

Information and Privacy Commissioner,
Ontario, Canada



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

RECONSIDERATION ORDER MO-4167-R

Appeal MA21-00196

Hamilton Police Services Board

Order MO-4136

February 22, 2022

Summary: In this reconsideration order, the adjudicator considers the appellant's submissions to her after the release of Order MO-4136. In that order, the adjudicator had required the police to disclose a small amount of information to the appellant, but had upheld the police's decision in other respects. After receiving the order, the appellant made numerous submissions to the adjudicator, requesting full disclosure of the records. In this decision, the adjudicator finds the appellant has not established any ground under section 18.01 of the IPC's *Code of Procedure* to reconsider the order. She denies the reconsideration request.

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, RSO 1990, c M.56; *IPC Code of Procedure*, sections 18.01 and 18.02.

Orders and Investigation Reports Considered: Order MO-4136.

OVERVIEW:

[1] In this reconsideration order, I consider whether the appellant's submissions to me following the release of Order MO-4136 establish any basis to reconsider the order. For the reasons that follow, I find they do not. I deny the reconsideration request.

[2] Order MO-4136 addressed the appellant's appeal under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) of the decision of the Hamilton

Police Services Board (the police) on the appellant's access request. The appellant sought police records relating to a report that some individuals had made to the police because of concerns about the appellant's behaviour at a union hearing. While the police granted partial access to responsive records, they withheld other portions of the records (including the names of the complainants to the police), citing the personal privacy exemption and other grounds in the *Act* to refuse disclosure.

[3] In Order MO-4136, I largely upheld the police's decision. Among other findings, I accepted that the police had properly applied the personal privacy exemption in the *Act* to withhold the personal information of other individuals, including the complainants' names appearing in the records. However, I ordered the police to disclose to the appellant two discrete severances in the records, which I found did not qualify for the claimed exemptions, or any other ground for denying access under the *Act*.

[4] After the appellant received the order, he made a number of submissions to me. I summarize the relevant portions of his submissions, below. Briefly, the appellant says that the information I ordered disclosed in Order MO-4136 does not assist him in his pursuit of justice, and he wants full disclosure of the records.

[5] In the discussion that follows, I explain why I deny the appellant's request for reconsideration of the order.

DISCUSSION:

Have any of the grounds for reconsideration of the order been met?

[6] The IPC's *Code of Procedure* (the *Code*) sets out basic procedural guidelines for parties involved in appeals before the IPC.

[7] Section 18 of the *Code* addresses the IPC's reconsideration process. Sections 18.01 and 18.02 set out the grounds for reconsideration of an order or decision of this office:

18.01 The IPC may reconsider an order or other decision where it is established that there is:

- (a) a fundamental defect in the adjudication process;
- (b) some other jurisdictional defect in the decision; or
- (c) a clerical error, accidental error or omission or other similar error in the decision.

18.02 The IPC will not reconsider a decision simply on the basis that new evidence is provided, whether or not that evidence was available at the time of the decision.

[8] The reconsideration process is not a forum for parties to re-argue their cases in an attempt to obtain a more favourable decision. Mere disagreement with a decision is not a ground for reconsideration under section 18.01 of the Code.¹

[9] In the days after the release of Order MO-4136, the appellant sent emails and telephone messages to IPC staff, indicating his dissatisfaction with the order's failure to require full disclosure of all the records he had requested under the *Act*. At that time, IPC staff advised the appellant of the IPC's reconsideration process, including the specific grounds for reconsideration set out above. IPC staff also informed the appellant of the option of seeking judicial review of the order, which is a court process outside the purview of the IPC. The appellant did not submit a reconsideration request at that time.

[10] Several weeks later, and after he had received from the police the information required to be disclosed by Order MO-4136, the appellant sent another email to IPC staff. In this email, the appellant said that the disclosure he received is not enough to help him address the allegations against him, and he requested full disclosure of the records. He also advised that new allegations had been made against him that are related to these circumstances.

[11] After receiving this email, IPC staff contacted the appellant to again explain the options available to him if he were dissatisfied with the order. IPC staff again advised the appellant of the process for requesting reconsideration of the order, and provided him with another copy of section 18 of the *Code* to assist him.

[12] After that, the appellant sent several additional emails. These emails do not contain an explicit reconsideration request, but I have decided to consider them all together, along with the emails he sent immediately after the release of the order, as a request for reconsideration under section 18 of the *Code*.²

[13] Most of these emails contain attachments, including photographs, legal documents, correspondence with other parties, and an audio recording. Many of the attachments are ones the appellant submitted to me during the inquiry that led to Order MO-4136. Other emails are messages that the appellant addressed to other parties, on which he copied the IPC (along with several other individuals and offices).

¹ Order PO-2538-R, referring to *Chandler v. Alberta Assn. of Architects*, 1989 CanLII 41 (SCC), and other leading cases on an administrative tribunal's reconsideration powers. The approach in Order PO-2538-R has been followed in numerous IPC orders, including Orders PO-3062-R, MO-4154-R, and PO-4199-R.

² The *Code* sets out a timeline to submit a request for reconsideration of an order (section 18.04). Although the appellant's submissions may be considered a late request for reconsideration, in these circumstances, I will exercise my discretion under the *Code* to consider the late request.

[14] I have considered all these submissions in the context of the appellant's request that I now order full disclosure of the records. I find these submissions do not establish any basis for me to reconsider the order.

[15] In many of these submissions, the appellant presents the same evidence that he provided, and that I considered, during the course of the inquiry that led to Order MO-4136, with the objective of now obtaining a different result. As I described in the order, this evidence generally relates to the appellant's perspective of events leading up to the hearing by his union (which resulted in the complainants' report to the police about him), and the appellant's disputes with his union, representatives of the union, and his former employer. There is no claim that I failed to consider this evidence before arriving at my decision in Order MO-4136. The appellant's disagreement with my assessment of the evidence that was before me is not a ground for reconsideration under section 18.01 of the *Code*.

[16] In addition, to the extent the appellant's submissions contain new information about these circumstances, the presentation of new evidence is not, by itself, a basis for reconsidering an order (section 18.02 of the *Code*). In any event, the additional information the appellant provides is of the same nature as the evidence I considered during the inquiry. I am not satisfied this new information would have changed the result in Order MO-4136, or otherwise establishes any basis for reconsidering the order.

[17] I conclude that the appellant has not established a fundamental defect in the adjudication process; some other jurisdictional defect in the decision; or a clerical error, accidental error or omission, or other similar error in the decision. As the appellant has not established any of the grounds to reconsider Order MO-4136, I deny the reconsideration request.

ORDER:

I deny the reconsideration request.

Original signed by: _____
Jenny Ryu
Adjudicator

February 22, 2022 _____