



**Information and Privacy  
Commissioner/Ontario**

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

# **ORDER M-244**

**Appeal M-9300130**

**Town of Rayside Balfour**



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# ORDER

## BACKGROUND:

The Town of Rayside Balfour (the Town) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to the name and address of a complainant and the reasons for a complaint made to the Town's by-law enforcement office. The Town denied access to the record pursuant to sections 8(1)(d) and 14 of the Act. The requester appealed the Town's decision.

Mediation was not successful, and notice that an inquiry was being conducted was sent to the Town, the appellant and the complainant. Representations were received from all parties.

The record in this appeal is an Animal Control complaint form.

## ISSUES:

The issues arising in this appeal are:

- A. Whether the information contained in the record qualifies as "personal information" as defined in section 2(1) of the Act.
- B. If the answer to Issue A is yes, whether the discretionary exemptions found in sections 8(1)(d) and 38(a) of the Act apply.
- C. If the answer to Issue A is yes, and the personal information relates to individuals other than the appellant, whether the mandatory exemption found in section 14 of the Act applies.
- D. If the answer to Issue A is yes, and the personal information relates to both the appellant and another individual, whether the discretionary exemption found in section 38(b) of the Act applies.

## SUBMISSIONS/CONCLUSIONS:

**ISSUE A: Whether the information contained in the record qualifies as "personal information" as defined in section 2(1) of the Act.**

Section 2(1) of the Act defines "personal information", in part, as follows:

"personal information" means recorded information about an identifiable individual ...

I have reviewed the record at issue and find that it contains the personal information of both the appellant and the complainant.

**ISSUE B: If the answer to Issue A is yes, whether the discretionary exemptions found in sections 8(1)(d) and 38(a) of the Act apply.**

Section 8(1)(d) of the Act states:

A head may refuse to disclose a record if the disclosure could reasonably be expected to,  
  
disclose the identity of a confidential source of information in respect of a law enforcement matter, or disclose information furnished only by the confidential source;

In order for the requested record to qualify for exemption under this section, the matter which generated the record must satisfy the definition of the term "law enforcement" as found in section 2(1) of the Act. This definition reads as follows:

"law enforcement" means,

- (a) policing,
- (b) investigations or inspections that lead or could lead to proceedings in a court or tribunal if a penalty or sanction could be imposed in those proceedings, and
- (c) the conduct of proceedings referred to in clause (b);

The Town provided a description of the by-law enforcement process which it followed in this case, which it claims falls within clause (b) of the law enforcement definition.

The telephone complaint was recorded on an Animal Care Complaint Form and turned over to the Society for the Prevention of Cruelty to Animals (SPCA) for investigation. An Animal Care and Control Officer, accompanied by a veterinarian, visited the property in question. As a result of this on-site inspection, the appellant was found to be in contravention of By-law 93-15, which states:

By-law 93-15, Article 4, Restriction:

- a. No more than two dogs shall be kept or permitted in or about any dwelling unit or any one suite in an apartment building within the limits of the Municipality.

The appellant was ordered to comply with this by-law. The matter remains unresolved. The Town submits that the matter may yet end up in court and could result in a penalty or sanction being imposed upon the appellant.

Based on the foregoing, I am satisfied that the Town's process of by-law enforcement qualifies as "law enforcement" under the Act.

As to the issue of whether it is reasonable to expect that disclosure of the record would reveal the identity of a confidential source, the Town must provide evidence of the circumstances in which the information was given in order to establish confidentiality.

In its representations, the Town submits that its by-law enforcement procedure depends to a large extent on residents informing the Town of possible violations or wrongdoing. Most complaints are received by telephone (as was the case in this appeal) and complainants are assured of their confidentiality being protected. The Town concludes by saying that should it lose confidence with the public, the Town would find it very difficult to enforce its municipal by-laws.

The representation from the affected party opposed the disclosure of the record.

In her representations, the appellant states that if she knew the name of the complainant she would understand the reasoning behind the complaint. Further, she submits that the action instigated by the complainant was an unjustified invasion of her personal privacy.

Having considered all of the above, I am of the view that there is a reasonable expectation of confidentiality within the Town's process of by-law enforcement. The record contains the date of the complaint as well as **the name, address, and telephone number of the complainant**. In my view, disclosure of the record would disclose the identity of a confidential source of information.

As I have found that the record at issue contains the personal information of the appellant, I must consider the application of section 38(a) of the Act, which states:

A head may refuse to disclose to the individual to whom the information relates personal information,

if section 6, 7, **8**, 9, 10, 11, 12, 13 or 15 would apply to the disclosure of that personal information; [emphasis added]

This exemption gives the Town the discretion to deny access to an individual's own personal information in instances in which one of the enumerated exemptions would apply. I am satisfied that there is nothing improper in the Town's exercise of discretion and would not alter it on appeal.

In the circumstances, it is not necessary for me to address Issues C and D.

**ORDER:**

I uphold the Town's decision.

Original signed by:  
Holly Big Canoe  
Inquiry Officer

January 13, 1994