



**Information and Privacy  
Commissioner/Ontario**

**Commissaire à l'information  
et à la protection de la vie privée/Ontario**

# **ORDER MO-2200**

**Appeal MA-050078-2**

**The Corporation of the Township of Tay**



Tribunal Services Department  
2 Bloor Street East  
Suite 1400  
Toronto, Ontario  
Canada M4W 1A8

Services de tribunal administratif  
2, rue Bloor Est  
Bureau 1400  
Toronto (Ontario)  
Canada M4W 1A8

Tel: 416-326-3333  
1-800-387-0073  
Fax/Téloc: 416-325-9188  
TTY: 416-325-7539  
<http://www.ipc.on.ca>

## **NATURE OF THE APPEAL:**

The Township of Tay (the Township) received a two-part request made under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*). The requester appealed the Ministry's decision and Appeal Number MA-050078-1 was opened.

Appeal Number MA-050078-1 proceeded to adjudication and was resolved by Order MO-2048. The current appeal, Appeal Number MA-050078-2 arises from the Township's response to Provision 3 of Order MO-2048, which reads:

I order the Township to conduct a further search for records responsive to Part Two of the appellant's request, as outlined in the request letter and to provide the appellant with a decision in accordance with the provisions of the *Act*, treating the date of this order as the date of the request, without recourse to a time extension. I further order the Township to provide me with a copy of its decision when it sends the decision to the appellant.

Part Two of the appellant's request was for the following records:

All records retained by the Municipality relating to property taxes for the property [property was previously identified] relating to the calendar years 1996 through 2003 including annual taxes levied, penalty amounts levied on arrears, dates and amounts of issuance of tax bills, dates and amounts of payments received, correspondence of any nature (electronic or otherwise) relating to any non-payment of property taxes and any other documentation issued by or retained by the Municipality in respect of collection of the property taxes for the property.

The Township performed the search for records related to Part Two as ordered in Provision 3 of Order MO-2048 and issued a decision letter to the appellant. In its decision letter, the Township advised that it had located one responsive record, but that it was denying access to it pursuant to the exemptions at sections 11(c) and (d) (economic and other interests) and section 14(1) (invasion of privacy), in conjunction with the presumptions at sections 14(3)(e) and (f) of the *Act*.

The appellant appealed the Township's decision. In her letter of appeal, she advised that she was appealing the exemptions claimed by the Township. The appellant also advised that she was appealing on the following ground:

The institution has submitted a decision letter and subsequent index of records that does not comply with the requirements of section 22 of the *Act* in that it does not provide sufficient detail to describe the contents of record(s) at issue in this appeal. In my opinion it does not constitute a proper decision letter in compliance with IPC practices.

During mediation, the Township and the appellant agreed to a teleconference. The Township confirmed that it was no longer relying on the application of sections 11(c) and (d) to deny access to portions of the record at issue. However, the Township confirmed that it continued to

deny access to portions of the record pursuant to section 14(1), in conjunction with the presumptions at sections 14(3)(e) and (f).

Following the teleconference, the Township conducted an additional search for responsive records. It advised that despite conversations and consultations with the Treasurer and the Deputy Treasurer of the Township, no additional records were found. However, it advised that it had created a record for the appellant outlining the calculation of the cancellation price prior to the sale. The Township agreed to provide this record to the appellant and invited the appellant to speak directly with the Treasurer and Deputy Treasurer if she had any questions.

The appellant advised that she believes that additional records should exist relating to the property taxes between the years 1996 and 2003.

The appellant also believes that the personal privacy exemption at section 14(1) does not apply to the record at issue as the information relates to a corporate owner and not an identifiable individual as defined in the *Act*. However, the Township takes the position that releasing the record would reveal information about an identifiable individual.

Finally, the appellant confirmed that, as noted in her appeal letter, she wishes to include an additional issue in the appeal. The appellant argues that there is insufficient detail in the index of records provided to her and the Township did not comply with the requirements of section 22 of the *Act*.

As further mediation was not possible, the file was transferred to adjudication.

I began my inquiry into this appeal by sending this Notice of Inquiry to the Township, initially, seeking representations. The Township responded with representations.

I also sent a copy of the Notice of Inquiry to a party whose interests might be affected by the disclosure of the information at issue (the affected party). The affected party responded with brief representations objecting to the disclosure of the information on the basis that although his company is incorporated, it is not a public corporation and as an identifiable individual, the information at issue is his personal information.

I then sent a copy of the Notice of Inquiry to the appellant along with a copy of the Township's representations to assist the appellant in making submissions. In the Notice of Inquiry I summarized, as I have done in the paragraph above, the representations of the affected party. The appellant submitted representations which raised issues about the reasonableness of the search and the Township's compliance with section 22, and I felt that the Township should have an opportunity to reply. As a result, I provided the Township with a copy of the appellant's representations and sought further submissions. The Township provided reply representations.

As the Township's reply representations raised issues to which I felt that the appellant should have an opportunity to respond, I provide a copy of the Township's reply representations to the appellant. The appellant provided representations in sur-reply.

**RECORD/ISSUES:**

The record at issue is a 5-page "Tax Account Hardcopy" dated May 24, 2006. The Township has claimed that the personal privacy exemption at section 14(1) applies as disclosure would give rise to a presumed unjustified invasion of privacy under section 14(3)(e) (gathered for the purpose of collecting a tax) and (f)(describes an individual's finances).

Also at issue is whether the Township conducted a reasonable search for the requested records and whether the Township's decision letter and index complied with the requirements for the contents of a notice of refusal prescribed in section 22 of the *Act*.

**DISCUSSION:**

**PERSONAL INFORMATION**

The first issue for me to consider is whether the information contained in the record at issue constitutes "personal information" as the personal privacy exemption claimed by the Township applies only to information that qualifies as "personal information" under section 2(1) of the *Act*.

"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,

...

(b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,

(c) any identifying number, symbol or other particular assigned to the individual

(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.

## **Representations**

The Township argues that the information at issue consists of the personal information of the appellant. It submits:

The owner of the property during the period of time outlined within the [Freedom of Information] request was a numbered company. As discussed during our mediation, the village where this business is located is very small and the majority of residents would be aware of the owner of the “Mom and Pop Operation” although they are registered as a numbered company for ownership purposes. That being said, the requested information contains various information with respect to financial transactions (2(1)(b)). In our opinion, this record does provide personal information about the owner although the capacity is in a professional, official or business sense as detailed above. The information contained in the record would reveal something of a personal nature about the individual as it could provide information with respect to a number of potential items including payments, non payments and interest accrued etc. Although the previous owner may not be currently operating a business within the Township the record in question could jeopardize their opportunity to open a new business in the future.

The affected party also argues that the information contained in the record contains his personal information despite the fact that it is in the name of his company because it is “about” him and he is an identifiable individual. He submits that he objects to the disclosure of the information on the basis that although his company is incorporated company, it is not a public corporation, and that disclosure would identify information about him as an individual.

The appellant takes the position that the record does not contain personal information because it belongs to a corporate entity, which is not an “identifiable individual” as defined in the *Act*. The appellant submits:

Since the burden of proof rests with the institution, it was anticipated by the appellant that the institution would have detailed how the affairs of a corporate entity translate into “personal” financial history, activities and creditworthiness. To my knowledge, a corporate entity and an individual are two separate and distinct parties, including, but not limited to tax purposes. More likely, the institution is unaware of the difference between an individual (as an employee of a corporation) and a shareholder and is obviously confusing two taxpaying entities. It seems both the corporate owner (via its directors, officers and shareholders) and the institution want the benefits conferred on an incorporated entity whilst retaining the additional benefits of personal ownership insofar as the [Act] is concerned...

Any payment, non-payments and interest accruing on this account accrued to a corporate entity and not to any identifiable individual, thereby not revealing anything of a personal nature...

### **Analysis and finding**

To qualify as personal information, it must be reasonable to expect that an individual may be identified if the information is disclosed [Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.)]. In the current appeal the request is for information that relates to a particular property and the responsive record relates to the company that owns that property. However, having reviewed the records at issue, I accept that if the information is disclosed it is reasonable to expect that the personal information relating to the owner of the corporation which in turn owns the property may also be disclosed.

However, I must also consider whether the information appears in a personal or a business capacity. As a general rule, information associated with an individual in a professional, official or business capacity will not be considered to be “about” the individual and will, therefore, not qualify as personal information.

In Order 16, former Commissioner Sidney B. Linden canvassed the meaning of personal information as it relates to individuals and business entities. He stated:

The use of the term “individual” in the *Act* makes it clear that the protection provided with respect to the privacy of the personal information relates only to natural persons. Had the legislature intended “identifiable individual” to include a sole proprietorship, partnership, unincorporated associations or corporation, it could and would have used the appropriate language to make this clear. The types of information enumerated under subsection 2(1) of the *Act* as “personal information” when read in their entirety, lends further support to my conclusion that the term “personal information” relates only to natural persons.

In Order M-800, former Assistant Commissioner Tom Mitchinson dealt with a request for a list of properties whose municipal taxes were in arrears he found that where the listing indicated that the property is owned by an individual the information qualifies as personal information, however, consistent with Order 16 he made a distinction between information in the record that was about a “business entity”. He concluded:

Where a listing indicates that the owner of a property is a sole proprietorship, partnership, unincorporated association 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*.

The distinction between information that appears in a personal capacity and a professional capacity was discussed in greater depth by former Assistant Commissioner Mitchinson in Order PO-2225 considered whether disclosure of the names of individual who were non-corporate

landlords constituted “personal information” within the meaning of section 2(1) of the *Act*. In making his decision, the former Assistant Commissioner reviewed previous decisions of this office which have drawn a distinction between individuals acting in a personal or business capacity (Orders M-118, M-454, P-710 and P-729) and found that:

Based on the principles expressed in these orders, the first question to ask in a case such as this is: "*in what context do the names of the individuals appear*"? Is it a context that is inherently personal, or is it one such as a business, professional or official government context that is removed from the personal sphere?

The analysis does not end here. I must go on to ask: "*is there something about the particular information at issue that, if disclosed, would reveal something of a personal nature about the individual*"? Even if the information appears in a business context, would its disclosure reveal something that is inherently personal in nature?

The former Assistant Commissioner concluded that the names of non-corporate landlords did not qualify as “personal information” and stated:

I recognize that in some cases a landlord's business is no more sophisticated than, for example, an individual homeowner renting out a basement apartment, and I accept that there are differences between the individual homeowner and a large corporation that owns a number of apartment buildings. However, fundamentally, both the large corporation and the individual homeowner can be said to be operating in the same "business arena", albeit on a different scale. In this regard, I concur with the appellant's interpretation of Order PO-1562 that the distinction between a personal and a business capacity does not depend on the size of a particular undertaking. It is also significant to note that the [*Tenant Protection Act*] requires all landlords, large and small, to follow essentially the same set of rules. In my view, it is reasonable to characterize even small-scale, individual landlords as people who have made a conscious decision to enter into a business realm. As such, it necessarily follows that a landlord renting premises to a tenant is operating in a context that is inherently of a business nature and not personal.

Assistant Commissioner Brian Beamish followed the former Assistant Commissioner's approach recently, in Order PO-2535, which dealt with a request for a list of companies and people who received payments from the Beef Cattle Financial Protection Fund. Assistant Commissioner Beamish found:

The sale of cattle is a profit-motivated business activity and an individual who participates in this commercial activity is operating a business. Accordingly I am satisfied that the records relate to the affected individuals in a business context. **The fact that the business operations of non-corporate claimants may be smaller than their corporate counterparts has no impact on my finding as**

**the determining factor is whether the individual is operating a business.** [my emphasis]

Further, I am not persuaded by the representations of the Ministry that disclosure of the names of individual claimants would reveal something inherently personal about them...

There is nothing in the records, or the circumstances of this appeal, to suggest that disclosure of the information at issue related to the individual's business would cross over into the personal realm. The fact that the claimant sold cattle to a defaulting dealer, was entitled to make a claim for monetary compensation and received a specified amount as a result of the claim speaks to a business transaction of a financial nature. In the circumstances of this appeal, I do not accept the Ministry's claim that disclosure of the amount of monies received by a claimant reveals personal information concerning their financial situation. Accordingly, I find that the names of individual claimants contained in the list does not qualify as "personal information" as defined in the *Act*.

I agree with the reasoning applied by the various adjudicators in Orders 16, M-800, PO-2225 and PO-2535, and find all of those orders are relevant to the determination of whether the information before me in this appeal qualifies as personal information. I have applied the reasoning from these orders in my analysis below.

Neither the Township nor the affected party argue that the information at issue does not relate to a "business entity". In fact, both parties state clearly in their respective representations that the owner of the property to which the record relates is a business. The Township states that the owner is a numbered company and the affected party confirms that his company owns the property and it is incorporated. The Township and the affected party base their argument that the information qualifies as personal information on the fact that the company is small, and that it is not a public corporation.

Having reviewed the parties' representations as well as the record itself, it is clear that the owner of the property to whom the information relates is a business entity. While it may not be a public corporation and while it may be small, the owner of the property is clearly not a natural person. Following Orders 16 and M-800, I accept that the term "personal information" refers only to natural persons and, following Orders PO-1562, PO-2225 and PO-2535, I accept that the size of the company has no relevance to my determination of whether the information at issue appears in a business capacity. In my view, the affected party has made a conscious decision to enter into the business arena and is operating as a business. I find that the information in the record at issue reflects this decision and is more properly described as "business information" than "personal information".

Moreover, I find that the context in which the information contained in the record appears is not inherently personal but rather reflects information related to the affected party only in the business sphere. The information relates to taxes paid on a property owned by the affected



party's company. In my view, it does not relate or necessarily reveal anything about the affected party's personal financial history, activities and creditworthiness; rather, it relates to the affected party's business only. Additionally, I find that none of the information contained in the subject record crosses over into the personal realm. In my view, were this information disclosed, it would not reveal anything inherently personal about the affected party.

In keeping with the findings in Orders 16, M-800, PO-2225 and PO-2535, I find that the information contained in the record does not qualify as personal information within the meaning of section 2(1).

As the information does not qualify as "personal information" within the meaning of the *Act*, it cannot qualify for exemption under the personal privacy exemption at section 14(1). Accordingly, as no other exemptions have been claimed and no other mandatory exemptions apply to this information, I will order that the record be disclosed to the appellant.

### **REASONABLE SEARCH**

As I explained in my previous order, Order MO-2048, which dealt with matters related to this appeal, where a requester claims that additional records exist beyond those identified by the institution, the issue to be decided is whether the institution has conducted a reasonable search for records as required by section 17 [Orders P-85, P-221, PO-1954-I]. If I am satisfied that the search carried out was reasonable in the circumstances, I will uphold the institution's decision. If I am not satisfied, I may order further searches.

A number of previous orders have identified the requirements in reasonable search appeals [Orders M-282, P-458, P-535, M-909, PO-1744 and PO-1920]. Generally, a reasonable search is one in which an experienced employee expending reasonable effort conducts a search to identify any records that are reasonably related to the request [Order M-909]. The *Act* does not require the institution to prove with absolute certainty that further records do not exist. However, the institution must provide sufficient evidence to show that it has made a reasonable effort to identify and locate responsive records [P-624, M-909, PO-1744].

Although a requester will rarely be in a position to indicate precisely which records the institution has not identified, the requester still must provide a reasonable basis for concluding that additional records might exist.

### **Representations**

The appellant maintains that additional records should exist relating to the property taxes for the subject property between the years 1996 and 2003.

The Township submitted two affidavits in the names of the Director of Finance (Treasurer) and the Deputy Treasurer in support of its position that they have conducted a reasonable search and that no further responsive records exist.

The first affidavit is sworn by the Township's Director of Finance (Treasurer) who submits that she oversaw and conducted the search with respect to the requested records along with the Deputy Treasurer.

The second affidavit is sworn by the Township's Deputy Treasurer who submits that she conducted a detailed search for the responsive records which included a search through both paper and electronic treasury files. She submits that the search included checking the subject property file as well as three files before the subject file and 3 files behind the subject file to ensure nothing had been misfiled. She submits she also searched for the tax sale file. The Deputy Treasurer submits that it is her position that the search conducted was exhaustive and states that she is confident that all existing relevant records have been located.

The appellant submits that because the affidavits provided by the Township have not been sworn and because they do not respond to all of the questions outlined in the Notice of Inquiry they are "inadequate and fatally flawed"

The appellant submits:

It is inconceivable to the appellant and unreasonable to conclude that a Canadian chartered bank, the National Bank of Canada, would forward a payment of some \$32,000+ to the Township in payment of taxes, penalty interest, legal fees, disbursements resulting in legal proceedings (power of sale) and NOT send or receive any written communication (receipt or otherwise) from the Institution, particularly as there was a lien on the property. The Bank would have demanded a release of this security. Furthermore, it is unreasonable to conclude that the Institution did not engage in any communications with the registered owner in advance of placing a lien on the subject property (i.e. demand letters outlining consequences). However, it is the opinion of the appellant that the time that it has taken to respond to this request has given the Institution sufficient time to dispose of such communications (although contrary to the retention requirements of the Institution and ignored by it in its representation)...

The appellant attaches, as evidence of further documentation, a record that describes the summary of the cancellation price which was prepared and provided to her at mediation. She submits that the copy reveals that the summary is an existing document, a large portion of which was severed, and that it relates directly to her request. She questions where the information in the summary originated if there are no further documents related to the tax file.

The appellant also attaches a Tax Certificate which has been manually altered (some of the electronically generated figures have been crossed off and altered manually). She submits that the figures that were handwritten on the certificate must have been obtained from a non-electronic source. The appellant also submits that this record is inaccurate.

The appellant reproduces portions of the Township's records retention by-law, By-law No. 97-58, which deal with the retention of the receipts related to taxes and taxation records or long

term importance such as assessment rolls, tax sale records, tax sale deeds, tax arrears register cards and tax collector's rolls. The appellant submits that the retention schedule for these records has been ignored by the Township.

In reply, the Township submits that it would not dispose of records due to a request. Specifically addressing the appellant's comments about the summary of the cancellation price, the Township responds:

The summary of the cancellation price was provided to the appellant based on her request during mediation. The breakdown was included as this was also requested during the mediation process. I added the manual figures after consulting with the Treasurer and Deputy Treasurer to determine the correct amounts. The portion of the document that was provided was requested by the appellant.

In her sur-reply submissions the appellant submits:

The Mediator's Report clearly indicates that [the summary of the cancellation price] was "created" in response to the Appellant's request at mediation. The manual additions made by the Clerk of the Institution were obtained from another source and it is the Appellant's position that there is a related "paper trail" from which the Treasurer and Deputy Treasurer obtained this explanatory detail (and directly related to the request). It would be unreasonable to conclude that this information is retained in the heads of Treasury Department staff (i.e. no paper trail).

### **Analysis and finding**

The current appeal is based on Order MO-2048, in which I found that the Township had not conducted a reasonable search for property tax records. In that decision, I ordered the Township to conduct a further search for responsive records. The Township subsequently conducted a search and located one additional record, the record that is at issue in this appeal. When the appellant appealed the results of the search the Township conducted another search for responsive records. No additional records were located, although a document reflecting the summary of the cancellation price was prepared and provided to the appellant. Despite these additional searches, the appellant continues to maintain that additional records responsive to her request for property tax records of a specific property, for the years 1996 to 2003, must exist and even suggests in her representations that responsive records may have been disposed of in contravention of the Township's own retention schedule, as well as the *Act*.

The appellant's representations raise legitimate questions as to why additional responsive records cannot be located and, in my view, support a reasonable conclusion that such records *should* exist. However, as identified above, the issue that I must address is not whether additional records exist with absolute certainty or even that additional records *ought* to exist, but rather,

whether the Township has made a *reasonable* effort to identify and locate responsive records, as required by section 17.

In the current appeal, the Township has conducted a number of searches for records responsive to the appellant's request and only one document has been found. In my view, the Township's representations and affidavits (sworn copies of the affidavits have been provided to me by the Township), have provided me with sufficient evidence to conclude that an experienced employee expended a reasonable effort to search for and identify records that are reasonably related to the request. In the circumstances, I do not think that any useful purpose would be served in ordering the Township to conduct yet another search.

Additionally, apart from the appellant's suggestion which is speculative in nature, I have no substantive evidence before me to suggest that any possible additional records cannot be located because of any bad faith on the part of the Township.

Based on the information provided by the Township, which I find to be credible, I am satisfied that it has demonstrated that it has made a reasonable effort to identify and locate additional responsive records. Accordingly, I find that the Township has conducted a reasonable search pursuant to section 17 of the *Act* and I dismiss this part of the appeal.

#### **ADEQUACY OF NOTICE OF REFUSAL**

Section 22 of the *Act* outlines the contents of a notice of refusal. Section 22(1)(b) outlines the contents when a record responsive to the request exists. That section reads:

Notice of refusal to give access to a record or part under section 19 shall set out, where there is such a record,

- (i) the specific provision of this *Act* under which access is refused,
- (ii) the reason the provision applies to the record,
- (iii) the name and position of the person responsible for making the decision, and
- (iv) that the person who made the request may appeal to the Commissioner for a review of the decision.

#### **Representations**

The appellant submits that the Township has not complied with section 22 of the *Act*. She submits:

The Index of Records fails to describe the contents adequately (i.e. no expansive description of the record). For instances, is this record a "chronology of events" or purely a numeric chronology as was initially suggested in mediation?

Considering the exemption applied, the Appellant assumes there is the name of an identifiable individual in there somewhere. What exactly is a “tax account hardcopy”? Is it a summary of other documentation? If so, what other documentation? Does it consist of columns? Does it list dates? Does it contain information other than “tax” information? These questions were repeatedly asked in mediation and no adequate response was forthcoming ...If there is the name of an identifiable individual, why could it not be excised?

[The Information and Privacy Commissioner’s Office] has had to address the inadequacy of decision letters in past orders against this institution. The institution’s view of the proper interpretation of the requirements of sections 22(1)(b)(i) and (ii) of the *Act* are consistently misconstrued. These sections require institutions to outline the “specific provisions of this *Act* under which access is refused” and “the reasons the provision applies to the record”. To simply quote the section reference and restate the wording of the exemption claim is not considered sufficient. Requesters are entitled to know the reasons why a request has been denied so, among other things, they are in a position to decide whether or not to appeal. The Institution completely failed to do so despite having been informed in the initial request that all information requested dealt with corporate owners and not identifiable individuals. The Institution simply ignored facts and tossed out any number of sections based on an incorrect premise.

In response, the Township simply states that the Index of Records was reviewed by the mediator and the mediator noted that it was satisfactory, as it described the record. Responding to the appellant’s submission that the Institution “ignored facts and tossed out any number of sections based on an incorrect premise”, the Township submits that although it listed several exemptions on the decision letter, when it was determined that one of the exemptions did not apply, the exemption was withdrawn.

### **Analysis and finding**

In the circumstances of this appeal, the Township has provided an index of records that lists the responsive record as “Tax Account Hardcopy dated May 24, 2006”. It lists the number of pages in the record and the sections applied (sections 14(3)(d) and (f)) to deny access to it.

The use of an index of records is not consistent in the access to information process. In some instances, institutions will send out an index of records along with a decision letter to better explain what exemptions are being claimed for what records. In other instances, institutions are asked to provide an index of records during mediation in order to clarify the records and issues on appeal and to facilitate the mediation process. Sometimes, particularly where there are a large number of records and/or exemption claims and an index has not been provided, institutions are ordered by an adjudicator to provide an index of records to allow for a proper inquiry to be conducted. However, neither section 22(1)(b), nor any other provision of the *Act* stipulates that an institution must provide the appellant with an index of records in response to a request for access to information. Accordingly, to determine whether the Township has provided an

adequate notice of refusal in compliance with section 22(1)(b), I will first look at the decision letter.

The decision letter of the Township set out that access to the responsive record was denied pursuant to sections 11(c), (d), 14(1), in conjunction with the presumptions at sections 14(3)(e) and (f). The Township later withdrew the claim that sections 11(c) and (d) applied. The Township first quoted sections 11(c) and (d) and then stated the reasons why, in its view, disclosure of the information contained in the record was exempt under those sections:

Tax account information with respect to payments made, reminder notices, penalty and mortgage information if any, could prejudice the future competitive position of the owner's business.

The Township did the same for its claim under section 14(1) explaining its reasons for taking the position that the presumptions at section 14(3)(d) and (f) applied as follows:

Tax records are used for the purpose of collecting tax and would provide information relating to financial history, activities and creditworthiness.

In my view, the purpose of the inclusion of information outlined in section 22(1)(b) in a notice of refusal 22(1)(b) is to put the requester in a position to make a reasonably informed decision on whether to appeal the head's decision (Orders 158, P-235 and P-324). Having some understanding of why an exemption applies assists an appellant during the mediation stage of an appeal. In the present appeal, I find that the Township's contained all the required components of section 22(1)(b), including adequate reasons for why the exemptions claimed by the Township applied to the responsive record. In my view, the appellant was provided with an adequate notice of refusal, one in which she was given sufficient information to determine whether or not to appeal the Township's decision.

Moreover, the appellant has exercised her right of appeal, has had an opportunity to review the representations of the Township, and has provided representations outlining her position on whether the claimed exemptions apply to the responsive record. The appellant has, therefore, been given a full and fair opportunity to argue the issues in this appeal. Even if I were to find that the notice of refusal was inadequate, I would find that no useful purpose would be served by requiring the Township to provide a new decision letter.

As for the index of records, which the Township provided voluntarily to the appellant and to this office, I am of the view that it is adequate and in compliance with the spirit of the *Act*. The index provides a brief description of what the responsive record is and what exemptions are being applied to withhold it. The purpose of an index of records is to help to clarify the records and issues on appeal. As stated above, there is no requirement that an index be prepared, and if one is prepared, there are no specific requirements in the *Act* as to what it must contain.

While I agree that a good index of records will provide a meaningful description of the records at issue, I do not accept that for a description to be meaningful it must be "expansive" as suggested

by the appellant. Nor do I accept the appellant's suggestion that the Township's description of the record should have included such detail as to its format or content. As there is a fine line between providing a detailed description of a record and divulging the contents of the record, in my view, any description of a record must be general in nature. Accordingly, in my view the Township's general description of the record in its index as a Tax Account Hardcopy was sufficient and the index of records that it provided was adequate.

Additionally, the decision letter's description of why the exemptions apply provides additional detail as to what types of information might be contained in the record (specifically payments made, reminder notices, penalty and mortgage information). While not detailed as such in the index itself, the appellant was given some idea as to what types of information the "Tax Account Hardcopy" might contain.

Accordingly, I find that the Township provided the appellant with an adequate notice of refusal in compliance with the requirements outlined in section 22(1).

**ORDER:**

1. I order the Township to disclose the record at issue to the appellant by **July 18, 2007**, but not before **July 12, 2007**.
2. I uphold the Township's search for responsive records.
3. I uphold the Townships notice of refusal.
4. In order to verify compliance with this order, I reserve the right to require the Township to provide with a copy of the information disclosed to the appellant pursuant to Provision 1.

Original Signed By: \_\_\_\_\_

Catherine Corban  
Adjudicator

June 12, 2007 \_\_\_\_\_