

Information and Privacy Commissioner,
Ontario, Canada



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

RECONSIDERATION ORDER MO-4658-R

Appeals MA21-00538 and MA21-00553

Municipal Property Assessment Corporation

Order MO-4626

May 26, 2025

Summary: This reconsideration order corrects two errors to the description of MPAC's commercial revenue in Order MO-4626, and corrects the omission of a statutory reference in two other paragraphs. The corrections are made pursuant to section 15.01(c) of the IPC's *Code of Procedure*, which permits reconsideration where there is a clerical error, accidental error or omission, or other similar error.

Statutes Considered: IPC *Code of Procedure*, section 15.01(c).

Order Considered: Order MO-4626.

OVERVIEW:

[1] This order addresses a request by the Municipal Property Assessment Corporation (MPAC) for reconsideration of order MO-4626 under section 15.01(c) of the IPC's *Code of Procedure* (the *Code*), which provides for reconsideration where an order contains a clerical error, accidental error or omission, or other similar error.

DISCUSSION:

[2] In Order MO-4626, I upheld MPAC's decisions in two related appeals to deny

access to Geographic Information System (GIS) Shapefiles under sections 11(c) and (d) of the *Freedom of Information and Protection of Privacy Act* (the *Act*).¹ I found that disclosure of the requested records outside of MPAC's existing licensing framework could reasonably be expected to harm its economic and financial interests. I concluded that the records were exempt under sections 11(c) and (d), and that the public interest override in section 16 did not apply.

[3] MPAC has submitted a reconsideration request identifying two categories of error:

1. a misattribution of MPAC's overall commercial revenue to data licensing activities; and,
2. an omission in a statutory reference in the *MPAC Act*.²

[4] MPAC submits that these constitute errors and omissions under section 15.01(c) of the *Code*, and that they reflect an inaccurate representation of portions of its submissions during the inquiry.

[5] Section 15.01(c) provides that:

IPC decisions are final. The IPC may only reconsider an Order or other decision where it is established that there is:

(c) a clerical error, accidental error or omission or other similar error in the decision.

[6] In this reconsideration order, I find that the errors and omissions identified in MPAC's reconsideration request fall within this provision. I accept that they resulted in a misstatement of portions of MPAC's representations and find that I may reconsider the order for the purpose of correcting these discrete errors.

1. Revenue from commercial activities

[7] In its representations submitted during the inquiry, MPAC attributed "tens of millions of dollars in commercial revenue" to its overall commercial activities during 2020 and 2021. However, in Order MO-4626, I wrote that this revenue was attributable to MPAC's data licensing activities, which MPAC had explained are a subset of its broader commercial activities.

[8] MPAC requests minor corrections to paragraphs 22 and 41 of the order to remedy these concerns. I have reviewed MPAC's original representations (that were shared with the appellant during the inquiry). I agree that the wording in paragraphs 22 and 41 of Order MO-4626 misstated MPAC's submissions by attributing certain revenue specifically

¹ The appeals concerned two access requests initially submitted to the County of Simcoe and the Township of Oro-Medonte, each of which transferred relevant portions of the requests to MPAC.

² *Municipal Property Assessment Corporation Act, 1997*, S.O. 1997, c. 43, Sched. G.

to data licensing, when MPAC's evidence and representations make clear that this amount referred to its overall commercial activities. This mischaracterization resulted from an inadvertent misstatement of fact that I find constitutes an accidental or similar error within the meaning of section 15.01(c) of the *Code*.

[9] Accordingly, the following corrections are made:

- Paragraph 22 is corrected to read, in part:

"...MPAC notes that, in the two years preceding the request, its commercial activities generated tens of millions of dollars in revenue..."

Specifically, the word "commercial" replaces "data licensing," as was set out in MPAC's representations.

- Paragraph 41 is corrected to read, in part:

"...MPAC submits that, in the two years preceding these requests, its commercial activities generated tens of millions of dollars in revenue..."

The words "commercial activities" replace "licensing regime," as set out in MPAC's representations.

[10] The corrected paragraphs (22 and 41) are set out in their entirety in Appendix A to this reconsideration order.

2. Reference to MPAC's statutory authority to generate revenue

[11] Order MO-4626 refers in paragraphs 20 and 34 to section 8(2) of the *MPAC Act* as the basis for MPAC's authority to generate revenue. In its original representations, MPAC wrote that section 8(2) provides that MPAC "shall use its income solely in furtherance of the duties and activities authorized under [the *MPAC Act*]" and that section 9(2) authorizes MPAC to "engage in any activity consistent with its duties that its board of directors considers to be advantageous to [MPAC]." In its reconsideration request, MPAC notes the omission of section 9(2) in paragraphs 20 and 34.

[12] I agree that the omission of section 9(2) in these paragraphs constitutes an accidental or clerical omission. For accuracy and completeness, I find that paragraphs 20 and 34 should be corrected to refer to both sections 8(2) and 9(2) of the *MPAC Act*.

[13] Accordingly, the following corrections are made:

- Paragraph 20 is corrected to read, in part:

"...MPAC relies on sections 8(2) and 9(2) of the *MPAC Act*, which authorize it to generate income in furtherance of its statutory duties..."

- Paragraph 34 is amended to read, in part:

“...Sections 8(2) and 9(2) of the *MPAC Act* grant MPAC the power to generate revenue and provide that the income MPAC earns must be used to support MPAC’s duties and activities.”

[14] The corrected paragraphs (20 and 34), correcting the omission of reference to section 9(2) of the *MPAC Act*, are set out in their entirety in Appendix A to this reconsideration order.

Conclusion

[15] I find that both the errors in paragraphs 22 and 41, and omission of a statutory reference in paragraphs 22 and 34, constitute clerical, accidental and similar errors under section 15.01(c) of the *Code* and should be corrected.

[16] These corrections do not alter the outcome of Order MO-4626. The findings that the records are exempt under sections 11(c) and (d) of the *Act*, and that the public interest in section 16 does not apply, remain unchanged.

ORDER:

1. I allow MPAC’s reconsideration request.
2. Pursuant to section 15.01(c) of the IPC *Code of Procedure*, Order MO-4626 is corrected as described in paragraphs 9 and 12 above. The corrected paragraphs are set out in their entirety in Appendix A to this reconsideration order, and replace paragraphs 20, 22, 34 and 41 of Order MO-4626.

Original Signed by: _____

Jessica Kowalski
Adjudicator

May 26, 2025

APPENDIX A TO RECONSIDERATION ORDER MO-4658-R

In accordance with order provision 2, the following paragraphs replace paragraphs 20, 22, 34 and 41 of Order MO-4626:

Paragraph 20 of Order MO-4626 is replaced with the following:

[20] MPAC relies on sections 8(2) and 9(2) of the *MPAC Act*,⁹ which authorize it to generate income in furtherance of its statutory duties. MPAC says that revenues from data sales are shared among the parties to the OPMA according to their respective contributions, with the fees charged to third parties partially compensating for the costs of ongoing database maintenance and development. MPAC says that its Business Development Group is responsible for generating revenue through licensing data¹⁰ for use in industries such as real estate, finance, law, insurance and government.

Paragraph 22 of Order MO-4626 is replaced with the following:

[22] Specifically, MPAC claims that disclosure outside the licensing regime would result in significant harms under sections 11(c) and (d). It claims that unrestricted disclosure would prejudice its economic interests and competitive position by undermining its revenue-generating activities and creating the risk of misuse of the data outside the licensing terms. MPAC argues that third parties could manipulate, resell or use the data to create competing products or services, potentially leading to a secondary market of unofficial data that could confuse users and undermine the reliability of MPAC's official data products. MPAC further contends that such disclosure would harm its ability to negotiate licensing agreements with other customers and jeopardize the revenue that offsets the costs of its services to municipalities. MPAC notes that, in the two years preceding the request, its commercial activities generated tens of millions of dollars in revenue, which MPAC says directly reduced the financial burden on taxpayers. It argues that any precedent allowing free disclosure of the requested data would have long-term financial consequences for both it and its municipal stakeholders

Paragraph 34 of Order MO-4626 is replaced with the following:

[34] According to the materials before me, MPAC is authorized by the *Assessment Act*¹¹ to administer a province-wide property assessment system, with all municipalities in Ontario jointly funding MPAC pursuant to the *MPAC Act*. Sections 8(2) and 9(2) of the *MPAC Act* grant MPAC the power to generate revenue and provide that the income MPAC earns must be used to support MPAC's duties and activities.

Paragraph 41 of Order MO-4626 is replaced with the following:

[41] I find that the same reasoning applies here. I have already found that the sale of data under licence is part of commercial operations that MPAC is statutorily authorized to undertake. MPAC submits that, in the two years preceding these requests, its commercial activities generated tens of millions of dollars in revenue. This fee-based licensing

framework, whether for access to standardized data or to custom data packages under licence, directly supports MPAC's operational mandate. I find that disclosing this revenue-generating data outside the licensing scheme could reasonably be expected to result in financial losses. In the current appeals and given the scale of the requests and volume of data involved, the mere act of disclosure under the *Act*, apart from any concerns about subsequent commercialization, would deprive MPAC of revenue associated with the sale of the data and impair or undermine MPAC's ability to charge for data that it is statutorily authorized to sell. In my view, such a scenario could reasonably be expected to undermine the financial model that offsets the costs of MPAC's services. I am satisfied that disclosure of such information for free under the *Act* would deprive MPAC of this revenue stream and could therefore reasonably be expected to prejudice, and be injurious to, its economic interests. I am also satisfied that disclosure of the requested records outside of the licensing framework would undermine MPAC's ability to offset costs payable by member municipalities. I find that this, in turn, could reasonably be expected to prejudice MPAC's economic interests and injure its financial position for the purposes of sections 11(c) and (d).