

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER MO-4673

Appeal MA23-00333

City of Toronto

June 26, 2025

Summary: The City of Toronto received a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for access to records of specified building permits relating to a municipal address. The city located 70 pages of building plans and notified the property owner. The property owner objected to disclosure of the records and the city decided not to provide the building plans to the requester because disclosure could reasonably be expected to endanger the security of the property (section 8(1)(i)).

In this order, the adjudicator finds that the city and the property owner have failed to establish that disclosure of the building plans could reasonably be expected to endanger the security of the property as contemplated by section 8(1)(i). Accordingly, the adjudicator finds the records are not exempt from disclosure. She orders the city to disclose the building plans to the appellant.

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, sections 2(1) and 8(1).

Orders Considered: Orders P-23, MO-2986, MO-2181, and MO-2074.

OVERVIEW:

[1] This order considers whether the disclosure of residential building plans could reasonably be expected to endanger the security of a building to which they relate, so that they are exempt under section 8(1)(i) of the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*).

[2] The City of Toronto (the city) received a request under the *Act* for access to records relating to specified building permits for a municipal address. The city conducted a search and located responsive records, including 70 pages of building plans. The city notified the property owners of the request. The property owners objected to the disclosure of the building plans.

[3] The city decided to disclose some records, in part. Regarding the 70 pages of building plans, the city issued a final decision refusing the requester access and citing the exemption in section 8(1)(i) of the *Act*. Section 8(1)(i) contains an exemption where disclosure could reasonably be expected to endanger the security of a building.

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

[5] The appellant confirmed that she is only pursuing access to the building plans. The single issue in this appeal is therefore whether the section 8(1)(i) exemption applies to those records. Mediation did not resolve the appeal and it was transferred to the adjudication stage. I decided to conduct an inquiry.

[6] I invited and received representations from the city and the appellant. In addition, I received representations from the property owner, whom I identified as an affected party.

[7] For the reasons that follow, I find that disclosure of the 70 pages of building plans could not reasonably be expected to endanger the security of the affected party's property. Accordingly, I find that the building plans are not exempt under section 8(1)(i). I order the city to disclose the building plans to the appellant.

RECORDS:

[8] The records at issue comprise 70 pages of building plans relating to the building permits specified in the request.

PRELIMINARY ISSUE:

Do the records contain "personal information" as defined in section 2(1)?

[9] The city has withheld the building plans on the basis of the section 8(1)(i) exemption only.

[10] In their representations, the affected party refers to the building plans at issue as their personal information. The affected party also states that the building plans are private plans that show the interior layout of the rooms at the property.

[11] In light of the affected party's representations, I have considered whether the information in the building plans is "personal information" as defined in section 2(1) of the *Act*.¹ If a record contains personal information of identifiable individuals other than the requester, the mandatory personal privacy exemption at section 14(1) might apply.

[12] For the following reasons, I find that the building plans do not contain "personal information" so that the mandatory personal privacy exemption cannot apply. I base this finding on my review of the records, the affected party's representations, and the relevant law.

[13] 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. Section 2(1) gives a list of examples of personal information:

- a. information relating to the race, national or ethnic origin, colour, religion, age, 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,
- 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 except if they relate to another individual,
- g. the views or opinions of another individual about the individual, and
- h. the individual's name where 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.

[14] This list of examples of personal information under section 2(1) is not exhaustive. Therefore, information that does not fall under paragraphs (a) to (h) may still qualify as personal information.²

[15] To qualify as personal information, it must be reasonable to expect that an

¹ A personal privacy exemption may apply to information that qualifies as "personal information" as defined in section 2(1) of the *Act*.

² Order 11.

individual may be identified if the information is disclosed.³

[16] Generally, information about an individual in their professional, official, or business capacity is not considered to be “about” the individual.⁴

[17] From my review of the records, I note that some of the building plans do reveal the property address to which they relate, and I have considered whether the property address is personal information of identifiable individuals.

[18] Previous orders of the IPC have held that in certain circumstances, it is reasonable to expect that an individual may be identified from a disclosed address.⁵ An address can be linked with an owner, resident, or tenant through searches in reverse directories, and municipal property assessment rolls. Accordingly, I find that the affected party is identifiable as the property owner from the address in the building plans.

[19] However, I find that there is a distinction between information about an identifiable individual which may be personal information and information about a property. Previous orders of the IPC have held that information about a property does not qualify as personal information as defined in section 2(1) of the *Act* if it does not reveal information about an identifiable individual.⁶ This was the approach taken by the adjudicator in Order P-23, which I agree with and adopt in this appeal.

[20] The records at issue in this appeal consist of building plans associated with specified building permits. From my review of the building plans, I am satisfied that they contain information that is about the property at the address specified in the request and that the information is not about an individual. Notwithstanding that the affected party is identifiable from the property address in the building plans, I find that the information in the plans is not “about” the affected party.

[21] Accordingly, I find that the information at issue in the building plans does not qualify as the affected party’s personal information, as defined in section 2(1) of the *Act*. As a result, it is not necessary for me to consider whether it is subject to the mandatory personal privacy exemption at section 14(1) of the *Act*.

DISCUSSION:

[22] The sole issue in this appeal is whether disclosure of the building plans could reasonably be expected to endanger the security of a building so that they are exempt

³ Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v Pascoe*, [2002] O.J. No. 4300 (C.A.).

⁴ Orders P-257, P-427, P-1412 and PO-2225.

⁵ PO-2322, PO-2265 and MO-2019.

⁶ Orders P-23, M-175, MO-2053, MO-2081, PO-2322, MO-2695, MO-2792, MO-2994, MO-3066, MO-3125 and MO-3321.

under section 8(1)(i) of the *Act*.

[23] Section 8 contains several exemptions from a requester's right of access, mostly related to the context of law enforcement but extending to any building, vehicle or system that reasonably requires protection.⁷

[24] Section 8(1)(i) states that:

(1) A head may refuse to disclose a record if the disclosure could reasonably be expected to,

(i) Endanger the security of a building or the security of a vehicle carrying items, or of a system or procedure established for the protection of items, for which protection is reasonably required[.]

[25] The party resisting disclosure cannot simply assert that the harms under section 8 are obvious based on the record. They must provide detailed evidence about the risk of harm if the record is disclosed. While harm can sometimes be inferred from the records themselves and/or the surrounding circumstances, parties should not assume that the harms under section 8 are self-evident and can be proven simply by repeating the description of harms in the *Act*.⁸

[26] A party resisting disclosure must show that the risk of harm is real and not just a possibility.⁹ However, they do not have to prove that disclosure will in fact result in harm. How much and what kind of evidence is needed to establish the harm depends on the context of the request and the seriousness of the consequences of disclosing the information.¹⁰

Parties' representations

[27] The city submits that while most residential building plans requested under the *Act* are ultimately disclosed, in rare circumstances an affected party may provide substantiated reasons in support of withholding them.

[28] The city explains that its Routine Disclosure policy allows anyone access to residential building plans associated with permit applications submitted within a specified time period but allows property owners to submit a registered letter of objection.

[29] The city acknowledges that the IPC has previously held that residential buildings by their nature do not give rise to a reasonable basis for believing that endangerment

⁷ Orders P-900 and PO-2461.

⁸ Orders MO-2363 and PO-2435.

⁹ *Merck Frosst Canada Ltd. v. Canada (Health)*, [2012] 1 S.C.R. 23.

¹⁰ *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, 2014 SCC 31 (CanLII) at paras. 52-4; *Accenture Inc. v. Ontario (Information and Privacy Commissioner)*, 2016 ONSC 1616.

could result from disclosure.¹¹ However, the city's position is that "the level of acrimony between the parties and the prior acts of the appellant, require careful consideration with respect to the treatment of the building plans at issue in this appeal."

[30] The city submits that to meet the expectation of harm requirement for the application of section 8 of the *Act*, there must be some logical connection between disclosure of the actual records at issue and the potential harm which the institution seeks to avoid by applying the exemption. The city relies upon the affected party's reasons for objecting to the disclosure of the building plans and the history of the parties' interactions. The city submits that the building plans are sufficiently connected with the security of the property at the specified address and its occupants that their disclosure could reasonably be expected to result in the endangerment that section 8(1)(i) seeks to prevent.

[31] The city also makes submissions regarding the appellant's reasons for pursuing access to the building plans, which concern the effect of the renovations outlined in the building permits on a neighbouring property. The city submits that the appellant has already been provided with records that can be used to address these concerns.

[32] Finally, the city states that the appellant was unsuccessful in obtaining an injunction to stop the renovations being carried out.

[33] In their representations, the affected party describes the history of their interactions with the appellant. The affected party states that draft building plans were shared with the appellant prior to the renovation work being started. The affected party states that the appellant posted the plans on social media and shared them with a broadcaster that published a story about the property and the proposed work.

[34] The affected party states that the appellant has also tried to halt construction on the property by obtaining a court injunction but was unsuccessful. The affected party states that the appellant stands near the property staring at the property and taking photos.

[35] The affected party states that the appellant's behaviour demonstrates no respect for privacy and makes them feel uncomfortable. The affected party states that they are concerned and scared for the family's safety. The affected party states that the building plans at issue include details about the interior layout. The representations describe their fear if the plans are released.

[36] The appellant's position is that her home has been structurally damaged as a result of the renovations at the address specified in the request. The appellant provides a summary of work that has been carried out and states that she is seeking access to the building plans at issue in this appeal in order to complete the necessary repairs. The appellant submits that the records already released by the city do not provide the

¹¹ The city cites Order MO-2181.

information she is seeking.

[37] The appellant states that she has been taking photos of the renovation at the affected party's property because she was advised to do so by her insurance company, to document events. The appellant states that she has no desire to know anything about the details of the affected party's house and would not compromise the affected party's safety.

[38] The appellant submits that the city has denied her request for the building plans based only on the affected party's views about the situation. The appellant states that she posted plans on social media in the context of a discussion about an apparent discrepancy between the conceptual drawings that had been shared with her by the affected party and statements made by a developer about the proposed façade of the property during a Committee of Adjustments hearing. The appellant states that no personal information was included in the "snippet" that was shared.

[39] The appellant states that the story published in the media about the proposed renovations focusses on the rate at which buildings with a long, rich history (though not technically qualifying as "heritage buildings") are being renovated into larger properties for profit. The appellant submits that the publication of this article should not be grounds for denying access to the information that she is seeking and that she needs to carry out repairs to her property.

Analysis and findings

[40] For the reasons that follow, I am not satisfied that disclosure of the building plans at issue could reasonably be expected to endanger the security of the affected party's property. I find that section 8(1)(i) does not apply.

[41] In Order MO-2181 the adjudicator considered the nature of building plans and whether drawings relating to residential properties by their very nature belong to a group of exempt drawings. The adjudicator said:

I acknowledge that some buildings, such as nuclear power plants or sensitive military installations, may by their very nature, give rise to a reasonable basis for believing that endangerment could result from disclosure. However, in the absence of other evidence, this same approach cannot be applied to residential buildings. Residential structures, by their very nature, do not establish a reasonable basis for believing that harms set out in section 8(1)(i) will result from the disclosure of the building plans. In my view, the wording of section 8(1)(i) does not support a blanket application to the building plans of all structures, regardless of their nature, or the circumstances in which access is sought.

[42] I agree with this approach and adopt it in this appeal. To establish the application of section 8(1)(i) the nature of the building plans is not enough and there must be

evidence to support the expectation that endangerment could result from their disclosure. I am not satisfied that the evidence in this appeal establishes the expectation of endangerment if the building plans are disclosed.

[43] The affected party and the city rely on two factors: the history of the interactions between the appellant and the affected party and the fact that the building plans include the interior layout of the property.

Interactions of the parties

[44] The city submits that the history of interactions between the appellant and the affected party and the appellant's prior conduct establish the expectation of harm if the building plans are disclosed. The affected party relies on the fact that the building plans previously shared with the appellant were posted on social media and were the subject of a media story. The affected party also relies on the appellant taking photos of the property and attempting to halt construction as demonstrating the risk of harm if the plans are disclosed. I have considered whether this evidence of the parties' interactions and the appellant's behaviour establishes a risk of harm as contemplated by section 8(1)(i).

[45] The IPC has held that a reasonable expectation of endangerment to the security of a building can be demonstrated in evidence of animosity between the affected party and the individual seeking access to the records. For example, in Order MO-2074, the institution provided evidence that the appellant had been charged with assault on one of the affected party's family members, there was a restraining order in effect against the appellant and the presiding judge had described the appellant's actions as sufficient to show extreme cause for concern for the affected party's safety. The affected party provided evidence of 14 years of ongoing animosity with the appellant and a court action in which the affected parties alleged the appellant had spread defamatory and libellous statements about them and their family. The adjudicator noted:

I note the long-standing animosity between the appellant and the affected parties that continues to the present day. The appellant submits that I have not been provided with evidence of any actual harm, or intent to harm, the building on his part. However, the test does not require evidence of actual harm, or of actual intent to harm. What is required is "detailed and convincing" evidence that disclosure of the records "could reasonably be expected to" result in endangerment to the security of a building. On the basis of the well-documented animosity between the appellant and the affected parties, I am satisfied that the [institution] and the affected parties have met their onus.

[46] There is no evidence of animosity between the parties in this appeal.

[47] I acknowledge that the appellant has previously published building plans that have

been shared with them. However, I have considered the appellant's explanation for sharing the plans and am satisfied that this conduct is not evidence that the disclosure of additional plans could reasonably be expected to result in a security risk. Regarding the social media post, I accept that the context of this post is a discussion about an apparent discrepancy regarding the proposed façade of the property. From my review of the media article, I am satisfied that the context of the publication is a discussion around the preservation of heritage buildings in the city. There is no reasonable basis for me to find that the appellant's prior use of building plans was motivated by malevolence or that it gives rise to a security risk.

[48] I acknowledge that the appellant sought an injunction to halt the affected party's construction project. However, I accept the appellant's evidence that this was motivated by a concern for their own property. There is no reasonable basis for me to find that the appellant's action in using a legal process to address their concerns creates a risk to the security of the affected party's property. I am similarly not persuaded that the appellant's conduct in taking photographs of the property during the construction project is evidence of a risk of harm of the type contemplated by section 8(1)(i). The appellant has explained why photographs were taken and that this was done on the advice of the insurer. I accept that explanation.

Interior layout of the property

[49] The building plans at issue include the interior layout of the affected party's property. The affected party submits that they are concerned about the risk of harm if this interior layout is disclosed.

[50] In Order MO-2986, the adjudicator found that building plans were exempt under section 8(1)(i), in part, because of a connection between the information provided in the plans and the risk of harm. The building plans in that appeal related to a facility combining residential, educational and outreach services for vulnerable young people. The young people using the facility had experienced challenging circumstances and the adjudicator found that the security of the building was an important consideration for its occupants. The floor plans outlined the interior layout of the facility that included information about where bedrooms, closets and washrooms were located. The adjudicator found that the interior layout was connected to the risk of endangerment because of the vulnerability of the occupants. I agree with this approach and adopt it in this appeal.

[51] While I acknowledge the affected party's submission of a subjective fear of harm if the interior layout of their property is disclosed, I am not persuaded that it establishes a risk of harm. From my review of the building plans and the affected party's representations, there is no reasonable basis for me to find that the property is particularly vulnerable to a security risk. I note the city's representations that its usual practice is to disclose building plans associated with building permits. The city does not provide any evidence that the information in the building plans in this appeal unusually creates a security concern. Accordingly, there is no evidence before me of a rational

connection between the interior layout of the affected party's property and a risk of endangerment to the property.

[52] For these reasons, I find that the disclosure of the building plans at issue cannot reasonably be expected to result in endangerment to the security of the affected party's property and the exemption in section 8(1)(i) does not apply.

[53] I allow the appeal and will order the city to disclose the 70 pages of building plans to the appellant.

ORDER:

1. I order the city to disclose to the appellant the 70 pages of building plans no later than **August 1, 2025**, and no sooner than **July 28, 2025**.
2. I reserve the right to request the city to provide me with copies of the building plans disclosed to the appellant.

Original Signed by: _____

Katherine Ball
Adjudicator

June 26, 2025