

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER MO-4701

Appeal MA22-00372

City of Toronto

October 1, 2025

Summary: An individual made a request under the *Municipal Freedom of Information and Protection of Privacy Act* for records related to a heritage assessment regarding a specified property. The City of Toronto disclosed some records and information to the individual. It withheld the remaining records and information claiming their disclosure would result in an unjustified invasion of other individuals' personal privacy (section 14(1)) or because they are non-responsive to the request.

The individual appealed the city's decision. In addition to disagreeing with the city's decision to withhold some records and information, the individual asserted that the city did not properly interpret the scope of the request and did not conduct a reasonable search for records.

In this order, the adjudicator finds that the city correctly interpreted the scope of the request. She upholds the city's decision to withhold some information under section 14(1) and finds that most of the information the city withheld as non-responsive is responsive but exempt under section 14(1). However, the adjudicator does not uphold the city's decision to withhold portions of two records as non-responsive. Finally, the adjudicator finds that the city did not conduct a reasonable search, and she orders a further search for responsive records.

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), 17, and 46(d).

Orders Considered: Orders P-17, P-1068, PO-1682, MO-2470 and MO-4365-I.

OVERVIEW:

[1] The City of Toronto (the city) received a 6-part request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for the following records related to a heritage assessment¹ it conducted of one of its areas:

1. Written Feedback, Submissions and Meeting Notes from Bloor-Sterling Cultural Heritage Resource Assessment. Heritage Focus Group Meeting #1 on Thursday, January 7th, 2021 Cisco Webex 7-8:30 pm.
2. Any and all correspondence or documentation in any form whatsoever, regarding the 'heritage survey' proposed and undertaken between January 7th, 2021 and January 26th, 2021, including, but not limited to, electronic communications, oral representations, the heritage survey itself, initial proposal. The 'heritage survey' is mentioned on 'Bloor Street Study Cultural Heritage Resource Assessment' Heritage Focus Group Meeting #2, Tuesday, January 26th, 2021.
3. Any and all correspondence or documentation in any form whatsoever in control of the City of Toronto or an agent of the City of Toronto, regarding [a specified address], including, but not limited to, electronic communications, oral representations, between January 7th, 2021 and January 26th, 2021.
4. Written Feedback, Submissions and Meeting Notes from Bloor-Sterling Cultural Heritage Resource Assessment. Heritage Focus Group Meeting #2 on Tuesday, January 26th, 2021 Cisco Webex 7-8:30 pm.

[2] Items 5 and 6 of the request listed a number of emails from specified individuals. The appellant identified January 1, 2020 to March 10, 2022 as the relevant timeframe for the request.

[3] In response to the appellant's request, the city issued a decision granting partial access to 611 pages of responsive records. The city denied access to portions of the records under the mandatory exemption at section 14(1) (personal privacy) of the *Act*. In addition, the city withheld some information as not responsive. The city organized all records into four parts, which I will refer to as Part 1, 2, 3 and 4.

[4] The appellant was dissatisfied with the city's decision and appealed it to the Information and Privacy Commissioner of Ontario (the IPC).

[5] The IPC attempted to mediate the appeal. During mediation, the appellant provided a letter setting out her concerns about the city's search and describing the additional records she seeks. In the letter, the appellant also sought further particulars about the city's decision to withhold information on some pages.

¹ The purpose of a heritage assessment is to document an area's development history and to ensure that properties of cultural heritage value or interest are appropriately identified, understood and conserved.

[6] In response to the appellant's letter, the city conducted another search and issued two additional decisions. The city disclosed further records to the appellant and granted her partial access to certain pages it had previously deemed non-responsive, withholding some information under the personal privacy exemption. With one of the decisions, the city enclosed a chart in which it responded to some of the questions the appellant asked in her letter.

[7] After receiving the additional decisions, the appellant remained of the view that more responsive records exist. She confirmed that she pursues access to the information the city withheld under the personal privacy exemption and as non-responsive. The appellant also expressed concern about the manner in which the city provided the records to her and concern that the city interpreted her request narrowly. The appellant also confirmed that she seeks access to the records described in items 5 and 6 of her request. The city described these records as publicly available and confirmed that it denied access to them under section 15(a) of the *Act*.

[8] As no further mediation was possible, the appeal was transferred to adjudication, where an IPC adjudicator decided to conduct an inquiry. The adjudicator sought, received and shared representations from the parties in accordance with the IPC *Code of Procedure* and *Practice Direction Number 7*. The appeal was then transferred to me to complete the inquiry. I reviewed the appeal file and determined I did not need to obtain additional representations from the parties.

[9] In her initial representations, the appellant advised that she no longer pursues records responsive to items 5 and 6 of her request.² In addition, the appellant stated that she no longer seeks access to call-in information for virtual meetings that the city withheld as non-responsive.³

[10] For the reasons that follow, I find that the city correctly interpreted the scope of the request. I uphold the city's decision to withhold some information under the personal privacy exemption and find that most of the information the city withheld as non-responsive is responsive but exempt under the personal privacy exemption. I partially uphold the city's decision to withhold a portion of page 1 of Part 4 as non-responsive and do not uphold the city's decision to withhold a portion of page 5 of Part 3 as non-responsive. Regarding the city's search for records, I find that the city did not conduct a reasonable search and order it to conduct a further search for responsive records.

² Therefore, items 5 and 6 of the request and the relevant exemption at section 15(a) are no longer at issue in this appeal.

³ Therefore, the following pages or portions of the pages that contain the call-in information are no longer at issue in this appeal: page 160 of Part 1; page 47 of Part 2; pages 3, 4, 6, 7, 12, 17, 26, 28, 32, 34, 37 of Part 3; and pages 22, 23, 31, 83, 84, 85, 87, 88 of Part 4. I refer to the page numbers in the records and not to the page numbers in the PDF documents.

RECORDS:

[11] The following pages remain at issue in this appeal:

Responsive records	Pages	Issues
Part 2	42, 52-57	14(1)
	44-45	Non-responsive
Part 3	1, 2, 8-11, 13-15, 18	14(1)
	16	14(1) and non-responsive
	5	Non-responsive
Part 4	1, 10, 13, 21	Non-responsive
	15-21	14(1)

[12] The city asserts that only the pages that the appellant listed in her letter remain at issue. I disagree. In my view, the appellant listed those pages in her letter because she wanted to clarify with the city its reasons for withholding the information on them. The appellant did not otherwise indicate that she intended to narrow the scope of the appeal to these pages.

ISSUES:

- A. What is the scope of the request for records? Which records are responsive to the request?
- B. Do the records contain "personal information" as defined in section 2(1) and, if so, whose personal information is it?
- C. Does the mandatory personal privacy exemption at section 14(1) apply to the information at issue?
- D. Did the city conduct a reasonable search for records?

PRELIMINARY ISSUES:

[13] The parties raise numerous issues in their representations. While I have reviewed the entirety of the parties' representations, I will address below (in this section and the order in general) only the information and representations that are

relevant to the issues before me. I will not consider the issues that are not before me or the information that is irrelevant to the issues before me.

[14] Although the city appears to argue in its representations that the request is frivolous or vexatious, that issue is not before me. Section 20.1(a) of the *Act* requires an institution that refuses to provide access to a record because the request is frivolous or vexatious to state its position in a decision letter and provide reasons to support its position. The city did not rely on the frivolous or vexatious provision of the *Act* to deny the appellant access to the responsive records in any of the three decisions it issued. The city also did not raise the issue of frivolous or vexatious at mediation. The city only raised the frivolous or vexatious issue after the Notice of Inquiry was issued. In my view, the prejudice to the appellant and the delay to the IPC process that would result if I permitted the city to rely on section 20.1(a) of the *Act* at this stage are factors that weigh heavily against permitting the city to rely on this provision. Even if I permitted it, the city's late raising of the frivolous or vexatious claim is a factor that weighs against finding that the request was frivolous or vexatious since it is undermined by the fact that the city already searched for and located responsive records and issued the appellant an access decision.⁴

[15] The city requests that the appellant's representations be rejected or disregarded because they are "unduly disrespectful" of the city, unduly lengthy, raise irrelevant allegations, and rely on inaccurate and incorrect information to support relevant allegations. The dealings between the parties in this appeal are contentious, as evidenced by the arguments made in their respective representations. However, as a matter of procedural fairness and natural justice, the appellant is entitled to make arguments she sees fit to support her position. I will consider whether the appellant's arguments are supported by the information and evidence before me in determining the issues in the appeal.

[16] The appellant requests that she be permitted to cross-examine the city's Project Manager, Urban Design, Infrastructure & Development Services (the Project Manager) who provided an affidavit to support the city's representations on the issue of reasonable search. During the inquiry, an IPC adjudicator provided the appellant with a Notice of Inquiry outlining the issues in the appeal and shared with her the city's full representations and the Project Manager's affidavit. The appellant does not argue that there are issues of credibility. The concerns the appellant raises in relation to the affidavit are about the inadequacy of the city's search and the insufficiency of the information provided in the affidavit. The appellant has received the city's complete position and submissions and has been given a sufficient opportunity to respond to the arguments advanced by the city. In these circumstances, the principles of procedural fairness and natural justice do not require that the appellant be provided with an opportunity to cross-examine the Project Manager on his affidavit.

⁴ See Orders MO-2470 and MO-4365-I.

[17] Lastly, the appellant asks that the Information and Privacy Commissioner exercise her discretion under section 46(d) of the *Act* and “engage in or commission research into” the way the city generally responds to access requests under the *Act*, including how it responded to the appellant’s request and the way it organized the responsive records. The appellant says that she received the responsive records after the deadline for her to file an appeal with the IPC, while the city explains that it provided the responsive records after the appellant paid the fee to provide access.⁵ Section 46(d) provides that the Commissioner “may” exercise her authority to “engage in or commission research into matters affecting the carrying out of the” *Act*. Because, among other reasons, I address the appellant’s concerns about the way the city responded to her access request – how it interpreted the scope of her request, its access decision and the reasonableness of its search – there is no reason for me to also consider the discretionary power under section 46(d) of the *Act*, and I decline to do so.

DISCUSSION:

Issue A: What is the scope of the request for records? Which records are responsive to the request?

[18] The city withheld information at pages 44-45 of Part 2; 5 and 16 of Part 3; and 1, 10, 13 and 21 of Part 4 as not responsive.

[19] Section 17 of the *Act* imposes certain obligations on requesters and institutions when submitting and responding to requests for access to records. This section states, in part:

(1) A person seeking access to a record shall,

(a) make a request in writing to the institution that the person believes has custody or control of the record, and specify that the request is being made under this Act;

(b) provide sufficient detail to enable an experienced employee of the institution, upon a reasonable effort, to identify the record;

...

(2) If the request does not sufficiently describe the record sought, the institution shall inform the applicant of the defect and shall offer

⁵ Section 17(1)(c) of the *Act* requires that a requester pay a fee at the time of making a request. Section 5.2 of Regulation 823 sets the fee at \$5. Section 45(1) requires that an institution charge fees for various tasks involved in processing a request. Sections 6 and 6.1 of Regulation 823 set out specific fees. The fees an institution is required to charge under sections 17(1)(c) and 45(1) are separate fees.

assistance in reformulating the request so as to comply with subsection (1).

[20] Previous IPC orders have found that institutions should interpret requests liberally in order to best serve the purpose and spirit of the *Act*. Generally, if there is ambiguity in the request, this should be resolved in the requester's favour.⁶ To be considered responsive to the request, records must "reasonably relate" to the request.⁷

[21] The city describes the request as being for records concerning the heritage assessment relating to the specified property. The city says that the request was conveyed to the City Planning division – the city's division that conducted the search for responsive records – literally. The city argues that the appellant raised the issue of scope and responsiveness in bad faith because she had not raised a concern about the city's interpretation of the request prior to filing the appeal despite having extensive interactions with the City Planning division. Regarding the specific pages it withheld as non-responsive, the city submits that it withheld portions of pages 44 and 45 of Part 2 and portions of pages 10 and 13 of Part 4 as non-responsive instead of withholding these portions under an exemption to minimize the fee to process the request.

[22] The appellant submits that the request is for the heritage survey and for information related to the specified property. She argues that any communication about the specified property is responsive to the request. In her representations, the appellant identifies records and information that, if they refer to the specified property, would be responsive to the request. Of particular importance to the appellant is the heritage survey that was conducted during the heritage assessment. The appellant submits that the heritage survey and related records⁸ are all responsive because the specified property was included on the list of heritage potential properties as a result of the survey. The appellant explains that she did not raise the issue of scope before filing the appeal because she received the responsive records after the appeal deadline.

[23] Based on the records that the city identified as responsive and the parties' representations, both parties appear to interpret the request to be for all records related to the heritage assessment as it relates to the specified property (this would include all records related to the heritage survey). In my view, this is the correct interpretation of the scope of the appellant's request. The disagreement between the parties appears to be about whether the city provided all responsive records to the appellant. I will address the city's search for responsive records in Issue D.

[24] I will now turn to the specific pages of the records where the city withheld information as non-responsive. The city submits that it withheld some information on

⁶ Orders P-134 and P-880.

⁷ Orders P-880 and PO-2661.

⁸ The appellant lists the following records related to the heritage survey that she is seeking: the original survey, survey drafts, any votes regarding the survey, the survey procedure, and communications about the survey.

pages 44 and 45 of Part 2 and pages 10 and 13 of Part 4 as not responsive to spare the appellant fees for severing the information. I also note that it appears that the city withheld information on page 16 of Part 3 and page 21 of Part 4 as non-responsive for similar reasons. I find that the withheld information on all these pages is responsive to the request because it is part of communications exchanged during the heritage assessment about the information that was relevant to identifying the specified property as a heritage potential property. However, in my view, the withheld information could qualify as personal information and, therefore, a personal privacy exemption might apply to it. As a result, I will consider whether the withheld information qualifies as personal information and whether a personal privacy exemption applies to it in Issues B and C.

[25] The city does not make representations about page 5 of Part 3. In the version of the records the city provided to the IPC during mediation, the city left a comment on page 5 that the information on the page was not relevant to the request. However, it is unclear to which portion of page 5 the city's comment relates. As a result, I have considered whether all information at page 5 is responsive to the request. I find that it is. Page 5 contains communication from a member of the public to the city with the information that was relevant to identifying the specified property as a heritage potential property. Since the information on page 5 was provided by a member of the public, I will consider in Issues B and C whether the information contains personal information and if so, whether it is exempt under a personal privacy exemption.

[26] The city also does not make representations about page 1 of Part 4 but, in the records that it provided to the IPC, it marked a portion of that page as non-responsive. I find that lines 3 and 4 of the withheld portion on page 1 of Part 4 are responsive to the request because they contain information about the specified property. The city has not claimed any exemption with regards to lines 3 and 4 of page 1 of Part 4. As a result, I will order the city to issue an access decision to the appellant with respect to this information. However, I find that the remaining withheld information on page 1 of Part 4 is not responsive to the request because it does not contain information about the specified property or that was relevant to identifying the specified property as a heritage potential property.

Issue B: Do the records contain "personal information" as defined in section 2(1) and, if so, whose personal information is it?

[27] The city withheld information at pages 42 and 52-57 of Part 2; 1, 2, 8-11, 13-16 and 18 of Part 3; and 15-21 of Part 4 under the personal privacy exemption. In order to decide whether the personal privacy exemption applies, I must first decide whether the records contain "personal information," and if so, to whom the personal information relates.

[28] In addition, I have held above that the information that the city withheld as non-responsive at pages 44-45 of Part 2; 5 and 16 of Part 3; and 10, 13 and 21 of Part 4

might contain personal information.

[29] Section 2(1) of the *Act* defines “personal information” as “recorded information about an identifiable individual.” 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.⁹ However, if it reveals something of a personal nature about the individual, it may still be “personal information”.¹⁰

[30] Section 2(1) of the *Act* gives a list of examples of personal information and states, in part:

“personal information” means recorded information about an identifiable individual, including,

(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,

(d) the address, telephone number, fingerprints or blood type of the 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,

(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.

The parties’ representations

[31] The city submits that the records contain personal information of individuals other than the appellant (the affected parties). This personal information includes names, phone numbers, and/or email addresses and constitutes “personal information” under paragraphs (d), (f) and (h) of the definition of “personal information” in section 2(1) of the *Act*. The city says that Part 3 contains email correspondence of the affected parties who communicated with the city in their personal capacity.¹¹

⁹ Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F and PO-2225.

¹⁰ Orders P-1409, R-980015, PO-2225 and MO-2344.

¹¹ The city refers to the withheld information at the following pages: 1, 2, 9-11, 13-16, and 18 of Part 3.

[32] The city submits that pages 52-57 of Part 2 contain a listing of former residents of the study area of the heritage assessment and the residents' names, addresses, rent amount, nationality and earnings. The city says that it withheld the names, rent amount and earnings under the mandatory personal privacy exemption at section 14(1).

[33] The city submits that the records do not contain the appellant's personal information or personal information of the appellant's representative. The city further says that the withheld information does not relate to the appellant or her property.

[34] The appellant submits that the city did not rely on section 2(1) in its decision.

Analysis and finding

[35] I find that the records contain the affected parties' personal information. The personal information includes medical history, phone numbers, email addresses, and names where they appear with other affected parties' personal information or where the disclosure of the names would reveal other personal information about the affected parties, within the meaning of paragraphs (b), (d), and (h) of the definition of "personal information" in section 2(1) of the *Act*. Even where the affected parties might have acted in their professional capacity, the withheld information is of a personal nature and therefore qualifies as "personal information."

[36] Regarding page 5 of Part 3, I find that only a portion of page 5 contains personal information. The city has not claimed any exemption with regards to page 5 of Part 3. As a result, I will order the city to issue an access decision to the appellant with respect to page 5, except for the information exempt under section 14(1).

[37] I find that the records do not contain the appellant's personal information. Therefore, I will assess the appellant's right of access to the affected parties' personal information under the mandatory personal privacy exemption at section 14(1).

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

[38] 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 exceptions at sections 14(1)(a) to (f).

[39] If any of the five exceptions in sections 14(1)(a) to (e) exist, the institution must disclose the information. 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.

[40] The city submits that none of the exceptions at sections 14(1)(a) to (e) applies

to the withheld information. The city further asserts that both sections 14(2) and 14(3) establish that the disclosure of the withheld information would constitute an unjustified invasion of the affected parties' personal privacy, but it does not provide further submissions to support its assertion.

[41] The appellant confirms that the city relies on the mandatory personal privacy exemption but does not provide representations on any factors that weigh in favour of finding that an exception at section 14(1) applies.

[42] The mandatory personal privacy exemption at section 14(1) prohibits the city from releasing the affected parties' personal information to the appellant unless one of the exceptions at paragraphs (a) to (f) of section 14(1) applies. In the absence of any representations from the appellant on factors that weigh in favour of finding that one of the exceptions applies, I find, in accordance with prior IPC orders,¹² that the mandatory personal privacy exemption at section 14(1) applies to protect the affected parties' personal information, and disclosure is prohibited.

Issue D: Did the institution conduct a reasonable search for records?

[43] The appellant claims that additional records exist beyond those found by the city, thereby raising the issue of whether the city has conducted a reasonable search for records as required by section 17 of the *Act*.¹³ If the IPC is not satisfied that the city's search was reasonable, it may order the city to conduct another search for responsive records.

[44] A reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request makes a reasonable effort to locate records that are reasonably related to the request.^{56F}¹⁴ The *Act* does not require the city to prove with certainty that further records do not exist. However, the city must provide enough evidence to show that it has made a reasonable effort to identify and locate responsive records;¹⁵ that is, records that are "reasonably related" to the request.¹⁶

[45] Although a requester will rarely be in a position to indicate precisely which records the institution has not identified, they still must provide a reasonable basis for concluding that such records exist.¹⁷ In this appeal, the appellant must identify the additional records she says exist and establish a reasonable basis for concluding that they exist.¹⁸

¹² Orders P-1068 and PO-1682.

¹³ Orders P-85, P-221 and PO-1954-I.

¹⁴ Orders M-909, PO-2469 and PO-2592.

¹⁵ Orders P-624 and PO-2559.

¹⁶ Order PO-2554.

¹⁷ Order MO-2246.

¹⁸ Order MO-2246

The city's representations

[46] The city says that its Access Unit forwarded the request to the City Planning division, where the Project Manager conducted the search for responsive records. The Project Manager's affidavit identifies the dates that he conducted the searches for records responsive to a related request and confirms that the same records were responsive to the appellant's request. The Project Manager attests that he searched his personal email archive, the folder dedicated to the heritage assessment where all project-related files are kept, and his personal meeting notes on a specified application where he keeps all his notes. The city further says that its Access Unit reached out to the appellant directly, as requested by her.

[47] The city says that during mediation its City Planning staff provided the appellant with links to access the heritage report that the appellant claimed had not been disclosed. In addition, the city says that its City Planning staff responded to the questions the appellant raised at mediation and provided her with a few additional records. The city submits that it did not conduct any further searches because the appellant did not describe further records that ought to exist and did not provide a basis to conclude that additional records exist.

The appellants' representations

[48] The appellant disputes that at mediation she did not provide a basis to conclude that additional records exist. The appellant says the letter she provided at mediation describes in detail the records that she claims exist but were not provided to her and the basis for her assertion. The appellant continues to rely on her letter in this appeal.

[49] I have grouped the records and information the appellant asserts exist or might exist into six categories:

1. A list of heritage potential properties provided at the Heritage Focus Group Meeting #1
2. The heritage survey and related records¹⁹
3. Review documents and working papers of the Historic Context Statement²⁰
4. Information and records related to the discussions about the heritage assessment²¹

¹⁹ The appellant seeks survey drafts, information about the survey procedure, the initial screening of each property, notation or documentation of the review of the results of the screening, votes regarding the survey, and any communication related to the survey.

²⁰ Historic Context Statement is a document created during the heritage assessment that reviews the study area's development history.

5. The attachments to or hyperlinks in three specified emails²² and
6. The Google drive folder referenced at page 4 of Part 4 to which certain documents created during the heritage assessment were saved.²³

[50] In addition to identifying further records that exist, the appellant submits that the city did not provide sufficient evidence to establish that it conducted a reasonable search. The appellant argues that the city does not identify the dates of the searches, names and positions of employees who conducted the searches (with the exception of the Project Manager), the extent of the employees' knowledge of heritage matters, and locations where searches were conducted. The appellant further submits that while the Project Manager's affidavit mentions notes in a specified application, no such notes were provided. Finally, the appellant argues that there is little information from two specific city employees who were involved in the assessment.

[51] The appellant asks that the IPC determine if the city uses a software for internal communication and if so, whether the records in the software are responsive to the request and whether they have been provided to her. As a remedy, the appellant requests that the IPC oversee the city's further searches.

The city's reply representations

[52] In reply, the city addresses the appellant's claim that further records exist.

[53] The city submits that no list of heritage potential properties was introduced at the Heritage Focus Group Meeting #1. The city says that a staff member who presented at the meeting described in general terms the heritage assessment process, including that a list of heritage potential properties is identified as part of the process. The city also submits that no further information or records are available regarding the discussions about the heritage assessment. The city argues that not every discussion would have a corresponding written record, and the appellant has not provided evidence to establish that further records related to the discussions exist. Regarding the hyperlinks in an email at page 125 of Part 1, the city submits that all records for which there were hyperlinks were extracted and provided as part of the disclosure package. The city says that it has provided attachments to an email at page 165 of Part 1 as part of the records it disclosed to the appellant, possibly under a different name.

[54] In response to the appellant's submissions about the heritage survey and related records, the city refers to point #2. However, it is unclear to me which point that is and

²¹ The appellant asserts that numerous meetings and phone calls occurred between city staff, the consultant retained to conduct the heritage assessment and other individuals during which the specified property might have been discussed. The appellant is of the view that, given the importance of the heritage assessment, more records or information about these discussions ought to exist.

²² These are emails at pages 125 and 165 of Part 1; page 2 of Part 4.

²³ The appellant seeks either access to the folder or access to the documents in the folder.

what arguments the city intended to make. Having reviewed the chart enclosed with the city's additional decision issued during mediation and the totality of the city's representations, I understand that the city's position is that the heritage survey is a list of properties mapped on a Google map.

The appellants' sur-reply representations

[55] In sur-reply, the appellant submits that she relies on records that have been provided to her to identify other records that exist or might exist. She also provides further arguments to support her position that a list of heritage potential properties was introduced at the Heritage Focus Group Meeting #1.

[56] Regarding the city's search for responsive records, the appellant says that the city should have asked a city councillor and city employees who participated in discussions about the heritage assessment to search for responsive records; should have searched for responsive records in an off-site storage location, alternative holdings and its divisions, including the City Planning division; and should have searched for notes and working papers. The appellant argues that the city's search was superficial because only the Project Manager conducted the search, and he searched for responsive records only on his laptop and in his files. Finally, the appellant says that the city has not provided information about whether responsive records could exist outside the city's custody.

[57] The appellant asks that the IPC order the city to provide affidavits from two individuals who were involved in the heritage assessment about the records that each might have created or received from others during the heritage assessment.

Analysis and findings

[58] I find that the city's search for responsive records was not reasonable.

[59] I am satisfied, based on the Project Manager's position with the city and his involvement in the heritage assessment, that he is experienced and knowledgeable in the subject matter of the request. I am also satisfied that the city searched for records in the division which would have responsive records, the City Planning division.

[60] However, I am not satisfied that the city searched in all locations within the City Planning division where the records could be located. While the Project Manager's affidavit states that he searched in a folder where all files related to the heritage assessment are saved, the city does not explain whether the Google drive folder referenced at page 4 of Part 4, to which documents related to the heritage assessment were saved, is the same folder that the Project Manager searched. In the absence of the city's confirmation, I cannot conclude that the city searched all locations where responsive records could be located.

[61] Further, I agree with the appellant that the city has not provided sufficient

evidence to establish that it contacted all individuals who could have responsive records. Based on the records, I understand that there were several discussions between city employees and between a city employee and a city councillor about the heritage assessment. It is reasonable to conclude that the city employees and the councillor might have responsive records. Therefore, they ought to have been contacted and asked to search for responsive records.²⁴

[62] I will now address specific groups of records that the appellant argues exist or might exist. Based on the records that the city has disclosed to the appellant and the appellant's representations, I find that the appellant has established that the heritage survey exists. During the inquiry, the city did not address the appellant's extensive representations about the heritage survey and related documents. It is unclear to me whether the Google map with marked properties considered to have heritage potential is the only record responsive to this portion of the appellant's request. In the absence of a clear explanation from the city about its search for the heritage survey and related records, I cannot find that the city's search for these records was reasonable.

[63] However, I find that the appellant has not established a reasonable basis to conclude that a list of heritage potential properties was introduced at the Heritage Focus Group Meeting #1 and that further records related to the Historic Context Statement or discussions about the heritage assessment exist. Having reviewed the records, I accept the city's explanation that during the Heritage Focus Group Meeting #1, a city employee discussed a heritage assessment process in general and did not introduce a specific list of heritage potential properties. The records that the city has already disclosed to the appellant contain drafts of the Historic Context Statement and notes of discussions related to the heritage assessment, including the Project Manager's notes from the specified application. Aside from the records that city employees and a city councillor might have in accordance with my finding above, the appellant's belief that further records exist is speculative. Also, I have no authority to assess whether the notes that city employees took are accurate or complete. Further, even if portions of discussions were not recorded, the *Act* only provides the appellant with a right of access to information already recorded or retrievable in some physical form.²⁵

[64] I will finally address the appellant's submissions about the attachments to and hyperlinks in three specified emails. Having reviewed the records, I accept the city's submission and find that the attachments to an email at page 165 of Part 1 have been provided as part of the records. Given that the hyperlinked attachments to an email at page 125 of Part 1 and attachments to an email at page 2 of Part 4 are responsive to the request, the appellant asserts that the hyperlink does not open and the attachments

²⁴ My finding about the city councillor only applies to the councillor's records that are subject to the *Act*. The IPC has previously held that records of elected municipal officials are subject to the *Act* only in two situations: 1) where a councillor is acting as an "officer" of the municipality in a particular circumstance; or 2) where the councillor's records are in the custody or control of the municipality on the basis of established principles (Orders M-813, MO-4389 and MO-4560).

²⁵ Order P-17.

are not in the records, and the city does not confirm that it has provided the attachments to the appellant, I will order the city to provide the appellant with a working hyperlink to the documents in the email at page 125 of Part 1 and the attachments to the email at page 2 of Part 4.

ORDER:

1. I make the following orders regarding the withheld information:
 - a. I order the city to withhold the affected parties' personal information that I have highlighted in orange on the pages of records I enclose with the city's copy of this order. With respect to the personal information the city withheld as non-responsive, the city may charge the appellant fees in accordance with section 45(1) of the *Act* to sever the records.
 - b. I order the city to issue an access decision to the appellant, treating the date of the order as the date of the request, regarding the following:
 - i. page 5 of Part 3, except for the portion of the page that is exempt under section 14(1), and
 - ii. lines 3-4 on page 1 of Part 4.
2. I order the city to provide to the appellant the attachments or hyperlinks to the attachments to emails at page 125 of Part 1 and page 2 of Part 4 by **October 31, 2025**. To ensure compliance with this provision, I reserve the right to require the city to send me the attachments and/or hyperlinks as disclosed to the appellant.
3. I order the city to conduct a further search or searches for responsive records in accordance with the findings in this order. I order the city to issue, in accordance with all applicable provisions of the *Act*, an access decision to the appellant whether it locates records or does not locate records in the further search(es), treating the date of this order as the date of the request for administrative purposes.

Original Signed by: _____
Anna Kalinichenko
Adjudicator

October 1, 2025 _____