



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

# **ORDER M-689**

**Appeal M\_9500579**

**Township of Shuniah**



80 Bloor Street West,  
Suite 1700,  
Toronto, Ontario  
M5S 2V1

80, rue Bloor ouest  
Bureau 1700  
Toronto (Ontario)  
M5S 2V1

416-326-3333  
1-800-387-0073  
Fax/Téléco: 416-325-9195  
TTY: 416-325-7539  
<http://www.ipc.on.ca>

## **NATURE OF THE APPEAL:**

The Township of Shuniah (the Township) received a request for access to the name of the person who laid a complaint about the condition of the requester's property. The request was made under the Municipal Freedom of Information and Protection of Privacy Act (the Act).

Pursuant to section 21 of the Act, the Township notified the individual who made the complaint (the complainant). The complainant responded that he/she did not want his/her name disclosed. The Township subsequently issued a decision to the requester. The decision denied access to name of the complainant under section 10(1) of the Act, third party information.

The requester appealed this decision.

The Township subsequently issued another decision, advising the appellant that it was denying access to the name of the complainant under section 14 of the Act, invasion of privacy.

A Notice of Inquiry was sent to the Township, the appellant and the complainant. Because the record appeared to contain the personal information of both the appellant and the complainant, the parties were asked to comment on the application of section 38(b) of the Act. This section gives an institution the discretion to refuse to disclose to an individual his or her personal information if the disclosure would constitute an unjustified invasion of another individual's personal privacy.

Representations were received from the complainant only.

## **DISCUSSION:**

### **INVASION OF PRIVACY**

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.

The document on which the name of the complainant is recorded is entitled "By-Law Enforcement Complaint Form". I have reviewed this document to determine if it contains personal information and, if so, to whom the information relates.

The record contains the name of the complainant, and reveals that this individual filed a complaint against the appellant. In my view, this constitutes the personal information of both the complainant and the appellant.

Section 36(1) of the Act gives individuals a general right of access to their own personal information held by a government body. Section 38 provides a number of exceptions to this general right of access.

Under section 38(b) of the Act, where a record contains the personal information of both the appellants 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.

Sections 14(2), (3) and (4) of the Act provide guidance in determining whether the disclosure of personal information would constitute an unjustified invasion of personal privacy. Where one of the presumptions found in section 14(3) applies to the personal information found in a record, the only way such a presumption against disclosure can be overcome is where the personal information falls under section 14(4) or where a finding is made that section 16 of the Act applies to the personal information.

If none of the presumptions contained in section 14(3) apply, the institution must consider the application of the factors listed in section 14(2) of the Act, as well as all other considerations that are relevant in the circumstances of the case.

As I have indicated, the only representations I have received in this appeal are from the complainant. This individual has raised a number of concerns which weigh in favour of privacy protection. In these circumstances, I find that disclosure of the name of the complainant **would** constitute an unjustified invasion of the privacy of this individual. Accordingly, the name of the complainant is exempt under section 38(b) of the Act.

**ORDER:**

I uphold the decision of the Township.

Original signed by: \_\_\_\_\_  
Anita Fineberg  
Inquiry Officer

\_\_\_\_\_ January 16, 1996