



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

ORDER P-636

Appeal P-9300143

Ontario Lottery Corporation



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ORDER

The Ontario Lottery Corporation (the OLC) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for the list of addresses for all Sports Select Lottery outlets in Ontario. The requester publishes a newsletter which he wished to distribute to the lottery outlets which, according to the requester, would enhance or complement the lottery business.

The OLC denied access to the list pursuant to section 17 of the Act. The requester appealed this decision.

During mediation, the OLC issued a subsequent decision letter, withdrawing its reliance upon section 17 and denying access to the information pursuant to sections 18(1)(a) and (c) of the Act. Also during mediation, the appellant made it clear that he was not seeking access to any personal information; he is only interested in the business addresses.

Further mediation was not successful and notice that an inquiry was being conducted was sent to the appellant and the OLC. Representations were received from both parties.

The record consists of a 69-page alphabetical listing of store names and addresses.

The only issue arising in this appeal is whether the discretionary exemption contained in either section 18(1)(a) or (c) applies to the record. These sections read:

A head may refuse to disclose a record that contains,

- (a) trade secrets or financial, commercial, scientific or technical information that belongs to the Government of Ontario or an institution and has monetary value or potential monetary value;
- (c) information where the disclosure could reasonably be expected to prejudice the economic interests of an institution or the competitive position of an institution;

In order to qualify for exemption under section 18(1)(a) of the Act, the OLC must establish that the information:

1. is a trade secret, or financial, commercial, scientific or technical information; **and**
2. belongs to the Government of Ontario or an institution; **and**
3. has monetary value or potential monetary value.

[Order 87]

Part One

In Order P-493, commercial information was found to be information which relates solely to the buying, selling or exchange of merchandise or services. Further, in that order, the term "commercial" was found to apply to both profit-making enterprises and non-profit organizations, and to have equal application to both large and small enterprises.

Having reviewed the records and the representations from the OLC, it is my view that the addresses of Sports Select Lottery outlets qualifies as commercial information, and hence, the first part of the test has been satisfied.

Part Two

In its representations, the OLC submits that the list of Sports Select Lottery retailers was created by the OLC as a result of its contractual relations with its retailers. The OLC is the only source for this list. The appellant's representations also acknowledge this fact.

Having reviewed the representations, it is clear that the list of Sports Select Lottery outlets is the property of the OLC, an institution of the government of Ontario. Accordingly, I find that part two of the test has been satisfied.

Part Three

In its representations, the OLC contends that a list of the addresses of lottery retailers is a valuable asset in relation to the sales of lottery tickets or other retail products. The OLC submits that an accurate, single-source, business to business mailing list is a very saleable asset with potential monetary value. Corroborating evidence from a supplier of mailing lists was included with the OLC's representations, which support the corporation's position that the list has a market value which could exceed several thousand dollars.

After reviewing the records and the representations, I am of the view that the OLC has established that the list of addresses does have potential monetary value. The OLC has, therefore, met all three parts of the test and I find section 18(1)(a) of the Act applies to the record.

Because section 18(1)(a) is a discretionary exemption, I have also reviewed the OLC's representations regarding its decision to exercise discretion in favour of claiming this exemption, and I find nothing improper in the circumstances of this appeal.

The appellant has made very persuasive arguments related to section 18(1)(c) of the Act. However, because section 18(1)(a) applies, it is not necessary for me to deal with section 18(1)(c) of the Act.

ORDER:

I uphold the OLC's decision.

Original signed by: _____
Holly Big Canoe
Inquiry Officer

February 25, 1994