

Information and Privacy Commissioner,  
Ontario, Canada



Commissaire à l'information et à la protection de la vie privée,  
Ontario, Canada

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## **ORDER PO-3178**

Appeal PA12-108

Ministry of Northern Development, Mines and Forestry

March 20, 2013

**Summary:** The requester sought access to records about the Secretary-Treasurer of a local board. The ministry decided to grant access to the records and an affected person appealed on the basis that certain portions of the records were not responsive to the request. This order partly upholds the ministry's decision that the information at issue in the records is responsive to the request.

**Statutes Considered:** *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended, section 24.

### **OVERVIEW:**

[1] The Ministry of Northern Development, Mines and Forestry (the ministry) received a request under the *Freedom of Information and Protection of Privacy Act* (*FIPPA* or the *Act*) for access to the following information:

Copies of all correspondence, complaints, emails from [named individual] to the Ministry of Northern Development, Mines and Forestry, and all responses thereto that relate to [named individual] in his personal capacity, or in his capacity as the Secretary-Treasurer to the [named] Local Services Board [the board].

Copies of any and all investigations launched by the Ministry of Northern Development Mines and Forestry into the conduct of and/or affairs of [named individual], together with copies of all responses and/or reports in relation to any such investigations.

[2] Following third party notification, the ministry decided to grant partial access to the responsive records with severances pursuant to the personal privacy exemptions in sections 21(1) and 49(b) of the *Act*. The ministry also indicated that some of the information contained within the records was severed as it was deemed to be not responsive to the request.

[3] A person whose information is contained in the records appealed the ministry's decision.

[4] At the outset of the appeal, the appellant indicated that certain records should be withheld on the basis that they are not responsive to the request. The appellant further clarified that he did not object to the ministry's decision to disclose records 9, 14, 18, 21 and 22. Accordingly, these records are not at issue in this appeal.

[5] The appellant confirmed that he would not consent to the disclosure of any of the remaining records listed in the ministry's Index of Records.

[6] The requester advised the mediator that he sought access to all of the records listed in the Index of Records.

[7] As this appeal was not resolved in mediation, the file was transferred to adjudication where an adjudicator conducts an inquiry. The appellant decided to rely on his representations made in support of his Notice of Appeal. I then sent a Notice of Inquiry, setting out the facts and issues to the ministry, enclosing the representations of the appellant, seeking the representations of the ministry, initially. The ministry did not provide representations in response. I then provided the requester with a copy of the appellant's representations. In response, the requester asked that the decision of the ministry be upheld.

[8] In this order, I partly uphold the ministry's decision regarding responsiveness.

## **RECORDS:**

[9] The records at issue in this appeal consist of correspondence and e-mails and are listed in the Index of Records prepared by the ministry.

[10] The unsevered portions of the following records remain at issue in this appeal:

Records 1 to 7, 10, 11, 13, 19, 23, 25

Record 8:

- third paragraph

Record 12:

- last paragraph of page 3

Record 15:

- first two sentences of the second paragraph of page 3

Record 16:

- page 5
- first three unsevered paragraphs of page 6
- page 7

Record 17:

- pages 6 to 9
- page 10, except for last bullet
- page 11, except for references to Secretary-Treasurer
- pages 12 and 13

Record 20:

- pages 2, 3 and 5
- page 6, except for references to Secretary-Treasurer
- page 7

Record 24:

- pages 1, 3 and 4

## **DISCUSSION:**

**What is the scope of the request? What records are responsive to the request?**

[11] Section 24 of the *Act* imposes certain obligations on requesters and institutions when submitting and responding to requests for access to records. This section states, in part:

- (1) A person seeking access to a record shall,

- (a) make a request in writing to the institution that the person believes has custody or control of the record;
  - (b) provide sufficient detail to enable an experienced employee of the institution, upon a reasonable effort, to identify the record;
  - ...
- (2) If the request does not sufficiently describe the record sought, the institution shall inform the applicant of the defect and shall offer assistance in reformulating the request so as to comply with subsection (1).

[12] Institutions should adopt a liberal interpretation of a request, in order to best serve the purpose and spirit of the *Act*. Generally, ambiguity in the request should be resolved in the requester's favour.<sup>1</sup>

[13] To be considered responsive to the request, records must "reasonably relate" to the request.<sup>2</sup>

[14] The appellant submits that the information at issue in the records is not responsive as it relates to the board and does not relate to the Secretary-Treasurer in either his personal or official capacity, nor to any investigation into his conduct.

### ***Analysis/Findings***

[15] Based on my review of the records, I agree with the appellant that most of the information at issue in this appeal is not responsive to the request, because it concerns the board in general, not the Secretary-Treasurer specifically. If the requester wishes to receive copies of specific correspondence, complaints, and emails to the ministry that relate to the board in general, he will have to submit another request that identifies this information.

[16] In particular, I find that only the following information is responsive:

Record 15:

- first two sentences of the second paragraph of page 3

Record 17:

- pages 10 and 11

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<sup>1</sup> Orders P-134 and P-880.

<sup>2</sup> Orders P-880 and PO-2661.

Record 19

- page 1

Record 20:

- pages 3, 5 and 6

Record 24:

- last email on page 4

**ORDER:**

1. I uphold the ministry's decision that the following information is responsive to the appellant's request:

Record 15:

- first two sentences of the second paragraph of page 3

Record 17:

- pages 10 and 11

Record 19

- page 1

Record 20:

- pages 3, 5 and 6

Record 24:

- last email on page 4

I order the ministry to disclose this information to the requester by **April 29, 2013**, but not before **April 22, 2013**.

2. In order to verify compliance with order provision 1, I reserve the right to require the ministry to provide me with a copy of the records sent to the requester.

Original signed by: \_\_\_\_\_  
Diane Smith  
Adjudicator

\_\_\_\_\_ March 20, 2013