

Information and Privacy Commissioner,
Ontario, Canada



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

INTERIM ORDER MO-3970-I

Appeal MA18-199

Peterborough Public Health

October 28, 2020

Summary: The appellant sought access to information on the stall operators at the Peterborough and District Farmers' Market for the years 2013 to 2018. Peterborough Public Health denied the appellant access to stall operator lists and farmer and vendor information forms for 2013 to 2018 relying on the personal privacy exemption in section 14(1). The adjudicator finds that the withheld information does not qualify as "personal information" under the *Act* and that the personal privacy exemption in section 14(1) does not apply. As a result, the adjudicator does not uphold the decision of Peterborough Public Health and orders it to grant the appellant access to the complete stall operator lists. She also orders a further search for records responsive to the appellant's request and reserves her decision on the fee estimate and fee waiver issues.

Statutes Considered: *Municipal Freedom of Information and Protection Privacy Act*, sections 2(1) (definition of "personal information"), 2(2.1), 2(2.2) and 17.

Orders and Investigation Reports Considered: MO-2343, MO-3298, PO-2225, PO-3617 and PO-4050.

Cases Considered: *Ontario Medical Association v Ontario (Information and Privacy Commissioner)*, 2017 ONSC 4090 (CanLII), (Divisional Court judicial review decision upholding Order PO-3617); affirmed, 2018 ONCA 673 (CanLII); leave application dismissed, 2019 CanLII 29760 (SCC).

OVERVIEW:

[1] This is an appeal of Peterborough Public Health's (PPH) decision to deny access

to the 2013 to 2018 lists of stall operators at the Peterborough and District Farmers' Market (the Farmers' Market). The appellant submitted a request to PPH under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for access to:

- all reports from the Peterborough and District Farmers' Market Association (PDFMA) identifying all stall operators and the stall operators identified as 'producers who are primarily selling or offering for sale their own products'
- any other relevant materials upon which PPH bases its assessment as to whether or not the Farmers' Market is considered exempt from the Food Premises regulation¹ covering the calendar years of 2013 to present.

[2] In response, PPH issued a fee estimate to the appellant of \$160 for 60 pages of responsive records. PPH also notified PDFMA of the request in accordance with section 21 of the *Act*, and sought PDFMA's position on disclosure of the requested records. The appellant then wrote to PPH about the second part of his request and stressed that it would include records created by PPH. The appellant asked PPH to provide the following summary information while it awaited representations from PDFMA:

1. Summary of PDFMA's self-reports

- date of self-reports submitted by PDFMA
- number of stall operators identified as being producers of farm products who are primarily selling or offering for sale their own products
- number of stall operators identified as not being producers of farm products who are primarily selling or offering for sale their own products

2. Summary of PPH's assessments

- date of PPH unit assessments
- number of stall operators assessed by PPH as being producers of farm products who are primarily selling or offering for sale their own products
- total number of stall operators

[3] PPH acknowledged the appellant's request for summary information as an amendment of his request and responded that there are no existing records responsive to it. PPH added that although it has no obligation under the *Act* to create a record, it nonetheless compiled the summary information the appellant sought and disclosed it to him. PPH then issued an interim access decision stating it anticipated granting the

¹ O. Reg. 493/17 under the *Health Protection and Promotion Act*.

appellant partial access to the responsive records.

[4] The appellant responded to PPH, asserting that the interim access decision did not correctly capture his request, which included all relevant assessments conducted by PPH. He also objected to PPH's fee estimate, noting that PPH had responded to another party's request for the same data without charge for the year 2018. The appellant asked PPH to break down his request into four parts—records for 2018, records for 2017, records for 2016, and records for 2013 to 2015—so that PPH could address each part separately and sequentially.

[5] The appellant subsequently filed an appeal of PPH's decision with the Information and Privacy Commissioner of Ontario (IPC).

[6] During the intake and mediation stages of the appeal, PPH issued a revised fee estimate of \$129 and stated it was waiving its fees for documents that it had already compiled. The appellant requested a fee waiver asserting that the records should be disclosed in the public interest. PPH then issued a final access decision denying access to the names and addresses of the stall operators. PPH stated that in response to the appellant's request for access to a list of stall operators that identified them as being or not being producers of farm products who are primarily selling or offering for sale their own products, it was claiming the mandatory personal privacy exemption in section 14 of the *Act*. It added that it had not obtained consent for disclosure from the stall operators. At the end of the mediation stage, PPH further reduced its fee to \$50 and confirmed that it was not charging any fee for the 2017 and 2018 stall operator lists since it had provided these lists to another party.

[7] The appellant remained unsatisfied with the fee and argued it should be waived entirely. He also contended that additional records exist, specifically, records responsive to the second part of his request for relevant materials upon which PPH bases its assessments as to whether the Farmers' Market is exempt under the Food Premises regulation. Accordingly, reasonable search was added as an issue in this appeal.

[8] As no further mediation was possible, the file was transferred to the adjudication stage of the appeals process. An adjudicator conducted a written inquiry under the *Act*, inviting and receiving representations from PPH, the appellant, and a number of affected parties, including PDFMA. The other affected parties were the stall operators listed in the records. The adjudicator notified these stall operators of the appeal using the stall operators' contact information provided by PDFMA. Of all the stall operators notified, 22 provided representations in response to the Notice of Inquiry. The appeal was then transferred to me to continue the adjudication process.

[9] In this Interim Order, I do not uphold PPH's access decision or its search, and I order it to grant the appellant complete access to the records at issue and conduct a further search for responsive records. I reserve my determination of the fee and fee waiver issues, which I will address following PPH's further search for records.

RECORDS:

[10] The records at issue consist of the following 61 pages:

- 2013 Vendor and Farmer Information Form (12 pages) containing the categories: Name of the Farmer or Vendor, Farmer or Vendor, Phone Number and Address
- 2014 Vendor and Farmer Information Form (11 pages) containing the categories: Name of Farmer, Farmer or Vendor, Phone Number and Address
- 2014 list of inspected vendors' contact information (two pages) including business name, address, telephone number and description of goods sold
- 2015 Vendor and Farmer Information Form (10 pages) containing the categories: Name of Farmer, Farmer or Vendor, Phone Number and Address
- 2016 Vendor and Farmer Information Form (six pages) containing the categories: Inspection Reports on File, Name of Farmer, Farmer or Vendor, What is Sold, Address and Phone Number
- 2016 letter (one page) to a vendor re Exemption from Health Inspection
- 2017 Vendor and Farmer Information Form (ten pages) containing the categories: Name of Farmer, Farmer or Vendor, Phone Number and Address
- 2018 list of stall operators' names and addresses (nine pages)

DISCUSSION:

Do the records contain "personal information" as defined in section 2(1)?

[11] The main issue in this appeal is whether the records contain the personal information of the stall operators such that its disclosure would constitute an unjustified invasion of personal privacy under section 14(1) of the *Act*. The affected parties opposing disclosure in this appeal argue that the records contain the personal information of the stall operators within the meaning of section 2(1) and, therefore, the records should be exempt from disclosure under section 14(1) of the *Act*.

[12] The mandatory personal privacy exemption in section 14(1) only applies to "personal information" as defined in section 2(1) of the *Act*. Personal information is defined as recorded information about an individual including the individual's address and telephone number in paragraph (d), and "the individual's name where it appears with other personal information relating to the individual or where disclosure of the name would reveal other personal information about the individual" in paragraph (h).

[13] The list of examples of personal information under section 2(1) of the *Act* is not exhaustive, and IPC orders have held that information that does not fall under the

definition may still qualify as personal information.² To qualify as personal information, the information must be about an identifiable individual in a personal capacity. There are exceptions to the definition of personal information and the relevant ones in this appeal are sections 2(2.1) and (2.2) which state:

(2.1) Personal information does not include the name, title, contact information or designation of an individual that identifies the individual in a business, professional or official capacity.

(2.2) For greater certainty, subsection (2.1) applies even if an individual carries out business, professional or official responsibilities from their dwelling and the contact information for the individual relates to that dwelling.

[14] During the inquiry, the parties were advised that IPC orders, as a rule, do not consider information associated with an individual in a professional, official or business capacity to be "about" the individual.³ They were also advised that IPC orders have accepted that information that relates to an individual in a professional, official or business capacity may still qualify as personal information if the information reveals something of a personal nature about the individual.⁴ The parties were invited to comment on sections 2(2.1) and 2(2.2) of the *Act*, which affirm the general rule that information associated with an individual in a business capacity is not "about" the individual. They were also asked to explain why or how, if the information is about an individual in a business capacity, the information could reveal something of a personal nature about the individual.

Representations

PPH

[15] In its representations, PPH explains that it chose not to disclose the records at issue because PDFMA stated that the records constitute personal information. PPH states it has no direct knowledge of whether this is the case. It suggests that PDFMA should make representations to the IPC on this issue. PPH concludes by stating that it takes no position on the disclosure of the records.

² Order 11.

³ Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F, PO-2225, and, more recently, PO-3617 and PO-4050.

⁴ Orders P-1409, R-980015, PO-2225, MO-2344, and, more recently, PO-3617 and PO-4050.

The Affected Parties

PDFMA

[16] PDFMA states that it submits its representations as an association of market vendors mandated to represent the vendors' common interests. It acknowledges that it cannot claim to speak for all of its individual members, since some of them may hold their own views. PDFMA argues that the records at issue contain personal information as defined in paragraphs (b), (c), (d) and (h) of the definition in section 2(1) of the *Act*. Regarding paragraphs (b) and (c) of the definition, PDFMA argues that the stall operators could be identified if the records were disclosed. It asserts that even though some information in the records may have been provided in a business or professional capacity, a person familiar with the circumstances in which the records were created may be able to identify individuals and their families based on the information in the records.

[17] PDFMA argues that the information in the records reveals something of personal nature about the stall operators, including:

- their names and personal addresses
- their certification license number (dairy license number, organic produce license number, or kitchen license number with the Health Unit)
- farms' fire route numbers
- insurance information like insured assets, and insurance policy numbers, terms and conditions
- business records containing the names of silent partners of businesses with multiple owners, addresses of business partners, and financial information like cheque numbers
- assets owned by stall operators and/or third parties.

[18] PDFMA also provides confidential representations; however, they do not directly address the issue of whether the information in the records qualifies as personal information under the *Act*.

The Stall Operators

[19] In the 22 representations submitted by stall operators, 15 oppose disclosure of any information relating to them, six agree to disclosure of the records, and one provides no comment. These representations are summarized below.

[20] The 15 Stall Operators Who Oppose Disclosure

- The name, address, telephone number, private email address and types of products sold are the personal information of the stall operators.
- Their address is personal information because they operate their business from their home and private residence.
- They feel uncomfortable and unsafe with having their business or personal information disclosed.
- They provided the information in the records to PDFMA in confidence and as a condition of membership.
- Disclosure of the records would infringe their right to privacy.
- Disclosure of the records would reveal their religion, which is a private matter.
- They are registered with many federal, provincial and other government organizations and their information should not be shared without a 'just cause.'
- Their contract is with PDFMA and any information they have provided to PDFMA is between them and PDFMA.
- Their information should not be disclosed without their written consent.

[21] The Six Stall Operators Who Agree to Disclosure

- Section 2(2.1) of the *Act* confirms that stall operators' names and addresses are not personal information.
- Stall operators are in the business of selling goods to the public at the Farmers' Market and they have a business relationship with PDFMA.
- Their name, business name and type of goods sold are public knowledge by virtue of them being vendors at the Farmers' Market.
- Stall operators submit an application to PDFMA detailing the nature of their business with the clear understanding that such information may be published by various media, including the PDFMA website.
- All of the information in the records is business information provided to PDFMA for the purpose of promoting stall operators' businesses and it is publicized on PDFMA's website with photos, on-site at the Farmer's Market, and on social media, radio and in the PDFMA television video.
- Because they applied in a business capacity to be stall operators at the Farmers' Market, none of the information in the records can be deemed to be personal, even though they work out of their home.

- PDFMA requires stall operators to label their products with the stall operators' business name and contact information, as well as the location of the operators' certified kitchen, which is sometimes the operators' home.

The Appellant

[22] In his representations, the appellant explains that the information he requests in all the records he seeks is stall operators' name, title and contact information, what good each is offering for sale, the categorization of each as a farmer or vendor as reported by PDFMA to PPH and as inspected and assessed by PPH. The appellant argues that all of his "requested information" relates only to the business activities of stall operators and is therefore not personal information.

[23] The appellant stresses that he is not requesting disclosure of any information beyond the requested information. In response to PDFMA's representations, the appellant asserts that the requested information does not include the many details listed by PDFMA: he does not seek the disclosure of stall operators' certification or license numbers, fire route numbers, insurance policies, financial information, cheque numbers or assets. The appellant notes that PPH publishes the name, location, phone number, facility ID (i.e. kitchen license number with PPH) and other detailed information about the stall operators in the "Restaurant and Food Services Inspection Reports" available on the PPH website. Similarly, the appellant notes that on its own website, PDFMA publishes a list of the stall operators that includes the stall operators' name, phone number, location, email, website, what goods they are selling and other details. This publication by PPH and PDFMA of the information in the records and more, contradicts PPH's and PDFMA's objection to disclosure of the requested information in the form of the records sought through this request and appeal. The appellant also notes that PPH states in its representations that it now takes no position on the disclosure of the records.

[24] The appellant relies on sections 2(2.1) and 2(2.2) of the *Act* to support his position that the requested information is business information and not personal information. He asserts that every stall operator participates in the Farmers' Market for the primary purpose of conducting business through selling products to the public. Because every stall operator participates in the Farmers' Market in a business, professional or official capacity, the exception in section 2(2.1) applies and section 2(2.2) makes it clear that the name and contact information of stall operators in the records is not personal information, even when the stall operators run their businesses from their homes.

[25] Finally, the appellant refers me to two orders that support his position. The first is Order MO-3298, which found that the names and addresses of kennel owners were not personal information under section 2(1) of the *Act* because they were excluded from the definition of "personal information" under sections 2(2.1) and 2(2.2) of the *Act*, and they revealed nothing of a personal nature about the kennel owners. The second is Order MO- 2343, which held that disclosure of the names and addresses of farmers would not reveal anything of a personal nature but would reveal that they are

farmers and the location of their farming businesses and business activities.

Reply

[26] In its reply representations, PPH states that, but for PDFMA's refusal to consent to disclosure of the names and addresses of stall operators, it would have no concerns with disclosure of this information. PPH agrees that business names are not personal information.

Analysis and finding

[27] As stated most recently in Order PO-4050, the determination of what is "personal information" is made based on the information itself and the context in which it appears.⁵ The records at issue—Vendor and Farmer Information Forms, a list of inspected vendors' contact information, a letter confirming the exemption from health inspection for a specific stall operator, and a list of stall operators—contain the names, addresses, telephone numbers, farmer/vendor designations, products sold, and inspection reports on file for stall operators. In order for this information to be exempt from disclosure under section 14(1) of the *Act*, it must be "personal information" within the definition of that term in section 2(1) of the *Act*. For the reasons set out below, I find that none of the information at issue qualifies as personal information under the *Act*.

The names, contact information, farmer or vendor designation and goods sold do not qualify as personal information under section 2(1) of the Act

[28] PDFMA and the stall operators who oppose disclosure of the records claim, variously, that the information in the records fits within paragraphs (a), (b), (c), (d) and (h) of the definition in section 2(1) which state:

"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, physical, psychological, criminal or employment history of the individual or information relating to the financial transactions in which the individual has been involved;

⁵ Order PO-4050 at para 58.

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

(d) the address, telephone number, fingerprints or blood type of the individual; and

(h) the individual's name if it appears with other personal information relating to the individual or where the disclosure of that name would reveal other personal information about the individual[.]

[29] However, PDFMA and the stall operators who oppose disclosure do not address sections 2(2.1) and 2(2.2) of the definition of "personal information" which specifically exclude business identity information and state:

2(2.1) Personal information does not include the name, title, contact information or designation of an individual that identifies the individual in a business, professional or official capacity.

2(2.2) For greater certainty, subsection (2.1) applies even if an individual carries out business, professional or official responsibilities from their dwelling and the contact information for the individual relates to that dwelling.

Instead, PDFMA and the objecting stall operators assert that the information is personal information and they question or impugn the appellant's motives for seeking access to it.

[30] It is clear from the request and from the appellant's representations that he does not seek the types of information described in paragraphs (a) and (b) of the definition. And although certain affected parties submit that the records contain information about the individuals' religion and financial transactions that would fit within paragraphs (a) and (b), respectively, the records do not contain, nor do I accept that they would reveal, any such information. Accordingly, I find that these paragraphs are not applicable in this appeal.

[31] It is also clear from the appellant's request and representations that the information he seeks relates to the stall operators' business activities at the Farmers' Market, specifically: the name and contact information under which they sell their goods at the Farmers' Market, the goods they offer for sale and their status as farmers or vendors at the Farmers' Market. I agree with the appellant that because every stall operator participates in the Farmers' Market in a business capacity, section 2(2.1) applies to the names, contact information and farmer or vendor designation in the records, and section 2(2.2) makes it clear section 2(2.1) applies even when the stall operators run their businesses from their homes.

[32] As noted above, information associated with an individual in a business capacity will generally not be considered to be "about" the individual in a personal capacity,

unless it reveals something of a personal nature about the individual. The IPC's longstanding approach to determining whether information that relates to an individual in a "business capacity" qualifies as "personal information" under section 2(1) is a two-part analysis established in Order PO-2225. The first part asks in what context the names of the individuals appear—an inherently personal context, or a business context that is removed from the personal sphere. The second part of the analysis asks whether there is 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?

All of the information in the records appears in a business context

[33] In the records at issue, the information about the stall operators is associated with them in a business capacity. The information identifies the stall operators as individuals or business entities that sell their products at the Farmers' Market and whose businesses are inspected by PDFMA and/or PPH as required so that they may sell their products at the Farmers' Market in accordance with the relevant public health requirements. The names, addresses and telephone numbers are information that stall operators provide to PDFMA and PPH in order to become stall operators eligible to sell their products at the Farmers' Market. The stall operators' sale of products at the Farmers' Market is a business activity.

[34] The farmer/vendor designations, products sold, inspection reports on file and exemption from health inspection are pieces of information that PDFMA and/or PPH compile and maintain in order to operate the Farmers' Market in accordance with their legal and public health obligations. The exemption letter, specifically, contains information that confirms an exemption for the business in question and sets out the conditions imposed on the business by PDFMA in respect of its sale of good at the Farmers' Market. All of this information also relates to the business activity of selling products at the Farmers' Market. None of the affected parties who oppose disclosure provides representations on why or how any of the information at issue appears in a personal context. Accordingly, I find that the information in the records appears in a business context that is removed from the personal sphere.

Disclosure of the information in the records would not reveal something inherently personal about the stall operators

[35] PDFMA argues that the inherently personal information about stall operators that would be revealed if the records were disclosed includes the names and personal addresses of the stall operators, their certification license numbers, their farms' fire route number, their insurance information, their financial information and their assets, and the identities of their families. The only information from PDFMA's list that actually appears in the records is the names and addresses of stall operators, all of which I found above constitutes business identity information under the exceptions to the personal information definition in sections 2(2.1) and 2(2.2). Disclosure of the business identity information of the stall operators would not reveal something inherently

personal about them. Rather, disclosure of these names and addresses would reveal that the stall operators are farmers or vendors and the location of their farming or vending businesses and business activities.

[36] In addition to the business identity information, the records contain an indication of inspection reports on file for certain stall operators, and a letter to one stall operator advising that business about its exemption from health inspection. None of the affected parties who oppose disclosure provides representations on what of an inherently personal nature would be revealed by disclosure of this information. From my review of the information, disclosure would not reveal something inherently personal about the stall operators. It would reveal the fact that some stall operators were inspected in the course of conducting their business activities at the Farmers' Market and that one stall operator received an exemption from the Food Premises regulation. Accordingly, I find that disclosure of the information in the records would not reveal something inherently personal about the stall operators.

[37] I have found that the records contain business identity information, the disclosure of which would not reveal anything inherently personal about the stall operators, and that none of the information in the records qualifies as personal information according to the definition in section 2(1) of the *Act*. As a result, I further find that the records do not qualify for exemption under the personal privacy exemption in section 14(1). I will order the records disclosed to the appellant in their entirety.

PPH did not conduct a reasonable search for responsive records

[38] The appellant argues that PPH did not conduct a reasonable search for responsive records because it did not produce records relating to the second part of his request. I must decide, therefore, whether PPH has conducted a reasonable search for records as required by section 17.⁶

[39] A reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request expends a reasonable effort to locate records which are reasonably related to the request.⁷ To be responsive, a record must be "reasonably related" to the request.⁸ If an institution does not provide sufficient evidence to demonstrate that it has made a reasonable effort to identify and locate all of the responsive records within its custody or control, a further search will be ordered.⁹ 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

⁶ Orders P-85, P-221 and PO-1954-I.

⁷ Orders M-909, PO-2649 and PO-2592.

⁸ Order PO-2554.

⁹ Order MO-2185.

concluding that such records exist.¹⁰

PPH's representations on its search

[40] PPH states that it conducted a reasonable search, which was carried out by an experienced employee who expended a reasonable effort to identify any records that were reasonably related to the request. It adds that all PPH employees who were involved in inspecting the Farmer's Market were asked to produce any relevant documents and all of these employees stated that they produced what they have. PPH states that most of its conversations with stall operators were not documented.

The appellant's representations on additional responsive records that should exist

[41] In response to PPH's representations, the appellant asserts that he believes PPH must necessarily have other records, which include PPH inspection and assessment field notes and reports, stall operator questionnaires, PPH office notes, summaries, meeting notes, and correspondence between PPH staff and other institutions and/or third parties, in paper and electronic form.

PPH's reply

[42] In its reply representations, PPH repeats its initial representations. It also states that when it found one additional document during the inquiry, it immediately forwarded the document to the appellant. With respect to its assertion that most of the conversations between stall operators and PPH were not documented, PPH states that it has now changed its process to require inspectors to document the conversations they have with stall operators to determine whether stall operators are selling their own products.

Analysis and finding

[43] The PPH's brief and general representations on its search for records are not sufficient to demonstrate that it has made a reasonable effort to identify and locate all of the responsive records within its custody or control.

[44] PPH was asked to provide a written summary in affidavit form of all the steps taken in response to the request, including details of the searches carried out, but it provides no such affidavit as part of its representations. PPH does not identify the employees that it asserts conducted a search for responsive records. It does not provide details about the specific places the various employees searched for records responsive to the appellant's request and the specific steps they took to carry out their searches. PPH does not provide details of the types of files that were searched and the

¹⁰ Order MO-2246.

results of the searches. Instead, PPH merely asserts that it searched for responsive records and the reason it did not locate additional records responsive to the request is that most interactions between its inspection staff and stall operators were oral and not recorded.

[45] I agree with the appellant. I find that he has provided a reasonable basis for believing that additional records responsive to his request—for all reports and relevant materials relating to whether the stall operators sell their own products and forming the basis of PPH's assessment of whether the Farmers' Market is exempt from the Food Premises regulation—may exist. The appellant lists various types of responsive records that would reasonably be expected to exist. As well, some of the stall operators who submitted representations provide information that leads me to conclude it is reasonable to expect additional responsive records exist. The stall operators report that PPH has worked for years with PDFMA, conducting home inspections of prepared foods vendors several times a year, ensuring these vendors have completed their food handler training course, performing unscheduled inspections of the Farmers' Market throughout the year and having inspectors provide vendors with suggestions as needed.

[46] For the reasons set out above, I do not uphold PPH's search as reasonable. As a result, I will order PPH to conduct a further search for additional records responsive to the appellant's request for all reports and relevant materials from PDFMA identifying all stall operators and whether they sell their own products, and providing the basis of PPH's assessment as to whether the Farmers' Market is considered exempt from the Food Premises regulation.

[47] Because I have ordered PPH to conduct a further search, I will defer my determination of whether the fee is reasonable and whether it should be waived until I receive the results of PPH's further search.

INTERIM ORDER:

1. I do not uphold PPH's decision to withhold the 61 pages of records at issue in this appeal and I order PPH to disclose them, in their entirety, to the appellant by **December 2, 2020** but not before **November 27, 2020**.
2. I do not uphold PPH's search for records responsive to the request. I order PPH to conduct further searches for all records upon which it bases its assessments as to whether the Farmers' Market is exempt under the Food Premises regulation. PPH shall search for all inspections and assessment field notes and reports, stall operator questionnaires, PPH office notes, summaries, meeting notes, and correspondence between PPH staff and other institutions and/or third parties, in paper and electronic form.
3. I order PPH to provide me with an affidavit or affidavits sworn by individuals who have direct knowledge of the searches, which are to include at a minimum the following information:

- a. The names and positions of the individuals who conducted the searches.
 - b. The steps taken in conducting the searches.
 - c. The types of files searched and the results of each search.
4. I order PPH to provide me with the affidavits and the results of its further searches by **December 2, 2020**.
 5. If PPH locates additional records responsive to the request through its further searches, I order it to issue an access decision to the appellant in accordance with the *Act* treating the date of this interim order as the date of the request.
 6. The timelines in order provisions 1 and 5 may be extended if PPH is unable to comply in light of the Covid-19 situation, and I remain seized to consider any resulting extension request.
 7. I also remain seized to address any issues arising from order provisions 1 to 5 above, and to determine the fee and the issue of fee waiver in this appeal.

Original Signed by: _____

Stella Ball
Adjudicator

October 28, 2020 _____