



**Information and Privacy
Commissioner/Ontario**
**Commissaire à l'information
et à la protection de la vie privée/Ontario**

ORDER M-638

Appeal M_9500112

City of Mississauga



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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 Mississauga (the City) received a request for "... the lists ... of all persons (name, address and phone number) who applied for the Urban Forest Management Advisory Committee (UFMAC)". The City denied access to this information under section 14 of the Act.

During the course of this appeal, the UFMAC members were appointed and the names of the successful applicants became public. The City has disclosed this information to the requester. Further mediation was not possible. A Notice of Inquiry was sent to the appellant and the City. Representations were received from both parties.

DISCUSSION:

PERSONAL INFORMATION

Under section 2(1) of the Act, "personal information" is defined, in part, to mean 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 reviewed the records at issue, the resumes and covering letters submitted by the applicants, and find that they contain the personal information of the applicants, and not the appellant.

Once it has been determined that a record contains personal information, section 14(1) of the Act prohibits the disclosure of this information except in certain circumstances. Specifically, sections 14(1)(a), (c) and (f) of the Act read:

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

- (a) upon the prior written request or consent of the individual, if the record is one to which the individual is entitled to have access;

- (c) personal information collected and maintained specifically for the purpose of creating a record available to the general public;
- (f) if the disclosure does not constitute an unjustified invasion of personal privacy.

The City did not seek the consent of the individuals identified in the record to disclose either their names, addresses or telephone numbers, as contemplated in section 14(1)(a). Therefore this exception to the exemption is not available in the circumstances. In his representations, the appellant expresses the view that the City ought to have contacted the individuals to seek their consent. The City did not intend to disclose the names, addresses and telephone numbers because, in its view, that would constitute an unjustified invasion of personal privacy. In the circumstances of the appeal, the City's decision not to seek consent was in accordance with section 21 of the Act.

In order to satisfy the requirements of section 14(1)(c), the information must have been collected **and maintained** specifically for the purpose of creating a record available to the general public. In the circumstances of this appeal, the names of the unsuccessful applicants and the addresses and telephone numbers of all of the candidates never became publicly available, unlike the names of the successful candidates. Therefore, the exception provided by section 14(1)(c) of the Act does not apply to the records.

Sections 14(2) and (3) of the Act provide guidance in determining whether disclosure of personal information would result in an unjustified invasion of the personal privacy of the individual to whom the information relates. Section 14(2) provides some criteria for the head to consider in making this determination. Section 14(3) lists the types of information whose disclosure is presumed to constitute an unjustified invasion of personal privacy. Once a presumption against disclosure has been established, it cannot be rebutted by either one or a combination of the factors set out in 14(2).

The City maintains that the fact that a person applied for membership on this particular committee relates to employment or educational history (section 14(3)(d)), and that each applicant supplied his or her name, address and telephone number in confidence (section 14(2)(h)).

The appellant identifies sections 14(2)(a), (b) and (c) in his representations. The appellant has not explained how section 14(2)(a) is relevant in the circumstances of this appeal, and I find it is not a relevant consideration.

With respect to sections 14(2)(b) and (c), the appellant indicates that the cutting down of a large number of trees is a health and safety issue, and that he requires the personal information of the applicants so that he may inform them (so they, as professionals, might inform others) of how the City provides services to the public and removes goods (logs) from parks.

I find that sections 14(2)(b) and (c) are not relevant considerations in the circumstances of this appeal. In my view, these sections were not designed to create an exception to the mandatory

personal information exemption for the purpose of making a mailing list of persons with an interest in an issue available to a member of the public.

The appellant has failed to establish the relevance of any factors which might weigh in favour of disclosure of the personal information at issue. Accordingly, the exception contained in section 14(1)(f) does not apply and therefore, the mandatory exemption provided by section 14(1) of the Act applies.

ORDER:

I uphold the decision of the City.

Original signed by: _____
Holly Big Canoe
Inquiry Officer

November 7, 1995