



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

# **ORDER M-949**

**Appeal M\_9700060**

**City of Vaughan**



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## **NATURE OF THE APPEAL:**

The appellant submitted a request to the City of Vaughan (the City) for access to copies of any Fire Department inspection reports and any reports concerning complaints related to an identified property. The request was made under the Municipal Freedom of Information and Protection of Privacy Act (the Act).

The City identified two Dwelling Inspection Forms, a draft letter from a Fire Prevention Inspector and seven pages of notes prepared by a fire inspector as the records responsive to the request. The City denied access to the responsive records in their entirety, based on the following exemptions in the Act:

- law enforcement report - section 8(2)(a)
- invasion of privacy - section 14(1)

The appellant filed an appeal of this decision.

A Notice of Inquiry was sent to the City and the appellant. Representations were received from the City only.

## **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. I have reviewed the records and find that they all contain information about a number of identifiable individuals. They do not contain any personal information of the appellant.

Section 14(1) of the Act prohibits an institution from disclosing personal information except in the circumstances listed in sections 14(1)(a) through (f). Of these, only section 14(1)(f) could apply in this appeal. It permits disclosure if it “does not 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 institution can disclose the personal information only if it falls under section 14(4) or if section 16 applies to it.

If none of the presumptions in section 14(3) apply, the institution must consider the factors listed in section 14(2), as well as all other relevant circumstances.

The City submits that the presumption in section 14(3)(b) applies to the personal information in the records. This section states:

A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy if the personal information,

was compiled and is identifiable as part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation;

The City takes the position that the personal information was compiled as part of an investigation conducted into a possible violation of law, namely the Provincial Fire Code.

Having reviewed the records and the representations, I have made the following findings:

- (1) I accept the City's characterization of the records as having been created by the City in response to a complaint alleging contravention of the Provincial Fire Code. The Fire Code, R.R.O. 1990, Reg. 454 (the Code), is a regulation made under the Fire Marshals Act, R.S.O. 1990, Chap. F.17. (the FMA). Section 19 of the FMA sets out the legislative framework for the Code. Section 19(5) allows for the prosecution of contraventions of the Code in court and resulting penalties.
- (2) Based on the above, I conclude that the personal information at issue was compiled and is identifiable as part of an investigation into a possible violation of law, namely the Code, and that the presumed unjustified invasion of personal privacy found in section 14(3)(b) applies.
- (3) I have considered section 14(4) of the Act and find that none of the personal information at issue in this appeal falls within the ambit of this provision.
- (4) The appellant has not argued that the public interest override set out in section 16 of the Act applies.
- (5) Accordingly, the exemption in section 14(1) applies and it is not necessary for me to consider the application of section 8(2)(a).

## **ORDER:**

I uphold the decision of the City.

Original signed by: \_\_\_\_\_  
Anita Fineberg  
Inquiry Officer

\_\_\_\_\_ June 10, 1997