



Information and Privacy  
Commissioner/Ontario

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

# ORDER P-853

Appeal P-9400574

Ministry of Environment and Energy



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## **NATURE OF THE APPEAL:**

This is an appeal under the Freedom of Information and Protection of Privacy Act (the Act). The Ministry of Environment and Energy (the Ministry) received a request for access to records relating to the requester's application for a sewage system and use permit on a specified property. The Ministry identified 57 records and granted access to the majority of them. Access was denied to the address of an individual as set out on four letters and to one letter in its entirety. The requester appealed the decision of the Ministry to deny access to the letter.

The record that remains at issue in this appeal consists of a letter from an individual addressed to the Ministry. The Ministry denied access to the record under the following exemption contained in the Act:

- invasion of privacy - section 49(b)

Notice of Inquiry was provided to the appellant, the Ministry and the author of the letter (the affected person). Representations were received from the Ministry and the affected person.

## **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.

I have carefully reviewed the information in the letter. I find that it consists of recorded information about the appellant and, therefore, constitutes his personal information. The letter also contains recorded information about the affected person and other identifiable individuals. I find, therefore, that the letter contains the personal information of both the appellant and other identifiable individuals, including the affected person.

Section 47(1) of the Act gives individuals a general right of access to their own personal information held by a government body. Section 49 provides a number of exceptions to this general right of access.

Under section 49(b) of the Act, where a record contains the personal information of both the appellant and other individual and the Ministry determines that the disclosure of the information would constitute an unjustified invasion of another individual's personal privacy, the Ministry has the discretion to deny the requester access to that information.

Sections 21(2), (3) and (4) of the Act provide guidance in determining whether the disclosure of personal information would constitute an unjustified invasion of personal privacy. Where one of the presumptions

found in section 21(3) applies to the personal information found in a record, the only way such a presumption against disclosure can be overcome is where the personal information falls under section 21(4) or where a finding is made that section 23 of the Act applies to the personal information.

If none of the presumptions contained in section 21(3) apply, the Ministry must consider the application of the factors listed in 21(2) of the Act, as well as all other considerations which are relevant in the circumstances of the case.

The Ministry and the affected person state that the following factors under section 21(2) favour non-disclosure of the information in the letter:

- the individual to whom the information relates will be exposed unfairly to pecuniary or other harm - section 21(2)(e)
- the information is highly sensitive - section 21(2)(f)
- the information has been supplied in confidence -section 21(2)(h)

I have carefully reviewed the information in the letter together with the representations of the Ministry and the affected person. I make the following findings:

- (1) The personal information of the affected person and other identifiable individuals which is contained in the letter is highly sensitive within the meaning of section 21(2)(f). This factor weighs in favour of non-disclosure of the personal information.
- (2) None of the factors which weigh in favour of disclosure apply to the personal information in the letter in the circumstances of this appeal.
- (3) Disclosure of the personal information in the letter would constitute an unjustified invasion of the personal privacy of the affected person and other identifiable individuals as contemplated by section 49(b). Therefore, the information should not be disclosed to the appellant.

**ORDER:**

I uphold the Ministry's decision.

Original signed by: \_\_\_\_\_  
Mumtaz Jiwan

\_\_\_\_\_ January 31, 1995

Inquiry Officer