



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

# **ORDER P-1174**

**Appeal P-9600040**

**Ministry of Citizenship, Culture and Recreation**



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/Téléc: 416-325-9195  
TTY: 416-325-7539  
<http://www.ipc.on.ca>

## **NATURE OF THE APPEAL:**

The Ministry of Citizenship, Culture and Recreation (the Ministry) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for “copies of all correspondence received from members of the public as well as from government agencies, either in support or in opposition to [a named] Township’s grant applications for a second ice pad and a community centre.”

The Ministry located four responsive records and, pursuant to section 28(1)(b) of the Act, notified the author (the affected person) of three of the letters that a request for access to them had been received. The Ministry denied access in full to the correspondence received from the affected person claiming the application of section 21(1) of the Act and granted access in full to a letter received from a public official. The appellant appealed the Ministry’s decision to deny access and also raised the consideration of a compelling public interest in the disclosure of the records under section 23 of the Act.

A Notice of Inquiry was provided to the Ministry, the appellant and the affected person. Representations were received from the Ministry and the affected person. The appellant indicates that he is relying on his earlier correspondence with this office and raises some additional arguments which will be addressed below.

## **DISCUSSION:**

### **INVASION OF PRIVACY AND PUBLIC INTEREST IN DISCLOSURE**

The records at issue in this appeal were the subject of a request and appeal which resulted in Order P-1134. In that order, Inquiry Officer John Higgins upheld the Ministry’s decision to deny access under section 21 of the Act. He also found that no compelling public interest in disclosure was established and, therefore, section 23 did not apply to the information contained in the records.

The appellant in this appeal was provided with a copy of Order P-1134 and, in a letter accompanying the Notice of Inquiry, was asked to make submissions as to why the facts of this appeal are distinguishable from those in Order P-1134.

The appellant submits that Order P-1134 was wrongly decided because the Inquiry Officer incorrectly made a finding that the records at issue were not taken into account by the Ministry when it made its decision on the funding of the Township’s project. For this reason, he argues that the consideration listed in section 21(2)(a) of the Act is relevant and ought to have been considered when balancing the affected person’s right to privacy against the appellant’s right of access to this information.

With respect, the appellant has inaccurately interpreted Inquiry Officer Higgins’ finding on this point. Rather than stating that the records at issue **were not** taken into account by the Ministry in making its decision, the Inquiry Officer found that the evidence provided was not sufficient to establish that the Ministry had considered them. In my view, this finding also applies to the circumstances in the present appeal.

Moreover, Inquiry Officer Higgins made the following observation about the application of section 21(2)(a) and the weight to be given to this factor. He found:

Moreover, even if I had found that the factor favouring disclosure in section 21(2)(a) applied, I would find that the factors favouring privacy protection are more compelling in the circumstances of this appeal.

I agree with the finding of Inquiry Officer Higgins regarding the weight to be accorded to the section 21(2)(a) consideration as opposed to those factors which favour privacy protection. I specifically decline to make a finding different from that made in the previous order regarding the balancing of the considerations favouring privacy protection against that favouring disclosure under section 21(2)(a).

In addition, I concur with Inquiry Officer Higgins' opinion that the disclosure of the records would not serve to shed light on the Ministry's decision-making process. As such, I agree that no compelling public interest exists in the disclosure of the records and that section 23 has no application in the present appeal.

In my view, the appellant has failed to provide me with sufficient evidence which would cause me to distinguish the present appeal from that which resulted in Order P-1134.

**ORDER:**

I uphold the Ministry's decision and dismiss the appeal.

Original signed by: \_\_\_\_\_  
Donald Hale  
Inquiry Officer

\_\_\_\_\_ May 3, 1996