



**Information and Privacy
Commissioner/Ontario**

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

ORDER M-279

Appeal M-9300524

The Corporation of the City of Barrie



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

The Corporation of the City of Barrie (the City) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to the name of the individual who complained about an activity being carried out on the requester's property.

The City located three records that were responsive to the request but denied access to these documents based on the exemptions contained in sections 14(2)(h) and 14(3)(b) of the Act (unjustified invasion of personal privacy). The requester appealed the City's decision.

The mediation of this appeal was not successful and notice that an inquiry was being conducted to review the City's decision was sent to the appellant and the City. Representations were received from the City only.

The records at issue in this appeal consist of (1) an electronic mail message from one City employee to another employee regarding the property complaint, (2) a letter of complaint about the property from a named individual and (3) the notes of a Property Standards Officer which refers to the name of the complainant.

In order to decide this appeal, it will be necessary for me to consider the wording of sections 2(1) and 14 of the Act. Under section 2(1) of the Act, "personal information" is defined to mean recorded information about an individual including information relating to correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature and the individual's name if it appears with other personal information about the individual.

In my view, the information contained in the three records qualifies as personal information under section 2(1) of the Act. This information relates to an individual other than the appellant.

Once it has been determined that a record contains personal information, section 14(1) of the Act prohibits the disclosure of this information to any person other than to the individual to whom the information relates, except in certain circumstances. One such situation is outlined in section 14(1)(f) of the Act which reads as follows:

inal signed by:
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), (3) and (4) of the Act provide guidance in determining whether the disclosure of personal information would constitute an unjustified invasion of personal privacy. In Order M-170, Commissioner Tom Wright addressed the interrelationship between these provisions in the following way:

The only way in which a section 14(3) presumption can be overcome is if the personal information at issue falls under section 14(4) of the Act or where a compelling public interest exists in disclosure of the record in which the personal information is contained, which clearly outweighs the purpose of the section 14 exemption.

This approach has been adopted in many subsequent orders.

In its representations, the City submits that section 14(3)(b) of the Act applies to the records. This section reads as follows:

A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy if the personal information,

was compiled and is identifiable as part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation;

The City indicates that the personal information contained in the records was gathered for the purpose of investigating a possible violation of Zoning By-Law 85-95, enacted under the authority provided by the Planning Act. The City has also confirmed that, where a property owner does not rectify a zoning violation, a municipal inspector may lay charges under the by-law and the Provincial Offences Act. These charges would then be dealt with by the Provincial Offences Court.

Based on these submissions, I am satisfied that the personal information contained in the records was compiled by the City as part of an investigation into a possible violation of law for the purposes of section 14(3)(b) of the Act. I have considered section 14(4) of the Act and find that none of the personal information at issue falls within the scope of this provision. In addition, the appellant has not argued that the public interest override set out in section 16 of the Act applies to this appeal.

Accordingly, I find that the disclosure of the personal information would constitute an unjustified invasion of the personal privacy of the named individual and that this information must not be disclosed to the appellant.

ORDER:

I uphold the City's decision.

Original signed by:
Irwin Glasberg
Assistant Commissioner

March 3, 1994