



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

ORDER P-1141

Appeal P-9500658

Ministry of Natural Resources



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NATURE OF THE APPEAL:

The requester in this appeal keeps a summer residence on a property which is jointly owned by the members of a corporation. Each member has a designated lot where their own cottage is situated.

The property is overseen by a Board of Directors (the Board). The Board has granted permission for the issuance of trapping licences by the Ministry of Natural Resources (the Ministry), permitting trapping on the property. The requester asked the Board for information regarding the identity of persons to whom trapping licences have been issued, but the Board declined to provide her with the information. The requester then submitted a request for information under the Freedom of Information and Protection of Privacy Act (the Act) with the Ministry.

The request was for information regarding all trapping licences issued since 1982, written permission for the issuance of the licences, owner agreements with respect to trapping, types of traps permitted, types of animals allowed to be trapped, statistics regarding the number of and type of animals which have been trapped since 1982, and any other records regarding the issuance of trapping licences and the consent of the property owners to the issuance of the trapping licences. The appellant also sought continuing access to responsive records for a period of two years.

The Ministry granted access to the parts of the records which indicated the types of animals which are allowed to be trapped and statistics with respect to the number and type of animals which have been trapped since 1982 for the trapline which includes the property overseen by the Board. Access was denied to the remaining parts of the records based on the following exemptions under the Act:

- third party information - section 17
- danger to safety or health - section 20
- invasion of privacy - section 21(1)

Continuous access was granted with the request deemed to be received on September 1, 1996 and September 1, 1997.

The appellant appealed the denial of access. During the course of mediation, the appellant, through her lawyer, narrowed the records at issue solely to the information found in the trapping licences, specifically:

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- (a) the name and street address of the trapper to whom the licence was issued,
- (b) the description of the "parts of Ontario" where the licensee is authorized to hunt or trap,
- (c) the quotas applied to the licensee,
- (d) the date of issue of the licence, and
- (e) the land classification of the site by region and district.

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all information contained on this page. The information contained on this page is found under the headings: THE HOLDER OF THIS LICENCE HAS OBTAINED WRITTEN PERMISSION TO TRAP ON THE FOLLOWING PRIVATE LANDS ONLY and SEALING RECORD FOR QUOTA SPECIES ONLY.

A Notice of Inquiry was provided to the Ministry, the appellant's lawyer and a trapper whose information is found in the records remaining at issue. The records also include trapping licences issued to another individual who is now deceased. Representations were received from the three parties to whom the Notices of Inquiry were provided.

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.

In my view, the records contain the personal information of the two trappers, one of whom is deceased. Personal information includes such information about an individual unless he or she has been dead for more than 30 years (section 2(2) of the Act). The deceased trapper passed away within the last 30 years and, accordingly, the information at issue still qualifies as his personal information.

Once it has been determined that a record contains personal information, section 21(1) of the Act prohibits the disclosure of this information except in certain circumstances. The only exception to the mandatory exemption which may apply in the circumstances of this appeal is section 21(1)(f), which 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 21(1)(f) is that the section 21(1) 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.

Section 21(4) of the Act identifies particular types of information, the disclosure of which does not constitute an unjustified invasion of personal privacy. Section 21(4)(c) states:

Despite subsection (3), a disclosure does not constitute an unjustified invasion of personal privacy if it,

discloses details of a licence or permit or a similar discretionary financial benefit conferred on an individual by an institution or a head under circumstances where,

- (i) the individual represents 1 percent or more of all persons and organizations in Ontario receiving a similar benefit, and
- (ii) the value of the benefit to the individual represents 1 percent or more of the total value of similar benefits provided to other persons and organizations in Ontario.

The appellant concedes that she does not have the information necessary to establish the application of this section. I have also not been provided with information from the parties or any other source to assist me in establishing that section 21(4)(c) applies in the circumstances of this appeal. Further, in my view, a trapping licence is not the type of licence referred to in section 21(4)(c). Accordingly, I find that section 21(4)(c) is not applicable in this case.

The Ministry relies on sections 21(3)(d) (employment or educational history), 21(3)(f) (an individual's finances, income, assets ... financial history or activities ...), 21(2)(e) (unfair exposure to pecuniary or other harm), and 21(2)(f) (the information is highly sensitive) to support its decision to withhold the information at issue from disclosure. The Ministry also lists section 21(2)(g), but its description of the exemption relates to section 21(2)(h) (information supplied by the individual to whom the information relates in confidence). I will nevertheless consider the application of both sections 21(2)(g) and (h) to the records at issue.

In his representations, the trapper appears to rely on section 21(2)(e) (unfair exposure to pecuniary or other harm) as a consideration for non-disclosure of the information at issue. He provides examples of possible harms which may result from disclosure of the information.

In weighing the interests of the appellant in disclosure of the records against the factors favouring privacy protection, I find that the factors favouring non-disclosure are more compelling. Accordingly, I find that disclosure of the records at issue would constitute an unjustified invasion of personal privacy of the trappers and it is properly exempt under section 21(1) of the Act.

PUBLIC INTEREST IN DISCLOSURE

The appellant submits that section 23 of the Act (compelling public interest) applies in the circumstances of this case. According to the appellant, section 23 applies because she and the other owners of the property should be entitled to know who is being permitted to trap on their land, notwithstanding that the Board has refused to provide this information to her. No further representations in support of section 23 are provided.

Section 23 of the Act provides:

An exemption from disclosure of a record under sections 13, 15, 17, 18, 20 and **21** does not apply where a compelling public interest in the disclosure of the record clearly outweighs the purpose of the exemption. (Emphasis added)

It has been stated in a number of previous orders that, in order to satisfy the requirements of this section, there must be a **compelling** public interest in disclosure, and this compelling public interest must **clearly** outweigh the **purpose** of the exemption.

In the circumstances of this appeal, I am not convinced that there is a **compelling** and **public** interest sufficient to outweigh the purpose of the exemption under section 21. Accordingly, I find that section 23 of the Act does not apply in the circumstances of this appeal.

Because of the manner in which I have disposed of this issue, it is not necessary for me to address the application of sections 17 and 20 of the Act to the records.

ORDER:

I uphold the Ministry's decision.

Original signed by: _____
Holly Big Canoe
Inquiry Officer

_____ March 7, 1996