

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER MO-4772

Appeal MA23-00865

Municipality of Grey Highlands

February 27, 2026

Summary: An individual made a request under the *Act* for access to records relating to a specified municipal address. The municipality granted partial access to the responsive records, withholding portions of the records under the mandatory personal privacy exception in section 14(1) of the *Act*. The appellant also challenged the adequacy of the municipality's search. In this order, the adjudicator finds that the municipality conducted a reasonable search for records and properly withheld the personal information under section 14(1). She upholds the municipality's decision and dismisses the appeal.

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, sections 2(1) (definition of "personal information"), 14(1), 14(2)(d), and 14(3)(b).

OVERVIEW:

[1] The Municipality of Grey Highlands (the municipality) received a request under the *Freedom of Information and Protection of Privacy Act* (the *Act*) for all records relating to a specified municipal address. The municipality located responsive records and issued a decision granting partial access. It withheld certain information it described as personal financial tax payment information.

[2] The requester (now the appellant) appealed the municipality's decision to the Information and Privacy Commissioner of Ontario (IPC), seeking access to the withheld information and asserting that additional responsive records ought to exist. The IPC attempted to mediate the appeal.

[3] During mediation, the appellant clarified that he is the estate trustee for his deceased parent's property and requires access to certain withheld information in connection with the administration of the estate. He also maintained that the municipality's search was inadequate. In response, the municipality conducted a further search and located additional responsive records. It issued a revised access decision granting partial access and withholding portions of the records under the discretionary law enforcement exemption in section 8 and the mandatory personal privacy exemption in section 14(1) of the *Act*.

[4] The appellant subsequently confirmed that he seeks access only to information withheld under section 14(1) from three specified records: emails dated September 14, 2023, and July 13, 2016, and a lot document dated August 22, 2006. He continues to challenge the adequacy of the municipality's search.

[5] As mediation did not resolve the appeal, the matter proceeded to adjudication. An IPC adjudicator conducted a written inquiry and received representations from the municipality and the appellant, which were shared in accordance with the IPC's *Code of Procedure and Practice Direction 7*.

[6] The appeal was then transferred to me to complete the inquiry. I determined that I did not require further representations from the parties.

[7] In this order, I find that the municipality conducted a reasonable search for responsive records and properly withheld the personal information at issue under section 14(1). I uphold the municipality's decision and dismiss the appeal.

RECORDS:

[8] The information at issue consists of the portions of three records withheld by the municipality:

- An email relating to an inspection dated September 14, 2023,
- An email containing a by-law complaint dated July 13, 2016,¹
- A lot document dated August 22, 2006.

ISSUES:

A. Did the municipality conduct a reasonable search for records?

¹ The municipality's representations reference the date of this email as August 19, 2016; however, the email is dated July 13, 2016.

- 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?

DISCUSSION:

Issue A: Did the municipality conduct a reasonable search for records?

[9] If a requester claims that additional records exist beyond those found by the institution, the issue is whether the institution has conducted a reasonable search for records as required by section 17 of the *Act*.² If the IPC is satisfied that the search carried out was reasonable in the circumstances, it will uphold the institution’s decision. Otherwise, it may order the institution to conduct another search for records.

[10] 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.³

[11] The *Act* does not require the institution to prove with certainty that further records do not exist.⁴ However, the institution must provide enough evidence to show that it has made a reasonable effort to identify and locate responsive records;⁵ that is, records that are “reasonably related” to the request.⁶

[12] 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.⁷ The IPC will order a further search if the institution does not provide enough evidence to show that it has made a reasonable effort to identify and locate all of the responsive records within its custody or control.⁸

Representations

[13] The municipality submits that it conducted a reasonable search for records. It states that it received the request on October 4, 2023, and staff understood the scope of the request without requiring clarification. It submits that its former Deputy Clerk asked all members of senior management staff to conduct searches within their respective

² Orders P-85, P-221 and PO-1954-I.

³ Order MO-2246.

⁴ *Youbi-Misaac v. Information and Privacy Commissioner of Ontario*, 2024 ONSC 5049 at para 9, on the analogous requirement in the provincial equivalent of the *Act*.

⁵ Orders P-624 and PO-2559.

⁶ Order PO-2554.

⁷ Orders M-909, PO-2469 and PO-2592.

⁸ Order MO-2185.

departments. In support of its position, the municipality provides a sworn affidavit from the Deputy Clerk describing the steps taken.

[14] In the affidavit, the Deputy Clerk affirms that searches were conducted in both the Building Department and the Finance Department. She affirms that in the Building Department, administrative staff and the Chief Building Official searched physical building files, the municipal shared drive (K drive), the Cloud Permit building permit software, and email folders belonging to administrative staff, the general building account, the Chief Building Official, and a building official. She attests that the Director located and provided responsive records, and that, in the Finance Department, the Treasurer searched the Vadim financial software, the K drive, and Treasurer's and finance clerk's email accounts and located and provided responsive records.

[15] The Deputy Clerk also confirms that she reviewed the records and that all property and building files that were discovered during the search were disclosed to the appellant, subject to minor redactions of personal information. She attests that, during mediation, she conducted a search of a physical file that had not initially been searched due to a misunderstanding regarding responsibility for that file, and located additional responsive records that were disclosed in a revised decision.

[16] The appellant submits that the municipality's search was inadequate because records were disclosed to him in stages. He states that he received records on November 20, 2023, April 30, 2024, and August 21, 2024, and believes the municipality continues to locate records only after he demonstrates they exist. He characterizes this as unfair in light of his role administering his parents' estate and refers to a court order that he says entitles him to the records.

Analysis and findings

[17] Having reviewed the parties' representations and all the information before me, I am satisfied that the affidavit provided by the Deputy Clerk is sufficient evidence that the municipality made a reasonable effort to identify and locate responsive records.

[18] I accept that the Deputy Clerk coordinated the search for responsive records and that experienced and knowledgeable staff within the Building and Finance departments conducted searches within their respective areas of responsibility. The affidavit describes the method of the search, the locations searched, and the results of those searches. The evidence demonstrates that staff searched physical building files, shared drives, building permit software, financial software, and relevant email accounts. In my view, these were logical and comprehensive repositories to search.

[19] The appellant's concern arises primarily from the staggered disclosure of records. However, the fact that additional records were located after the initial search does not, in itself, render the search unreasonable. The affidavit explains that a misunderstanding occurred regarding responsibility for searching a particular physical file and that, once

identified, the Deputy Clerk conducted a further search of that file, which resulted in additional responsive records being disclosed. I accept this explanation.

[20] Although the appellant believes additional records exist, he has not identified specific records that remain outstanding, nor has he provided any explanation as to why additional records should be available. I am therefore not persuaded that the appellant has established a reasonable basis for concluding that additional records exist. Accordingly, I find that the municipality's search was reasonable and in compliance with its obligations under section 17 of the *Act*.

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

[21] The personal privacy exemption in section 14(1) of the *Act* only applies to "personal information." Consequently, I must determine whether the records contain "personal information" and if so, to whom it relates.

[22] Section 2(1) of the *Act* defines "personal information" as "recorded information about an identifiable individual." Recorded information is information recorded in any form, including paper and electronic records.⁹

[23] Information is "about" an individual when it refers to them in their personal capacity, meaning that it reveals something of a personal nature about that individual. Information is about an "identifiable individual" if it is reasonable to expect that an individual can be identified from the information either by itself or if combined with other information.¹⁰

[24] Section 2(1) of the *Act* contains some examples of personal information¹¹, though this list is not exhaustive. Therefore, information that does not fall under paragraphs (a) to (h) may still qualify as personal information.

Representations, analysis and findings

[25] The municipality submits that the withheld information in the records relates to identifiable individuals other than the appellant. Specifically:

- The September 2023 inspection email contains the first and last name and personal email address of a property owner.
- The July 2016 by-law complaint email contains the name, residential address, and personal telephone number of the complainant.

⁹ See the definition of "record" in section 2(1) of the *Act*.

¹⁰ Order PO-1880, upheld on judicial review in Ontario (Attorney General) v. Pascoe, [2002] O.J. No. 4300 (C.A.).

¹¹ Specifically, paragraphs (a) to (h) of the definition of personal information at section 2(1).

- The August 2006 lot document contains a cellular telephone number.

[26] In his representations, the appellant does not address whether the records contain the personal information of any individuals within the meaning of section 2(1) of the *Act*.

[27] From my review of the records, I agree with the municipality that the records do not contain the appellant's personal information. I also agree that they contain the personal information of other identifiable individuals. These include:

- The September 2023 inspection email contains the name and personal email address of an identifiable individual. This information falls within paragraph (d) of the definition of personal information in section 2(1).
- The July 2016 by-law complaint email contains the complainant's name, residential address and personal telephone number. This information constitutes "personal information" under paragraph (d) of section 2(1). In addition, the withheld information, together with the disclosed portions of the email, reveals that the individual made a complaint to the municipality, which qualifies as "personal information" under paragraph (h) of section 2(1).
- The August 2006 lot document contains a cellular telephone number associated with an identifiable individual.¹² There is no evidence before me that the number identifies the individual in a business, professional, or official capacity within the meaning of section 2(2.1). I therefore find that it qualifies as personal information under paragraph (d) of section 2(1).

[28] Having found that the records contain the personal information of individuals other than the appellant, I will consider the application of section 14(1) to the information at issue.

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

[29] One of the purposes of the *Act* is to protect the privacy of individuals with respect to personal information about themselves held by institutions. Where a requester seeks personal information of another individual, section 14(1) prohibits an institution from releasing this information unless one of the exceptions in paragraphs (a) to (f) of section 14(1) applies.

[30] The section 14(1)(a) to (e) exceptions are relatively straightforward. If any of the five exceptions covered in sections 14(1)(a) to (e) exist, the institution must disclose the

¹² I note that the appellant received two versions of the August 2006 lot document with slightly different severances. In one version, both the individual's first name and cellular telephone number were redacted, while in the other version only the telephone number was redacted. The municipality has confirmed that the only information remaining at issue in this appeal is the cellular telephone number. The discrepancy regarding the redaction of the first name does not affect my analysis.

information.

[31] The section 14(1)(f) exception is more complicated. It 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) provide guidance in determining whether disclosure of the other individual's personal information would be an unjustified invasion of personal privacy.

[32] Sections 14(3)(a) to (h) outline several situations in which disclosing personal information is presumed to be an unjustified invasion of personal privacy and should generally be considered first.¹³ If a presumption in section 14(3) applies, the personal information can only be disclosed if section 14(4) or the "public interest override" at section 16 applies.¹⁴ If no presumption in section 14(3) applies and section 14(4) does not apply, one must next consider the factors set out in section 14(2) to determine whether or not disclosure would be an unjustified invasion of personal privacy.¹⁵ If no factor favouring disclosure is established, the exception in section 14(1)(f) is not established and the mandatory section 14(1) exemption from disclosure will apply to the information in dispute.¹⁶

Representations

[33] The municipality submits that the exceptions to the personal privacy exemption in sections 14(1)(a) to (f) do not apply. It states that individuals have a right to have their personal contact information withheld.

[34] The appellant does not explicitly address the application of the section 14(1) exemption. However, he submits that the redactions in all three records should not have been made because the information is required in relation to the administration of his parents' estate and anticipated court proceedings. He also provides a copy of a Superior Court order relating to the administration of the estate in support of his position.

[35] With respect to the July 2016 by-law complaint email, the appellant submits that the complainant answered "yes" to the question of whether they were willing to testify in court and argues that the redaction is therefore not warranted. He also states that the complaint supports his position that damage occurred on the property.

[36] Regarding the August 2006 lot document, the appellant submits that the redacted information should be disclosed because it relates to measurements taken on private property and questions whether proper authorization existed for those measurements.

¹³ If any of the section 14(3) presumptions are found to apply, they cannot be rebutted by the factors in section 14(2) for the purposes of deciding whether the section 14(1) exemption has been established.

¹⁴ *John Doe v. Ontario (Information and Privacy Commissioner)* (1993), 1993 CanLII 3388 (ON SCDC), 13 O.R. (3d) 767 (Div.Ct.).

¹⁵ Order P-239.

¹⁶ Orders PO-2267 and PO-2733.

Analysis and findings

July 2016 by-law complaint email

[37] The appellant submits that the complainant whose personal information appeared in the July 2016 by-law complaint email indicated a willingness to testify in court and argues that the redaction is therefore not warranted. I interpret this submission as engaging section 14(1)(a), which states:

A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,

(a) upon the prior written request or consent of the individual, if the record is one to which the individual is entitled to have access[.]

[38] For the exception in section 14(1)(a) to apply, the individual must provide prior written consent to the disclosure of their personal information in the specific context of the access request. That is, the individual must know that their personal information will be disclosed in response to an access request under the *Act*.¹⁷

[39] A willingness to testify in court regarding a by-law complaint does not constitute prior written consent within the meaning of section 14(1)(a). It does not establish that the complainant agreed to the disclosure of their personal information in response to this access request. There is no evidence before me that such consent was provided. I therefore find that section 14(1)(a) does not apply to the personal information in the record.

[40] I also note that the appellant's submission that the complaint supports his position that damage occurred does not affect the analysis under section 14(1), which concerns only whether the disclosure of the complainant's personal information would constitute an unjustified invasion of personal privacy.

[41] Having found that section 14(1)(a) does not apply, I must next consider whether disclosure would be an unjustified invasion of personal privacy under section 14(1)(f), beginning with the presumptions in section 14(3).¹⁸

[42] In the circumstances of this appeal, the only presumption that may be relevant is section 14(3)(b), which states:

A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy if the personal information:

¹⁷ Order PO-1723.

¹⁸ See, for example, Orders PO-4690, PO-4578, and PO-4375.

Was compiled and is identifiable as part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation[.]

[43] The presumption in section 14(3)(b) requires only that there be an investigation into a possible violation of law.¹⁹ So, even if criminal proceedings were never started against the individual, section 14(3)(b) may still apply.²⁰ Previous orders have established that section 14(3)(b) applies to by-law investigations.²¹

[44] The July 2016 email is a By-Law Complaint Form submitted by a complainant to the municipality. The withheld information consists of the complainant's name, residential address, and telephone number. On my review of the record, I am satisfied that this information was compiled by the municipality as part of its investigation into a possible by-law infraction and is identifiable as part of that investigation. I therefore find that disclosure of the withheld information is presumed to constitute an unjustified invasion of personal privacy under section 14(3)(b).

[45] A presumed unjustified invasion of personal privacy under section 14(3) can only be overcome if one of the exceptions in section 14(4) or the "public interest override" at section 16 applies.²² The parties do not rely on section 14(4) or section 16 and, based on my review of the records, I find that neither applies in the circumstances. Therefore, as the presumption in section 14(3)(b) applies, I find that the personal information at issue is exempt under section 14(1).

September 2023 inspection email and August 2006 lot document

[46] With respect to the remaining personal information in the September 2023 inspection email and the August 2006 lot document, I find that none of the presumptions in section 14(3) apply. I must therefore consider the factors set out in section 14(2) to determine whether disclosure would constitute an unjustified invasion of personal privacy.

[47] The appellant does not explicitly rely on any of the factors in section 14(2). However, he submits that he requires access to the withheld information in the records in connection with the administration of his parents' estate and anticipated court proceedings. In doing so, the appellant's submission engages the factor in section 14(2)(d), which weighs in favour of disclosure of personal information where the information is needed for the requester to participate in a court or tribunal process.

[48] The IPC uses a four-part test to decide whether the section 14(2)(d) factor applies.

¹⁹ Orders P-242 and MO-2235.

²⁰ The presumption can also apply to records created as part of a law enforcement investigation where charges were laid but subsequently withdrawn (Orders MO-2213, PO-1849 and PO-2608).

²¹ MO-2147.

²² *John Doe v. Ontario (Information and Privacy Commissioner)* (1993), 1993 CanLII 3388 (ON SCDC), 13 O.R. (3d) 767.

For this factor to apply, all four parts of the test must be met:

1. Is the right in question a right existing in the law, as opposed to a non-legal right based solely on moral or ethical grounds?
2. Is the right related to a legal proceeding that is ongoing or might be brought, as opposed to one that has already been completed?
3. Is the personal information significant to the determination of the right in question?
4. Is the personal information required in order to prepare for the proceeding or to ensure an impartial hearing?²³

[49] Although the appellant does not address the four-part test directly, I am prepared to accept that the appellant has identified an ongoing or contemplated legal proceeding that engages legal rights drawn from statute, satisfying parts one and two of the test. However, the appellant has not provided evidence demonstrating how the withheld personal contact information, consisting of names, an email address, home addresses, and telephone numbers, is significant to the determination of any such right or required to prepare for a proceeding or ensure an impartial hearing.

[50] The court order provided by the appellant authorizes the production of specified medical, legal and financial records relating to the deceased. It does not direct the municipality to disclose personal information of unrelated third parties under the *Act*. The existence of that order does not establish that the withheld personal contact information is required for the determination of a legal right within the meaning of section 14(2)(d).

[51] As the appellant has not established parts three and four of the test, I find that section 14(2)(d) does not apply.

[52] The appellant also questions whether proper authorization existed for the measurements referenced in the August 2006 lot document. However, that concern does not bear on whether the withheld personal contact information qualifies for exemption under section 14(1) of the Act.

[53] Having found that section 14(2)(d) does not apply, I further find that no other factor in section 14(2) favouring disclosure applies. In the absence of any factor favouring disclosure, I find that disclosure of the personal information would constitute an unjustified invasion of personal privacy. Accordingly, the exception in section 14(1)(f) is not established and the personal information in these records is exempt under section 14(1).

²³ 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.).

ORDER:

I uphold the municipality's decision and the reasonableness of its search for responsive records. I dismiss the appeal.

Original Signed by: _____
Elana May
Adjudicator

February 27, 2026 _____