



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

ORDER M-876

Appeal M_9600290

City of Scarborough



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NATURE OF THE APPEAL:

The City of Scarborough (the City) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to records which relate to dog attacks at a specified address. The City located a number of responsive records and granted access to them, in their entirety, with the exception of the name and telephone number of the dog's owner. Access to this information was denied under section 14 of the Act.

The requester (now the appellant) appealed the City's decision. A Notice of Inquiry was provided to the City and the appellant. Representations were received from the City only.

DISCUSSION:

PERSONAL INFORMATION

Under section 2(1) of the Act, "personal information" is defined, in part, to mean recorded information about an identifiable individual. I have reviewed the records at issue and find that the name and telephone number of the dog's owner qualifies as the personal information of that individual. Some of the records which were disclosed to the appellant also contain his personal information. Because the responsive records contain the personal information of both the appellant and the dog owner, I must determine whether they are exempt under section 38(b) and not section 14 of the Act.

INVASION OF PRIVACY

Section 36(1) of the Act allows individuals access to their own personal information held by a government institution. However, section 38 sets out exceptions to this general right of access.

Where a record contains the personal information of both the appellant and other individuals, section 38(b) of the Act allows the City to withhold information from the record if it determines that disclosing that information would constitute an unjustified invasion of another individual's personal privacy. On appeal, I must be satisfied that disclosure **would** constitute an unjustified invasion of another individual's personal privacy. The appellant is not required to prove the contrary.

Sections 14(2), (3) and (4) provide guidance in determining whether disclosure of personal information would constitute an unjustified invasion of personal privacy. Disclosing the types of personal information listed in section 14(3) is presumed to be an unjustified invasion of personal privacy. If one of the presumptions applies, the City can disclose the personal information only if it also falls under section 14(4) or if section 16 applies to it. If none of the presumptions in section 14(3) apply, the City must consider the factors listed in section 14(2), as well as all other relevant circumstances.

The City submits that the disclosure of the name and telephone number of the dog's owner would result in an unjustified invasion of the personal privacy of that individual. It has not, however, described in any detail why this would be the case.

In my view, in the context of the complaint, the dog owner's name and telephone number may be described as "highly sensitive" within the meaning of section 14(2)(f) of the Act. I find that this is a consideration weighing in favour of the protection of the dog owner's privacy.

Balancing the appellant's right of access against the dog owner's privacy rights, I find that the disclosure of the name and home telephone number of the owner would result in an unjustified invasion of that individual's personal privacy. The information is, accordingly, exempt from disclosure under section 38(b) of the Act.

ORDER:

I uphold the City's decision.

Original signed by: _____
Donald Hale
Inquiry Officer

_____ December 16, 1996