



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

ORDER M-877

Appeal M_9600297

The Corporation of the City of Nepean



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NATURE OF THE APPEAL:

The Corporation of the City of Nepean (the City) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to copies of records respecting complaints about the requester's dogs. The City located two responsive records and granted access to them in their entirety, with the exception of the names, addresses and telephone numbers of two complainants. Access to this information was denied based on the following exemptions contained in the Act:

- law enforcement - section 8(1)(d)
- invasion of privacy - sections 14 and 38(b)
- discretion to refuse requester's own information - section 38(a)

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. The information at issue in this appeal consists of the names, addresses and telephone numbers of the two complainants contained in two one-page by-law occurrence reports.

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 names, addresses and telephone numbers of the complainants qualify as the personal information of these individuals. Those portions of the records which were disclosed to the appellant also contain his personal information.

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 names, addresses and telephone numbers of the complainants would result in a presumed unjustified invasion of their personal privacy under section 14(3)(b) of the Act. It argues that the records were compiled and are identifiable as part of an investigation into a possible violation of law, a municipal by-law.

I find that the information relating to the complainants which is contained in the records was compiled as part of an investigation by the City's By-law Services Division into possible violations of a municipal by-law. For this reason, the disclosure of the names, addresses and telephone numbers of the complainants is presumed to constitute an unjustified invasion of their personal privacy. The information is, accordingly, exempt from disclosure under section 38(b).

Because of the manner in which I have addressed the application of section 38(b) to the information, it is not necessary for me to deal with sections 8(1)(d) and 38(a).

ORDER:

I uphold the City's decision.

Original signed by: _____
Donald Hale
Inquiry Officer

_____ December 16, 1996