



Information and Privacy
Commissioner/Ontario

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

ORDER M-118

Appeal M-9200186

City of Toronto



80 Bloor Street West,
Suite 1700,
Toronto, Ontario
M5S 2V1

80, rue Bloor ouest
Bureau 1700
Toronto (Ontario)
M5S 2V1

416-326-3333
1-800-387-0073
Fax/Télé: 416-325-9195
TTY: 416-325-7539
<http://www.ipc.on.ca>

ORDER

BACKGROUND:

The City of Toronto (the City) compiles and maintains mailing lists in order to contact individuals who have expressed an interest in particular issues. The requester, who is a City Councillor, made a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to certain of these lists. Specifically, the requester asked for copies of any mailing lists related to "development" at two locations. The City identified two responsive lists - the Land Use list and the Planning list - and provided partial access. The City denied access to parts of the lists pursuant to section 14 of the Act and the requester appealed this decision.

During mediation, the City elaborated on its decision to provide partial access. The City stated that it had disclosed the names and addresses of individuals whose names appeared on the lists who worked for the City and were clearly acting in their employment capacity. In addition, with respect to the Land Use list, the City explained that it had notified each person on the list to ask them about the extent to which they wanted their names and addresses to be made available to other individuals. The City advised each person that it was dividing the Land Use list into the following three categories, corresponding to different levels of availability:

- (1) Public list: names and addresses available to anyone requesting the list;
- (2) Partially restricted list: names and addresses to be used for same purposes as the restricted list but, in addition, this information is made available to appropriate City staff members and members of City Council;
- (3) Restricted list: names and addresses to be used by members of the staff of the Department of the City Clerk and the Legal Department in order that persons on the list may be kept informed of any future meetings and/or decisions.

Each person was asked to indicate in which category he/she wanted his/her name and address to appear and three sub-lists were compiled. The City indicated that it had provided the appellant with the "public list" and, because he was a City Councillor, the "partially restricted" list.

Therefore, the records at issue in this appeal are the Planning list and the restricted part of the Land Use list. The names of City employees who were clearly acting in their employment capacity have already been disclosed.

The appeal could not be resolved through mediation, and notice that an inquiry was being conducted to

review the City's decision was sent to the City and the appellant. Written representations were received from both parties.

ISSUES:

The issues in this appeal are as follows:

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

SUBMISSIONS/CONCLUSIONS:

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

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

"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;

As noted above, the records at issue are mailing lists compiled and maintained so that the City can contact individuals who have expressed an interest in "development" at two locations. The lists contain names and addresses. In several instances, the addresses are business addresses. In addition, several people are identified in a representative or business capacity; for example, several people are identified as "President" or "Manager".

It has been established in a number of orders that information provided by an individual in a professional capacity or in the execution of employment responsibilities is not personal information, and therefore, cannot qualify for personal privacy protection (Orders 157, P-326, P-328). Similar considerations apply in this appeal. In my view, the names and addresses of persons identified in a representative or business capacity, and the names of persons which appear with an apparent business address, do not constitute personal information.

Enclosed with the copy of this order being sent to the City is a highlighted copy of the records. The highlighted names and addresses are the ones which do not constitute personal information. The remainder of the names and addresses set out in the records qualify as personal information.

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

Under Issue A, I found that parts of the records contain the personal information of identifiable individuals. Once it has been determined that a record contains personal information, section 14(1) of the Act prohibits the disclosure of this personal information, except in certain circumstances. Specifically, section 14(1)(f) of the Act 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.

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 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.

Sections 14(2) and (3) of the Act provide guidance in determining whether disclosure of personal information would constitute an unjustified invasion of personal privacy.

Section 14(3) lists the types of information, the disclosure of which is presumed to constitute an unjustified invasion of personal privacy. Neither of the parties have raised any of the presumptions contained in section 14(3), and I find that this section is not relevant in the circumstances of this appeal.

Section 14(2) lists factors which may be considered in determining whether the disclosure of personal information would constitute an unjustified invasion of personal privacy. Some of the factors favour disclosure of personal information and some, protection of personal privacy.

The appellant does not refer specifically to any of the listed factors but he submits the following:

These mailing lists are maintained by the City, at taxpayers' expense, without any limitations at present. If [sic] other words, any person who or any organization which requests to be put on such a mailing list is. At the same time, persons and organizations approach me as an elected representative to keep them informed of these same matters. I produce my own meeting lists for this purpose. In addition, I initiate mailing lists and mailing to individuals who and organizations which I think should be informed (without, necessarily, a request from the person or organization).

I am trying to be prudent with taxpayers' money and seek access to the City's mailing lists for the purpose of reducing (and hopefully eliminating) redundant mailings to the same individuals or organizations.

In its representations the City states:

... please note the staff in the Secretarial Division encourage Councillors to provide names of constituents who have expressed interest in issues, in order that they might be given notice through the Department of the City Clerk. Therefore, there need be only one mailing to these interested individuals.

I appreciate the appellant's concerns. Maintaining and updating separate lists for purposes which may appear to be similar does involve costs and, ultimately, those costs are borne by the taxpayer. In these times of fiscal restraint, prudent expenditure of public funds is a necessity. In my view, even if I were to accept the premise of the appellant's submission, administrative ease, in itself, is not a reason to override an individual's right to protection of personal privacy. In fact, administrative ease is not a relevant factor in determining whether the disclosure of the information at issue would constitute an unjustified invasion of personal privacy.

In my opinion, the appellant has failed to establish the relevance of any factors which might weigh in favour of disclosure of the personal information at issue. Accordingly, I find that the exception contained in section 14(1)(f) does not apply and therefore, the mandatory exemption provided by section 14(1) of the Act applies to the names and addresses which I have found qualify as personal information.

ORDER:

1. I order the City to disclose the parts of the records which I have found do not qualify as personal information. A highlighted copy of the records is enclosed with the copy of this order being sent to the City. The highlighted names and addresses are the ones which do not qualify as personal information. The City need not disclose to the appellant the names and addresses which were previously disclosed in response to the request.
2. In order to verify compliance with the provisions of this order, I order the City to provide me with a copy of the records which are disclosed to the appellant pursuant to provision 1, **only** upon my request.

Original signed by: _____

Tom Wright
Commissioner

_____ April 16, 1993