

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER MO-4584

Appeal MA22-00403

City of Toronto

October 25, 2024

Summary: An individual made a request under the *Municipal Freedom of Information and Protection of Privacy Act* to the City of Toronto for its investigation file of a dog bite incident in which he was involved. The city provided some information, including the dog owner's name and address. The city decided not to provide other details relating to the dog owner because they were exempt under the personal privacy exemption in the *Act*. The individual appealed stating that they needed the additional information to pursue an action for damages in the small claims court.

In this order, the adjudicator finds that the individual does not have a right of access to additional information about the dog owner because to disclose it would be an unjustified invasion of personal privacy. The adjudicator upholds the city's decision and dismisses the appeal.

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, section 2(1) (definition of "personal information"), 14(1), (2), 14(3)(b) and 38(b), *Dog Owners' Liability Act*, R.S.O. 1990, c. D.16, *Occupiers' Liability Act*, R.S.O. 1990, c. O.2, and *Negligence Act*, R.S.O. 1990, c. N.1.

OVERVIEW:

[1] This order considers the appellant's right of access to personal information in records relating to the City of Toronto's (the city's) investigation into a dog bite incident. The appellant claims that he suffered injuries in the incident and that he needs the information to pursue a civil action against the dog owner.

[2] By way of background, the dog bite incident took place at the dog owner's address. The appellant commenced civil proceedings and attempted to serve the dog owner with the proceedings at that address. The appellant failed to successfully serve the dog owner and has been advised that their address has changed.

[3] The appellant submitted a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) to the city for records of its investigation of the dog bite incident in which he was involved.

[4] The city identified responsive records consisting of emails, an activity log, a Dangerous Dog Investigation form and a written warning. The city decided to grant the appellant partial access to the records, withholding some information pursuant to the discretionary personal privacy exemption in section 38(b) of the *Act*. The information disclosed to the appellant includes the dog owner's name and their address at the time of the dog bite incident. The withheld information includes the dog owner's email address and telephone number and a personal identification number.

[5] The appellant appealed the city's decision to the Information and Privacy Commissioner of Ontario (the IPC) to pursue access to the dog owner's email address and phone number and the personal identification number. A mediator was appointed to explore mediation.

[6] The mediator sought the dog owner's consent to disclose the withheld information but did not obtain it. The city advised that it maintains its position not to disclose the dog owner's personal information.

[7] As mediation did not resolve the appeal, the file was transferred to the adjudication stage of the appeal process, where an adjudicator may conduct an inquiry. I decided to conduct an inquiry and invited the city and the dog owner to submit representations addressing the facts and issues set out in a Notice of Inquiry. The dog owner did not respond to the Notice of Inquiry.

[8] The city provided representations, which I shared with the appellant. The appellant provided representations addressing the issues in this appeal and responding to the city's representations.

[9] For the reasons that follow, I find that the personal information withheld by the city is exempt from disclosure under the discretionary personal privacy exemption in section 38(b) of the *Act*. I uphold the city's decision.

RECORDS:

[10] The information at issue is the dog owner's email address and phone number and a personal identification number, withheld from the records.

ISSUES:

- A. Does the record contain “personal information” as defined in section 2(1) of the *Act* and, if so, whose personal information is it?
- B. Does the discretionary exemption in section 38(b) apply to the information at issue?

DISCUSSION:

Issue A: Does the record contain “personal information” as defined in section 2(1) of the *Act* and, if so, whose personal information is it?

[11] The city has withheld information from the records on the basis of the discretionary personal privacy exemption in section 38(b) of the *Act*.

[12] To decide which personal privacy exemption, if any, applies to the withheld information, I must first determine whether the record as a whole contains personal information and, if so, whose personal information.

[13] If the record contains the appellant’s own personal information, his access rights are greater than if it does not. Also, if the record contains the personal information of other individuals, one of the personal privacy exemptions might apply.

[14] Section 2(1) of the *Act* defines “personal information” as “recorded information about an identifiable individual.” Information is “about an individual” when it refers to them in their personal capacity, which means that it reveals something of a personal nature about the individual. Information is about an “identifiable individual” if it is reasonable to expect that they can be identified from the information either by itself or combined with other information.¹

[15] Section 2(1) gives a list of examples of personal information, 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, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
- c. Any identifying number, symbol or other particular assigned to the individual,

¹ Order PO-1880, upheld on judicial review *in Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).

- d. The address, telephone number, fingerprints or blood type of the individual,
- e. The personal opinions or views of the individual except if they relate to another individual,
- f. Correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence,
- g. The views or opinions of another individual about the individual, and
- 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.

[16] The list of examples of personal information under section 2(1) is not a complete list. Other kinds of information could also be "personal information."²

[17] The city's position is that the records contain the personal information of both the appellant and other identifiable individuals. Regarding the appellant, the city states that the records contain his name, address and contact information. Regarding the dog owner, the city states that the records contain their telephone number and email address. The city states that the personal identification number in the investigation form is "tied to" the individual in the file and is about them in a personal capacity.

[18] The appellant's position is that the records contain the personal information of the dog owner. The appellant states that he is pursuing access to the dog owner's email address and telephone number and the personal identification number in the investigation form, which he has been advised can be used by the city to obtain the dog owner's current residential address. The appellant's representations do not address whether the records contain his own personal information.

[19] As already noted, the dog owner has not participated in the appeal despite having been invited to do so.

Analysis and findings

[20] For the reasons that follow, I find that the record containing the information at issue contains the personal information of the appellant and other identifiable individuals, including the dog owner.

[21] From my review, I find that the records containing the information at issue consist of email correspondence and a Dangerous Dog Investigation form (the investigation form) completed by the city's Animal Services officer. The investigation form contains

² See Order 11.

details of the victim, the dog and the dog owner involved in the reported incident. In this instance, the victim is the appellant and his details are recorded in the investigation form.

[22] From my review of the investigation form, I find that it contains the appellant's name, address, age, telephone number and a personal identification number. I am satisfied that this information qualifies as the appellant's personal information within the meaning of paragraphs (a), (c), (d) and (h) of the definition in section 2(1).

[23] In addition, I find that the investigation form and correspondence contain the name, address, telephone number and email address of the dog owner. I am satisfied that this information qualifies as the dog owner's personal information within the meaning of paragraphs (c), (d) and (h) of the definition in section 2(1).

[24] Regarding the personal identification number in the investigation form, I am not persuaded that this is correctly recorded information of the dog owner involved in the appellant's dog bite incident. I have reviewed the information in the investigation form. I note that the personal identification number that appears with the dog owner's name has been struck through. I am therefore unable to conclude that this number is information that correctly identifies the dog owner. However, I accept that the personal identification number is information of a personal nature recorded about *an* identifiable individual. Accordingly, I find that the personal identification number in the investigation form is personal information within the meaning of paragraph (c) of the definition of section 2(1).

[25] As I explain below, I find the possibility that the personal identification number has been inaccurately recorded means that it may not belong to the dog owner in this appeal but may relate to another identifiable individual. This is a factor that is relevant to my analysis of the application section 38(b), which I address below.

[26] As I find that the record contains the personal information of the appellant and other identifiable individuals, including the dog owner, I will consider the application of the discretionary personal privacy exemption in section 38(b) of the *Act* to the information at issue.

Issue B: Does the discretionary personal privacy exemption in section 38(b) apply to the personal information at issue?

[27] Section 36 of the *Act* gives individuals a general right of access to their own personal information held by an institution. Section 38 provides some exemptions from this right.

[28] Under section 38(b), where a record contains personal information of both the appellant and another identifiable individual, as in this case, 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 appellant.

[29] The section 38(b) exemption is discretionary. This means that the city can decide

to disclose the record to the appellant even if this would result in an unjustified invasion of the other individual's personal privacy.

[30] If disclosing another individual's personal information would not be an unjustified invasion of personal privacy, then the information is not exempt under section 38(b).

[31] Sections 14(1) to (4) provide guidance in deciding whether disclosure would be an unjustified invasion of the other individual's personal privacy. If any of the exceptions in section 14(1)(a) to (e) apply, disclosure would not be an unjustified invasion of personal privacy and the information is not exempt under section 38(b). Neither party submits that any of the exceptions in section 14(1)(a) to (e) apply. I find that none of the exceptions in these paragraphs apply in this appeal.

[32] Sections 14(2) and (3) help in determining whether disclosure would or would not be an unjustified invasion of personal privacy. Also, section 14(4) lists situations in which disclosure would not be an unjustified invasion of personal privacy. Neither party submits that any of the situations in section 14(4) apply. From my review of the information at issue, I find that none are present in this appeal.

[33] Section 14(2) sets out a list of factors which, if applicable, weigh for or against disclosure. Section 14(3) lists circumstances in which disclosure of the other individual's personal information is presumed to constitute an unjustified invasion of personal privacy.

[34] As I have found that section 14(1)(a) to (e) and 14(4) do not apply in this appeal, I will consider and weigh the factors and presumptions in sections 14(2) and (3) and balance the interests of the parties to determine whether the disclosure of the personal information at issue would constitute an unjustified invasion of personal privacy under section 38(b).³

Representations

[35] The city's position is that the factor in section 14(2)(h) applies and that the information at issue was supplied to the city in confidence. The city submits that the dog owner's details were provided to the city's Animal Services officer pursuant to the investigation into the dog bite incident and that they were provided by the dog owner in confidence.

[36] In addition, the city states that it has released the dog owner's name and address to the appellant. The city states that this disclosure is consistent with its historic practices. The city also states that its disclosure is consistent with the provisions of the *Dog Owners' Liability Act* and that by providing the dog owner's name and address, it has not limited the appellant's ability to contact the dog owner.

[37] The appellant's position is that he commenced an action in the small claims court

³ Order MO-2954.

for compensation for the injuries he sustained in the dog bite incident. The appellant previously identified the dog owner as the resident of the property where the incident occurred through internet searches using the property address.

[38] The appellant has provided me with a copy of the particulars of his claim filed with the court and an affidavit of service from the process server.

[39] The process server explains that they attempted to serve the dog owner at the property address but were unsuccessful. The process server found the property empty and a neighbour at the address advised that the resident had moved out.

[40] The appellant states that he then made the request under the *Act* for the city's records of its investigation into the incident. The appellant states that the dog owner's address disclosed in the city's records is the address already known to him and at which service was unsuccessful.

[41] The appellant's position is that the factor in section 14(2)(d) weighing in favour of disclosure applies and the dog owner's personal information is relevant to a fair determination of rights. The appellant submits that the civil action cannot "proceed to a fair determination on its merits without the dog owner being served and given the opportunity to respond."

[42] The appellant submits that the dog owner's telephone number and email address are the type of information that individuals "routinely make available to other individuals as well as public companies." The appellant states that this information is not highly sensitive.

[43] In addition, the appellant states that the IPC and the city have confirmed that they have contacted the dog owner. The appellant submits that this suggests that the dog owner's contact information in the records remains active and accurate.

[44] The appellant disagrees with the city's submission that the information withheld does not limit his ability to pursue the litigation. The appellant states that withholding the dog owner's contact information is not assisting him in "locating and contacting the defendant." The appellant submits that the withheld information is necessary to "move the civil process forward towards some form of resolution, [whether] by mutual agreement or through a court hearing or trial."

[45] Finally, the appellant makes submissions about the alternative disclosure procedure available in the courts for obtaining the dog owner's contact information.

Analysis and findings

[46] In the absence of any representations from the dog owner, I make my findings on the basis of the city's and the appellant's representations, the circumstances of the appeal, the law and my review of the records.

[47] For the reasons that follow, I find that the disclosure of the dog owner's telephone number and email address and the personal identification number in the investigation form would constitute an unjustified invasion of personal privacy. Accordingly, I find that the information at issue is exempt under the discretionary exemption in section 38(b).

Section 14(3)(b) – investigation into a possible violation of the law

[48] Section 14(3)(b) states,

A disclosure of information is presumed to constitute an unjustified invasion of personal privacy if the personal information,

(b) was compiled and is identifiable as part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation;

[49] Under section 38(b), a finding that the section 14(3)(b) presumption is present will weigh against disclosure of the personal information at issue. The presumption requires only that there be an investigation into a *possible* violation of law.⁴ Even if criminal proceedings were never started against the individual, section 14(3)(b) may still apply.⁵

[50] The presumption can apply to different types of investigations, including those relating to by-law enforcement.⁶

[51] Neither party's representations address the application of the presumption in section 14(3)(b).

[52] From my review of the investigation form, I find that it contains information that was gathered as part of the city's investigation of the dog bite incident reported by the appellant. It is apparent from the records that this investigation was conducted pursuant to the *Dog Owners' Liability Act* and the city's Municipal Code Chapter 349- Animals. This by-law establishes rules and regulations for responsible animal ownership, including dog ownership. From my review of the investigation file, I note that the city issued the dog owner a written warning and provided education about the relevant legislation.

[53] Previous IPC orders have held that the presumption in section 14(3)(b) of the *Act* applies to personal information compiled by a municipality as part of its investigation into an alleged contravention of a municipal by-law, specifically the city's Municipal Code 349 and the *Dog Owners' Liability Act*.⁷ I agree with this approach and adopt it here. I am satisfied that the personal information at issue in this appeal, including the email address,

⁴ Orders P-242 and MO-2335.

⁵ The presumption can also apply to records created as part of a law enforcement investigation where charges were laid but subsequently withdrawn (Orders MO-2213, PO-1849 and PO-2608).

⁶ Order MO-2147.

⁷ Orders M-382, MO-1598, MO-2147 and MO-3400.

telephone number and personal identification number was compiled and is identifiable as part of an investigation into a possible violation of law. Accordingly, I find that section 14(3)(b) applies and the disclosure of this information is presumed to be an unjustified breach of personal privacy.

[54] In my view, the presumption at section 14(3)(b), weighing against disclosure, should be given considerable weight.

14(2)(d): fair determination of rights

[55] The appellant submits that the factor in section 14(2)(d) applies weighing in favour of disclosure of the dog owner's personal information. For section 14(2)(d) to apply, the appellant must demonstrate that:

1. the right in question is a right existing in law, as opposed to a non- legal right based solely on moral or ethical grounds;
2. the right relates to a legal proceeding that is ongoing or might be brought, as opposed to one that has already been completed;
3. the personal information is significant to the determination of the right in question; and
4. the personal information is required in order to prepare for the proceedings or to ensure an impartial hearing.⁸

[56] The appellant's representations do not directly address this four-part test. The appellant submits that his civil action cannot proceed to a fair determination on its merits without the dog owner being served and given the opportunity to respond to the allegations by way of a defence.

[57] The city states that it has released the dog owner's name and address to the appellant. The city submits that withholding the other information does not limit the appellant's ability to contact the dog owner for litigation purposes.

[58] From my review of the particulars of claim filed by the appellant, I am satisfied that the rights in question are legal rights arising from the dog owner's duties under the *Dog Owners' Liability Act*, the *Occupiers' Liability Act* and the *Negligence Act*. In addition, I am satisfied that the rights claimed by the appellant relate to the legal proceedings commenced in the civil court. I find that these proceedings have been commenced and filed with the court.

[59] However, I am not satisfied that the appellant has established the significance of

⁸ See Order PO-1764; see also Order P-312, upheld on judicial review in *Ontario (Minister of Government Services) v. Ontario (Information and Privacy Commissioner)* (February 11, 1994), Toronto Doc. 839329 (Ont. Div. Ct.).

the dog owner's telephone number or email address to the determination of the appellant's rights. The appellant has already been provided with the dog owner's name and has filed particulars of claim with the court.

[60] I acknowledge that the appellant has not been able to successfully serve the dog owner at the property address provided by the city. However, there is no information before me about how the appellant plans to effect service by any other means, that he has the court's permission to do so or that the dog owner's telephone number or email address are necessary for this purpose.

[61] From my review of the correspondence in the investigation file, I agree that it appears that the city has been able to successfully contact the dog owner via their email address. However, I do not accept the appellant's submission that the IPC has also been able to do so. During mediation, the mediator notes that they were unable to obtain the dog owner's consent to release of their personal information. There is no information before me to demonstrate that the mediator successfully made contact with the dog owner.

[62] Notwithstanding that the dog owner's email address may be current and it may provide the appellant with a means of attempting to reach the dog owner, there is no basis for me to find that disclosure of the email address will engage the dog owner in the litigation process.

[63] In my view, the appellant has not demonstrated that the dog owner's telephone number or email address are *required* for effective service of the proceedings.

[64] Regarding the personal identification number in the investigation form, the appellant submits that this information can be used by the city to identify the dog owner's current residential address in its community housing database. I have noted that this number has been struck through raising the possibility that it is not the correct personal identification number belonging to the dog owner. I consider this possibility in my analysis of the application of the factor in section 14(2)(g) below.

[65] In any event, even if the personal identification number in the investigation form belongs to the dog owner, I am not persuaded that its disclosure is necessary to the determination of the appellant's rights. The city's position is that the personal identification number in the investigation form is "tied to" the individual named in the investigation file and that it may be used as a source for gaining access to other personal contact information *within the investigation file*. It appears that the disclosure of the personal identification number in the investigation form may lead the appellant back to the address recorded in the investigation form. The city has already disclosed to the appellant the dog owner's address as it is recorded in the investigation file.

[66] There is no information before me about the process for obtaining disclosure of personal information through the city's community housing database. It is also not clear

to me how the dog owner's name could not similarly be used to access information held in the city's housing database, if such a process exists. Accordingly, there is no reasonable basis for me to find that disclosure of the personal identification number in the investigation file is necessary for this purpose.

[67] In the circumstances and for these reasons, I am not satisfied that the dog owner's personal information at issue, including the personal identification number should it belong to them, is significant to the determination of the appellant's rights.

[68] Accordingly, I find that the factor in section 14(2)(d) does not apply to weigh in favour of disclosure.

14(2)(g): unlikely to be accurate

[69] The factor in section 14(2)(g) applies to weigh against disclosure when there is evidence showing that the personal information at issue is unlikely to be accurate or reliable.

[70] I accept the appellant's submission that the information in the record, including the activity log and the email correspondence between the city and the dog owner, indicate that it is likely that the dog owner's telephone number and email address are accurate. The factor in section 14(2)(g) does not apply to this information.

[71] I have considered whether the personal identification number at issue in this appeal is likely to be accurate. In other words, whether the personal identification number belongs to the dog owner that the appellant is trying to locate.

[72] From my review of the investigation form, I note that some information about the dog and the owner involved in the reported incident has been struck through and re-entered. The information struck through includes the owner's name, telephone numbers and personal identification number and the dog's breed, colour, age, name, animal ID and licence number. Where these details have been struck through, new details have been manually entered in the investigation form, except for the personal identification number of the owner. The personal identification number is the only information that has been struck through and new information has not been manually re-entered on the form.

[73] From my review of the information in the investigation file, it appears likely that information relating to another dog and dog owner were incorrectly recorded in the investigation form and have been struck through and the correct information re-entered. Accordingly, I find it unlikely that the struck through personal identification number information in the investigation form correctly identifies the dog owner that the appellant is trying to locate.

[74] In these circumstances, I find that the factor in section 14(2)(g) applies to the personal identification number weighing against its disclosure.

14(2)(h): supplied in confidence

[75] The city submits that the factor in section 14(2)(h) (supplied in confidence) applies and weighs against disclosure.

[76] This factor applies if both the individual supplying the information and the recipient had an expectation that the information would be treated confidentially, and that expectation is reasonable in the circumstances. Section 14(2)(h) requires an objective assessment of the reasonableness of any confidentiality expectation.⁹

[77] The city states that the dog owner's information was collected by the Animal Services officer pursuant to their investigation and was provided in confidence. The appellant submits that there is no confirmation or evidence that the dog owner provided their telephone number or email address in confidence. The appellant states that telephone numbers and email addresses are the types of information that individuals routinely make available to other individuals and public companies.

[78] I find it reasonable that the dog owner provided some of their details to the city's Animal Services officer during the investigation with an expectation that it would be treated as confidential. I accept the city's submission that its usual practice is to provide victims of dog bites with a dog owner's name and address. In these circumstances, I find that the dog owner's expectation of confidentiality might not reasonably have extended to their name and address. However, I am satisfied that it would be reasonable for the dog owner to provide their telephone number and email address to the city during the investigation with the expectation that this information would be treated as confidential.

[79] I do not find the appellant's submission that individuals routinely share this type of information in other contexts to be relevant to my findings. The factor in 14(2)(h) concerns the dog owner's expectation of confidentiality in the context of the city's investigation of a dog biting incident. I am not persuaded that these are "routine" circumstances.

[80] Accordingly, I find that the factor in section 14(2)(h) applies and weighs against disclosure.

Unlisted factor: alternative means of accessing the dog owner's information

[81] The appellant states that in the event this appeal is unsuccessful, he will bring a motion in the court proceedings to compel the city to disclose the dog owner's personal information. The appellant submits that a court application is costly, time consuming and impractical compared to the access regime set out in the *Act*.

[82] The IPC has previously held that the availability of an alternative method of obtaining access to personal information does not preclude a requester from exercising

⁹ Order PO-1670.

their rights under the *Act*. In addition, requesters have the right to seek that information in the most efficient, cost-effective manner they see fit.¹⁰

[83] The access regime of the *Act* is available to the appellant as a less costly means of seeking to obtain the dog owner's personal information. However, the operation of the *Act* to determine the appellant's access to the information he is seeking requires a weighing of factors and balancing of his right of access against the protection of the dog owner's personal privacy. In the circumstances of this appeal, I find that the availability of an alternative means of access through the litigation process is a factor that weighs against disclosure under the *Act*. This is not a case where a victim of a dog bite is seeking access to the name of the dog owner in order to *commence* a court action. In this appeal, the appellant knows the identity of the dog owner and has filed particulars of claim with the small claims court. As proceedings have been filed, the court is seized of the matter and the *Rules of Civil Procedure* are available to the appellant to ask the court to compel the city to disclose the information necessary to effectively serve the dog owner.

[84] In the circumstances of this appeal, I find that the availability of an alternative means of obtaining the information sought is a factor weighing in favour of protecting the privacy of the dog owner and against disclosure.

Summary

[85] In summary, I have found that the presumption against disclosure in section 14(3)(b) applies to all the dog owner's personal information in the investigation form and this should be given considerable weight. Also, I have found that two listed factors weighing against disclosure apply to the information at issue; the factor in section 14(2)(g) (unlikely to be accurate) applies to the personal identification number and the factor in section 14(2)(h) (supplied in confidence) applies to the dog owner's telephone number and email address. In addition and in the specific circumstances of this appeal, I find that an unlisted factor, the availability of the *Rules of Civil Procedure* as an alternative means of obtaining the information, also weighs against disclosure. I have not found that any factors apply that weigh in favour of disclosure.

[86] I have considered the presumption in section 14(3)(b) and the factors in 14(2)(g) and 14(2)(h) and the circumstances surrounding this appeal. I find that it would be an unjustified invasion of the dog owner's personal privacy to disclose their email address, telephone number and the personal identification number. Subject to my consideration of the city's exercise of discretion, I find that section 38(b) applies to this information.

[87] The section 38(b) exemption is discretionary meaning that the city can decide to disclose the information even if it qualifies for exemption. An institution must exercise its discretion. On appeal, the IPC may determine whether the institution failed to do so.

[88] The IPC may find that the institution erred in exercising its discretion where, for

¹⁰ See Orders MO-2980 and MO-4213.

example, it does so in bad faith or for an improper purpose; it takes into account irrelevant considerations; or it fails to take into account relevant considerations. In each case, the IPC may send the matter back to an institution for an exercise of discretion based on proper considerations.¹¹ However, the IPC cannot substitute its own discretion for that of the institution.¹²

[89] The city states that when it decided to disclose the dog owner's name and address and to withhold the telephone number and e-mail address, it did so to protect the dog owner's personal privacy. The city submits that it properly considered the records and the dog owner's refusal to provide consent for the release of their personal information.

[90] The appellant submits that the city has failed to provide a basis for considering the disclosure of the dog owner's additional information to be an unjustified invasion of privacy. I disagree with the appellant's submission. I find that the city exercised its discretion in deciding to withhold the information at issue from the appellant and that it did so properly.

[91] I find that there is no evidence to suggest that the city did not exercise its discretion to withhold the dog owner's email address and telephone number for any improper purpose or in bad faith. On the contrary, from my review of the city's representations as a whole, I am satisfied that the city considered the fact that the investigative file contained the appellant's own personal information and the appellant's right of access to that information and balanced this against the personal privacy interests of the dog owner. In addition, I am satisfied that the city considered its historical practice in cases of reported dog bites and disclosed to the appellant details of the dog owner's name and address.

[92] There is no information before me of any relevant considerations that the city failed to take into account or that it took into account any irrelevant considerations when exercising its discretion.

[93] Accordingly, I uphold the city's exercise of discretion under section 38(b) in denying access to the dog owner's email address and telephone number and the personal identification number that I have found to be exempt.

ORDER:

I uphold the city's decision and dismiss the appeal.

Original Signed by: _____

Katherine Ball
Adjudicator

October 25, 2024

¹¹ Order MO-1573.

¹² Section 43(2) of the *Act*.

