

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER MO-4613

Appeal MA23-00522

City of Vaughan

January 15, 2025

Summary: An individual asked the City of Vaughan (the city) for records related to a specified address. The city provided partial access to the records. It did not disclose some information because its disclosure would be an unjustified invasion of another individual's personal privacy [section 14(1)]. In this order, 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, sections 2(1) (definition of "personal information"), 14(1) and 14(3)(b).

OVERVIEW:

[1] The City of Vaughan (the city) received an access request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for two sets of records: one related to a specified address and the other one related to a specified case number. The city issued a decision granting partial access to a bundle of records related to the specified address. The city withheld some information from the bundle of records on the basis of section 14(1) (personal privacy) of the *Act*. The city later located additional records responsive to the request and issued a supplemental decision, granting partial access to additional records. The city relied on the personal privacy exemption to withhold some information in the additional records.

[2] The appellant was not satisfied with the city's decision and appealed it to the Information and Privacy Commissioner of Ontario (the IPC).

[3] The IPC attempted to mediate the appeal. During mediation, the appellant advised that they were only seeking access to information about an individual who filed a complaint with the city about the property at the specified address. The city confirmed that the information sought by the appellant only appeared on one page of the bundle of records provided to the appellant as part of the initial access decision. Therefore, only the withheld information on that page is at issue in this appeal.

[4] The mediator contacted an affected party to seek consent to the disclosure of the withheld information to the appellant but was unsuccessful.

[5] Given that the matter did not resolve at mediation, the file was moved to the adjudication stage of the appeal process. I decided to conduct an inquiry. I sought representations from the city, an affected party, and the appellant. I received representations from the city and shared them with the appellant. The appellant provided their representations. An affected party did not provide representations.

[6] For the following reasons, I uphold the city's decision to deny access to the withheld information under the personal privacy exemption.

RECORDS:

[7] At issue is information that the city withheld on one page of the bundle of records it disclosed to the appellant with its initial access decision.

ISSUES:

- A. Does the record contain "personal information" as defined in section 2(1) and, if so, whose personal information is it?
- B. Does the mandatory personal privacy exemption at section 14(1) apply to the information at issue?

DISCUSSION:

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

[8] The city withheld the information at issue on the basis of mandatory personal privacy exemption. In order to determine if the exemption applies, I must first decide whether the record contains "personal information," and if so, to whom the personal information relates. If the record contains the requester's own personal information, their

access rights are greater than if it does not.¹ If the record contains the personal information of another individual, one of the personal privacy exemptions might apply.²

[9] Section 2(1) of the *Act* defines “personal information” as “recorded information about an identifiable individual.” “Recorded information” is information recorded in any format, such as paper records, electronic records, digital photographs, videos, or maps.³ Information is “about” the 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 an individual can be identified from the information either by itself or if combined with other information.⁴

[10] Section 2(1) of the *Act* gives a list of examples of personal information. The following are relevant to this appeal:

“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.

[11] 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.”⁵

Analysis and finding

[12] The city submits that the record contains current contact information of an individual who filed a complaint with the city about the property at the specified address and identifies the individual as a complainant in relation to a by-law investigation.

¹ Under sections 36(1) and 38 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.

² See sections 14(1) and 38(b).

³ See the definition of “record” in section 2(1).

⁴ Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).

⁵ Order 11.

[13] The appellant's representations do not address this issue.

[14] I find that the record contains personal information of an individual who filed a complaint with the city about the property at the specified address. The withheld information includes the individual's contact information, which constitutes "personal information" in accordance with paragraph (d) of section 2(1). In addition, the withheld information together with the disclosed information on that page will reveal the fact that the individual made a complaint. This constitutes "personal information" pursuant to paragraph (h) of section 2(1) and the introductory wording of the definition of "personal information".

[15] I also find that the record does not contain the appellant's personal information. Since the record does not contain the appellant's personal information, I will consider whether the withheld information is exempt under section 14(1) of the *Act*.

Issue B: Does the mandatory personal privacy exemption at section 14(1) apply to the information at issue?

[16] One of the purposes of the *Act* is to protect the privacy of individuals with respect to personal information about themselves held by institutions. Section 14(1) of the *Act* creates a general rule that an institution cannot disclose personal information about another individual to a requester. This general rule is subject to a number of exceptions set out in paragraphs (a) to (f) of section 14(1).

[17] If any of the five exceptions in sections 14(1)(a) to (e) exist, the institution must disclose the information. The parties do not submit that any of the section 14(1)(a) to (e) exceptions apply, and I find that none do.

[18] The section 14(1)(f) exception requires the institution to disclose another individual's personal information to a requester only if this would not be an "unjustified invasion of personal privacy." Sections 14(2), (3) and (4) help in deciding whether disclosure would or would not be an unjustified invasion of personal privacy.

[19] Section 14(2) lists factors that may be relevant to determining whether disclosure of personal information would constitute an unjustified invasion of personal privacy. Section 14(3) lists the types of information the disclosure of which is presumed to constitute an unjustified invasion of personal privacy. Section 14(4) identifies situations in which disclosure is not an unjustified invasion of personal privacy. The parties did not submit that situations in section 14(4) are present, and I find that section 14(4) does not apply to the appeal.

[20] Sections 14(3)(a) to (h) should generally be considered first. If the personal information being requested does not fit within any presumptions under section 14(3), an institution must consider the factors set out in section 14(2). The list of factors under section 14(2) is not a complete list. The institution must consider any other circumstances

that are relevant, even if these circumstances are not listed under section 14(2).⁶

[21] If the personal information falls within one of the presumptions under section 14(3), the factors in section 14(2) cannot be used to rebut a presumed unjustified invasion of personal privacy.⁷

Analysis and finding

[22] I find that the withheld information is exempt under the personal privacy exemption because its disclosure will constitute an unjustified invasion of personal privacy of an individual who filed a complaint with the city about the property at the specified address.

[23] The city submits that the presumption at section 14(3)(b) applies because the individual's contact information was collected as part of a by-law investigation. The city says that the records confirm that it was investigating complaints about contraventions of the *Building Code Act, 1992* and a city by-law. The city also makes detailed representations with regards to the factors at section 14(2). The city submits that none of the factors at section 14(2) weigh in favour of the disclosure and three factors⁸ weigh against the disclosure.

[24] The appellant submits that the circumstances that led to the filing of the access request and the impact of various events on the appellant's health and reputation must be considered in determining whether they should receive access to the withheld information. The appellant also explains their goal for seeking access to the withheld information.

[25] I find that the presumption at section 14(3)(b) applies to the withheld information because the withheld information was compiled and is identifiable as part of an investigation into a possible violation of law. The presumption at section 14(3)(b) requires only that there be an investigation into a *possible* violation of law.⁹ The IPC has previously held that the presumption can apply to different types of investigations, including those relating to by-law enforcement.¹⁰

[26] My review of the bundle of records establishes that at the time when the page that contains the withheld information was created, the city was investigating a contravention of a law. The information in the bundle of records confirms that the withheld information was collected during that investigation.

[27] As stated above, a presumption under section 14(3) cannot be rebutted by any

⁶ Order P-99.

⁷ *John Doe v. Ontario (Information and Privacy Commissioner)* (1993), 13 O.R. (3d) 767 (Div.Ct.).

⁸ The city relies on factors at sections 14(2)(e), (f), and (h).

⁹ Orders P-242 and MO-2235.

¹⁰ Order MO-2147.

factors at section 14(2). Therefore, while I have reviewed the appellant's representations in their entirety, it is not necessary for me to consider factors at section 14(2) and any other relevant circumstances.

ORDER:

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

Original Signed by: _____
Anna Kalinichenko
Adjudicator

_____ January 15, 2025