

Information and Privacy Commissioner,  
Ontario, Canada



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

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## ORDER MO-4561-I

Appeal MA21-00612

Township of Oro-Medonte

August 29, 2024

**Summary:** An individual asked the township for records about the municipal water system. The township granted access to part of the responsive records, withholding information because it might endanger life or safety or security (sections 8(1)(e)) and 8(1)(i)), and cause danger to safety or health (section 13). In this order, the adjudicator does not uphold the township's decision and disagrees that disclosure of the information could endanger a system, threaten the health or safety of any individuals, or be a threat to health and safety. She also finds that the township has not established that it conducted a reasonable search for some of the records and orders the city to conduct a further search.

**Statutes Considered:** *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, sections 8(1)(e), 8(1)(i), 13, and 17.

**Orders Considered:** Orders MO-4550 and MO-3192-I.

### OVERVIEW:

[1] This order determines the issue of access to records about the municipal water system of the Township of Oro-Medonte (the township). According to the township, residents began making requests for Zone 1 water documents in March 2020 and the question of ownership of the water infrastructure has become a legal matter. These documents date back to 1980, before the amalgamation of the two municipalities that form the current township.

[2] According to the appellant, in late 2019, residents of the Horseshoe Valley were sent a notice about the cost to connect to the municipal water system. The residents believed they already belonged to a municipal water system by virtue of the yearly municipal water bills they received. A focus group/task force was formed to better understand the cost and its financial implications to homeowners in the area. The appellant is part of this task force, and he is responsible for communicating with township staff.

[3] On behalf of the task force, the appellant submitted a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) to the township for access to the following information:

- A. On September 14, 1992 the Township of Medonte passed resolution 92-230 "That council approves of entering into an agreement with the Township of Oro for the provision of certain water services and authorize the Reeve and Clerk execute the agreement". If this agreement is different from the "contract" prepared by Oro Township on, before or after Wednesday, August 5, 1992, would the Township of Oro-Medonte please provide a copy of this "executed agreement" as well? These are likely the same agreement. If there are 2 distinct agreements please provide each at your discretion. See Oro confirmatory By-law 92-65.
- B. A [copy of] colour schedules A&B in the Water Rights Guarantee Agreement (WRGA) of May 23, 1980 also recognized as Notice Agreement LT37845. The schedules were highlighted in yellow, green and red lines showing key easements in Horseshoe Valley Zone 1.
- C. A copy of schedules for the Oro Water Agreement of October 31, 1990 registered as LT185779.
- D. A copy of the Horseshoe Valley Water Works project contract No. 78386 between the Township of Medonte and [specified company]. This contract is also referred to as the [specified company] Project of April 10, 1980.
- E. A copy of [specified report], motion No. 15, Oro Township, Wednesday, August 5, 1992, Confirmation By-law 92-65. All motions were "adopted, ratified and confirmed".

[4] The township granted partial access to the responsive records. The township withheld access to portions of the records/some of the records under sections 8(1)(e) (endanger life or safety), 8(1)(i) (security), and 13 (danger to safety or health) of the *Act*.

[5] The appellant appealed the township's decision to the Information and Privacy Commissioner of Ontario (IPC), and a mediator was appointed to explore resolution.

[6] During mediation, the township granted full access to records that it claims is

responsive to Part B of the request, which it previously withheld. However, the appellant states that the records the township claims are responsive to Part B of the request are not what he requested. The township confirmed that no further records exist for this part of the request. The appellant takes the position that further records responsive to Part B of the request should exist.

[7] The township confirmed it is relying on sections 8(1)(e), 8(1)(i), and 13 to withhold access to portions of the record responsive to Part C of the request. The appellant confirmed he continues to seek access to the withheld information. Accordingly, sections 8(1)(e), 8(1)(i), and 13 are at issue for this record.

[8] The appellant also raised the issue of whether the township conducted a reasonable search (section 17) for Parts A, D, and E of the request. The township conducted additional searches and did not locate any further responsive records. The appellant maintained his position that further records responsive to Parts A, D, and E of the request should exist. Accordingly, in this appeal, reasonable search is at issue for all parts of the appellant's request except for Part C.

[9] As a mediated resolution was not reached, the appeal was transferred to the adjudication stage, where an adjudicator may conduct an inquiry under the *Act*. I began an inquiry and sought and received representations from both parties about the issues in this appeal.<sup>1</sup>

[10] In this interim order, I find that the township has not conducted a reasonable search for responsive records and order it to conduct a further search. I also find that the township has not established the exemptions claimed apply to the information at issue and I will order the township to disclose the record in its entirety to the appellant.

## **RECORD:**

[11] The information at issue in this appeal consists of Schedules 1-6 (pages 14-19) of the Oro Water Agreement of October 31, 1990 (Oro Water Agreement). These schedules are maps dated July 1990:

- Schedule 1 is a map of the specified corporation's lands in Oro and Medonte.
- Schedule 2 is a map of the specified resort's lands in Oro and Medonte.
- Schedule 3 is a map of the residential plans in Oro and Medonte.
- Schedule 4 is a map of the Medonte portion of the municipal water system.

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<sup>1</sup> Portions of the township's representations were withheld in accordance with the confidentiality criteria in the IPC's *Code of Procedure*. I have reviewed all the representations of the parties, but I will only outline the relevant non-confidential portions below.

- Schedule 5 is a map of the Oro portion of the municipal water system.
- Schedule 6 is a map of the specified resort's water system.

## **ISSUES:**

- A. Did the township conduct a reasonable search for records?
- B. Do either of the discretionary exemptions related to law enforcement activities at sections 8(1)(e) or (i) apply to the schedules?
- C. Does the discretionary exemption at section 13 regarding a threat to safety or health apply to the schedules?

## **DISCUSSION:**

### **Issue A: Did the township conduct a reasonable search for records?**

[12] The appellant claims that additional records responsive to his request should exist. Where a requester claims 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.<sup>2</sup> If I am satisfied the search carried out was reasonable in the circumstances, I will uphold the institution's decision. If I am not satisfied, I may order further searches.

[13] The *Act* does not require the institution to prove with absolute certainty that further records do not exist. However, the institution must provide sufficient evidence to show it has made a reasonable effort to identify and locate responsive records.<sup>3</sup> 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 (responsive) to the request.<sup>4</sup>

[14] 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 concluding such records exist.<sup>5</sup>

### ***Representations of the parties***

[15] The township submits that it conducted a reasonable search for responsive records. In support of its position, the township submitted the affidavit of its Freedom of

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<sup>2</sup> Orders P-85, P-221 and PO-1954-I.

<sup>3</sup> Orders P-624 and PO-2559.

<sup>4</sup> Orders M-909, PO-2469 and PO-2592.

<sup>5</sup> Order MO-2246.

Information Coordination and Records Management Clerk (FOIC). The FOIC's affidavit was short and lacking in detail. The affidavit states that the FOIC completed three searches for records, including a "full search of all digital and physical records relating to [the] request," and that she sought advice and records from the Director of Environmental Services.

[16] The township submits that it scanned all physical records relating to Zone 1 water into a digital format which were then categorized, itemized, and named to access documentation as required. The township submits that through this process, the documents were individually visibly inspected both physically and electronically several times throughout each request.

[17] The township submits that all documents have been digitalized, categorized and itemized in a manner that makes them accessible and easily searched. The township submits that with each request, the documents were accessed through the electronic scanned filing system created specifically for Zone 1 Water.<sup>6</sup>

[18] The township submits that when it responds to access requests, the request is further sent to the responsible director, in this case the director of Environmental Services, to ensure that all documents being requested are captured through an extensive search physically, digitally, and through any working copies of department files.

[19] The township submits that it has already provided many records requested by the appellant through the FOI process. The township submits that records are 30-40 years old, which were transferred through an amalgamation, and due to previous record keeping practices, not all records have survived.

[20] With respect to Part B of the appellant's request, the township submits that after discussion with the director of Environmental Services and legal counsel and taking into consideration the quality of the 40 year old maps with respect to the detailed infrastructure, the decision was made to disclose the maps the township had on file to the appellant. The township submits, however, the appellant believes that the maps were not the correct ones, and after another search of the digital documentation, the township was not able to locate any additional maps. As a result, the township issued a decision stating, "No Records Found".

[21] The appellant submits that further records responsive to Part B of his request should exist.<sup>7</sup> The appellant submits that during mediation, it was negotiated and agreed that the township would disclose the schedules to the WRGA in colour to the appellant. In exchange, the appellant agreed to forgo other appeals and to narrow the focus of his request. The appellant submits that the disclosure he subsequently received was incorrect and not the schedules to the WRGA as agreed. He also submits that the maps disclosed

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<sup>6</sup> The township submitted Appendix A which shows a breakdown of the files in their electronic filing system.

<sup>7</sup> In his representations, the appellant acknowledges that Part A of his request has been "completed." Accordingly, Part A of his request is no longer at issue.

were also not in colour, only "highlighted" in red and blue by township staff. In response, the township explained that the files sought by the appellant were unavailable, despite the agreement made during mediation.

[22] With respect to Part D of his request, the appellant submits that in 1982, the township made public announcements in local newspapers telling Horseshoe residents that they were assuming the water system associated with the *Local Improvement Act* and the Horseshoe Water System Project No. 78386 was authorized. The appellant submits that a collection of engineering drawings show distribution system components were executed in a public open forum and appended to a by-law. The appellant submits that the responsive records did not include these drawings, but a copy of the drawings were subsequently acquired from another source.

[23] With respect to the specified report in Part E of the appellant's request, the township submits that in "1992, the retention period for Agendas was [that they were to be] kept for 5 years and then destroyed according to the retention schedule. This particular agenda was destroyed as per the retention by-law." The township went onto explain that council minutes were kept permanently since they are the "record" of the meeting, but the minutes do not contain any type of reports, presentations, or correspondence. The township submits that since the agenda has been destroyed, it is unable to locate the specified report.

[24] With respect to Part E of the request, the appellant submits that he has been trying to acquire a copy of a specified report presented to the township on August 5, 1992. He states that while they have a copy of the draft agreement executed in a public open forum in both townships in 1992, the township has advised that it does not have a copy of the specified report, which authorizes the agreement. The appellant submits that according to Retention Schedule By-laws established in both Oro and Oro-Medonte, reports to council are the subject to "permanent" record retention. The appellant submits that this report should be stored in archives as mandated by provincial policy.

### ***Analysis and findings***

[25] Based on the parties' representations, I am not satisfied that the township conducted a reasonable search for records responsive to Parts B and E of the appellant's request. However, I am satisfied that the township conducted a reasonable search for records responsive to Part D of the appellant's request.

[26] The appellant argues that drawings responsive to Part D of his request should exist, because he has copies of them. However, the *Act* does not require the township to prove with absolute certainty that further records do not exist. The township must provide sufficient evidence to show they have made a reasonable effort to identify and locate responsive records, and I find that they have done so for that part of the appellant's

request.<sup>8</sup>

[27] The township has described the staff involved in the search, where they searched, and the results of the search. I am satisfied that the township carried out a search involving experienced employees knowledgeable in the subject matter of the request and that those employees expended a reasonable effort to locate records which are reasonably related to the request.<sup>9</sup> I am satisfied that the township has provided sufficient evidence to establish the reasonableness of their efforts with respect to Part D of the appellant's request.

[28] As noted above, 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 concluding such records exist.<sup>10</sup> In this case, I am satisfied that the appellant has provided a reasonable basis for concluding that further records responsive to parts B and E of his request should exist.

[29] With respect to records responsive to Part B of the appellant's request, the township previously agreed to disclose schedules from the WGRA to him. However, after receiving the disclosure, the appellant takes the position that the maps provided are not the ones from the WGRA. The maps disclosed by the township are labelled schedules 1, 3, 5, and dated March 1987. The WGRA is from May 1980. Putting aside the date, if the maps disclosed are schedules 1, 3, and 5, that means that schedules 2 and 4 likely exist. Furthermore, after the appellant objected to the disclosure, the township only searched its "digital documentation" and issued a decision stating "no records found." Therefore, I find that there is a reasonable basis for concluding that further records may exist.

[30] With respect to records responsive to Part E of the appellant's request, the township has stated that the retention policy<sup>11</sup> for "agendas" at the time was five years and that minutes were kept permanently. However, the township explains that the minutes do not contain any types of reports, presentations, or correspondence. The township submits that since the agenda has been destroyed, it is unable to locate the specified report. The appellant points out, and I agree, that the retention policy provided by the township states that the reports to council should be retained "permanently" as attachments to the minutes. Furthermore, the retention policy states that the council agenda includes working notes used in preparation of the agenda, not council reports. Therefore, according to the township's records retention policy at the time, the report should exist.

[31] For the reasons above, I find that the township conducted a reasonable search for records responsive to Part D of the appellant's request. However, I find that the appellant has provided a reasonable basis for concluding that further records responsive to parts B

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<sup>8</sup> Orders P-624 and PO-2559.

<sup>9</sup> Orders M-909, PO-2469 and PO-2592.

<sup>10</sup> Order MO-2246.

<sup>11</sup> Appendix C of the township's representations.

and E of his request should exist, and I will order the township to conduct a further search.

**Issue B: Do either of the discretionary exemptions related to law enforcement activities at sections 8(1)(e) or (i) apply to the schedules?**

[32] Section 8 contains several exemptions from a requester's right of access, mostly related to the context of law enforcement. The township submits that sections 8(1)(e) and 8(1)(i) apply to the schedules of the Oro Water Agreement. They state:

8(1) A head may refuse to disclose a record if the disclosure could reasonably be expected to,

(e) endanger the life or physical safety of a law enforcement officer or any other person;

(i) endanger the security of a building or the security of a vehicle carrying items, or of a system or procedure established for the protection of items, for which protection is reasonably required;

[33] Many of the exemptions listed in section 8 apply where a certain event or harm "could reasonably be expected to" result from disclosure of the record.

[34] Parties resisting disclosure of a record under section 8(1) cannot simply assert that the harms under section 8 are obvious based on the record.<sup>12</sup> They must provide detailed evidence about the risk of harm if the record is disclosed. While harm can sometimes be inferred from the records themselves and/or the surrounding circumstances, parties should not assume that the harms under section 8 are self-evident and can be proven simply by repeating the description of harms in the *Act*.<sup>13</sup>

[35] Parties resisting disclosure must show that the risk of harm is real and not just a possibility.<sup>14</sup> However, they do not have to prove that disclosure will in fact result in harm. How much and what kind of evidence is needed to establish the harm depends on the context of the request and the seriousness of the consequences of disclosing the information.<sup>15</sup>

***Representations of the parties***

[36] Both parties provided lengthy representations, which included a lot of background information about the dispute between the parties. I have reviewed all the parties'

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<sup>12</sup> Order PO-2040 and *Ontario (Attorney General) v. Fineberg* (1994), 19 O.R. (3d) 197 (Div. Ct.).

<sup>13</sup> Orders MO-2363 and PO-2435.

<sup>14</sup> *Merck Frosst Canada Ltd. v. Canada (Health)*, [2012] 1 S.C.R. 23.

<sup>15</sup> *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, 2014 SCC 31 (CanLII) at paras. 52-4; *Accenture Inc. v. Ontario (Information and Privacy Commissioner)*, 2016 ONSC 1616.



representations, but I will only refer to the portions that are most relevant to this order.

[37] The township submits that the schedules include maps of the water infrastructure attached to the Oro Water Agreement, and their disclosure would threaten the township's safety and security.

[38] The township submits that section 8(1)(e) applies to the schedules because their disclosure could endanger health and safety of the public drinking water system/critical infrastructure. The township submits that section 8(1)(i) applies because disclosure of the schedules would be releasing information to the public about the security of the drinking water system/critical infrastructure, which requires protection under the *Safe Drinking Water Act (SDWA)*.

[39] The township submits that specific information related to drinking water is already disclosed through Ontario Regulation 170/03 (O Reg 170/03) under the *SDWA* and this legislation does not specifically include a reference to freedom of information (FOI) or the *Act*. In fact, the township argues that disclosure of the schedules at issue would contravene these legislations, and that it denied access to the schedules based on these legislations and the collective requirement to protect critical infrastructure.

[40] The township submits that drinking water operations are also subject to provisions in the Drinking Water Quality Management (DWQM) Standard which is the Quality Management (QM) Standard approved under section 21 of the *SDWA*. The township submits that the DWQM and QM standards state that operators must identify potential risks and mitigate hazards across drinking water systems with a specific consideration to risk assessment, terrorism, and vandalism (system security). The township submits that as part of this strategy, system security should consider general pumphouse entry provisions, and public nondisclosure of valve locations, pump controls, "SCADA" set points and general operational critical control points. The township argues that if the schedules were to be disclosed, it would contravene these standards and endanger the health and safety and security of the public drinking water system/critical infrastructure.

[41] The appellant's representations do not specifically address the exemptions. However, he argues that the Oro Water Agreement, including its schedules, should be disclosed in its entirety. The appellant submits that the Oro Water Agreement was executed in a public and open forum free from privilege; and that Schedules 1, 3, and 5 to the Oro Water Agreement have already been disclosed to him in response to Part B of his request.

### ***Analysis and findings***

[42] Based on my review of the record and the representations of the parties, I find that the township has not established that the sections 8(1)(e) (endanger life or safety) and 8(1)(i) (security) exemptions apply to the schedules at issue.

[43] Although the exemption at section 8(1)(i) is found in a section of the *Act* that deals

primarily with law enforcement matters, it is not restricted to law enforcement situations. It can cover any building, vehicle, system or procedure that requires protection, even if those things are not connected to law enforcement.<sup>16</sup>

[44] As set out above, the information at issue consists of Schedules 1-6 to the Oro Water Agreement:

- Schedule 1 is a map of the specified corporation's lands in Oro and Medonte.
- Schedule 2 is a map of the specified resort's lands in Oro and Medonte.
- Schedule 3 is a map of the residential plans in Oro and Medonte.
- Schedule 4 is a map of the Medonte portion of the municipal water system.
- Schedule 5 is a map of the Oro portion of the municipal water system.
- Schedule 6 is a map of the specified resort's water system.

[45] All six maps are of poor quality, and it is difficult to make out the details contained in them. For example, I am unable to read the legends of the maps. Based on their titles and visible content, Schedules 1-3 do not appear to be related to the water system. The township's position is that the harms that could reasonably be expected to result from the disclosure of these schedules relate to the safety and security of the township's water system. Since the township has not made alternative harms arguments, I find that the township has not established that these harms could be reasonably be expected to result from the disclosure of Schedules 1-3 because they appear to be unrelated to the township's water system.

[46] Previous IPC orders have considered whether similar types of records related to municipal infrastructure are subject to the exemption at section 8(1)(i).<sup>17</sup>

[47] In Order MO-3192-I, which considered records about the City of Toronto's (the city's) sewer system, the adjudicator recognized the city's sewer system requires protection and agreed that some of the concerns the city identified (i.e. possible terrorism and illegal access) are the types of harms contemplated by section 8(1)(i). However, she was not satisfied that disclosure of the records before her could reasonably be expected to reveal any information that would assist in undertaking such activities, because the city's representations did not sufficiently explain how the disclosure of the specific information in the records would result in the harms identified in section 8(1)(i). In finding that section 8(1)(i) did not apply, the adjudicator noted that the information before her did not relate to a nuclear power plant or similarly sensitive or highly secure structure.

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<sup>16</sup> Orders P-900 and PO-2461.

<sup>17</sup> Orders MO-3089, MO-3192 and MO-4550.

[48] In Order MO-4550, the city claimed a drainage map showing sewer, gas main, and watermain locations for a specific neighborhood was subject to the sections 8(1) and 13 exemptions. In that order, the adjudicator found that there was not "sufficient evidence that there is a logical connection between the disclosure of the information in the record and the possible harms identified by the city." She ordered the city to disclose the record. In reaching that conclusion, she reviewed previous IPC orders and adopted the reasoning in Orders MO-3089 and MO-3192-I.

[49] I agree with the adjudicators' reasoning in Orders MO-3192-I and MO-4550 and adopt it in this appeal.

[50] I agree with the township that the public drinking water system should be protected. However, from my review of the maps, I am unable to find a logical connection between their disclosure and the possible harms identified by the township. As noted above, all six maps are of poor quality, and they are over 34 years old. Despite, the township argument that disclosure of these maps may disclose critical aspects of the public drinking water system, I am unable to recognize "valve locations, pump controls, 'SCADA' set points and general operation critical control points" from my review of the maps. While the township has alleged that their disclosure could endanger health and safety and the security of the public drinking water system, the township has provided insufficient evidence to establish this. The town has only provided boiler plate arguments without sufficient evidence to support its position.

[51] The township also appears to argue that disclosure of these schedules would contravene O Reg 170/03, the *SDWA*, and the DWQM and QM Standards. From what the township has provided,<sup>18</sup> I am unable to determine how this would be the case. Even if these acts prohibited the disclosure of the schedules at issue, this is not a consideration when determining whether a record is exempt under section 8(1) of the *Act*. Therefore, I am not persuaded by the township's argument.

[52] The township has already disclosed what appears to be previous versions<sup>19</sup> of Schedules 1, 3, and 5 to the appellant. These versions are of higher quality and the information contained in the maps is legible. Having already disclosed previous versions of better quality to the appellant, I am unsure how disclosure of lesser quality versions of substantially similar maps would lead to the harms that township has argued.

[53] Based on the representations of the parties and my review of the schedules remaining at issue, I find that the township has not provided sufficient evidence to establish a logical connection between the disclosure of the information in the schedules and the possible harms identified by the township. Therefore, I find that Schedules 4-6 are also not exempt from disclosure under sections 8(1)(e) or (i) because it has not been established that disclosure could reasonably be expected to endanger the safety or

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<sup>18</sup> The township has not pointed to a specific section of O Reg 170/03 or the *SDWA*, except for section 21, which does not prohibit the disclosure of the record at issue.

<sup>19</sup> March 1987.

security of the public water drinking water system.

**Issue C: Does the discretionary exemption at section 13 regarding a threat to safety or health apply to the record?**

[54] Section 13 is meant to protect individuals from serious threats to their health or safety resulting from disclosure of a record. It states:

A head may refuse to disclose a record whose disclosure could reasonably be expected to seriously threaten the safety or health of an individual.

[55] Parties resisting disclosure of a record cannot simply assert that the harms under section 13 are obvious based on the record. They must provide detailed evidence about the risk of harm if the record is disclosed. While harm can sometimes be inferred from the records themselves and/or the surrounding circumstances, parties should not assume that the harms under section 13 are self-evident and can be proven simply by repeating the description of harms in the *Act*.<sup>20</sup>

[56] Parties resisting disclosure must show that the risk of harm is real and not just a possibility.<sup>21</sup> However, they do not have to prove that disclosure will in fact result in harm. How much and what kind of evidence is needed to establish the harm depends on the context of the request and the seriousness of the consequences of disclosing the information.<sup>22</sup>

[57] For section 13 to apply, there must be a reasonable basis for concluding that disclosure of the information at issue could be expected to seriously threaten someone's safety or health.

***Representations of the parties***

[58] The township made the same representations for section 13 as it did for section 8(1). Additionally, the township submits that disclosure of Schedules 1-6 could reasonably be expected to seriously threaten the safety or health of an individual because critical infrastructure such as drinking water quality and system operation should be protected.

[59] The appellant's representations do not specifically address the exemptions. However, he argues that the Oro Water Agreement, including its schedules, should be disclosed in its entirety. The appellant submits that the Oro Water Agreement was executed in a public and open forum free from privilege; and that Schedules 1, 3, and 5 to the Oro Water Agreement have already been disclosed to him in response to Part B of

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<sup>20</sup> Orders MO-2363 and PO-2435.

<sup>21</sup> *Merck Frosst Canada Ltd. v. Canada (Health)*, [2012] 1 S.C.R. 23.

<sup>22</sup> *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, 2014 SCC 31 (CanLII) at paras. 52-4; *Accenture Inc. v. Ontario (Information and Privacy Commissioner)*, 2016 ONSC 1616.

his request.

### ***Analysis and findings***

[60] Based on my review of the schedules and the representations of the parties, I find that the township has not established that the section 13 exemption apply to Schedules 1-6 of the Oro Water Agreement.

[61] As with the section 8(1) exemption, I find that township has not provided sufficient evidence to establish a logical connection between the disclosure of the schedules and the risk of harm identified by the township.

[62] While the township has alleged that their disclosure could reasonably be expected to seriously threaten the safety or health of an individual because the record contains information about critical infrastructure in the delivery of public drinking water, the township has not provided sufficient evidence to establish this. The township has only provided boiler plate arguments without sufficient evidence to support its position. All six schedules are maps of poor quality that are over 34 years old and mostly illegible. From my review of them, I am unable to recognize how their disclosure could reasonably be expected to seriously threaten the safety or health of an individual.

[63] As noted above, the township has already disclosed what appears to be previous versions<sup>23</sup> of Schedules 1, 3, and 5 to the appellant. These versions are of higher quality and the information contained in the maps is legible. Having already disclosed previous versions of better quality to the appellant, I am unsure how disclosure of substantially similar versions of lesser quality would lead to the risk of harm that township has argued.

[1] Based on the representations of the parties and my review of the schedules, I find that the township has not provided sufficient evidence to establish a logical connection between the disclosure of the information in the schedules and the risk of harm identified by the township. Accordingly, I find that Schedules 1-6 are not exempt from disclosure under section 13 because the township has not provided sufficient evidence to establish that disclosure could reasonably be expected to seriously threaten the safety or health of an individual.

### ***Conclusion***

[64] Since I have found that neither section 8(1) nor section 13 apply to exempt Schedules 1-6 from disclosure, I will order the township to disclose them to the appellant.

[65] I have also found that the township has not conducted a reasonable search for records responsive to Parts B and E of the appellant's request, and I will order the township to conduct a further search for those records.

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<sup>23</sup> March 1987.

**ORDER:**

1. I order the township to disclose the record in its entirety to the appellant by **October 4, 2024**.
2. I order the township to conduct a search for records responsive to Parts B and E of the appellant's request.
3. I order the township to issue an access decision to the appellant with respect to any further responsive records located because of the search ordered in provision 2, in accordance with the *Act*, taking into consideration the notice provisions under section 21(1). The city should treat the date of this order as the date of the request.
4. I order the township to provide me with a copy of the decision sent to the appellant in accordance with order provision 3.
5. The township shall send its representations on the new search referred to in provision 2 and an affidavit outlining the following, by **September 30, 2024**.
  - a. the names of the individuals who conducted the further searches;
  - b. information about the types of files searched, the nature and location of the search, and the steps taken in conducting the further search;
  - c. the results of the further search; and
  - d. details of whether the records could have been destroyed, including information about record maintenance policies and practices such as retention schedules.

The township's representations, including the affidavit, will be shared with the appellant, unless there is an overriding confidentiality concern. The procedure for submitting and sharing representations is set out in the IPC's *Practice Direction Number 7*, which is available on the IPC's website. The township should indicate whether it consents to the sharing of its representations with the appellant.

6. I remain seized of this appeal to deal with any other outstanding issues arising from provisions 1 to 5 of this interim order.

Original signed by: \_\_\_\_\_  
Anna Truong  
Adjudicator

August 29, 2024 \_\_\_\_\_