



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

# **ORDER M-31**

**Appeal M-920015**

**The Corporation of the City of Oshawa**



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# ORDER

The Corporation of the City of Oshawa (the institution) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to the name of the individual(s) who filed a complaint with the institution regarding a property owned by the requester. The institution denied access to the names of the complainants (the affected parties) citing sections 8(1)(b), 8(1)(d), 14 (1) and 14(2)(h) of the Act. The appellant appealed the institution's decision to deny access to the information to this office.

The records which the institution identified as containing the information responsive to the request are two Complaint Input Forms and a memorandum. Information was transferred from the memorandum to one of the Complaint Input Forms. The Complaint Input Form is used by the institution's Department of Planning and Development to record complaints received in connection with possible contraventions of a by-law of the institution.

Order M-4, dated December 11, 1991, Order M-16, dated May 8, 1992 and Order M-20, dated June 9, 1992, all dealt with requests to the same institution for identical information, the names of individuals who filed complaints regarding possible by-law violations. In those orders, I upheld the head's decision to deny access to the name of a complainant, pursuant to section 8(1)(d) of the Act. In doing so, I found that the institution's process of by-law enforcement qualified as "law enforcement" under the Act. I also found that "there is a reasonable expectation of confidentiality within the institution's process of by-law enforcement" and that, in my view, disclosure of the record would disclose the identity of a confidential source of information.

A settlement of this appeal was not achieved, and the matter proceeded to an inquiry. A Notice of Inquiry - Appeals Officer's Report was sent to the appellant, the institution and the affected parties. Included with the Notice of Inquiry sent to the appellant was a copy of Order M-4. The appellant was invited to make representations on any circumstances which would distinguish his appeal from the appeal which resulted in Order M-4. No representations were received from the appellant.

Written representations were received from the institution. In its representations, the institution outlines the circumstances of the complaints involving the appellant's property and indicates that it wishes to rely on the representations made in the three previous appeals which resulted in Orders M-4, M-16 and M-20.

Having reviewed the records and the representations of the institution, in my view, the same considerations that were addressed in Order M-4, Order M-16 and Order M-20 apply in this appeal. The information at issue is identical to the information that was at issue in the appeals which resulted in each of those orders. The institution has relied on the same exemption, section 8(1)(d), to deny access to the information. The appellant has not identified any circumstances or raised any argument which would distinguish this appeal from the appeals which resulted in Order M-4, Order M-16 and Order M-20. Therefore, I am of the view that the information at issue is exempt from disclosure under section 8(1)(d).

As section 8 of the Act is a discretionary exemption, it is my responsibility to ensure that the head of the institution has properly exercised his or her discretion in deciding not to grant access to the information. I

have carefully considered all the circumstances of this appeal and I am satisfied that the head has properly exercised his discretion.

As I have found that the information is exempt under section 8(1)(d), it is not necessary for me to consider sections 8(1)(b), 14(2)(h).

**ORDER:**

I uphold the head's decision.

Original signed by:  
Tom Wright  
Commissioner

August 24, 1992