECONOMIC AND OTHER INTERESTS

The Region also claims that sections 11(c) and (d) of the Act apply to withhold the names of the individuals from disclosure. For a record to qualify for exemption under these provisions, the Region must establish that the record contains information whose disclosure could reasonably be expected to (1) prejudice the economic or competitive interests of the Region or (2) be injurious to the financial interests of the Region.

In addition, for these provisions to apply, there must exist a reasonable expectation of probable harm. At a minimum, the Region must establish a clear and direct linkage between the release of the information and the occurrence of the economic, competitive or financial harms which are alleged.

In its representations, the Region submits that the disclosure of the names of business contacts might result in prospective clients no longer wanting to explore commercial ventures with the Region. On this basis, the Region argues that both its economic interests and competitive position would be prejudiced. The appellant, on the other hand, believes that the release of information about business lunches which occurred in 1991 could not reasonably be expected to prejudice the Region's current economic interests.

I have carefully considered the representations provided by the parties. I have concluded that the evidence which the Region has tendered does not establish that the economic, competitive or financial harms outlined in sections 11(c) and (d) of the Act could reasonably be expected to occur if the names of the individuals are released. On this basis, I find that these two exemptions do not apply to the records at issue.

The result is that the Region must release the names in question to the appellant.

ORDER:

1. I order the Region to disclose to the appellant the names of the individuals referred to on the 10 credit card receipts within thirty-five (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 Provision 1 of this order, I reserve the right to require that the Region provide me with a copy of the credit card receipts which are disclosed to the appellant.

Original signed by: _____
Irwin Glasberg
Assistant Commissioner

October 28, 1994