



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

# **ORDER M-1065**

**Appeal M-9700262**

**City of Toronto**



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## **NATURE OF THE APPEAL:**

The City of Toronto (the City) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for an inspection report dated July 30, 1996 conducted by the fire department on a particular building. The requester is the current owner of the building.

The City granted access to the report in its entirety with the exception of the name and address of the addressee for which it claimed section 14 of the Act - invasion of privacy. The requester (now the appellant) appealed the City's decision.

A Notice of Inquiry was sent to the City, the appellant and the addressee (the affected person). Representations were received from the affected person only.

## **RECORD:**

The record at issue in this appeal is the name and address which appears on the report.

## **DISCUSSION:**

### **PERSONAL INFORMATION/INVASION OF PRIVACY**

"Personal information" is defined in section 2(1) of the Act, in part, as follows:

"personal information" means recorded information about an identifiable individual, including,

...

- (d) the address, telephone number, fingerprints or blood type of the individual,

...

- (h) the individual's name if it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual;

In Order M-800, Assistant Commissioner Tom Mitchinson stated:

Where a [tax arrears] listing indicates that the property is owned by an individual or individuals, I find that the names, property addresses and associated entries for these listings qualify as personal information for the purposes of section 2(1) of the Act. Unlike other circumstances where the owner of a property may not be responsible for activities involving a property, municipal property taxes are the responsibility of the property owner, and if there are arrears it is always the owner whose name would appear on any arrears listing.

Where a listing indicates that the owner of a property is a sole proprietorship, partnership, unincorporated associations or corporation and not a natural person, I find that the information contained in these listings does not qualify as personal information within the meaning of section 2(1) of the Act.

In the absence of representations from the City and the appellant, I must conclude that the name which appears on the report is that of a natural person.

In Order M-176, Inquiry Officer Donald Hale found that the fact of being identified as responsible for the alleged unlawful condition of a property is "other personal information" for the purposes of paragraph (h) of the definition of personal information under section 2(1) of the Act.

Therefore, in my view, the address of the affected person (which is not the same municipal address as the property which is the subject of the report) constitutes personal information pursuant paragraph (d) of the definition of personal information and the affected person's name constitutes personal information because it would reveal "other personal information about the individual" as set out in paragraph (h) of the definition of personal information in section 2(1) of the Act.

Once it has been determined that a record contains personal information, section 14(1) of the Act prohibits disclosure of this information to any person other than the individual to whom the information relates except in certain circumstances listed under the section.

Neither the City nor the appellant provided any representations on this subject. In my view, the only exception to the section 14(1) mandatory exemption which have potential application in this appeal is section 14(1)(f) of the Act which states that a head shall refuse to disclose personal information to any person other than the individual to whom the information relates except if the disclosure does not constitute an unjustified invasion of personal privacy.

Because this is an exception to the mandatory exemption which prohibits the disclosure of personal information, in order for me to find that section 14(1)(f) applies, I must find that disclosure of the personal information would **not** constitute an unjustified invasion of personal privacy.

Under the Act, the burden of proof that a particular exemption applies to a requested record generally lies on the institution or other party resisting disclosure. However, once it has been established that the record contains personal information and is subject to the mandatory exemption from disclosure in section 14, the burden shifts to the party seeking disclosure who must establish that the personal information comes within one of the exceptions to the mandatory exemption.

In this case, the appellant, who is the party seeking disclosure, has not provided any representations. In the absence of any evidence to establish the exception in section 14(1)(f), I find that the mandatory exemption from disclosure in section 14(1) of the Act applies to the name and address of the affected person. Therefore, this information is not to be disclosed.

**ORDER:**

I uphold the City's decision to withhold the name and address of the individual to whom the report is addressed.

Original signed by: \_\_\_\_\_

Marianne Miller  
Inquiry Officer

\_\_\_\_\_ January 15, 1998