

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER MO-3286

Appeal MA13-607

City of Ottawa

February 9, 2016

Summary: The appellant asked to be shown the last four digits of a credit card issued by the City of Ottawa to a named city employee. After initially resisting disclosure, the city revised its decision at the adjudication stage and disclosed the last four digits of a city-issued card. The appellant asserts that the disclosed information relates to a different card, and does not satisfy his request. In this order, the adjudicator dismisses the appeal based on her satisfaction that the city has disclosed all the information responsive to the appellant's request.

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, section 17.

OVERVIEW:

[1] This order disposes of the issues arising from a request made to the City of Ottawa (the city) under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*). In a letter of request to the city, the appellant asked for the following:

to be show[n] the last four digit numbers of the purchasing VISA copy attached that belongs to the City of Ottawa. The copy VISA holder is [city employee identified by name]. Bylaw services occurrence report attached, updated general records.

[2] The appellant attached two documents to his request. The first document is a photocopy of two sides of a credit card with card numbers redacted. The second document is a copy of a city bylaw services occurrence report documenting a complaint

filed by the city employee named in the appellant's request. This city employee's name also appears on one side of the credit card reproduced in the first document.

[3] In response, the city issued a decision denying access to the requested information. In doing so, the city relied on the exemptions at sections 11(c) and (d) of the *Act*, which permit the city to refuse to disclose information on the basis of potential harm to its economic or other interests.

[4] The appellant appealed the city's denial of access to this office. During the inquiry stage of the appeal process, the adjudicator formerly assigned to this appeal sought and received representations from the parties on the application of the claimed exemptions. After both parties had filed their representations, the city decided to revise its decision on access. More specifically, the city decided to disclose to the appellant the last four digits of the purchasing VISA card issued to the identified city employee. With its decision, the city enclosed a page displaying a screenshot of a "Cardholder Profile" for the city employee, showing among other things the last four digits of the account number associated with the card.

[5] In a letter to this office notifying the previous adjudicator of its revised decision, the city described the enclosure sent to the appellant as a "copy of the requested record (last 4 digits of a City issued purchasing Visa)."

[6] The appellant was not satisfied that the disclosed information meets his request. The appellant wrote a letter to the city that reads, in part:

The request that [I made] was for the last four digits blanked to be revealed from the copy of the **RBC./U.S Bank purchasing Visa card with logo City of "Ottawa" that belong[s] to the City of Ottawa ...**

I did not request ... the last four digits of the **U.S.Bank Canada purchasing Visa card** that is [last four digits disclosed in revised decision], because ...

[emphasis in original]

[7] The appellant contends that the information disclosed by the city is not the information he requested, as he already has this same information. He refers to a document entitled "Transaction Details," which reveals this same information and which is already in his possession. He notes that he provided a copy of this document as an attachment to his representations during the inquiry stage.

[8] The city confirmed to the adjudicator that there are no other credit card numbers responsive to the appellant's request.

[9] The adjudicator determined that the city had disclosed the only responsive record in this appeal. She wrote to both parties advising that she would close the file on this basis.

[10] The appellant then wrote to the adjudicator to complain that her decision is the opposite of what would satisfy his request, and that the city's confirmation to her is wrong. The adjudicator re-opened the file.

[11] The adjudicator asked the city to address the issues raised in the appellant's correspondence to her, and to provide representations on the reasonableness of the city's search for responsive information. The city made representations in support of its view that the disclosed information satisfies the appellant's request as described in his original request made to the city and in the materials issued by this office during the processing of the appeal. The adjudicator sought a response from the appellant, and then a further reply from the city on the appellant's response.

[12] This file has been transferred to me. In making this order, I have considered all the materials filed by the parties during the processing of this appeal, as well as the information disclosed in the city's revised decision and the appellant's original request, among other things. In this order, I find that, with its revised decision, the city disclosed all the information responsive to the appellant's request. My reasons follow.

DISCUSSION:

[13] The sole issue in this appeal is whether the city has disclosed all the information that is responsive to the appellant's request. I find below that it has. This is a complete answer to the additional issues, raised after the initial closing of this inquiry, of whether the city properly interpreted the appellant's request, and whether the city conducted a reasonable search for information responsive to the appellant's request, properly interpreted.

[14] The appellant's access request made under the *Act* is reproduced above. He asked to be shown "the last four digit numbers of the purchasing VISA copy attached that belongs to the City of Ottawa" and which had been issued in the name of an identified city employee.

[15] Accompanying his request are two documents. One document is a photocopied page containing two images of a credit card. The first image shows the front side of a credit card bearing the word "VISA," and the name of the city employee identified in the appellant's request, underneath which appears "City of Ottawa." The second image shows the back side of a credit card and bears the words "US Bank Canada." The second attachment to his request is a copy of a city bylaw services occurrence report. The report documents a complaint filed by the city employee named in the appellant's request. In it, the city employee complains about the use by another person of a city credit card issued to the city employee, and the action taken as a result of the city employee's complaint.

[16] Based on these materials, the city interpreted the appellant's request as a request for the last four digit numbers of a city credit card issued in the name of the identified city employee.

[17] The city explains that its finance department, which manages the city's credit card program, does not make copies of city-issued credit cards. Instead, the finance department stores the relevant information relating to city-issued cards in a finance department database.

[18] To respond to the appellant's request, the finance department produced a record from this database containing the information it believed to be responsive to the appellant's request. The record is a screenshot of an entry in this database entitled "Cardholder Profile" for the named city employee, displaying certain fields of information corresponding to the city-issued card for the employee. One of these fields displays the last four digits of the account number associated with this card.

[19] This is the record to which the city initially denied access in its original decision letter to the appellant. The city provided a copy of this record to this office for the purposes of this appeal. As the city notes, the record is described in the mediator's report and the Notices of Inquiry issued during the appeal as a single page entitled "Cardholder Profile," with the information at issue in the appeal described as the last four digits of the credit card in question. This same record was disclosed to the appellant with the city's revised decision.

[20] In the appellant's letter of complaint about the city's revised decision and in his submissions to the previous adjudicator after receipt of that decision, the appellant asserts that what he requested all along is the last four digits of an "RBC/U.S. Bank Purchasing Card," issued to the named city employee, and not the last four digits of a "U.S. Bank Purchasing Card" issued to that same city employee. He says that the photocopy he provided to the city with his access request clearly bears the images of the former kind of card and not the latter. He insists there must be more than one card issued in the name of the city employee, for several reasons.

[21] First, the appellant says that the last four digits of the city employee's U.S. Bank purchasing card already appears in some of the exhibits he attached to his representations in this appeal; for this reason, he says, these four digits are clearly not what he sought by making this access request. Second, he says that the photocopy he provided with his request, showing an image of the face of the card whose last four digits he seeks, clearly demonstrates that the card is marked "RBC/U.S. Bank" and not merely "U.S. Bank." Third, he says that in testimony given at an arbitration hearing, the city employee's city-issued credit card is described as "a Royal Bank credit card bearing the words City of Ottawa on its front." For the appellant, this demonstrates that the city employee had more than one city-issued card in his name. Lastly, he suggests that another city-issued card must exist, because information relating to this other card would exonerate him from some allegations that have been made against him.

[22] It appears from the appellant's representations that the appellant was involved in an arbitration proceeding with his union and/or his then-employer, a private company, in relation to the complaint made by the city employee about the unauthorized use of a city-issued credit card. Some of the exhibits attached to the appellant's representations appear to relate to this proceeding. The appellant says that he was wrongly accused of

having misused the city employee's credit card, and was terminated as a result. In his representations, he indicates that he has been compiling documents used at the arbitration proceeding for the purpose of testing the evidence brought against him, at least some of which he suggests has been doctored. He indicates that obtaining the last four digits of a second city-issued credit card used by the city employee will assist him in making this case. In his submission, that information will enable him to check the legitimacy of documentation submitted at the arbitration hearing against information in the city's own record-holdings, and to challenge his termination by his employer.

[23] From this, it appears to me that the appellant's dissatisfaction with the city's revised decision has to do with his belief that there must exist another city-issued card for the city employee, and not with the format in which the card information was disclosed to him. It is the city's submission, which I accept, that the city was not required to produce copies of the actual card issued to the city employee in order to respond to the appellant's request.

[24] It is evident from the wording of the appellant's request and from his submissions made throughout this inquiry process that his interest is in obtaining the last four digits of a particular card that he believes must exist. He is not satisfied with the city's revised decision because the information disclosed to him with that decision corresponds to information used in another proceeding wholly unrelated to the inquiry conducted by this office under the *Act*. In disputing that the information disclosed by the city under the *Act* responds to his request, the appellant insists on a distinction between a "U.S. Bank Canada Purchasing VISA card," the last four digits of which have been disclosed to him, and an "RBC/U.S. Bank Purchasing VISA Card," which he says is the card whose account information he actually seeks.

[25] On re-opening this appeal, the previous adjudicator sought further representations from the parties on the city's interpretation of the appellant's request, and on the reasonableness of the city's search for responsive information. In its submissions on these issues, the city asserts that the appellant's description of the information he now seeks does not match the description set out in his original access request, or in the materials issued by this office identifying the information at issue. The city refers in particular to the failure of the appellant, in his original request, to indicate that the card numbers he seeks correspond to an RBC card, or to cards other than a "Purchasing VISA" as described in his request. On the other hand, the appellant observes, and I confirm, that the photocopied image of the card face that accompanied the appellant's access request displays an "RBC" logo in the upper left-hand corner, in addition to the other markings ("VISA," "City of Ottawa," "U.S. Bank Canada") that have already been described on this same card.

[26] This office has stated that institutions should adopt a liberal interpretation of a request, in order to best serve the purpose and spirit of the *Act*. Generally, ambiguity in a request should be resolved in the requester's favour.¹ This office has applied this principle in cases where the scope of a requester's original request is a matter of

¹ Orders P-134 and P-880.

dispute.

[27] In this case, I find it unnecessary to comment on the parties' differing views of the scope of the appellant's original request. This is because the city provides further submissions that are an answer on a broader reading of the request. The city clarifies that the card issued to the identified city employee is a U.S. Bank purchasing card that contains "RBC" markings due to a joint marketing agreement between U.S. Bank Canada and the Royal Bank of Canada (RBC). The city provides a printout from the RBC website providing details of this joint marketing agreement and the various corporate and purchasing cards offered under this agreement by RBC.² I confirm that the cards illustrated on this website are as described by the city, and contain the markings (including "VISA," "RBC" and "U.S. Bank Canada") that have been used by the parties in this appeal to refer to city-issued cards.

[28] I find even more significant the city's assertion, confirmed by its finance department, that at the time of the incident described in the occurrence report attached to the appellant's request, the identified city employee had only one city-issued card, and that it was the U.S. Bank Purchasing VISA whose last four digits were disclosed in the city's revised decision on access.

[29] The city also reports that it contacted the city employee to whom the card was issued, and that he conducted his own search for any record showing the last four digits of this card number. The city reports that the city employee was unable to locate either a copy of this card, or any hard copy record showing the last four digits of the card number. I find this is not unexpected given the evidence (including from the appellant) that this particular card has since been cancelled.

[30] Based on all the above, the city maintains that it has disclosed all the information responsive to the appellant's request, or, in the alternative, that it has conducted a reasonable search for responsive information. In these circumstances, I am satisfied that the city has disclosed to the appellant all the information that is responsive to his request.

[31] The appellant's belief that there must be another card seems to be based on his dissatisfaction that the card information disclosed to him by the city exactly matches the card information set out in an exhibit that played a role in an arbitration hearing involving the appellant and his union and/or his employer, both entities unrelated to the city. This is in spite of the fact that, at an earlier stage of the appeal (and before the city decided to disclose the requested numbers in full), the appellant disputed the city's application of exemptions to withhold the information on the basis this information had already been revealed to him in other legal proceedings. He indicates elsewhere that his intention in seeking this information from the city is to verify the accuracy of documentation used at his arbitration hearing to justify a decision to terminate his employment. Later the appellant suggests that the city is refusing to acknowledge the existence of another card because there is information relating to that card that would

² www.rbcroyalbank.com/commercial/financing/cc-index.html.

disprove the allegations made against him.

[32] The appellant's representations made throughout this appeal are of a similar nature. I find they do not raise a reasonable basis for concluding that the information he seeks actually exists. 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 17.³ The *Act* does not require the city to prove with absolute certainty that the information the appellant seeks does not exist. In this case, I am satisfied that the city made reasonable efforts to identify and locate responsive information, and in fact disclosed all the information reasonably related to the appellant's request. I am also satisfied with the city's evidence that no other responsive information exists. Despite ample opportunity to do so, the appellant has not provided a reasonable basis for his belief otherwise. For these reasons, I am satisfied that no further searches are necessary.

[33] Finally, I wish to acknowledge that the appellant's original request, reproduced above, refers at the end to "updated general records." This would appear to be in addition to his request for the specific card information discussed above. I also observe that in some of his representations made during the inquiry stages, the appellant refers to his need for "any additional information to be revealed, other than what has already been revealed at grievance arbitration."

[34] In these circumstances, I am satisfied that this language in his original request and in some parts of his representations does not expand the scope of his original request. First, I accept the city's submission that the appellant was made aware of the specific focus of this appeal through the identification of the information at issue during mediation, and its description in the mediator's report and Notices of Inquiry issued to both parties during the appeal.⁴ The city also observes, and I accept, that the arbitration proceeding to which the appellant refers was a labour relations or employment-related proceeding between the appellant and one or more parties other than the city. The city had no involvement in the matter, other than in the appearance of the city employee named in the appellant's request as a witness. The city's assertion of its lack of involvement in the matter is consistent with my understanding from the evidence provided by both parties.

[35] In light of all the above, I am satisfied that the appellant's request to the city under the *Act* cannot reasonably be interpreted as requiring the city to identify and to locate all the records relating to the appellant's grievance that have not already been disclosed to him at that proceeding. I find that the city has responded to the appellant's request in satisfaction of its obligations under the *Act*. I dismiss the appellant's appeal.

³ Orders P-85, P-221 and PO-1954-I.

⁴ In these documents, the information at issue was described as follows: "RECORD: The record is a single page entitled Cardholder Profile. The information at issue in this appeal is the last four digits of the credit card in question."

ORDER:

I dismiss the appeal.

Original Signed By: _____
Jenny Ryu
Adjudicator

February 9, 2016 _____