



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

ORDER P-539

Appeal P-9300246

Ministry of the Attorney General

(Office of the Public Trustee)



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ORDER

BACKGROUND:

The Office of the Public Trustee, an agency of the Ministry of the Attorney General (the Ministry), received a request pursuant to the Freedom of Information and Protection of Privacy Act (the Act) for access to background financial information about a named home for senior citizens. The request was sent to the Ministry for processing.

Pursuant to section 28(1) of the Act, the Ministry notified a representative of the senior citizens home (the representative) as its interests might be affected by disclosure of the requested records. The representative objected to the disclosure of the requested records. The Ministry decided to release the records to the requester. The representative then requested access to the name and address of the original requester. The Ministry contacted the original requester who advised that he or she wishes to remain anonymous. The Ministry refused to inform the representative of the name and address of the original requester, relying on section 21 of the Act. The representative appealed the Ministry's decision to deny access to the name and address of the original requester.

Mediation of the appeal was not possible and notice that an inquiry was being conducted to review the decision of the Ministry was sent to the Ministry, the appellant and the original requester (the affected party). Representations were received from the Ministry only. In its representations, the Ministry confirmed that it was specifically relying on the exemptions contained in sections 21(2)(f) and (h) of the Act.

ISSUES:

The issues arising in this appeal are:

- A. Whether the name and address of the original requester qualifies as "personal information" as defined in section 2(1) of the Act.
- B. Whether the mandatory exemption provided by section 21 of the Act applies.

SUBMISSIONS/CONCLUSIONS:

ISSUE A: Whether the name and address of the original requester qualifies as "personal information" as defined in section 2(1) of the Act.

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

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

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...

- (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;

In my view, it is clear that the name and address of the original requester qualifies as "personal information" as defined in section 2(1) of the Act.

ISSUE B: Whether the mandatory exemption provided by section 21 of the Act applies.

The Act does not provide explicitly for the disclosure of the name and/or the address of a requester where the requester has requested access to information concerning another individual or entity. In Order 27, Commissioner Linden stated that the fact that the Act is silent as to whether the name of a requester may be disclosed should not be interpreted as a prohibition. He found that the Act does not specifically or impliedly impose a general rule of non-disclosure of the names of requesters. He suggested that the fairest approach in adjudicating the issue would be to weigh any competing rights of the requester and any other parties. I agree. In my view, it necessarily follows that the same approach should apply to the address of the requester as well.

Once it has been determined that a record contains personal information, section 21(1) of the Act prohibits the disclosure of this information except in certain circumstances. Specifically, section 21(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.

Section 21(1)(f) is an exception to the mandatory exemption which prohibits the disclosure of personal information. In order for me to find that section 21(1)(f) applies, I must find that disclosure of the name and address of the original requester would **not** constitute an unjustified invasion of personal privacy.

In the circumstances of this appeal, the only representations I have been provided with weigh in favour of finding that the section 21(1)(f) exception does not apply. In the absence of any evidence or argument to the contrary, I find that the exception provided by this section is not present, and that the mandatory exemption provided by section 21(1) of the Act applies.

ORDER:

I uphold the Ministry's decision.

Original signed by: _____
Anita Fineberg
Inquiry Officer

_____ September 24, 1993