



Information and Privacy
Commissioner/Ontario

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

ORDER P-900

Appeal P_9400731

Ontario Insurance Commission



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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 Ontario Insurance Commission (the OIC) received a request for "all detailed floor plans of the [OIC], all floors, as at January 1, 1990 until present".

The Minister of Finance is the "head" of the OIC for the purposes of the Act. Requests and appeals under the Act are dealt with on behalf of the OIC by the Ministry of Finance (the Ministry). For ease of reference, this order will refer to actions taken by the Ministry on the OIC's behalf as actions of the OIC.

The OIC denied access to the records in their entirety on the basis of the exemption in section 14(1)(i) of the Act (security).

In appealing the OIC's decision, the appellant states that if detailed floor plans are not available, he should be provided with what he refers to as generalized plans. During mediation, however, the appellant's request was clarified. The appellant is now seeking the floor plans or charts of the storage area for mediation, arbitration and appeals files at the OIC. This area is situated within the OIC's Dispute Resolution Group offices.

A Notice of Inquiry was provided to the OIC and the appellant. Representations were received from both parties.

PRELIMINARY MATTER:

The OIC's representations contain argument to the effect that this access request and appeal are frivolous and vexatious, and an abuse of process. This issue is currently being considered in another appeal. Because of the findings I have made in this order, I am of the view that it is not necessary for me to consider this issue in this particular case.

DISCUSSION:

SECURITY

Section 14(1)(i) of the Act reads:

A head may refuse to disclose a record where the disclosure could reasonably be expected to,

endanger the security of a building or the security of a vehicle carrying items, or of a system or procedure established for the protection of items, for which protection is reasonably required;

In my view, the phrase "could reasonably be expected to" in section 14(1) of the Act requires that there exist a reasonable expectation of probable harm. The mere possibility of harm is not sufficient.

The appellant argues in his representations, that the exemption in section 14(1)(i) is found in the law enforcement section of the Act, and therefore, should only apply to offices which have some kind of law enforcement component, such as detention centres and law enforcement (i.e. police) offices.

He further argues that access to the floor plans or charts of the above areas could not be a security risk since he presumes that each of these areas would have appropriate security measures in place to prevent unauthorized access.

He states that one reason for requesting the above records is to ensure that the OIC is taking all proper and reasonable steps to protect the privacy rights of individuals who have dealings with it.

The OIC indicates that files stored in the area referred to above contain medical, employment and other sensitive personal information about identifiable individuals who have made claims for statutory accident benefits or who have disputes with their automobile insurers respecting their claims.

The OIC further states that the Dispute Resolution Group deals extensively with the public. Because of the considerable amount of personal information contained in files located in the identified area, the OIC has instituted security measures to protect these records and to limit access to them. The OIC submits that to provide the appellant with the requested information would effectively provide a "roadmap" that specifically identifies where this sensitive information is stored, which would seriously compromise the security of the OIC.

I have carefully considered the representations of the parties in this appeal. Although section 14(1)(i) is included in the section of the Act which specifically addresses law enforcement concerns, there is nothing in the section which indicates that it is restricted to law enforcement matters. The numerous subsections of section 14 contain specific qualifications with respect to the type of record or matter to which the subsection relates. For example, section 14(1)(a) refers to disclosure of a record which could reasonably be expected to interfere with a law enforcement matter. Section 14(1)(i), on the other hand, does not specify a type of building, vehicle or system. In my view, this section relates to security for the protection of any building, vehicle or system for which such protection is reasonably required.

In reviewing the circumstances of this appeal, I find that the release of the information contained in the records could reasonably be expected to endanger the security of a building or a system established for the protection of items, for which protection is reasonably required. Section 14(1)(i) is, therefore, applicable to exempt the requested records from disclosure.

ORDER:

I uphold the OIC's decision.

Original signed by: _____

Laurel Cropley
Inquiry Officer

_____ April 7, 1995