



**Information and Privacy
Commissioner/Ontario**

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

ORDER PO-2547

Appeal PA06-290

Ministry of Natural Resources



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NATURE OF THE APPEAL:

The Ministry of Natural Resources (the Ministry) received a request under the *Freedom of Information and Protection of Privacy Act* (the *Act*) for correspondence between the Ministry and a number of parties. The portion of the request relevant to this appeal reads:

All correspondence from [a named organization] and/or [a named individual] ... to the Minister from Jan.1/05 to present and the Minister's responses to this correspondence.

After consulting with the named individual, whose interests may be affected by the disclosure of the information identified as responsive to the request, the Ministry decided to grant partial access to the responsive records. The named individual (now the third party appellant) appealed the Ministry's decision to disclose some of the information. During the course of this appeal, the third party appellant identified that she was appealing the decision to release certain records or portions of records on the basis that they contained her personal information, and that disclosure would be an unjustified invasion of her privacy under section 21(1) of the *Act*.

During mediation, both the original requester and the third party appellant narrowed the records at issue. As a result, only four records totaling six pages remain at issue in this appeal. Furthermore, the only portions of those records which remain at issue are the portions of those records which the Ministry has identified that it is prepared to disclose, on the basis that no exemptions apply to them. The appellant maintains that the disclosure of those portions of records would be an unjustified invasion of her privacy on the basis of section 21(1) of the *Act*.

Mediation did not resolve this appeal, and it was transferred to the inquiry stage of the process. In the circumstances, I decided to send a Notice of Inquiry to the third party appellant, initially, inviting representations on the issues raised in this appeal. The third party appellant provided representations in response to the Notice of Inquiry. After reviewing the third party appellant's representations, I decided that it was not necessary to seek representations from the other parties.

RECORDS

The records remaining at issue are identified as follows (using the Ministry's numbering system):

- a. Record 1 (page A0051940_2-000042), consisting of a one-page letter from the named organization to an MPP (excluding the portions severed by the Ministry and not at issue in this appeal);
- b. Record 2 (pages A0051941_1-000043 and A0051941_2-000044), consisting of a two-page e-mail exchange between the Ministry and the third party appellant (excluding the portions severed by the Ministry and not at issue in this appeal);
- c. Record 3 (pages A0051942_1-000045 and A0051942_2-000046), consisting of a two-page e-mail exchange between the Ministry and the third party appellant (excluding the portions severed and not at issue in this appeal); and
- d. Record 4 (Page A0051959_1-000081), consisting of a one-page e-mail from the Ministry to the third party appellant (in its entirety).

DISCUSSION:

PRELIMINARY MATTER

As a preliminary matter, the third party appellant identifies that she believes that additional records are at issue in this appeal. She refers to a letter sent to her by the mediator in the course of this appeal in which additional records are referred to. However, in the Mediator's Report sent to the parties, the mediator in this appeal clearly identified that the requester had narrowed the request to include only the four records identified above. Accordingly, this order addresses only these four records.

PERSONAL INFORMATION

In order to determine whether disclosure of the information at issue would constitute an invasion of privacy under section 21(1) of the *Act*, it is necessary to decide whether the record contains the third party appellant's "personal information". That term is defined in section 2(1) as follows:

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

- (a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,
- (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,
- (e) the personal opinions or views of the individual except if they relate to another individual,
- (f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence,

- (g) the views or opinions of another individual about the individual, and
- (h) the individual's name where 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;

The list of examples of personal information under section 2(1) is not exhaustive. Therefore, information that does not fall under paragraphs (a) to (h) may still qualify as personal information [Order 11].

To qualify as personal information, the information must be about the individual in a personal 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 [Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F, PO-2225]. Even if information relates to an individual in a professional, official or business capacity, it may still qualify as personal information if the information reveals something of a personal nature about the individual [Orders P-1409, R-980015, PO-2225].

Analysis and findings

The four records remaining at issue all consist of correspondence between the Ministry and the named organization. The third party appellant is the individual corresponding with the Ministry on behalf of the organization. In her representations, the third party appellant takes the position that some of the information remaining at issue in the four records constitutes her personal information within the definition of that term in section 2(1) of the *Act*.

I have carefully reviewed the records remaining at issue. In my view, in all of the correspondence remaining at issue, the third party appellant is acting in her capacity as a representative of the named organization, and not in her personal capacity. Previous orders have clearly identified that information associated with an individual in an official or business capacity will not be considered to be "about" the individual (see the orders referenced above). This extends to individuals representing non-profit organizations as well (see Order M-1132).

The rationale for this approach to personal information was reviewed in detail by Adjudicator Hale in Reconsideration Order R-980015. In that order, Adjudicator Hale applied this approach to the information at issue in that appeal and stated:

In order for an organization, public or private, to give voice to its views on a subject of interest to it, individuals must be given responsibility for speaking on its behalf. I find that the views which these individuals express take place in the context of their employment responsibilities and are not, accordingly, their personal opinions within the definition of personal information contained in

section 2(1)(e) of the *Act*. Nor is the information “about” the individual, for the reasons described above. In my view, *the individuals expressing the position of an organization, in the context of a public or private organization, act simply as a conduit between the intended recipient of the communication and the organization which they represent. The voice is that of the organization, expressed through its spokesperson, rather than that of the individual delivering the message.* [emphasis added]

I apply the same approach to the records at issue in this appeal.

In this appeal, the records all consist of correspondence between the Ministry and the named organization, through one of its spokespersons (in this case, the third party appellant). In my view, the information remaining at issue is that of the organization, expressed through its spokesperson, rather than that of the third party appellant personally. There is some personal information of the third party appellant (and of other identifiable individuals) contained in the records; however, that information has been severed by the Ministry, and that decision has not been appealed by the original requester. With respect to the information remaining at issue, I am satisfied that it reflects the views of the named organization, or relates to the named organization, and not to the third party appellant personally.

In her confidential representations the appellant has identified the reasons why she believes the information relates to her in her personal capacity. However, based on my review of those confidential representations, I am not satisfied that this information relates to her in her personal capacity, or that its disclosure would reveal something of a personal nature about her.

With respect to Record 1, the third party appellant identifies that there is one item of information which relates to her in her personal capacity; however, on my review of this information, I note that this item of information is specifically identified in public documents located on the website maintained by the named organization. On that basis, I am satisfied that it is not her personal information for the purpose of section 2(1) of the *Act*.

With respect to the information contained in Records 2, 3 and 4, the third party appellant identifies why she believes this information constitutes her personal information, and provides confidential representations in support of her reasons for her belief. I have carefully reviewed those representations and the information remaining at issue contained in the records. I appreciate that, in the third party appellant’s view, these records are important to her; however, on my review of these records, I am not persuaded that they contain her personal information, nor that their disclosure would reveal something of a personal nature about her. In addition, portions of the third party appellant’s representations relate to the information contained in the severed portions of these records, and those portions are not at issue in this appeal. Accordingly, in my view, the information contained in the remaining portions of Records 2, 3 and 4 do not contain the third party appellant’s personal information.

Having found that the information contained in the remaining portions of the records at issue do not contain the third party appellant's personal information, it is not necessary for me to review the possible application of section 21(1), as this section only applies to the disclosure of "personal information".

As a result, I uphold the Ministry's decision to disclose to the requester the severed copies of the four records at issue in this appeal.

ORDER:

1. I uphold the Ministry's decision to disclose to the requester the severed copies of the records at issue in this appeal.
2. I order the Ministry to disclose these records to the requester by providing the requester with copies of the records in severed form by **March 7, 2007** but not before **March 2, 2007**.
3. In order to verify compliance with provision 2 of this order, I reserve the right to require the Ministry to provide me with a copy of the information sent to the requester.

Original signed by: _____
Frank DeVries
Adjudicator

January 31, 2007