



**Information and Privacy
Commissioner/Ontario**
**Commissaire à l'information
et à la protection de la vie privée/Ontario**

INVESTIGATION REPORT

INVESTIGATION I96-001M

A TOWN

April 29, 1996



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INTRODUCTION

Background of the Complaint

This investigation was initiated as a result of a complaint concerning a town (the Town). The complainant was concerned that the Town had disclosed her personal information contrary to the Municipal Freedom of Information and Protection of Privacy Act (the Act).

On August 30, 1995, the complainant's solicitor wrote to the Town on behalf of the complainant, expressing her concerns about power boat races, and associated activities, which were scheduled to occur in September 1995 at a local park. Also on August 30, 1995, the Town held an Administration and Finance Committee (the Committee) meeting. During the session that was open to the public, the Committee agreed that the complainant's solicitor's letter could be read aloud by the Town's Chief Administrative Officer and Clerk (the CAO). In addition, copies of the letter were distributed to the press by the CAO and Deputy Clerk. The letter was also mentioned in the minutes of the meeting.

Issues Arising from the Investigation

The following issues were identified as arising from the investigation:

- (A) Was the information in question "personal information", as defined in section 2(1) of the Act? If yes,
- (B) Was the personal information disclosed in compliance with section 32 of the Act?

RESULTS OF THE INVESTIGATION

Issue A: Was the information in question "personal information", as defined in section 2(1) of the Act?

Section 2(1) of the Act states:

"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,
- (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 information in question was the complainant's name and address, her personal opinions and views about the power boat races and associated activities, and details about her possible legal proceedings against the Town.

It is our view that the information in question met the requirements of paragraphs (d), (e), and (h) of the definition of personal information in section 2(1) of the Act.

Conclusion: The information in question was personal information as defined in section 2(1) of the Act.

Issue B: Was the personal information disclosed in compliance with section 32 of the Act?

Under the Act, an institution cannot disclose personal information in its custody or under its control except in the specific circumstances outlined in section 32 of the Act.

The Town submitted that the disclosure of the complainant's personal information at the open Committee meeting was in compliance with section 32(a) and (d) of the Act, which state that an institution shall not disclose personal information in its custody or under its control except,

- (a) in accordance with Part I;
- (d) if the disclosure is made to an officer or employee of the institution who needs the record in the performance of his or her duties and if the disclosure is necessary and proper in the discharge of the institution's functions;

The Town acknowledged that the CAO had read aloud the solicitor's letter in its entirety during the open public session of the Committee meeting and that the CAO and Deputy Clerk had distributed copies of the letter to the press. The Town stated that it thought it was important to make the Committee aware of the concerns that the residents had about the boat races since the races were to be held that weekend.

The Town stated that "the disclosure is in compliance with Section 32(a) in accordance with Part I of the Act (section 14(f)) since the disclosure does not constitute an unjustified invasion of personal privacy."

In past compliance investigations, we have held the view that the section 32(a) exception to the section 32 prohibition against the disclosure of personal information only applies in the context of a request by an individual, made under Part I of the Act, for personal information relating to another individual. In this case, since the disclosure did not involve an access request under Part I of the Act, it is our view that section 32(a) of the Act did not apply.

Section 32(d) of the Act applies only if a disclosure is made to an "officer" or "employee" of an institution. In this case, the complainant was concerned that the letter was disclosed at an open

Committee meeting to the press and public. Since members of the press and the public are not officers or employees of the Town, it is our view that section 32(d) of the Act did not apply.

We accept that the Committee members needed to be aware of the complainant's concerns about the boat races, and, in our view, if the disclosure had been made during a closed session of the Committee, it would not have been an infringement of the Act. It is also our view that these concerns could have been raised in the open session of the Committee without identifying the complainant.

We have reviewed the remaining provisions of section 32 of the Act and it is our view that none were applicable in the circumstances of this case.

Conclusion: The disclosure of the personal information was not in compliance with section 32 of the Act.

SUMMARY OF CONCLUSIONS

- The information in question was personal information as defined in section 2(1) of the Act.
- The disclosure of the personal information was not in compliance with section 32 of the Act.

RECOMMENDATIONS

We recommend that the Town 1) take steps to ensure that personal information is disclosed only in compliance with section 32 of the Act, for example, by sending a memorandum to staff outlining the disclosure provisions of section 32, and, 2) amend the minutes of the Committee meeting in question by removing the complainant's identity.

Within six months of receiving this report, the Town should provide the Office of the Information and Privacy Commissioner with proof of compliance with the above recommendations.

Original signed by: _____
Susan Anthistle
Compliance Review Officer

April 29, 1996
Date