

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER MO-4637

Appeal MA22-00332

Municipality of Port Hope

March 26, 2025

Summary: An individual asked the Municipality of Port Hope for access under the *Municipal Freedom of Information and Protection of Privacy Act* to an email sent by a municipal councillor to the police. The municipality refused to release the email because it contains the requester's and the councillor's personal information and disclosing it would be an unjustified invasion of the councillor's personal privacy (s 38(b)).

In this order, the adjudicator finds that the email contains the mixed personal information of the requester and the councillor, which is intertwined so that it cannot be separated. The adjudicator finds that the councillor's personal information is exempt under section 38(b) and upholds the municipality's decision.

Statute Considered: *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, sections 2(1), 14(1), (2) and (3) and 38(b).

Order Considered: Order PO-1736.

OVERVIEW:

[1] A councillor with the Municipality of Port Hope (the municipality) and a resident interacted publicly in a local group on a social media site. As a result of the interactions between the councillor and a resident, the councillor sent an email to the police that led to an investigation.

[2] This order disposes of the issues arising from a request by the resident made under

the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) to the municipality for access to the email sent by the councillor.

[3] The municipality forwarded the request to the councillor, who provided the responsive record (the email) to the municipality.

[4] The municipality issued a decision to the requester denying access to the email citing the discretionary exemption in section 38(a)¹, read with the law enforcement exemption in section 8(1) and the personal privacy exemption in section 14(1) of the *Act*.

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

[6] During mediation, the municipality clarified its position and advised that it is relying on section 38(a), read with section 8(1), and the discretionary personal privacy exemption in section 38(b).

[7] As a mediated resolution was not achieved, the file was transferred to the adjudication stage of the appeal process for determination of the possible application of the claimed exemptions to the email.

[8] I decided to conduct an inquiry. I invited and received representations from the appellant and the municipality. In addition, I identified the councillor as an affected party and provided them with an opportunity to submit representations. The councillor declined to participate in the inquiry.

[9] For the reasons that follow, I find that the email at issue contains the mixed personal information of the appellant and the councillor. In addition, I find that disclosure of the councillor's personal information would be an unjustified invasion of their personal privacy and the information is exempt under the discretionary personal privacy exemption in section 38(b) of the *Act*. Accordingly, I uphold the municipality's decision and dismiss the appeal.

RECORD:

[10] The record at issue is an email.

¹ Section 38(a) provides an institution with discretion to refuse a requester access to their own information.

ISSUES:

- A. Does the email contain personal information and if so, whose personal information is it?
- B. Does the discretionary privacy exemption at section 38(b) apply to the email?
- C. Did the municipality properly exercise its discretion in withholding the information in the email?

DISCUSSION:

Issue A: Does the email contain personal information and, if so, whose personal information is it?

[11] In order to decide which sections of the *Act* may apply to the email, I must first decide whether the record contains “personal information,” and if so, whose personal information it is.

[12] 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.

[13] 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. Generally, information about an individual in their professional, official or business capacity is not considered to be “about” the individual.²

[14] Section 2(1) of the *Act* gives a list of examples of personal information and includes correspondence sent to an institution by an 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,³ the personal opinions or views of an individual except if they relate to another individual⁴ and an individual’s name if it appears with other personal information relating to the individual or where disclosure of the name would reveal other personal information about the individual.⁵ The list of examples in section 2(1) is not a complete list. This means that other kinds of information could also be “personal information.”⁶

[15] It is important to know whose personal information is in the record at issue. If the record contains the requester’s own personal information, their access rights are greater

² Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F and PO-2225.

³ Paragraph (f) of the definition of “personal information” in section 2(1).

⁴ Paragraph (e) of the definition of “personal information” in section 2(1).

⁵ Paragraph (h) of the definition of “personal information” in section 2(1).

⁶ See Order 11.

than if it does not.⁷ Also, if the record contains the personal information of other individuals, one of the personal privacy exemptions might apply.⁸

[16] The municipality's position is that the email contains the personal information of the appellant, the councillor and other identifiable individuals.

[17] The appellant's representations do not directly address the personal information in the email, however, I appreciate that she makes her submissions without having seen it. The appellant submits that if the email includes information about her alleged conduct towards the councillor then this is the appellant's personal information.

[18] As noted above, the councillor was provided with an opportunity to submit representations and declined to do so.

Analysis and finding

[19] For the reasons that follow, I find that the email contains both the appellant's and the councillor's personal information.

[20] The email is correspondence sent by the councillor to an institution, Port Hope police. The email is explicitly marked "confidential" and states that it is sent in the councillor's personal capacity. I find that the contents of the email refer to matters that reveal something of a personal nature about the councillor. In addition, the email contains the councillor's name. I find that the email and its contents qualify as the councillor's personal information within the meaning of paragraphs (e), (f) and (h) of the definition in section 2(1) of the *Act*.

[21] I agree with the appellant's submission that information in the email that is the councillor's opinion about the appellant, if it identifies the appellant, can qualify as the appellant's personal information. This type of information would fall within paragraph (g) of the definition in section 2(1) of the *Act*.

[22] From my review of the email, I note that it does not contain the appellant's name. I have therefore considered whether the information that comprises the councillor's opinion of the appellant is information about an *identifiable* individual. Without revealing the contents of the email, I note that the appellant is referred to as "an individual."

[23] Neither party addresses the identifiability of the appellant from the information in the email in their representations.

[24] Previous orders of the IPC have held that information is about an "identifiable individual" if it is reasonable to expect that an individual can be identified from the

⁷ Under section 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.

⁸ See sections 14(1) and 38(b).

information either by itself or if combined with other information.⁹

[25] In her representations, the appellant states that aspects of her “conflict” with the councillor are contained in public communications on a social media site. In addition, the municipality states that the appellant filed a formal complaint about the councillor to the municipality’s Integrity Commissioner, which was the subject of an investigation and report. As some of the matters referred to in the email may therefore be in the public domain, I have considered whether the appellant is identifiable from the information, even without their name appearing in it.

[26] In my view, it is reasonable to expect that individuals who are aware of the interactions between the appellant and the councillor and the background to the councillor’s email may, with the benefit of this extraneous knowledge, be able to identify the appellant from the contents of the email. For example, members of the local group on the social media site who know of the parties’ public interactions may be able to identify the appellant from the councillor’s opinions expressed in the email.

[27] Accordingly, I find that the information that consists of the councillor’s opinion about “an individual” is information that identifies the appellant. This information in the email comprises the councillor’s concern about the appellant’s behaviour. I find that this information qualifies as the appellant’s personal information within the meaning of paragraph (g) of the definition in section 2(1).

[28] I have considered whether it is possible to sever the appellant’s personal information from the email record.¹⁰ Previous IPC orders have recognised that an individual’s personal information, in the form of views or opinions expressed about them, may also qualify as the personal information of the individual expressing those views or opinions.¹¹

[29] The appellant’s personal information is contained in the email record that itself qualifies as the councillor’s personal information, having been sent to an institution expressly marked as “confidential” and containing their name and revealing information of a personal nature about the councillor. Accordingly, I find that the appellant’s personal information is mixed with that of the councillor and is intertwined such that severances are not feasible.

[30] Having found that the email contains the mixed personal information of the appellant and the councillor, I will consider whether its disclosure would constitute an unjustified invasion of the councillor’s privacy under section 38(b).

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

¹⁰ Section 4(2) of the *Act* obliges an institution to disclose as much of any responsive record as can reasonably be severed without disclosing material which is exempt.

¹¹ See Orders MO-4516, MO-4165, MO-3681 and PO-3458.

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

[31] Section 36(1) of the *Act* gives individuals, in this case the appellant, a general right of access to their own personal information held by an institution. Section 38 provides some exemptions from this right.

[32] Under the section 38(b) exemption, if a record contains the personal information of both the requester and another individual, the institution may refuse to disclose the other individual's personal information to the requester if disclosing that information would be an "unjustified invasion" of the other individual's personal privacy. Accordingly, to determine the appellant's right of access to the email, I must decide whether its disclosure would be an unjustified invasion of the councillor's personal privacy.

[33] The section 38(b) exemption is discretionary. This means that the municipality can decide to disclose the councillor's personal information to the appellant even if doing so would result in an unjustified invasion of the councillor's personal privacy.

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

[35] Sections 14(1) to (4) provide guidance in deciding whether disclosure would be an unjustified invasion of the councillor's personal privacy. If any of the section 14(1)(a) to (e) exceptions apply, the exemption in section 38(b) does not apply.

[36] Section 14(2) contains a non-exhaustive list of factors that may be relevant in determining whether the disclosure of personal information would be an unjustified invasion of personal privacy. Some of the factors weigh in favour of disclosure, while others weigh against disclosure. Section 14(3) lists circumstances where disclosure of personal information is presumed to be an unjustified invasion of personal privacy.

[37] Section 14(4) sets out certain types of information whose disclosure is not an unjustified invasion of personal privacy. Neither party relies upon section 14(4) and from my review of the email, I find that it is not information of the types listed in that section.

Parties' representations

[38] The municipality's position is that the information in the email was provided to the police by the councillor as part of a police investigation. The municipality submits that section 14(3)(b) applies and weighs against disclosure of the email.

[39] The appellant submits that the councillor's complaint was sent to the police for the purposes of an investigation against the appellant and that, as such, the councillor "would have been informed by the police that the complaint would be disclosed" should it be acted upon. The appellant's position is that once the email complaint is part of the police investigation, it "becomes disclosure."

[40] The appellant states that she has no concern with information concerning the police investigation against her being disclosed in the email. The appellant states that the police have disclosed to her the general details of the councillor's complaint. The appellant states that the police have disclosed to her their investigative file, which contained officers' notes and reports. The appellant submits that disclosure of the email will "complete the record of the complaint that resulted in the police investigation."

[41] The appellant's position is that disclosure of the councillor's email is desirable for public scrutiny of the municipality and the councillor so that the factor in section 14(2)(a) applies. The appellant states that disclosure of the email containing the complaint will permit public scrutiny of the conduct of a municipal councillor.

[42] The appellant submits that the disclosure of the email is necessary because she has the right to commence legal proceedings against the councillor, the municipality and the police, if the contents of the email are false. The appellant submits that the factor favouring disclosure in section 14(2)(d) therefore applies because the information is necessary for the fair determination of her rights. The appellant makes submissions about her concerns regarding how the councillor has treated her and that the municipality is withholding the email to prevent her from asserting her rights.

[43] The appellant states that the factors in section 14(2)(e) to (i) operate in favour of disclosure and "provide no overriding justification for withholding the email."¹² The appellant submits that the public confidence in the municipality and the IPC are at stake in this appeal and that to withhold the email is to "protect the government from being held accountable."

[44] Finally, the appellant submits that it would be an absurd result not to disclose the email as she knows that it was sent by the councillor and that it contains their allegations of harassment or threats. The appellant states that the communications upon which the allegations are based are in the public domain on a social media site, that the appellant denies the allegations, that a police investigation was commenced and that no charges were ever laid. The appellant submits that by denying access to the email, the municipality is preventing the appellant from considering legal action and acting contrary to the public interest by protecting the councillor.

Analysis and findings

[45] For the reasons that follow, I find that disclosure of the email would be an unjustified invasion of the councillor's personal privacy so that it is exempt under section

¹² The factors listed in section 14(2)(e) to (i) are generally considered to weigh against disclosure of personal information. If found to apply, they demonstrate that the individual to whom the personal information relates will be unfairly exposed to harm on disclosure (14(2)(e)), the personal information is highly sensitive (14(2)(f)), the personal information is unlikely to be accurate or reliable (14(2)(g)), the personal information has been supplied by the individual to whom it relates in confidence (14(2)(h)) and disclosure may unfairly damage the reputation of any person referred to in the record (14(2)(i)).

38(b). I am not persuaded that the exceptions in section 14(1)(c) and (d) apply in the circumstances of this appeal. As I explain, I find that the factors in sections 14(2)(f) and (h) apply and weigh against disclosure. I find that no factors weighing in favour of disclosure apply. Balancing the parties' interests, I am satisfied that the protection of the councillor's privacy outweighs the appellant's right of access to the information in the email.

Exceptions in section 14(1)

[46] It is the appellant's position that the exceptions in sections 14(1)(c) and 14(1)(d) apply to the email. Section 14(1)(c) applies to information that has been collected and maintained for the purpose of creating a public record and section 14(1)(d) applies when provincial or federal legislation expressly authorises disclosure of the record at issue.

[47] In Order PO-1736, the former Assistant Commissioner considered the application section 21(1)(c), which is the equivalent section in the provincial version of the *Act* and stated:

In previous orders [the IPC] has stated that in order to satisfy the requirements of section 21(1)(c), the information must have been collected and maintained *specifically for the purpose of creating a record available to the general public* (for example, Order P-318). Section 21(1)(c) has been found to be applicable where, for example, a person files a form with an institution as required by a statute, and where that statute provides any member of the public with an express right of access to the form (Order P-318, regarding a Form 1 under the Corporations Information Act). On the other hand, [the IPC] has found that where information in a record may be available to the public from a source other than the institution receiving the request, and the requested information is not maintained specifically for the purpose of creating a record available to the general public, section 21(1)(c) does not apply.

[48] I agree with this approach and adopt it in this appeal. From my review of the email, I find that the councillor did not provide the information in the email to the police specifically for the purpose of creating a public record. The information in the email was provided for purposes relating to the interactions of the appellant, the councillor and the municipality. In my view, any record created by the police following its receipt of the information in the email is incidental to the purpose for which the information was provided by the councillor.

[49] I note that in this appeal the appellant is not pursuing access to the email from the police but from the municipality. I also note that the municipality did not maintain a record of the email and was only provided with a copy as a result of the appellant's request. The municipality states that it notified the councillor of the appellant's request and the councillor provided a copy of the email to the municipality. In these

circumstances, the municipality is not an institution maintaining the email specifically for the purpose of creating a record available to the general public as contemplated by section 21(1)(c). I find that the exception in section 21(1)(c) does not apply.

[50] The appellant submits that section 14(1)(d) applies because “disclosure of police information to a person accused of a criminal offence is captured by the Criminal Code as well as countless decisions and is a right protected under the Canadian Charter of Rights and Freedoms [the Charter].”

[51] The appellant does not claim that the municipality’s decision to deny her access to the councillor’s email is in breach of her Charter rights. In this regard, the appellant does not raise a constitutional question to be determined as an issue in this appeal.¹³ Other and more generally, the appellant relies upon the exception in section 14(1)(d) to submit that disclosure of the councillor’s email is “expressly authorised” under the Criminal Code (the Code) and the Charter.

[52] For the exception in section 14(1)(d) to apply, there must be either:

- a specific authorization in another act of Ontario or Canada that allows for the disclosure of the type of personal information at issue, or
- a general reference in the other act to the possibility of disclosure together with a specific reference in a regulation to the type of personal information at issue.¹⁴

[53] The type of personal information at issue in this appeal is the councillor’s confidential email sent to the police. The appellant has not identified in the Code or the Charter a specific authorization that allows for the disclosure of this *type* of personal information. The appellant’s position is that under the Code and/or the Charter, she is “entitled to disclosure of the criminal investigation against her.”

[54] I find that the appellant makes only general references to the Code and the Charter and does not cite any provisions referring to the possibility of disclosure of confidential correspondence sent to an institution nor a specific reference to such disclosure in an accompanying regulation.

[55] Accordingly, there is no reasonable basis for me to find that either the Code or the Charter specifically, or generally in conjunction with a regulation, authorise disclosure of the councillor’s personal information in the email so that its disclosure would not be an unjustified invasion of their personal privacy. I find that the exception in section 14(1)(d) does not apply.

¹³ Where a party to an appeal before the IPC wishes to raise a constitutional question for determination as an issue in an appeal, the IPC *Code of Procedure* and *Practice Directions* prescribe the process for doing so. This process includes the filing of a Notice of Constitutional Question, which was not done by the appellant.

¹⁴ Orders M-292, MO-2030, PO-2641 and MO-2344.

Section 14(2) factors

[56] The municipality does not rely upon any of the factors in section 14(2). The appellant submits that the factors in section 14(2)(a) (public scrutiny) and 14(2)(d) (fair determination of rights) apply.

[57] Section 14(2)(a) supports disclosure of personal information where disclosure would subject the activities of the government (as opposed to the views or actions of private individuals) to public scrutiny.¹⁵ It promotes transparency of government actions.

[58] I am not persuaded that the factor in section 14(2)(a) applies to the email. The appellant submits that its disclosure will permit public scrutiny of the municipality and the conduct of a municipal councillor.

[59] As I have noted, I find that disclosure of the email would reveal something of a personal nature about the councillor. The appellant has not specified how disclosure of their personal correspondence with the police would subject the councillor's conduct in municipal office to public scrutiny. I also note that the appellant has filed a formal complaint about the councillor with the municipality's Integrity Commissioner, which led to an investigation that is now complete. In my view, that process, rather than the pursuit of access to personal information, is the proper forum for the scrutiny of a municipal councillor's conduct in public office.

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

[61] I am also not persuaded that the factor in section 14(2)(d) applies in the circumstances of this appeal. Section 14(2)(d) requires an institution to consider whether "the personal information is relevant to a fair determination of rights affecting the person who made the request." If it applies, section 14(2)(d) weighs in favour of disclosure.

[62] The IPC has consistently held that for section 14(2)(d) to apply, an appellant must establish all four parts of the following test:

1. The right in question must be a right existing in the law, as opposed to a non-legal right based solely on moral or ethical grounds;
2. The right must be related to a legal proceeding that is ongoing or might be brought, not one that has already been completed;
3. The personal information being sought must be significant to the determination of the right in question; and

¹⁵ Order P-1134.

4. The personal information must be required in order to prepare for the proceeding or to ensure an impartial hearing.¹⁶

[63] The appellant does not address the four-part test in her representations. The appellant describes the fair determination of her rights by stating that the disclosure of the email is necessary for her to commence legal proceedings against the councillor, the municipality and the police, in the event that the statements in the email are "false".

[64] The appellant does not identify a right to be determined, nor that it is based in the law, the necessity of the disclosure of the information at issue nor the relevant proceedings. In my view, the appellant's submission that the disclosure of the councillor's personal information is relevant to the determination of her rights, is based on speculation about the email contents. Accordingly, I find that the factor in section 14(2)(d) does not apply to weigh in favour of disclosure.

[65] The appellant makes a general submission that the factors in section 14(2)(e) to (i) apply and weigh in favour of disclosure of the email. I agree that some of these factors apply in the circumstances of this appeal but disagree that they weigh in favour of disclosure. If they apply, the factors in section 14(2)(e) to (i) are generally considered to constitute an unjustified invasion of personal privacy.

[66] Section 14(2)(f) applies when the personal information at issue is highly sensitive. To be considered "highly sensitive," there must be a reasonable expectation of significant personal distress if the information is disclosed.¹⁷ In general, it is reasonable to expect that individuals who make complaints or allegations about other individuals to an institution would suffer some personal distress if this information is later disclosed. I find that the factor in section 14(2)(f) applies to the councillor's email to the police and weighs against disclosure.

[67] Section 14(2)(h) applies where the personal information at issue has been supplied by the individual to whom it relates in confidence. For this section to apply, both the individual supplying the information, in this case the councillor, and the recipient, the police, must have an expectation that the information would be treated confidentially. The expectation of confidentiality must be reasonable in the circumstances.¹⁸

[68] On an objective basis, an individual who provides their personal information in the context of making a complaint about another individual, can generally expect that such information will be treated confidentially. This promotes confidence in the institution the complainant has approached for assistance. In addition, I have already noted that the councillor's email is expressly marked "confidential." I also note the focus of the

¹⁶ 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.).

¹⁷ Orders PO-2518, Po-2617, MO-2262 and MO-2344.

¹⁸ Order Po-1670.

appellant's submissions, which is that the police have disclosed to her the investigative file and that the councillor's email was not included in that disclosure. In these circumstances, I find that the councillor and the police expect the email to be treated confidentially so that the factor in section 14(2)(h) applies and weighs against disclosure.

Section 14(3) presumptions

[69] The municipality submits that section 14(3)(b) applies to the email. Section 14(3)(b) states that disclosure of personal information that is part of an investigation into a possible violation of law is presumed to be an unjustified invasion of personal privacy.

[70] The appellant does not directly address the application of the presumption in section 14(3)(b). However, from my review of the appellant's representations, I note that she states that the councillor's email led to a police investigation and the premise of her submissions about being entitled to disclosure of the email is that it forms part of the police investigation file.

[71] I accept the appellant's submission that the information in the email led to a police investigation. However, given my findings below that the factors in sections 14(2)(f) and (h) apply and these factors weigh against disclosure, it is not necessary for me to determine whether the presumption in section 14(3)(b) also applies in the circumstances of this appeal.

Weighing the applicable factors

[72] I have found that the factors weighing against disclosure in section 14(2)(f) and 14(2)(h) apply and no factors apply weighing in favour of disclosure.

[73] Weighing these factors and balancing the appellant's right to access the email against the protection of the councillor's personal privacy, I find that the email is exempt from disclosure under section 38(b) of the *Act*, subject to my review of the municipality's exercise of discretion.

[74] As I find that the email is exempt under section 38(b), it is not necessary for me to consider the alternative claim by the municipality that the email is exempt under section 38(a), read with the law enforcement exemption in section 8(1) of the *Act*. I now turn to the appellant's submissions on the absurd result principle.

Absurd result

[75] The appellant submits that she is aware of the general details of the councillor's allegations against her so that it is absurd for the municipality to refuse access to the email.

[76] An institution may not be able to rely on the section 38(b) exemption in cases where the requester originally supplied the information in the record or is otherwise aware

of the information. In these cases, withholding the information might be absurd and inconsistent with the purpose of the exemption.¹⁹

[77] I find that the absurd result principle does not apply. The appellant did not supply the information in the email and although she is aware of the general details of the allegations that led to the police investigation, there is no reasonable basis for me to find that she is aware of the specific contents of the email. In my view, disclosure of the email would be inconsistent with the purpose of the section 38(b), which is to protect the personal privacy of an individual whose personal information is contained in a record held by an institution.

[78] Accordingly, I find that it would not be absurd to withhold the councillor's email from the appellant in the circumstances of this appeal.

Issue C: Did the municipality properly exercise its discretion in withholding the information in the email?

[79] The exemption in section 38(b) is discretionary and it permits the municipality to disclose the email, despite the fact that it can withhold it. The municipality must exercise its discretion. On appeal, the IPC may determine whether an institution has failed to do so.

[80] The IPC may also find that an institution erred in exercising its discretion where, for 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.

[81] In either case, the IPC may send the matter back to the institution for an exercise of discretion based on proper considerations.²⁰ The IPC cannot, however, substitute its own discretion for that of the institution.²¹

[82] The municipality states that its decision to withhold the email was based on concerns arising from the interference with future legal proceedings or the police investigation.

[83] The appellant's position is that the municipality has acted in bad faith and for an improper purpose in its exercise of discretion. The appellant submits that the municipality relied upon the existence of a police investigation that has concluded and it was disingenuous of the municipality to do so.

[84] From my review of the municipality's representations as a whole, I am satisfied that it has exercised its discretion to withhold the email and it has done so properly. Notwithstanding the fact that any investigation is concluded, I am satisfied that when the

¹⁹ Orders M-444 and MO-1323.

²⁰ Order MO-1573.

²¹ Section 43(2).

municipality exercised its discretion, it took into account the police investigation and the nature of the information and that these are relevant considerations.

[85] There is no basis for me to find that the municipality exercised its discretion in bad faith or for an improper purpose. Accordingly, I uphold the municipality's exercise of discretion in deciding to withhold the email.

ORDER:

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

Original Signed by: _____

Katherine Ball
Adjudicator

March 26, 2025