



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

ORDER M-746

Appeal M_9500645

Corporation of the Town of Milton



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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 requester is an exotic dancer. While attending a private event at a rented facility owned by the Corporation of the Town of Milton (the Town), the requester sustained an injury to her back, allegedly as a result of the actions of one of the participants at the event. Her counsel wrote to the Town and requested access, under the Act, to the identity of the individuals who rented the facility. In requesting this information, counsel indicated that it is the requester's intention to bring a claim against the personal insurers of the individuals involved. Counsel also indicated that the requester had been unable to identify the individuals responsible because the individual who arranged for her to attend has refused to provide this information.

The Town located a two page document titled "Amended Permit" issued by the Town's Leisure Services. This document contains the name, address and telephone number of the applicant for the permit. Pursuant to section 21 of the Act, the Town notified the applicant of the request, and invited his comments on disclosure of this information. In response to the notice, the applicant indicated his objection to disclosure of the record on the basis that disclosure would constitute an unjustified invasion of his personal privacy (section 14(1) of the Act).

The Town subsequently denied access to the record. The requester appealed the denial of access. Her appeal was filed by her counsel. In her letter of appeal, the requester indicates that she is only interested in receiving the name and address of the individual who rented the facility for the private event. Accordingly, this is the only information at issue in this appeal.

A Notice of Inquiry was sent to the Town, the requester (now the appellant) and the applicant. Representations were received from all three parties.

DISCUSSION:

INVASION OF PRIVACY

Section 2(1) of the Act defines personal information, in part, as "recorded information about an identifiable individual ...". In reviewing the information at issue in this appeal, I find that the name and address of the applicant qualifies as his personal information.

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, section 14(1)(f) of the Act reads as follows:

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

if the disclosure does not constitute an unjustified invasion of personal privacy.

The effect of section 14(1)(f) is that the section 14 exemption will not apply if it is demonstrated that disclosure of the personal information would **not** be an unjustified invasion of another individual's personal privacy.

Sections 14(2), (3) and (4) of the Act provide guidance in determining whether disclosure of personal information would result in an unjustified invasion of personal privacy. Neither the Town nor the applicant submits that any of the presumptions in section 14(3) apply in the circumstances of this appeal, and I find that none apply.

Both the Town and the applicant submit that disclosure of the identity of the applicant would expose him unfairly to pecuniary or other harm (section 14(2)(e)) and would unfairly damage his reputation (section 14(2)(i)). They believe this is particularly the case in view of the appellant's stated intentions of bringing civil suit against him. Sections 14(2)(e) and (i) are factors which weigh in favour of privacy protection.

The appellant submits that disclosure of the name and address of the applicant is relevant to a fair determination of the appellant's rights (section 14(2)(d)), and that this factor weighs in favour of disclosure. In this regard, the appellant's counsel states that the appellant was badly injured at the private event, and the individuals involved have attempted to prevent her from determining the identity of the persons against which she may have a potential cause of action in order to prevent a law suit from being commenced. Counsel submits that without this information the appellant is unable to initiate legal proceedings.

Having considered the submissions of the parties, I make the following findings:

- (1) In order for sections 14(2)(e) and (i) to be considered relevant, there must be an element of unfairness resulting from disclosure of the personal information. The fact that disclosure of the applicant's name and address may expose him to civil action does not amount to unfairness. Neither the Town nor the applicant have provided any other information to support their claims. Accordingly, I find that neither 14(2)(e) nor 14(2)(i) are relevant in the circumstances of this appeal.
- (2) The appellant has indicated that she has attempted to obtain the identity of the applicant by other means and has been unable to garner the co-operation of other attendees at the event. In the circumstances of this appeal, I find that the appellant has established that section 14(2)(d) is a relevant consideration, but only with respect to the name of the applicant. I am satisfied that, as a result of injuries suffered at the event, the appellant has a legal right to bring civil action against those involved, and the applicant's name is required to do so. The appellant's representations do not indicate, however, that similar considerations are relevant with respect to the applicant's address. Accordingly, I find that the requirements of section 14(2)(d) have not been established with respect to the applicant's address.
- (3) In summary, I find that section 14(2)(d) is a relevant consideration which favours disclosure of the applicant's name, and that this consideration outweighs the privacy interests of the applicant. Accordingly, the applicant's name should be disclosed to the appellant.

- (4) I have considered all of the factors in section 14(2) and find that none of the factors which weigh in favour of disclosure are present with respect to the address of the applicant, and that the mandatory exemption provided by section 14(1) applies to prohibit disclosure of his address.

ORDER:

1. I order the Town to disclose the name of the applicant to the appellant by sending a severed copy of the record with this information revealed to the appellant on or before **May 8, 1996** but not earlier than **May 3, 1996**.
2. I uphold the Town's decision to withhold the address of the applicant.
3. In order to verify compliance with this order, I reserve the right to require the Town to provide me with a copy of the record which is disclosed to the appellant in accordance with Provision 1.

Original signed by: _____

Laurel Cropley
Inquiry Officer

_____ April 3, 1996