

Information and Privacy Commissioner,  
Ontario, Canada



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

---

## ORDER MO-4786

Appeal MA25-00390

City of Vaughan

March 31, 2026

**Summary:** An individual made a request to the City of Vaughan under the *Municipal Freedom of Information and Protection of Privacy Act* for information regarding a complaint made to the city about her residence, including all photographic evidence submitted with the complaint.

The city withheld parts of the record under the discretionary personal privacy exemption at section 38(b) of the *Act*.

In this order, the adjudicator upholds the city's decision to withhold personal information under section 38(b) because disclosure of the withheld information would be an unjustified invasion of another individual's privacy.

**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, and 38(b).

**Cases Considered:** PO-3129.

### OVERVIEW:

[1] An individual made the following request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) to the City of Vaughan (the city) for information about a specific complaint about the requester's residence:

Requesting information regarding file A25-069294 including:

- \*Originally submitted documentation
- \*Name of person who submitted complaint
- \*Date of complaint submission
- \*Any and all photographic evidence associated with complaint

[2] The city located a single responsive record, an 8-page field service activity report from Vaughan Animal Services (the report), which was created in response to a complaint about dog excrement on the requester's private property.

[3] The city granted partial access to the report, withholding portions pursuant to the mandatory personal privacy exemption in section 14(1)(a) of the *Act*.

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

[5] During mediation, the discretionary personal privacy exemption in section 38(b) was added as an issue because the report appeared to also contain the personal information of the appellant.

[6] The appellant confirmed that she only seeks access to the photographs supplied by the complainant in the last three pages of the report.

[7] As the matter was not resolved at mediation, the file was moved to the adjudication stage of the appeal process where an adjudicator may conduct a written inquiry under the *Act*.

[8] I conducted an inquiry and obtained representations from the city and the appellant.

[9] In this order, I uphold the city's decision to withhold the photographs as I find that their disclosure would constitute an unjustified invasion of the personal privacy of an identifiable individual other than the appellant under section 38(b). I dismiss the appeal.

## **RECORD:**

[10] The record is an 8-page field service activity report prepared by Vaughan Animal Services concerning an alleged infraction of the city's Animal Control By-law that mandates that pet owners clean up and properly dispose of their pet's excrement on any public or private property.

[11] At issue in this appeal are the photographs contained in the last three pages of the report.

## **ISSUES:**

- A. Does the report contain “personal information” as defined in section 2(1) and, if so, whose personal information is it?
- B. Does the discretionary personal privacy exemption at section 38(b) apply to the information at issue?
- C. Should the IPC uphold the city’s exercise of discretion to withhold personal information under section 38(b)?

## **DISCUSSION:**

### **Issue A: Does the report contain “personal information” as defined in section 2(1) and, if so, whose personal information is it?**

[12] To determine which section of the *Act* applies to the withheld information, I must first determine whether the report contains “personal information” and, if so, whose personal information. If the report contains the appellant’s personal information, her access rights are greater than if it does not.<sup>1</sup> In addition, if the report contains the personal information of other identifiable individuals, one of the personal privacy exemptions might apply.<sup>2</sup>

[13] “Personal information” is defined in section 2(1) of the *Act*, as “recorded information about an identifiable individual.”

[14] “Recorded information” is information recorded in any format, such as paper records, electronic records, digital photographs, videos, or maps.<sup>3</sup>

[15] Information is about an “identifiable individual” if it is reasonable to expect that an individual can be identified from the information by itself or if combined with other information.<sup>4</sup>

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

---

<sup>1</sup> Under sections 47(1) and 38 of the *Act*, a requester has a right of access to their own personal information, and any exemptions from that right are discretionary, meaning that the institution can still choose to disclose the information even if the exemption applies.

<sup>2</sup> Sections 38(b) and 14(1), discussed below.

<sup>3</sup> See the definition of “record” in section 2(1).

<sup>4</sup> Order PO-1880, upheld on judicial review *in Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).

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

(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...[.]

[17] The list of examples of personal information set out in section 2(1) is not exhaustive. Therefore, information that does not fall under paragraphs (a) to (h) may still qualify as personal information.<sup>5</sup>

[18] The city submits that the photographs of the appellant’s yard contain the personal information of an affected person. While the city concedes that the photographs do not contain the name of an individual, it submits that they are taken from a particular vantage point, thereby allowing the identity of the complainant to be determined.

[19] The appellant’s representations indicate that she concedes that the report contains both her own personal information as well as the personal information of another individual.

[20] Former Commissioner Brian Beamish wrote in Order PO-3129 that when considering whether a record contains personal information that might be exempt under the *Act*, the correct approach is to review the entire record, and not only those portions at issue, to determine whether it contains the requester’s personal information. I agree with this reasoning and apply it in the circumstances of this appeal.

[21] Based on my review of the record as a whole, I find that the report contains the personal information of the appellant and other identifiable individuals, including their name and address, along with other information about them. This personal information fits within paragraphs (d) and (e) of the definition of “personal information” in section 2(1) of the *Act*.

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

[22] Previous IPC orders have established that where a record contains both the personal information of the requester and another individual, or individuals as in this case, the request falls under Part II of the *Act* and the relevant personal privacy exemption is the exemption at section 38(b).<sup>6</sup> Some exemptions, including the personal privacy exemption, are mandatory under Part I (section 14(1)), but discretionary under Part II (section 38(b)), so that in the latter case, an institution may disclose information under

---

<sup>5</sup> Order 11.

<sup>6</sup> Order M-352.

Part II that it would not disclose if Part I is applied.<sup>7</sup>

[23] In its initial decision, the city claimed the personal privacy exemption at section 14(1) to withhold some of the information in the report.

[24] Applying the record-by-record approach set out in Order PO-3129, I find that the appropriate exemption to be applied in this case is the discretionary personal privacy exemption at section 38(b) not the mandatory exemption at section 14(1) as claimed by the city. This is because, as set out above, I find that the report contains both the personal information of the appellant and another identifiable individual.

[25] Under section 38(b), where a record contains the personal information of both the requester and another individual, the institution may refuse to disclose the other individual's personal information to the requester if disclosing that information would be an "unjustified invasion" of the other individual's personal privacy. However, since the section 38(b) exemption is discretionary, the institution may also decide to disclose the information. In determining whether disclosure would be an unjustified invasion of the other individual's personal privacy, the institution must weigh the appellant's right of access to her own personal information against the other individual's right to the protection of their privacy.

[26] In this case, the appellant seeks disclosure of the photographs of her property found at the last three pages of the report. For the reasons that follow, I find that disclosure of this information would be an unjustified invasion of the affected party's personal privacy under section 38(b).

***Sections 14(1) and (4) do not apply***

[27] Sections 14(1) to (4) provide guidance in deciding whether disclosure would be an unjustified invasion of another individual's personal privacy. If any of the section 14(1)(a) to (e) exceptions apply, disclosure would not be an unjustified invasion of personal privacy, and the information is not exempt from disclosure under section 38(b). Similarly, if any of the situations in section 14(4) apply, disclosure would not be an unjustified invasion of personal privacy under 38(b).

[28] The city submits that the withheld information does not fit within any of the section 14(1) exceptions. The city also submits that none of the situations set out in section 14(4) apply in this case. The appellant did not make any representations concerning section 14(1) or section 14(4). Having reviewed the report, I find that none of the exceptions listed in section 14(1)(a) to (e) and none of the situations set out in section 14(4) apply.

---

<sup>7</sup> Orders MO-1757-I and MO-2237.

***Presumed invasion of privacy under section 14(3)***

[29] Sections 14(2) and (3) also help in deciding whether disclosure would or would not be an unjustified invasion of personal privacy under section 38(b). In deciding whether the disclosure of the personal information in the report would be an unjustified invasion of personal privacy under section 38(b), I must consider and weigh the factors and presumptions in sections 14(2) and (3) and balance the interests of the parties.<sup>8</sup> If any of sections 14(3)(a) to (h) apply, disclosure of the information is presumed to be an unjustified invasion of personal privacy under section 38(b).

[30] The city submits that the photographs were compiled as part of an investigation into allegations of a possible violation of law, specifically the city's Animal Control By-law that mandates that pet owners clean up and properly dispose of their pet's excrement on any public or private property. As a result, the city says that disclosure is presumed to be an unjustified invasion of the affected party's personal privacy under section 14(3)(b) of the *Act*.

[31] The appellant did not make explicit representations about the applicability of section 14(3)(b), or any of the other presumptions in section 14(3), in the circumstances. It is apparent from her representations, however, that she does not dispute that section 14(3)(b) applies; rather, the appellant disputes the weight given to this factor and the city's balancing of her access interests against the affected party's privacy interests, which I address further below in my reasons.

[32] Section 14(3)(b) states that:

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

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[.]

[33] The presumption in section 14(3) can apply to different types of investigations, including those related to by-law enforcement.<sup>9</sup>

[34] I find that the personal information in the report was compiled and is identifiable as part of an investigation into an alleged contravention of the city's Animal Control By-law, as set out above. The report was created after an affected party complained to the city about the appellant's property. The city responded to this complaint and began an investigation that could have resulted in the laying of a charge under the *Provincial Offences Act*, among other things. It is immaterial that no charges were laid, because the

---

<sup>8</sup> Order MO-2954.

<sup>9</sup> Order MO-2147.

presumption only requires that there be an investigation into a possible violation of law.<sup>10</sup>

[35] As a result, I find that the presumption against disclosure in section 14(3)(b) applies and that disclosure of the information at issue is presumed to constitute an unjustified invasion of the affected parties' personal privacy.

[36] As stated by the appellant, the applicability of section 14(3)(b) does not end the analysis; this factor must be weighed against any of the section 14(2) factors that apply in the circumstances and the interests of the parties.

### ***Section 14(2) factors***

[37] Section 14(2) lists various factors that may be relevant in determining whether disclosure of personal information would constitute an unjustified invasion of personal privacy.<sup>11</sup> The list of factors is not exhaustive, and the institution must also consider circumstances that are relevant, even if they are not listed under section 14(2).<sup>12</sup>

[38] Each of the first four factors, found in sections 14(2)(a) to (d), if established, would tend to support disclosure of the personal information in question, while the remaining five factors found in sections 14(2)(e) to (i), if established, would tend to support non-disclosure of that information.

### *Factors weighing in favour of disclosure*

[39] The appellant does not explicitly refer to any of the section 14(2) factors.

[40] The appellant submits that she is entitled to the photographs as a matter of procedural fairness in the context of the allegations that she has contravened the city's by-law. She says that, without the photographs, she is unable to verify the accuracy of the information provided to the city or to meaningfully respond to the allegations.

[41] While the appellant does not explicitly cite the factor in section 14(2)(d), which considers whether the personal information is relevant to a fair determination of rights affecting the person who made the request, I understand her to be raising this as a factor in support of disclosure.

[42] For section 14(2)(d) to apply, the appellant must establish that:

1. the right in question is a legal right which is drawn from the concepts of common law or statute law, as opposed to a non-legal right based solely on moral or ethical grounds;

---

<sup>10</sup> Orders P-242 and MO-2235.

<sup>11</sup> Order P-239.

<sup>12</sup> Order P-99.

2. the right is related to a proceeding which is either existing or contemplated, not one which has already been completed;
3. the personal information which the appellant is seeking access to has some bearing on or is significant to the determination of the right in question; and
4. the personal information is required in order to prepare for the proceeding or to ensure an impartial hearing.<sup>13</sup>

[43] Previous IPC orders have found that an appellant must provide sufficient evidence to establish that there is a proceeding that exists or is contemplated in some definite fashion and that is relevant to a fair determination of a right.<sup>14</sup>

[44] Additionally, it has previously been held that for the purpose of civil litigation, it may be that the discovery mechanisms available to the requester in that litigation will be sufficient to ensure a fair hearing with the result that section 14(2)(d) does not apply.<sup>15</sup>

[45] The appellant did not address the four-part test in her representations.

[46] Having reviewed the report and the appellant's representations, I find there is insufficient evidence before me to establish that all four parts of the section 14(2)(d) test have been met.

[47] I find that the first part of the test is met, as the right in question is founded in the city's by-law, as set out above.

[48] I find, however, that there is insufficient evidence to support a finding that there is an existing or contemplated proceeding. The report indicates that the by-law officer informed the appellant that, should there be future complaints and evidence in support of those complaints, that the appellant could be fined in the future. There is no indication that an administrative penalty or fine has been levied against the appellant or that charges have been brought under the *Provincial Offences Act* in relation to the complaint addressed in the report that is the subject of this appeal. Accordingly, I find that there is no ongoing or contemplated proceeding at this stage in relation to the complaint that is the subject of the record in this appeal.

[49] As all four parts of the four-part test in section 14(2)(d) must be met for the factor to apply, I find that it is not a relevant consideration in the circumstances of this appeal.

[50] The appellant also submits that disclosure would increase public confidence in the city's operations by demonstrating transparency and fairness in its handling of complaints

---

<sup>13</sup> 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.).

<sup>14</sup> Order P-443.

<sup>15</sup> Order PO-1833.

affecting its residents.

[51] While the appellant does not explicitly cite the factor in section 14(2)(a), which considers whether disclosure is desirable for the purpose of subjecting the activities of the institution to public scrutiny, I understand her to be raising this as a factor in support of disclosure.

[52] For the factor in section 14(2)(a) to apply, a requester must provide evidence demonstrating that the activities of an institution have been publicly called into question and that disclosure of personal information at issue is necessary to subject the institution's activities to public scrutiny.

[53] In this case, the appellant's concerns are private in nature and there is insufficient evidence to establish that this factor applies. Accordingly, I find that section 14(2)(a) is not a relevant factor in the circumstances of this appeal.

[54] As set out above, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, an institution (or the IPC on appeal) must consider and weigh the factors and presumptions in sections 14(2) and (3) and balance the interest of the parties.<sup>16</sup> Accordingly, I have considered whether any other factors that weigh in favour of disclosure and I find there are none.

*Factors weighing against disclosure*

[55] The city also does not explicitly refer to the section 14(2) factors in its representations.

[56] The city asserts in its representations that the photographs were submitted to the city in confidence and by a confidential source. The city also submits that the complainant provided information to the city with an expectation that their identity and personal involvement would not be disclosed beyond what was necessary for the city's purposes, and that the city contacted the affected party to seek their consent to disclosure of the photographs and was unable to obtain that consent.

[57] While the city does not explicitly cite the factor in section 14(2)(h), which considers whether the personal information has been supplied by the individual to whom the information relates in confidence, I understand the city to be raising this as a factor weighing against disclosure.

[58] For the factor at section 14(2)(h) to apply, both the individual supplying the information and the recipient must have an expectation that the information would be treated confidentially and that this expectation is reasonable in the circumstances. As such, section 14(2)(h) requires an objective assessment of the reasonableness of the

---

<sup>16</sup> Order MO-2954.

expectation of confidentiality.<sup>17</sup>

[59] The appellant submits that the privacy interests of the affected party are significantly reduced in this case because the affected party voluntarily filed a complaint with the city.

[60] I find that this factor applies in the circumstances and weighs against disclosure. I find that the context and surrounding circumstances of this matter are such that a reasonable person would expect that the information supplied to the city by the affected party would be subject to a degree of confidentiality. The information concerns a law enforcement matter. In their communications with the city, the complainant clearly indicates that they have not approached the appellant directly about their concerns. The report also reveals that the by-law officer advised the appellant that she could not provide information about the complainant.

[61] Given the foregoing, I find that both the complainant and the city had an expectation that the information would be treated as confidential, and that this expectation was reasonable in the circumstances. Accordingly, I find that in the context of this appeal, the factor at section 14(2)(h) is a relevant consideration that weighs against disclosure.

[62] Again, I have also considered whether any other factors weighing against disclosure apply and I find that there are none.

#### *Weighing the factors*

[63] Having considered and weighed the factors and presumptions in sections 14(2) and (3), and having balanced the interests of the parties, I find that disclosure of the withheld information would constitute an unjustified invasion of the affected party's personal privacy under section 38(b).

[64] Above I have found that the presumption in section 14(3)(b) and the factor in sections 14(2)(h) apply and weigh against disclosure of the personal information at issue. I find that there are no factors weighing in favour of disclosure. As set out above, I find that the factors in section 14(2)(a) and (d) are not applicable in these circumstances.

[65] Having regard to all the circumstances, I find that disclosure of the photographs would constitute an unjustified invasion of personal privacy.

#### *Severability*

[66] I have also considered whether the photographs can be severed in a manner that would permit disclosure of the information the appellant seeks without disclosing that of

---

<sup>17</sup> Order PO-1670.

the affected party. I find that they cannot.

[67] Section 4(2) of the *Act* requires the city to disclose as much of the record as can be reasonably severed without disclosing information that falls under one of the exemptions.

[68] The appellant made representations on this point, submitting that any identifying details, including names, addresses, metadata, or identifiable vantage markers, could be severed to provide her with access to the photographs.

[69] In this case, the photographs themselves – specifically, the location and angle from which the photographs are taken – reveal the identity of the affected party. In other words, the personal information of the affected party is inextricably mixed with the subject matter of the photographs.

[70] Accordingly, I find that any identifying information, including the information that the appellant suggests could be severed, cannot reasonably be severed from the photographs.

**Issue C: Should the police’s exercise of discretion to withhold personal information under section 38(b) be upheld?**

[71] The section 38(b) exemption is discretionary and permits an institution to disclose information despite the fact that the institution could withhold it. On appeal, I may determine if the police properly exercised their discretion in withholding the information at issue in this appeal.

[72] The city says it exercised its discretion in good faith and for a proper purpose, taking into account the requester’s right to access their own personal information, the privacy interests of the complainant, and the purpose of section 38(b) of the *Act*. The city says the IPC should uphold its exercise of discretion.

[73] The appellant says that the city did not exercise its discretion properly. The appellant asserts that the city: improperly treated the presumption at section 14(3)(b) as mandatory; failed to meaningfully consider the appellant’s right of access to her own personal information; and failed to balance the competing interests of the parties.

[74] Having considered the representations and the circumstances of this appeal, I find that the city did not err in its exercise of discretion with respect to their decision to deny access to the withheld photographs under section 38(b) of the *Act*. I am satisfied that the city considered relevant factors and did not consider any irrelevant factors in their exercise of discretion. It is evident that the city considered the fact that the report contains the appellant’s own personal information and, in that vein, the city disclosed substantial portions of the report to the appellant. I find that the city properly weighed the appellant’s access rights against the affected party’s right to privacy. There is no evidence before me that the city acted in bad faith.

[75] Accordingly, I find that, in applying section 38(b) to withhold the information at issue, the city exercised its discretion in an appropriate manner, and I uphold it.

**ORDER:**

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

Original Signed by: \_\_\_\_\_  
Tamara Henderson  
Adjudicator

\_\_\_\_\_ March 31, 2026