

ORDER M-109

Appeal M-9200208

Regional Municipality of Waterloo

ORDER

BACKGROUND:

The Regional Municipality of Waterloo (the Municipality) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to a current mailing list of all persons who are on contract with the Municipality to provide subsidized home child care services. The Municipality denied access to the responsive record pursuant to section 14(1) of the Act. The requester appealed the Municipality's decision.

Mediation was not successful, and notice that an inquiry was being conducted to review the Municipality's decision was sent to the appellant and the Municipality. Written representations were received from the Municipality only.

The record consists of a 35-page mailing list, which includes the names, addresses, telephone numbers and, in some cases, the code numbers of home child care providers under contract with the Municipality.

ISSUES:

The issues arising in this appeal are as follows:

- A. Whether the information contained in the record qualifies as "personal information" as defined by section 2(1) of the Act.
- B. If the answer to issue A is yes, whether the mandatory exemption provided by section 14(1) of the Act applies.

SUBMISSIONS/CONCLUSIONS:

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

In section 2(1) of the Act, "personal information" is defined, in part, as follows:

"personal information" means recorded information about an identifiable individual,
including,

...

- (c) any identifying number, symbol or other particular assigned to the individual,
- (d) the address, telephone number, fingerprints or blood type of the individual,
- ...
- (h) the individual's name where 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;

Having reviewed the record, I find that it contains the personal information of the home child care providers. Specifically, the code numbers assigned to some of the individuals fall within paragraph (c) of the definition; the addresses and telephone numbers fall directly within paragraph (d); and disclosure of the names would reveal the fact that the individuals have a service contract with the Municipality to provide home child care, thereby satisfying the requirements of paragraph (h). I further find that the record does not contain any personal information of the appellant.

ISSUE B: If the answer to Issue A is yes, whether the mandatory exemption provided by section 14(1) of the Act applies.

Once it has been determined that a record contains personal information, section 14(1) of the Act prohibits the disclosure of this information except in certain circumstances. Specifically, section 14(1)(f) states:

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.

Sections 14(2) and 14(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.

The Municipality submits that none of the factors listed in section 14(3) are relevant in the circumstances of this appeal, and I agree.

As far as section 14(2) is concerned, the Municipality submits that section 14(2)(h) is a relevant consideration. This section reads as follows:

A head, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, shall consider all the relevant circumstances, including whether,

the personal information has been supplied by the individual to whom the information relates in confidence;

The Municipality submits that before the Act came into force, it released similar mailing lists, and that:

At that time, representatives of a labour relations organization had contacted the providers at their homes. This incident resulted in a large number of complaints from providers who were concerned about the release of their addresses without consent, and the subsequent invasion of privacy. In part, because of this incident, there has been an implicit understanding of confidentiality concerning the provider's home address ...

I agree that section 21(2)(h) is a relevant consideration in the circumstances of this appeal, and weighs in favour of non-disclosure of the record.

Although the appellant did not make representations, her request and letter of appeal both state that she is seeking access to the mailing list in order to facilitate the creation of a home child care provider association. In my view, this reason does not relate to any of the factors listed in section 14(2) which weigh in favour of release of the record, and I find that it is not a relevant consideration in the context of this appeal.

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 the section 14(1)(f) exception applies, I must find that disclosure of the personal information would **not** constitute an unjustified invasion of personal privacy (Orders M-97 and P-432).

In the circumstances of this appeal, the only representations I have been provided with weigh in favour of a finding that section 14(1)(f) does not apply. In the absence of any relevant factors weighing in favour of

release, I find that the exception provided by this section is not present, and that the mandatory exemption provided by section 14(1) applies.

ORDER:

I uphold the Municipality's decision.

Original signed by: _____
Tom Mitchinson
Assistant Commissioner

_____ March 26, 1993