

Information and Privacy Commissioner,  
Ontario, Canada



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

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## FINAL ORDER MO-3454-F

Appeal MA15-375

City of St. Catharines

May 31, 2017

**Summary:** This Final Order follows Interim Order MO-3425-I and concerns an email from the city to the lawyer of a property owner that was found not to be exempt from disclosure under the solicitor-client privilege exemption at section 12 of the *Municipal Freedom of Information and Protection of Privacy Act*. A decision on disclosure of the email was deferred pending notification of the property owner. The property owner was notified of the appeal and objected to disclosure of the email. In this final order, the adjudicator finds that the email does not contain the personal information of the affected party and orders it disclosed to the appellant.

**Statutes Considered:** *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, section 2(1) (definition of "personal information").

**Orders and Investigation Reports Considered:** Orders 23, MO-2081, MO-2969, MO-3066, MO-3067, PO-3497 and MO-3425-I.

[1] This Final Order follows Interim Order MO-3425-I in which I found that Record 1 is not exempt under the discretionary solicitor-client privilege exemption in section 12 of the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*). Record 1 is an email string between the City of St. Catharines (the city) and a property owner (the affected party) and his lawyer about a severance and minor variance matter relating to the affected party's property. The portion of Record 1 that was originally withheld by the city is an email from a city official sent to the affected party's lawyer, and copied to the affected party and to other city officials. I deferred my decision on disclosure of Record 1 pending notice to the affected party.

[2] After issuing Interim Order MO-3425-I, I notified the affected party of the appeal in accordance with section 39(3) of the *Act*. I sent a copy of my interim order to the affected party and invited him to submit representations if he believed that his interests could be affected by disclosure of the email in Record 1. The affected party provided representations in response.

[3] The affected party objects to disclosure of the email out of concern that it may reveal inaccurate information about what happened in respect of his property. In his representations he appears to assert that disclosure of the email would be an unjustified invasion of his personal privacy.<sup>1</sup>

[4] Having considered the affected party's representations and reviewed the content of the email withheld by the city, I conclude that Record 1 should be disclosed to the appellant in its entirety. As noted in my interim order, Record 1 relates to the affected party's property and the requirements that were deemed necessary to satisfy one of the conditions imposed on the severance and minor variance of the property. This information about the affected party's property does not qualify as information about the affected party. Previous orders of the Office of the Information and Privacy Commissioner have consistently found that information about identified residential properties is property information and not information about an identifiable individual.<sup>2</sup>

[5] Similar to some of the records considered in Orders 23 and PO-3067, the email in this appeal contains the affected party's name and raises the potential application of paragraph (h) of the definition of "personal information" in section 2(1) of the *Act* which refers to an individual's name if it appears with other personal information. Order 23 addressed this issue as follows:

[P]aragraph (h) provides that an individual's name becomes "personal information" 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" (emphasis added). In the circumstances of these appeals, it should be emphasized that the appellants did not ask for the names of property owners, and the release of these names was never at issue. However, even if the names were otherwise determined and added to the requested information, in my view, the individual's name could not be said to "appear with other personal information relating to the individual" or "reveal other personal information about the individual", and therefore [p]aragraph (h) would not apply in the circumstances of these appeals.

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<sup>1</sup> The affected party provides additional details in his representations which I have not reproduced in this final order because of confidentiality concerns.

<sup>2</sup> See Orders 23, MO-2081, MO-2969, MO-3066, MO-3067 and PO-3497.

[6] I adopt this reasoning in this appeal. I find that the email does not contain information that qualifies as the affected party's personal information as that term is defined in section 2(1) of the *Act*. As a result, the mandatory personal privacy exemption in section 14, which only applies to personal information, cannot apply to it.

[7] There is no suggestion that the email contains information that would be exempt from disclosure under any other mandatory exemption in the *Act*, and from my review of Record 1, I did not consider any other mandatory exemption as potentially applicable. I find that no mandatory exemption applies to the email in Record 1.

**ORDER:**

I order the city disclose Record 1 in its entirety it to the appellant by **July 5, 2017**, but not before **June 29, 2017**.

Original Signed by: \_\_\_\_\_  
Stella Ball  
Adjudicator

\_\_\_\_\_ May 31, 2017