



Information and Privacy
Commissioner/Ontario

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

ORDER M-582

Appeal M_9500283

City of Vaughan



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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 City of Vaughan (the City) received a request for access to all records relating to a specific complaint of an alleged violation of a municipal by-law. The City identified the responsive records and granted partial access.

The requester appealed the City's decision to deny access to the name, address and telephone number of the complainant.

The City relies on the following exemptions to deny access to the above information:

- law enforcement - section 8(1)(d)
- law enforcement report - section 8(2)(a)

A Notice of Inquiry was provided to the appellant and the City. Because the information at issue may also contain the personal information of the appellant, representations were sought from the parties on the application of sections 8(1)(d), 8(2)(a) and 38(a) of the Act. Representations were received from both the appellant and the City.

DISCUSSION:

LAW ENFORCEMENT/DISCRETION TO REFUSE REQUESTER'S OWN PERSONAL INFORMATION

In order for the information to qualify for exemption under sections 8(1)(d) and 8(2)(a), the matter to which the record relates must first satisfy the definition of the term "law enforcement" found in section 2(1) of the Act, which states:

"law enforcement" means,

- (a) policing,
- (b) investigations or inspections that lead or could lead to proceedings in a court or tribunal if a penalty or sanction could be imposed in those proceedings, and
- (c) the conduct of proceedings referred to in clause (b).

The City submits that this matter relates to an investigation and inspection into an alleged violation of its by-law regulating dog waste and, therefore, qualifies under the definition of "law enforcement" outlined in section 2(1)(b). I have reviewed the information in the record and I agree that it pertains to a law enforcement matter.

I will first look at the application of section 8(1)(d) of the Act to the information at issue. This section states:

[IPC Order M-582/August 15, 1995]

A head may refuse to disclose a record if the 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.

The information at issue is the name, address and telephone number of the complainant. The City submits that the complainant expected that this information was provided in confidence and that there is a reasonable expectation of confidentiality within its by-law complaints process.

The appellant submits that he has a right to know the identity of the complainant and that denial of access to this information constitutes a denial of due process.

I find that the confidentiality of a complainant's name, address and telephone number forms part of the City's by-law complaints process. As this type of information is treated with confidence by the City, the disclosure of the complainant's name, address and telephone number would disclose the identity of a confidential source of information in a law enforcement matter, a possible violation of a municipal by-law. Accordingly, I find that the complainant's name, address and telephone number fit within the parameters of the section 8(1)(d) exemption.

Upon review of the record, I find that it also contains recorded information relating to the appellant and therefore constitutes the personal information of the appellant under section 2(1) of the Act.

Section 36(1) of the Act gives individuals a general right of access to any personal information about themselves in the custody or under the control of institutions covered by the Act. However, this right of access is not absolute. Section 38 provides a number of exceptions to this general right of access, including section 38(a) which reads as follows:

A head may refuse to disclose to the individual to whom the information relates personal information,

if section 6, 7, **8**, 9, 10, 11, 12, 13 or 15 would apply to the disclosure of that personal information. [emphasis added]

Section 38(a) of the Act provides the City with the discretion to refuse to disclose an appellant's personal information where section 8 otherwise applies to the information. I have reviewed the factors considered by the City regarding its exercise of discretion in favour of refusing to disclose the record to the appellant. I find nothing improper in the determination which has been made with respect to the name, address and telephone number of the complainant and would not alter it on appeal.

Since I have found the information qualifies for exemption under section 8(1)(d), I do not need to consider the application of section 8(2)(a) of the Act.

ORDER:

I uphold the decision of the City.

Original signed by: _____
Mumtaz Jiwan
Inquiry Officer

_____ August 15, 1995