



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

ORDER M-138

Appeal M-9200254

The Town of Whitchurch-Stouffville



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ORDER

BACKGROUND:

The Town of Whitchurch-Stouffville (the Town) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to information about the new building permits issued by the Town during the month of May 1992. The requester sought access to:

1. Name of the owner (of the subject building or property).
2. Address of the owner.
3. Location of the property.
4. The intended use of the building or structure.
5. Type of work proposed.
6. Date of issuance of the building permit.
7. Name of the builder (if known).
8. Address of the builder (if known).

The Town granted partial access to a summary report which it produces monthly and provides to Statistics Canada. This report contains, for each building permit issued during the month, information corresponding to Items 3, 4, 5 and 6 of the request, plus additional information not included in the request. The Town, relying on the exemption in section 14(1) of the Act, refused to provide access to information corresponding to Items 1, 2, 7 and 8 of the request, and deleted from the summary report provided to the requester the name of the applicant for each building permit, who could be either the owner or the builder.

The Town informed the requester that it would provide him with the monthly summary reports, without requiring him to submit a request under the Act, for a fee of \$70 per year.

The requester appealed the Town's decision to deny access to the names and addresses of the property owners and the builders, and the annual fee for provision of the monthly summary reports.

During mediation, the appellant withdrew his appeal with respect to the fee. However, mediation was unsuccessful with respect to the provision of access to the names and addresses, and notice that an inquiry was being conducted to review this aspect of the Town's decision was sent to the appellant and the Town. Representations were received from the Town, but not from the appellant.

ISSUES:

The issues arising in this appeal are:

- A. Whether the record contains personal information as defined in section 2(1) of the Act.

B. If the answer to Issue A is yes, whether the exemption provided by section 14 of the Act applies.

SUBMISSIONS/CONCLUSIONS:

ISSUE A: Whether the record contains personal information as defined in section 2(1) of the Act.

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;

I have examined the records, which consist of the building permit application forms. This form requires the provision of the name, address and telephone number of the owner of the proposed building, the designer (if there is one), the applicant, and the general contractor. The appellant has not requested access to telephone numbers, nor has he requested access to the name and address of the designer or the applicant and, in my view, this information is not responsive to the request and is outside of the scope of this appeal. The only information at issue is the name and address of the owner (Items 1 and 2 of the request), and the name and address of the general contractor (Items 7 and 8 of the request).

Personal information is defined as information about an "identifiable individual". In Order 16, Commissioner Linden canvassed the issue of personal information as it relates to business entities. He stated that:

The use of the term "individual" in the Act makes it clear that the protection provided with respect to the privacy of personal information relates only to natural persons. Had the

legislature intended "identifiable individual" to include a sole proprietorship, partnership, unincorporated associations or corporation, it could and would have used the appropriate language to make this clear. The types of information enumerated under subsection 2(1) of the Act as "personal information" when read in their entirety, lend further support to my conclusion that the term "personal information" relates only to natural persons.

I agree with the distinction made by Commissioner Linden.

Proposed buildings for which building permits are sought may be owned by, and building may be undertaken by, individuals or business entities. In my view, where the owner or builder is an individual, the name and address qualify as personal information as defined in sections 2(1)(d) and (h) of the Act. In my opinion, where the owner or builder is a business entity, the name and business address are not personal information.

In reviewing the records, it is not always apparent to me which names and addresses are those of individuals and which names and addresses are those of a business entity. I have highlighted the names and addresses which appear to be those of individuals and not of a business entity on the copy of the record sent to the Town with its copy of this order. Should the Town have knowledge that one or more of the names and addresses I have highlighted is that of a business entity, the name and address does not qualify as personal information.

ISSUE B: If the answer to Issue A is yes, whether the exemption provided by section 14 of the Act applies.

Given my conclusion with respect to Issue A, the following will apply only to the names and addresses of individuals, and not to the names and addresses of business entities.

Section 14(1) of the Act prohibits the disclosure of personal information to any person other than the individual to whom the information relates, except in certain circumstances listed under the section. In my view, the only exception to the section 14(1) mandatory exemption which has potential application in the circumstances of this appeal is section 14(1)(f), which reads:

A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,

if the disclosure does not constitute an unjustified invasion of personal privacy.

Because section 14(1)(f) is an exception to the mandatory exemption which prohibits the disclosure of

personal information, in order for me to find that section 14(1)(f) applies, I must find that disclosure of the personal information would **not** constitute an unjustified invasion of personal privacy.

Sections 21(2) and (3) of the Act provide guidance in determining whether disclosure of personal information would result in an unjustified invasion of the personal privacy of the individual to whom the information relates. Section 21(2) provides some criteria for the head to consider in making this determination. Section 21(3) lists the types of information the disclosure of which is presumed to constitute an unjustified invasion of personal privacy.

In the circumstances of this appeal, the appellant has not submitted representations. The Town's representations raise factors which weigh in favour of not disclosing the names and addresses of individuals. Having found that the names and addresses of individuals qualify as personal information, and in the absence of any representations weighing in favour of finding that disclosure of the personal information would **not** constitute an unjustified invasion of personal privacy, I find that the exception contained in section 14(1)(f) does not apply, and the names and addresses of individuals are properly exempt from disclosure under section 14(1) of the Act.

ORDER:

1. I uphold the Town's decision not to disclose the names and addresses of identifiable individuals that are not business entities.
2. I order the Town to disclose to the appellant the names and addresses which do not qualify as personal information within 15 days of the date of this order.
3. In order to verify compliance with this order, I order the Town to provide me with a copy of the record which is disclosed to the appellant pursuant to Provision 2, **only** upon request.

Original signed by: _____
 Holly Big Canoe
 Inquiry Officer

_____ June 3, 1993