



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

ORDER M-784

Appeal M_9500675

Townships of Belmont and Methuen



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NATURE OF THE APPEAL:

The Townships of Belmont and Methuen (the Township) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to its general accounts and budget status reports for two specific months. The Township granted partial access to the records. Access was denied to the budget status reports pursuant to the closed meeting exemption provided by section 6(1)(b) of the Act. The requester appealed the decision to deny access.

During mediation, the Township raised the application of the mandatory exemption provided by section 14(1) of the Act to certain portions of the budget status reports. The appellant indicated that he was not seeking access to the personal information of other individuals.

A Notice of Inquiry was provided by the Commissioner's office to the Township and the appellant. In light of the appellant's advice that he was not seeking access to the personal information of other individuals, the Township was also asked to identify and provide representations on the portions of the records for which it had claimed the personal information exemption. Representations were received from both parties.

RECORDS

The two records at issue are the Town's budget status reports for the two specified months. The reports consist of line-item financial statements that set out the Township's actual revenues and expenditures, as of the date of the statements, against the amounts set out in the Township's budget for the year. The statements also express each actual line item amount as a percentage of the annual budgeted amount for that item.

DISCUSSION:

CLOSED MEETING

The Township claims that section 6(1)(b) applies to the records.

Section 6(1)(b) states:

A head may refuse to disclose a record,

that reveals the substance of deliberations of a meeting of a council, board, commission or other body or a committee of one of them if a statute authorizes holding that meeting in the absence of the public.

To qualify for exemption under section 6(1)(b), the Township must establish that:

1. a meeting of the council or one of its committees took place; **and**

2. that a statute authorizes the holding of this meeting in the absence of the public; **and**
3. that disclosure of the record at issue would reveal the actual substance of the deliberations of this meeting.

In its representations, the Township submits that the public was excluded for parts of two Council meetings held on July 20, 1995 and August 17, 1995 and that the records were discussed during the in camera sessions. In support of that submission, the Township has provided copies of the minutes of the two Council meetings which show the resolutions of the Council to go in camera. On the basis of the evidence provided, I am satisfied that these meetings took place and that the public was excluded from the in camera portions of the meetings.

With respect to the second part of the test, the Township submits that the in camera portions of the meetings were held pursuant to section 55(5)(a) of the Municipal Act. Section 55(5)(a) of the Municipal Act, R.S.O. 1990 c. M.45, as amended, reads :

A meeting or part of a meeting may be closed to the public if the subject matter being considered is,

the security of the property of the municipality or local board.

The Township, however, has provided no evidence as to how the records at issue or any consideration of them relates to the security of any property of the municipality.

As I have indicated earlier, the budget status reports, as their title suggests, are financial reports that provide actual, to-date calculations of the Township's revenues and expenditures and provide a comparison with the Township's annual budget projections and allocations. There is nothing on the face of the records that deals specifically with the security of property belonging to the municipality. In the absence of submissions from the Township on this point, I find that the Township has not established that parts of the two Council meetings were properly closed to the public for the purposes of section 55(5)(a) of the Municipal Act. In my view, the second requirement of section 6(1)(b) has not been met and I find that the exemption does not apply.

I have also considered Section 55(7) of the Municipal Act which provides:

Before holding a meeting or part of a meeting that is to be closed to the public, a council or local board shall state by resolution,

- (a) the fact of the holding of the closed meeting; and
- (b) the general nature of the matter to be considered at the closed meeting.

As noted above, the Township has provided copies of the minutes for the Council meetings held on July 20, 1995 and August 17, 1995. In those minutes the Township identified the following resolutions as the ones required by section 55(7) of the Municipal Act:

“314/95 - That Council go into Committee of the Whole in camera to discuss legal and property matters.” (July 20, 1995 meeting)

“362/95 - That Council go into Committee of the Whole in Camera to discuss legal, personnel and property matters.” (August 17, 1995)

Neither of these resolutions makes any reference to a review of the subject matter or the substance of the records. My independent review of the records gives no indication that they relate in any way to legal, personnel or property matters of the sort that would fall within the provisions of section 55(7) of the Municipal Act. The Township has not provided any explanation of how the consideration of the subject records would fall within the matters mentioned in the resolutions set out above.

As such, the Township has not satisfied me that it has met the requirement of section 55(7) of the Municipal Act of stating, by way of resolution, the general nature of the matter to be considered at the closed meeting. The statutory authorization under the Municipal Act to hold a meeting closed to the public is limited by the requirements of section 55(7), and I find that the Township has not, in this instance, established that it met those requirements in respect of the consideration of the subject records. Accordingly, for all of the above reasons, I find that the Township has not established that it was authorized by statute to hold a closed meeting to consider the subject records and section 6(1)(b) does not apply to the records.

PERSONAL INFORMATION

The Township claims the records contain personal information and that section 14(1) applies to the records. The appellant has indicated that he is not seeking access to any personal information. I will therefore review the records to determine if they contain information that constitutes personal information as defined in section 2(1) of the Act. I will not consider the application of section 14(1) of the Act to any personal information, as this type of information was specifically excluded from the scope of the appellant's request.

Under section 2(1) of the Act, “personal information” is defined, in part, to mean recorded information about an identifiable individual. I have carefully reviewed the records at issue and find that some of the information contained in the records satisfies the definition of personal information. Accordingly, I have highlighted the relevant portions of the records on the copy provided to the Township with a copy of this order. The highlighted portions of the records should not be disclosed to the appellant, as they are not responsive to the request, not because they qualify for the section 14(1) exemption. The remaining parts of the records should be disclosed.

ORDER:

1. I uphold the Township's decision to deny access to the highlighted portions of the records as shown on the copy provided to the Township's Freedom of Information and Privacy Co-ordinator with a copy of this order.

2. I order the Township to disclose the remaining portions (the non-highlighted parts) of the records by sending a copy of the records to the appellant by **July 12, 1996** but not before **July 8, 1996**. The highlighted information is **not** to be disclosed.
3. In order to verify compliance with the provisions of this order, I reserve the right to require the Township to provide me with a copy of the records which are disclosed to the appellant pursuant to Provision 2.

Original signed by: _____ June 7, 1996
Mumtaz Jiwan
Inquiry Officer