

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER MO-4564

Appeal MA22-00639

The Corporation of the City of Welland

September 17, 2024

Summary: An individual asked the city for records related to a complaint made against his property. The city provided him with full access to photographs and emails but only provided him with partial access to a city staff note explaining that disclosure of some of the information would be an unjustified invasion of another individual's personal privacy (section 38(b)). The individual seeks access to the information that was not provided to him on the basis that the public interest override (section 16) applies to allow the city to disclose it to him. The individual also questions whether the search conducted by the city was reasonable.

In this order, the adjudicator upholds the city's decision not to disclose the information it withheld and finds that the public interest override does not apply to permit its disclosure. She also finds that the city's search for records was reasonable.

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, sections 2(1) (the definition of "personal information"), 16, 17 and 38(b).

Orders Considered: Order MO-3475.

OVERVIEW:

[1] The City of Welland (the city) received a request, under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*), for access to records relating to a complaint made against the requester's property. Specifically, the request identified the complaint made in August 2022 and stated:

I am requesting the full and complete documentation of [the city's] administration of the complaint filed against me as I was NOT provided it through usual channels ...

[2] After conducting a search, the city issued a decision granting full access to photographs and emails. It granted partial access to a two-page city staff note (the staff note) relating to a complaint about the requester's property made in August 2022, relying on section 14(1) (personal privacy) of the *Act* to deny access to the remaining information in the staff note.¹

[3] The requester, now the appellant, appealed the city's decision to the Information and Privacy Commissioner of Ontario (IPC).

[4] During mediation, the mediator attempted to notify two affected parties to seek their consent to disclose their personal information. One affected party consented, and the city issued a revised decision disclosing that information to the appellant. The second affected party did not provide consent. The appellant confirmed he continues to seek access to the remaining personal information that is severed from the staff note.

[5] The appellant advised that he believes additional responsive records exist relating to the August 2022 complaint. Specifically, the appellant wants access to a specified record from a complaint file from 2015 (the 2015 complaint file), which was referenced in the staff note. The city conducted another search and located seven additional emails and the specified record from the 2015 complaint file and disclosed these records to the appellant in full. However, the appellant continues to believe that additional records should exist from the 2015 complaint file and that they are responsive to his request. As such, the issue of reasonable search was added to the scope of the appeal.

[6] The appellant also identified specific records he believes are responsive to his request. The city responded that those records are outside the scope of his request. As the appellant believes that they are within the scope of his request, the issue of scope of the request has been added to the appeal.

[7] Finally, the appellant raised the potential application of the public interest override in section 16, to permit the disclosure of the personal information. That issue was added to the scope of the appeal.

[8] As mediation did not resolve the appeal, it was transferred to the adjudication stage of the appeal process.

[9] As the adjudicator, I decided to conduct a written inquiry under the *Act*. I invited

¹ The city charged a fee of \$30.00 to process the request. Subsequently, the requester filed a fee waiver request and the city waived the fees in its entirety.

and received representations from the city and the appellant.² I also invited the non-consenting affected party (the complainant) to provide representations but did not receive representations from them.

[10] As the staff note also contains the personal information of the appellant, the relevant personal privacy exemption is section 38(b), which I added as an issue to the scope of the appeal.

[11] For the reasons that follow, I find that the withheld information is subject to the personal privacy exemption at section 38(b) and that the public interest override does not apply to permit its disclosure. As such, I uphold the city's decision not to disclose it. I also find that the city's search for records was reasonable and uphold it.

RECORDS:

[12] The information at issue is contained in a two-page staff note relating to the August 2022 complaint against the appellant's property.

ISSUES:

- A. What is the scope of the request for records?
- B. Does the staff note contain "personal information" as defined in section 2(1) and, if so, whose personal information is it?
- C. Does the discretionary personal privacy exemption at section 38(b) apply to the withheld information?
- D. Is there a compelling public interest in disclosure of the withheld information that clearly outweighs the purpose of the section 38(b) exemption?
- E. Did the city conduct a reasonable search for records?

DISCUSSION:

Issue A: What is the scope of the request for records?

[13] The city withheld certain records on the basis that these records fall outside the scope of the appellant's request.

[14] Section 24 of the the *Act* imposes certain obligations on requesters and institutions

² The parties' representations were shared in accordance with the confidentiality criteria in the IPC's *Code of Procedure*.

when submitting and responding to requests for access to records. This section states, in part:

(1) A person seeking access to a record shall,

(a) make a request in writing to the institution that the person believes has custody or control of the record, and specify that the request is being made under this Act;

(b) provide sufficient detail to enable an experienced employee of the institution, upon a reasonable effort, to identify the record;

...

(2) If the request does not sufficiently describe the record sought, the institution shall inform the applicant of the defect and shall offer assistance in reformulating the request so as to comply with subsection (1).

[15] To be considered responsive to the request, records must “reasonably relate” to the request.³ Institutions should interpret requests generously, in order to best serve the purpose and spirit of the *Act*. Generally, if a request is unclear, the institution should interpret it broadly rather than restrictively.⁴

[16] The city submits that records responsive to the appellant’s request were provided to him during mediation. It explains that the appellant requested additional records from the 2015 complaint file, which he sought as a result of a reference to a 2015 case file in the staff note. Although the city appears to have proactively provided the appellant with records from the 2015 complaint file during mediation, it maintains that records from this file are not responsive to his request.

[17] The appellant submits that records relating to the 2015 court case and its supporting documentation were not provided to him. He cites section 14 of the IPC’s *Code of Procedure* (the *Code*),⁵ which is about particulars of allegations. In support of his argument that the city is impeaching his character, the appellant cites two court cases. The appellant also submits that the city staff members’ description of his character and the result of the court case are incorrect.

[18] On my review of the request, I find that the file regarding a complaint made in 2015, including records relating to a 2015 court case and its supporting documentation, is not responsive to the appellant’s request. From his request it is clear that the appellant is looking for access to records related to the complaint made against his property in

³ Orders P-880 and PO-2661.

⁴ Orders P-134 and P-880.

⁵ The IPC has revised the *Code of Procedure*. While the *Code* no longer contains this specific provision, I find section 14 of the *Code* is not relevant to my determination of the scope of the appellant’s request.

August 2022. As such, the scope of his request is the complaint file related to the complaint made in August 2022. Although the staff note in that file refers to a case from 2015 there is no evidence that that case file or information about a court case from 2015 forms part of the complaint file related to the August 2022 complaint. Therefore, I find that the appellant's reference to the existence of records related to a 2015 court case and its supporting documentation are not records that can be considered responsive to the appellant's request.⁶

[19] As I have found the 2015 court case and its supporting documentation are not responsive to the appellant's request, I will not consider below the appellant's argument that the disclosure of the supporting documentation is in the public interest.

Issue B: Does the staff note contain "personal information" as defined in section 2(1) and, if so, whose personal information is it?

[20] In order to decide whether section 38(b) applies, I must first decide whether the staff note contains "personal information," and if so, to whom this personal information relates.

[21] Section 2(1) of the *Act* defines "personal information" as "recorded information about an identifiable individual." Recorded information is information recorded in any format, including paper and electronic records.⁷

[22] Information is "about" the individual when it refers to them in their personal capacity, meaning that it reveals something of a personal nature about them. Generally, information about an individual in their professional, official, or business capacity is not considered to be "about" the individual if it does not reveal something of a personal nature about them.⁸

[23] Information is about an "identifiable individual" if it is reasonable to expect that an individual can be identified from the information either by itself or if combined with other information.⁹

[24] Section 2(1) of the *Act* gives a list of examples of personal information. All of the examples that are relevant to this appeal are set out below:

⁶ It appears that the city proactively disclosed some records relating to the 2015 case file to the appellant during mediation. This does not preclude it from taking the position that records relating to the 2015 complaint file do not fall within the scope of the appellant's request.

⁷ The definition of "records" in section 2(1) includes paper records, electronic records, digital photographs, videos and maps. The record before me is a paper record located by searching a police database.

⁸ Orders P-1409, R-980015, PO-2225 and MO-2344.

⁹ Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).

“personal information” means recorded information about an identifiable individual, including,

...

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

...

(h) the individual’s name if 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.

[25] The list of examples of personal information under section 2(1) is not a complete list. This means that other kinds of information could also be “personal information.”¹⁰

[26] It is important to know whose personal information is in the records. If the records contain the requester’s own personal information, their access rights are greater than if it does not.¹¹ Also, if the records contain the personal information of other individuals, one of the personal privacy exemptions might apply.¹²

[27] The city submits that the staff note contains “personal information” as defined in section 2(1) because it identifies and contains the personal information of the complainant.

[28] The appellant does not dispute that the staff note contains the personal information of the complainant.

[29] On my review, I find that the staff note contains information that qualifies as the personal information of two affected parties (including the complainant) and the appellant, as it falls under paragraphs (d) and (h) of the definition of “personal information” at section 2(1) of the *Act*. Specifically, the staff note contains the appellant’s address, and his name together with other personal information about him, such as his statements to the city staff member. The staff note also contains the addresses of both affected parties and the telephone number of the complainant, as well as both the affected parties names together with other personal information, such as their statements to the city staff member.

[30] As I have found that the staff note contains the personal information of the appellant along with other identifiable individuals, I will consider the appellant’s access to

¹⁰ Order 11.

¹¹ Under sections 47(1) and 49 of the *Act*, a requester has a right of access to their own personal information, and any exemptions from that right are discretionary, meaning that the institution can still choose to disclose the information even if the exemption applies.

¹² See sections 21(1) and 49(b).

the withheld information in the staff note under Part II of the *Act*. Part II considers an individual's access to their own personal information.

Issue C: Does the discretionary personal privacy exemption at section 38(b) apply to the withheld information?

[31] Under section 38(b), where a record contains personal information of both the requester and another individual, and disclosure of the information would be an "unjustified invasion" of the other individual's personal privacy, the institution may refuse to disclose that information to the requester. Since the section 38(b) exemption is discretionary, the institution may also decide to disclose the information to the requester.

[32] Sections 14(1) to (4) provide guidance in determining whether disclosure would be an unjustified invasion of personal privacy. If the information fits within any of the exceptions in sections 14(1)(a) to (e), disclosure is not an unjustified invasion of personal privacy and the information is not exempt under section 38(b).

[33] Sections 14(2) and (3) also help in determining whether disclosure would or would not be an unjustified invasion of personal privacy under section 38(b). If any of sections 14(3)(a) to (h) apply, disclosure of the information is presumed to be an unjustified invasion of personal privacy under section 38(b). Section 14(2) lists various factors that may be relevant in determining whether disclosure of personal information would constitute an unjustified invasion of personal privacy.¹³ The list of factors under section 14(2) is not exhaustive. The institution must also consider any circumstances that are relevant, even if they are not listed under section 14(2).¹⁴

[34] In determining whether the disclosure of the personal information would be an unjustified invasion of personal privacy under section 38(b), this office will consider, and weigh, the factors and presumptions in sections 14(2) and (3) and balance the interests of the parties.¹⁵

[35] Finally, section 14(4) lists situations that would not be an unjustified invasion of personal privacy. If any of paragraphs (a) to (d) of section 14(4) apply, disclosure is not an unjustified invasion of personal privacy and the information is not exempt under section 38(b).

Representations, analysis and findings

[36] I note that the withheld information does not fit within the exceptions set out in section 14(1)(a) to (e) nor the situations in section 14(4) of the *Act*. As such, I will consider whether any of the factors or presumptions under sections 14(2) and (3) apply.

¹³ Order P-239.

¹⁴ Order P-99.

¹⁵ Order MO-2954.

[37] Although the city's representations do not specifically state that the factor at section 14(2)(h) applies, its representations describe this factor which considers whether the personal information has been supplied by the individual to whom it relates in confidence. The city submits that it is best practice to keep complainant's names confidential to protect them from possible repercussions of the individuals they are complaining about. The city also states that the complainant did not consent to the disclosure of their personal information.

[38] In his representations, the appellant cites the Supreme Court of Canada in *R. Osolin*¹⁶ for the importance of cross-examining witnesses. He submits that he needs to know the identity of the complainant due to the complainant's statement in the staff note, which attributes a statement to him which he wants to challenge. The appellant submits that he has no recollection of making this statement.

[39] The appellant also cites the Supreme Court of Canada in *R. v. Durham Regional Crime Stoppers Inc.*¹⁷ for the principle that informer privilege cannot apply where it would compromise the interests of justice and the maintenance of public order. He submits that withholding the identity of the complainant does not allow him to determine whether the complainant trespassed on his property and/or contravened other legislation given the numerous incidents that have occurred on his property prior to the complaint in August 2022. He indicates that he intends to charge the complainant with trespassing.

[40] Although the appellant did not specifically refer to the factor at section 14(2)(d), it appears that both his arguments for the disclosure of the complaint's identity is due to this factor which considers whether the personal information is relevant to a fair determination of the appellant's right.

[41] Based on the parties' representations, I will consider the relevance of the factors at sections 14(2)(d) and (h). They state:

A head, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, shall consider all the relevant circumstances, including whether,

(d) the personal information is relevant to a fair determination of rights affecting the person who made the request;

...

(h) the personal information has been supplied by the individual to whom the information relates in confidence ...

[42] The IPC has found that for section 14(2)(d) to apply, the appellant must establish

¹⁶ [1993] 4 S.C.R. 595, p. 663.

¹⁷ 2017 SCC 45, p. 158.

that:

1. the right in question is a legal right which is drawn from the concepts of common law or statute law, as opposed to a non-legal right based solely on moral or ethical grounds; and
2. the right is related to a proceeding which is either existing or contemplated, not one which has already been completed; and
3. the personal information to which the appellant seeks access has some bearing on or is significant to the determination of the right in question; and
4. the personal information is required in order to prepare for the proceeding or to ensure an impartial hearing.¹⁸

[43] In order for section 14(2)(d) to apply, all four parts must be established. I am not persuaded by the appellant's representations that section 14(2)(d) applies to the withheld personal information. The appellant has not provided sufficient evidence to establish the application of this factor, outside of stating that he needs to know the complainant's identity to challenge the complainant's statement about him and to charge them with trespassing.

[44] Although I acknowledge that the appellant believes he has a legal right to pursue the individual whose personal information appears in the staff note for allegedly trespassing, there is no evidence whether there is a proceeding, either existing or contemplated, that requires the disclosure of the personal information in the records. As the appellant has not persuaded me that all parts of the four-part test of section 14(2)(d) have been met, I find that section 14(2)(d) does not apply.

[45] Section 14(2)(h), if it applies, is a factor which weighs against disclosure of personal information. In order for section 14(2)(h) to apply, both the individual supplying the information and the recipient must have an expectation that the information will be treated confidentially, and that expectation must be reasonable in the circumstances. Thus, section 14(2)(h) requires an objective assessment of the reasonableness of any confidentiality expectation.¹⁹

[46] The city submits that the withheld information contains the complainant's identity and it believes in keeping complainant's names confidential to protect them from possible repercussions of the individuals they are complaining about. It submits that this practice of not disclosing complainants' names is the city's usual practice.

¹⁸ Order PO-1764; see also Order P-312, upheld on judicial record in *Ontario (Minister of Government Services) v. Ontario (Information and Privacy Commissioner)* (February 11, 1994), Toronto Doc. 839329 (Ont. Div. Ct.).

¹⁹ Order PO-1670.

[47] In the circumstances, I accept that given the nature of the complaint the withheld information was supplied by the complainant in confidence to the city with a reasonable expectation that it remains confidential by the city and that the factor in section 14(2)(h), which weighs against disclosure, applies. I give it some weight.

[48] In balancing the factors for and against disclosure of the personal information, section 14(2)(h) weighs against disclosure. As I have found that no factors weighing in favour of disclosure apply, I find that disclosure of the withheld information would be an unjustified invasion of the complainant's personal privacy under section 38(b), subject to my findings on the city's exercise of discretion and public interest override below.

Exercise of discretion

[49] The exemption in section 38(b) is discretionary and permits an institution to disclose the information subject to the exemption despite the fact that it could withhold it. An institution must exercise its discretion. On appeal, the IPC may determine whether the institution failed to do so.

[50] The city submits that it properly exercised its discretion not to disclose the personal information at issue. It submits that it is best practice to keep complainant's names confidential to protect them from possible repercussions of the individual they are complaining about. The city submit that the complainant did not consent to the disclosure of their personal information. It also submits that it relied on section 11(2) of the *Municipal Act, 2001*²⁰ to protect the privacy of individuals. Finally, the city submits that it took into account that the appellant has other means of handling a personal civic matter between himself and a neighbour.

[51] The appellant submits that the city failed to take into account relevant considerations in relying on section 38(b). Specifically, he submits that the city has not considered the qualification of informer privilege, the complainant's accusation/statement and that there is reasonable evidence that the complainant had trespassed on not only the appellant's property but also another property. The appellant also submits that by relying on section 38(b) the city is aiding and assisting the complainant (the trespasser) by blocking both his and other all property owners in Ontario from their rights under the *Trespass to Property Act*.²¹ The appellant explains that by withholding the complainant's name from him, he cannot issue a registered letter for trespassing to the complainant.

[52] I have reviewed the considerations relied upon by the city as well as the representations of the appellant. I find that the city properly exercised its discretion in response to section 38(b). Based on the city's representations and the circumstances of this appeal, it is clear that it considered the purpose of the *Act* and sought to balance the appellant's interests in accessing the full staff note with the protection of the privacy of other individuals when making its access decision. I also note that the city disclosed

²⁰ S.O. 2001, c. 25.

²¹ R.S.O. 1990, c. T.21.

almost all of the information contained in the staff note except for the complainant's personal information.

[53] I further find that the city did not exercise its discretion to withhold the complainant's personal information for any improper purpose or in bad faith, and there is no evidence that it failed to take relevant factors into account or that they considered irrelevant factors. As such, I uphold the city's exercise of discretion in denying access to the withheld personal information.

Issue D: Is there a compelling public interest in disclosure of the information at issue that clearly outweighs the purpose of the section 38(b) exemption?

[54] Section 16 of the *Act* is the "public interest override" that provides for the disclosure of records that would otherwise be exempt under another section of the *Act*. It states:

An exemption from disclosure of a record under sections 7, 9, 9.1, 10, 11, 13 and 14 does not apply if a compelling public interest in the disclosure of the record clearly outweighs the purpose of the exemption.

[55] Although section 38(b) is not listed, section 16 may apply to override section 38(b) because it may apply to override the application of section 14 of the *Act*.²² If section 16 were to apply in this case, it would have the effect of overriding the application of section 38(b) and the appellant would have a right of access to the information at issue.²³

[56] For section 16 to apply, two requirements must be met:

- there must be a compelling public interest in disclosure of the records; and
- this interest must clearly outweigh the purpose of the exemption.

[57] The *Act* does not state who bears the onus to show that section 16 applies. The IPC will review the records with a view to determining whether there could be a compelling public interest in disclosure that clearly outweighs the purpose of the exemption.²⁴

[58] In considering whether there is a "public interest" in disclosure of the record, the first question to ask is whether there is a relationship between the record and the *Act*'s central purpose of shedding light on the operations of government.²⁵ In previous orders, the IPC has stated that in order to find a compelling public interest in disclosure, the information in the record must serve the purpose of informing or enlightening the citizenry about the activities of their government or its agencies, adding in some way to

²² See, for example, Order PO-2246 which deals with the equivalent sections of the provincial *Act*.

²³ Order MO-2854.

²⁴ Order P-244.

²⁵ Orders P-984 and PO-2607.

the information the public has to make effective use of the means of expressing public opinion or to make political choices.²⁶

[59] A “public interest” does not exist where the interests being advanced are essentially private in nature.²⁷ However, if a private interest raises issues of more general application, the IPC may find that there is a public interest in disclosure.²⁸

[60] The city submits that there is no compelling public interest in disclosing the name of the complainant as this is a personal and private matter between two neighbours. It relies on Orders P-984 and PO-2556, where the adjudicators found that the information in the record would not serve the purpose of informing or enlightening the citizenry about the activities of their government. The city also relies on Orders P-12, P-347 and P-1439 for the principle that a “public interest” does not exist as the interests in this matter are essentially private in nature. Finally, it relies on Orders M-249 and M-317, where the adjudicators found that a compelling public interest did not exist as the requester has indicated concerns about an individual potentially trespassing on their property and the requester could enter a court process as an alternative disclosure mechanism.

[61] The appellant submits that there is a compelling public interest in the withheld information. He submits that there is a public health and safety issue involved in disclosing the name of the complainant in order to advise other property owners. The appellant reiterates that the complainant trespassed on more than one property in his neighbourhood. He submits that the city in not disclosing the name of the complainant places his neighbourhood in jeopardy and provides a shield for the complainant to continue to trespass. Finally, the appellant submits that the matter of trespass in this appeal is a public matter unlike the matter of trespass in Orders P-12, P-347 and P-1439.

[62] On my review of the staff note, I find that disclosure of the withheld information would not serve the purpose of informing or shedding light on the operations of the city. I find that the withheld information in the staff note would not shed light on any decision made by the city. I am also not persuaded that the disclosure of the withheld information would help members of the public to express opinions or to make political choices in a more meaningful manner.

[63] Moreover, I find that there is a private interest in the withheld information. It is clear the appellant wants the disclosure of the withheld information for the purpose of finding out who he believes trespassed on his property and may have trespassed on other properties. As the city stated, this is an incident involving neighbours. As such, the identity of the complainant does not raise an interest of more general or public application.

[64] Although the city and the appellant both referred to several orders that they submit refer to complaints of trespassing, having reviewed those orders I disagree. Although

²⁶ Orders P-984 and PO-2556.

²⁷ Orders P-12, P-347 and P-1439.

²⁸ Order MO-1564.

they address the public interest override, they do not support a conclusion that the public interest override should be applied in the circumstances before me in this appeal.

[65] As a result, I find that the appellant has not established that there is a public interest, compelling or otherwise, in the disclosure of the withheld information. As the first requirement of the test for the application of the public interest override is not met, I find that section 16 does not apply. As both requirements must apply, it is not necessary for me to consider whether any public interest outweighs the purpose of the section 38(b) exemption.

Issue E: Did the city conduct a reasonable search for records?

[66] The appellant claims that further records exist for various reasons.

[67] 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 17.²⁹ 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.

[68] 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.³⁰ 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.³¹

[69] 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.³²

[70] In the city's representations, the city submits that the infrastructure and asset supervisor and the engineering technician conducted a search for records responsive to the appellant's request. It submits that these city staff members conducted a thorough search using multiple search criteria, such as name, street name, address, adjacent street name and complaint type. The city submits that located records were copied to a network drive after being reviewed by the infrastructure and asset manager then the drive was sent to the city clerk's office.

[71] With respect to emails, the city submits that staff members involved in the August 2022 complaint searched their emails using key phrases related to the request and these

²⁹ Orders P-85, P-221 and PO-1954-I.

³⁰ Orders P-624 and PO-2559.

³¹ Orders M-909, PO-2469 and PO-2592.

³² Order MO-2246.

records were forwarded to the city clerk's office.

[72] In his representations, the appellant submits that the city did not conduct a reasonable search for four reasons. First, he submits that the city did not provide documentation supporting the statement that the infrastructure and asset manager sent the drive to the city clerk's office. Second, the appellant submits that it is unclear whether the notes (referenced in an email chain between two city staff members³³) is the same note as the staff note at issue in this appeal. Third, he submits that to hold public servants accountable (specifically the city staff members involved in the 2015 case file), he must have the supporting documentation for the 2015 case file. Fourth, the appellant submits that the staff note contains initials of city staff members and not their full name and is not on the city's letterhead. As such, he believes the issue of documentation integrity is at issue.

Analysis and findings

[73] For the following reasons, I find that the city conducted a reasonable search for responsive records for the appellant's request.

[74] The city has described the individuals involved in the search, where it searched, and the results of its search. In my view, the city's search was logical and comprehensive. As noted above, 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.³⁴ I am satisfied that the city has provided sufficient evidence to establish this.

[75] The appellant argues that the city needed to provide documentation supporting the statement that the infrastructure and asset manager sent the drive to the city clerk's office. In my view, such evidence is not necessary to establish that a reasonable search was conducted.

[76] With respect to the appellant's concerns about the staff note, the city confirmed that the notes (referenced in an email chain between two city staff members) is the same note as the staff note at issue in this appeal. The city also confirmed that the staff note is the original notes from the city staff.³⁵ In any event, the appellant's arguments does not establish a reasonable basis to conclude that there is another staff note or that a reasonable search was not conducted.

[77] Moreover, I am not persuaded that the appellant has established a reasonable basis for concluding that further responsive records exist for his August 2022 complaint file. He has not provided any explanation as to why, despite the city's search, additional

³³ A copy of this email chain is labeled as appendix 5 to the appellant's representations.

³⁴ Orders M-909, PO-2469 and PO-2592.

³⁵ Although the staff note contains initials of city staff members and not their full name, the appellant has been provided with the full names of these staff members.

records should exist. 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.³⁶ In this case, I find that the appellant has not stated a reasonable basis for why he believes additional records exist relating to his August 2022 complaint file.

[78] For the reasons stated above, I find that the city conducted a reasonable search for responsive records.

ORDER:

1. I uphold the city's decision to deny access to the withheld information.
2. I uphold the city's search for responsive records.

Original Signed by: _____
Lan An
Adjudicator

_____ September 17, 2024

³⁶ Order MO-2246.