



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

# **ORDER P-1112**

**Appeal P-9500552**

**Ministry of the Solicitor General and Correctional Services**



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## **NATURE OF THE APPEAL:**

The appellant is the owner of a residential property in North York which was destroyed by fire in 1994. The fire was investigated by the Fire Marshal's Office. Subsequently, the appellant submitted a request under the Freedom of Information and Protection of Privacy Act (the Act) to the Ministry of the Solicitor General and Correctional Services (the Ministry) for records pertaining to the Fire Marshal's investigation.

The Ministry located a number of responsive records and granted partial access. Access to most of the withheld records was denied in full, and parts of several other records were also withheld. In all cases, the Ministry's denial of access is based on the exemption provided by section 49(b) of the Act (invasion of privacy).

The appellant filed an appeal of the Ministry's decision.

During mediation, the appellant indicated that he does not wish to have access to personal information of other individuals, including the fire fighters. In particular, the appellant has confirmed that he does not require access to the names of the fire fighters.

A Notice of Inquiry was sent to the appellant, the Ministry and four other individuals (the affected persons). Representations were received from the appellant and the Ministry.

I adopt the Ministry's page numbering system and will use it to refer to the records at issue, which consist of the following:

- severed portions of the Fire Investigation Report (pages 3, 7 and 8)
- handwritten notes of an inspector with the Office of the Fire Marshal who interviewed a witness (pages 65-68)
- statements, including diagrams, provided by fire fighters who put out the blaze (pages 73\_148, 154 and 155)
- documents containing information about some contractors (pages 149-153).

However, pages 129 and 130 are duplicates of page 127. Also, page 131 is a duplicate of page 128. As these are multiple copies, I will not consider pages 129 through 131 in this appeal.

## **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 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.

Based on the appellant's indication during mediation that he does not require access to the names of the fire fighters, these have been removed from the records.

I have reviewed the remaining parts of the records to determine whether they contain personal information, and if so, to whom the personal information relates. In this regard, information relating to an individual's normal professional activities will not be considered personal information.

I find that all of the records at issue contain the personal information of the appellant. In addition, some parts of the records contain the personal information of other individuals, which may be summarized as follows.

The parts of pages 3 and 8 which remain at issue contain the personal information of several of the appellant's relatives, and one of the contractors. However, because of its use in a business capacity, I find that the name of the contractor is not personal information.

Page 65 contains personal information pertaining to one of the contractors. Again, I find that, because of its use in a business capacity, the contractor's name is not personal information.

Pages 73 through 148 contain information about the fire fighters' home addresses and employment history, and I find that this constitutes their personal information.

Pages 151, 152 and 153 all contain personal information pertaining to several contractors. However, the contractors' names appear in a business capacity and do not constitute personal information.

As noted, the appellant indicated during mediation that he does not require the personal information of other individuals. This is reiterated in the appellant's representations, in which he suggests that all personal information of other individuals be severed.

Accordingly, I have removed the portions of the records which consist of personal information of individuals other than the appellant from the records at issue. This information is highlighted on copies of the records which are being sent to the Ministry's Freedom of Information and Privacy Co-ordinator with a copy of this order.

## **INVASION OF PRIVACY**

The Ministry claims that section 49(b) of the Act applies to exempt the records from disclosure.

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

As noted above, I have removed all personal information of individuals other than the appellant from the records at issue. Only the disclosure of personal information about other individuals can result in an unjustified invasion of personal privacy. Since all such information has now been removed, it follows that disclosure of the remaining information cannot be an unjustified

invasion of personal privacy. Therefore, section 49(b) can have no application to the remaining information, and I find that it does not apply.

As no other discretionary exemptions have been claimed, and no mandatory exemption applies, the information at issue which is **not** highlighted on the copies of the records being sent to the Ministry's Freedom of Information and Privacy Co-ordinator with a copy of this order should be disclosed.

### **ORDER:**

1. I uphold the Ministry's decision to deny access to the parts of the records which **are** highlighted on the copies which are being sent to the Ministry's Freedom of Information and Privacy Co-ordinator with a copy of this order.
2. I order the Ministry to disclose the parts of the records at issue which are **not** highlighted on the copies which are being sent to the Ministry's Freedom of Information and Privacy Co-ordinator with a copy of this order, by sending copies to the appellant on or before **March 6, 1996**, but not before **March 1, 1996**.
3. To verify compliance with Provision 2, I reserve the right to require the Ministry to provide me with a copy of the records which are disclosed to the appellant pursuant to Provision 2.

Original signed by: \_\_\_\_\_  
John Higgins  
Inquiry Officer

\_\_\_\_\_ January 31, 1996