



**Information and Privacy
Commissioner/Ontario**

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

ORDER M-201

Appeal M-9300322

Township of Ignace



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/Télééc: 416-325-9195
TTY: 416-325-7539
<http://www.ipc.on.ca>

ORDER

On September 20, 1993, the undersigned was appointed Inquiry Officer and received a delegation of the power and duty to conduct inquiries and make orders under the provincial Freedom of Information and Protection of Privacy Act and the Municipal Freedom of Information and Protection of Privacy Act.

BACKGROUND:

The requester submitted a request to the Township of Ignace (the Township) under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for correction of his personal information contained in three personnel evaluations. Specifically, the request was "that the evaluation reports done on [the requester] be expunged from all personnel records maintained by the Township".

In its decision letter, the Township stated that it did not consider the information at issue to be inaccurate, and the request for correction was denied. The requester appealed this decision.

Mediation was not successful, and notice that an inquiry was being conducted to review the Township's decision was sent to the appellant, the Township and the two individuals who completed the personnel evaluations (the supervisors).

Representations were received from the appellant, the Township and one of the supervisors. In its representations, the Township indicated that it would also be relying on information it had provided to the Commissioner's office during the mediation stage of the appeal.

ISSUES:

The issues arising in this appeal are as follows:

- A. Whether the information to be corrected qualifies as "personal information" as defined by section 2(1) of the Act.
- B. If the answer to Issue A is yes, whether there are errors or omissions in the personal information which should be corrected pursuant to section 36(2)(a) of the Act.

SUBMISSIONS/CONCLUSIONS:

ISSUE A: Whether the information to be corrected qualifies as "personal information" as defined by section 2(1) of the Act.

Section 2(1) of the Act reads, in part, as follows:

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

...

(b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,

(c) any identifying number, symbol or other particular assigned to the individual,

...

(g) the views or opinions of another individual about the individual, and

(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;

I have reviewed the records and, in my view, the information at issue in this appeal qualifies as the personal information of the appellant under paragraphs (b), (c), (g) and/or (h) of the definition of personal information.

ISSUE B: If the answer to Issue A is yes, whether there are errors or omissions in the personal information which should be corrected pursuant to section 36(2)(a) of the Act.

Section 36(2) of the Act provides:

Every individual who is given access under subsection (1) to personal information is entitled to,

- (a) request correction of the personal information if the individual believes there is an error or omission;
- (b) require that a statement of disagreement be attached to the information reflecting any correction that was requested but not made; and
- (c) require that any person or body to whom the personal information has been disclosed within the year before the time a correction is requested or a statement of disagreement is required be notified of the correction or statement of disagreement.

The determination of this appeal will turn on the meaning accorded to the word "correction" in the context of section 36(2) of the Act. This issue was addressed by Commissioner Tom Wright in Order 186 in which it was found that the term "correction" necessarily incorporates three elements:

- (1) the information at issue must be personal and private information; **and**
- (2) the information must be inexact, incomplete or ambiguous; **and**
- (3) the correction cannot be a substitution of opinion.

In his representations, the appellant states that the "evaluation comments in many areas are inaccurate, ambiguous and not based on factual data". No specifics are provided, however, as to any factual errors contained in the records. The remainder of the appellant's representations are an expression of his disagreement with the conclusions drawn by the supervisors.

The Township and the supervisor who submitted representations indicate that the information contained in the records represents an assessment of the appellant's work and suitability, all of which the Township and the supervisor believe to be factually correct. The Township's refusal to amend the information is based on the belief that the information is accurate. In addition, the supervisor points out that, at the time the records were prepared, they were discussed with the appellant who expressed no disagreement with the conclusions drawn in the evaluations.

In its representations, the Township also states that the appellant was made aware of his right under section 36(2)(b) of the Act to have a statement of disagreement attached to the records at issue. During the course of mediation, the Commissioner's office also advised the appellant of his right under section 36(2)(b) of the

Act.

Section 36(2) of the Act provides certain remedies to individuals who disagree with the contents of records containing their personal information. In my view, these remedies will vary depending upon the types of information in question. For example, when errors in factual information are shown by the requester to exist in such a record, the proper remedy, under section 36(2)(a) of the Act, is to correct that information.

However, where a party who has been granted access to a record disagrees with non-factual, evaluative or opinion information contained in the document, the appropriate remedy is provided by section 36(2)(b). There, the requester may require an institution to attach a statement of disagreement to the information, reflecting any correction requested by the requester but not made by the institution.

I find that the first element of the test enunciated in Order 186 has been satisfied in the circumstances of this appeal as the information contained in the record is clearly personal and private. It is my conclusion, however, that the second and third elements of the test have not been met. The information contained in the record which is objected to by the appellant is evaluative and opinion information. I find that the appellant is seeking to substitute his own opinions about his job performance for those contained in the record. As noted above, the Commissioner's office has not been granted the authority to order an institution to substitute one opinion contained in a record for another. Nor has the Commissioner's office been empowered to make suggested corrections to information of this sort.

Having reviewed the personal information contained in the records and considered the representations, in my view, they contain the views and opinions of the appellant's former supervisors who believed them to be accurate and complete at the time they were prepared. I have no reason to conclude that factual errors exist in the personal information which may be corrected by my order. Accordingly, the sole remedy available to the appellant under section 36(2) of the Act is to request that the Township attach to the personal information a statement of disagreement. The statement of disagreement may serve to detail the basis for the appellant's contention that the information is "inaccurate, ambiguous and not based on factual data".

ORDER:

I uphold the Township's decision.

Original signed by: _____

_____ October 15, 1993

Donald Hale
Inquiry Officer