



Information and Privacy
Commissioner/Ontario

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

PRIVACY COMPLAINT REPORT

PRIVACY COMPLAINT NO. MC-050025-1

City of Toronto



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PRIVACY COMPLAINT NO. **MC-050025-1**

INVESTIGATOR: **Mark Ratner**

INSTITUTION: **City of Toronto**

SUMMARY OF COMPLAINT:

The Office of the Information and Privacy Commissioner/Ontario (IPC) received a privacy complaint under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) involving the City of Toronto (the *City*). Specifically, the complainant was concerned that the City had inappropriately disclosed his personal information.

During the process of renovating his home, the complainant filled out an “Application for a Permit to Construct or Demolish” form and submitted this form to the City. After submitting the form, the complainant received a letter from the Electrical Safety Authority (ESA) and a letter from the Municipal Property Assessment Corporation (MPAC). Both of these letters referred to the fact that a building permit had been issued by the City in relation to the complainant’s property. Neither letter contained the complainant’s name.

Upon receiving the letters, the complainant concluded that the City must have disclosed the fact that he had applied for a building permit to both MPAC and the ESA. The complainant had not realized that the permit information would be disclosed to these organizations.

Based on his concern that the City had improperly disclosed his personal information, the complainant filed a complaint with the IPC.

DISCUSSION:

The following issues were identified as arising from the investigation:

Is the information “personal information” as defined in section 2(1) of the Act?

In response to this privacy complaint, the City acknowledged that permit information is routinely disclosed by the City to MPAC and the ESA, but that the names of permit applicants are **not** disclosed. Rather, MPAC and the ESA are only provided with the municipal property address that has been the subject of the building permit application.

I have reviewed the two letters that were received by the complainant, and I note that neither letter contains the complainant’s name. However, each letter was mailed to, and contains, the complainant’s home address.

Section 2(1) of the *Act* states, in part:

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

...

- (d) the address, telephone number, fingerprints or blood type of the 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 IPC has previously considered whether this definition operates to make municipal property addresses that are not connected with an identifiable individual “personal information.” In Order 23, Commissioner Linden considered whether a record of estimated property values relating to specific addresses qualified as personal information within the meaning set out in section 2(1) of the *Act*.

In applying the definition of “personal information” to the facts of that appeal, Commissioner Linden stated:

In considering whether or not particular information qualifies as “personal information” I must also consider the introductory wording of subsection 2(1) of the *Act*, which defines “personal information” as “... any recorded information about an identifiable individual ...”. In my view, the operative word in this

definition is “about.” The *Concise Oxford Dictionary* defines “about” as “in connection with or on the subject of.” Is the information in question, i.e., the municipal location of a property and its estimated market value, **about** an identifiable individual? In my view, the answer is “no”; the information is **about a property** and not **about an identifiable individual** [emphasis in original].

Based on this reasoning, Commissioner Linden concluded that the information at issue in that appeal was not “personal information” as defined under the *Act*.

This interpretation of the definition of “personal information” has been cited favourably and adopted in a number of subsequent Orders issued by the IPC (see, for example, Orders M-15, M-189, and P-1186).

In the context of this privacy complaint, only municipal property addresses, and not individual names, are provided by the City to MPAC and the ESA. Based on the interpretation of the definition of “personal information” established in Order 23, such information is not information “about an identifiable individual” but information “about a property.”

I therefore conclude that the information in question does not qualify as “personal information” within the meaning set out in section 2(1) of the *Act*.

Having made this determination, it is not necessary for me to consider whether the information in question was disclosed in accordance with the provisions of the *Act*.

OTHER MATTERS

One of the factors that contributed to this privacy complaint was the fact that the complainant did not realize that his building permit application would be disclosed to MPAC and the ESA.

The complainant noted that the building permit form contained the following notice:

Personal information contained in this form and schedules is collected under the authority of subsection 8(1.1) of the *Building Code Act, 1992*, and will be used in the administration and enforcement of the *Building Code Act, 1992*. Questions about the collection of personal information may be addressed to: a) the Chief Building Official of the municipality or upper-tier municipality to which this application is being made, or, b) the inspector having the powers and duties of a chief building official in relation to sewage systems or plumbing for an upper-tier municipality, board of health or conservation authority to whom this application is made, or, c) Director, Building and Development Branch, Ministry of Municipal Affairs and Housing 777 Bay St., 2nd Floor. Toronto, M5G 2E5 (416) 585-6666.

In materials provided to the IPC, the complainant pointed out that the notice statement does not make reference to the fact that permit information may be disclosed to outside agencies such as the ESA and MPAC.

Section 29(2) of the *Act* sets out the statutory notice requirement pertaining to institutions that collect personal information. That provision states:

If personal information is collected on behalf of an institution, the head shall inform the individual to whom the information relates of,

- (a) the legal authority for the collection;
- (b) the principal purpose or purposes for which the personal information is intended to be used; and
- (c) the title, business address and business telephone number of an officer or employee of the institution who can answer the individual's questions about the collection.

I have already concluded above that the information that was disclosed to MPAC and the ESA does not qualify as "personal information" under the definition set out in the *Act*. As such, there is no statutory requirement for the City to inform applicants that building permit information may be disclosed to these agencies.

Notwithstanding this conclusion, and in the interest of full transparency with respect to process, it may be desirable for the City to amend its notice provision to make explicit the fact that permit information, particularly the property address, may be disclosed to outside agencies such as MPAC or the ESA. In this way, the City may proactively avoid the future incidence of similar privacy complaints, and, at the same time, achieve openness and transparency on the purposes underlying its collection of building permit information.

CONCLUSION:

I have reached the following conclusions based on the results of my investigations:

- The information in question does not qualify as "personal information" as defined in section 2(1) of the *Act*.
- As a result, I do not need to determine whether the disclosure by the City to MPAC and the ESA was in accordance with the *Act*.

Original signed by: _____
Mark Ratner
Investigator

_____ May 9, 2006