



**Information and Privacy
Commissioner/Ontario**

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

ORDER M-339

Appeal M-9400053

City of Toronto



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NATURE OF THE APPEAL:

This is an appeal under the Municipal Freedom of Information and Protection of Privacy Act (the Act). A copy of a City fire inspector's report has been requested from the City of Toronto (the City). The report relates to an inspection of the former premises of the requester. A fire occurred at the premises some 10 days after the inspection was conducted.

The City relies on the following exemption to deny access in part to three records:

- invasion of privacy - section 14(1)

The requester appealed the City's decision.

A Notice of Inquiry was provided to the parties to the appeal including four individuals whose names are mentioned in the report (the affected persons). Representations were received from the City only. One of the affected persons verbally advised the Commissioner's office that he/she did not want his/her personal information disclosed.

Portions of the following records are at issue in this appeal:

1. Fire inspection report, Form A, dated October 20, 1993;
2. Notice of Violation, dated October 26, 1993;
3. Fire inspection report, Form B, page 1.

DISCUSSION:

INVASION OF PRIVACY

Under section 2(1) of the Act, "personal information" is defined to mean recorded information about an identifiable individual. I have reviewed the portions of Records 1 and 2 which have not been disclosed. They contain the names, telephone numbers, addresses, and family relationships of individuals other than the appellant. In my view, this information qualifies as "personal information" as defined in section 2(1) of the Act, and relates to individuals other than the appellant.

I have also reviewed the portions of Record 3 that are at issue. I find that certain entries contain similar types of personal information as those identified above. The balance of the information, consisting of three phrases of the first paragraph and the entire last paragraph of Record 3, do not constitute "personal information" as defined in section 2(1) and should be disclosed to the appellant. I accept the submissions of the City that, although no names are mentioned in one phrase of the first paragraph, the information nonetheless relates to an "identifiable individual" and therefore constitutes personal information.

Although an individual is named in the last paragraph of Record 3, he is referred to only in his professional

and employment capacity. Therefore, the information does not constitute his personal information.

Once it has been determined that a record contains personal information, section 14(1) of the Act prohibits the disclosure of this information except in certain circumstances.

Sections 14(2), (3) and (4) of the Act provide guidance in determining whether disclosure of personal information would result in an unjustified invasion of personal privacy. Where one of the presumptions found in section 14(3) applies to the personal information found in a record, the only way such a presumption against disclosure can be overcome is if the personal information falls under section 14(4) or where a finding is made that section 16 of the Act applies to the personal information.

If none of the presumptions in section 14(3) apply, the institution must consider the application of the factors listed in section 14(2), as well as all other circumstances that are relevant in the circumstances of the case.

In its representations, the City states that disclosure of the personal information which has been withheld from the records would constitute a presumed unjustified invasion of the personal privacy of the affected persons. The City maintains that this information was compiled and is identifiable as part of an investigation into a possible violation of law (section 14(3)(b)) and describes an individual's financial worth (section 14(3)(f)). The City also claims that the fact that the personal information was supplied to the City in confidence is a consideration which favours privacy protection (section 14(2)(h)).

Having reviewed the records and the representations, I have made the following findings:

- (1) I accept the City's characterization of the records as having been created by the City in response to a complaint alleging contravention of the Provincial Fire Code. The Fire Code, R.R.O. 1990, Reg. 454 (the Code), is a regulation made under the Fire Marshals Act, R.S.O. 1990, Chap. F.17. (the FMA). Section 19 of the FMA sets out the legislative framework for the Code, which allows for the prosecution of contravention of the Code in court and resulting penalties (section 19(5)).
- (2) Based on the above, I conclude that the personal information at issue was compiled and is identifiable as part of an investigation into a possible violation of law, namely the Code, and that the presumed unjustified invasion of personal privacy found in section 14(3)(b) applies.
- (3) I have considered section 14(4) of the Act and find that none of the personal information at issue in this appeal falls within the ambit of this provision.
- (4) The appellant has not argued that the public interest override set out in section 16 of the Act applies.
- (5) Accordingly, the exemption in section 14(1) applies and it is not necessary for me to consider the application of sections 14(3)(f) and 14(2)(h).

ORDER:

1. I uphold the City's decision to deny access to the portions of Records 1 and 2, which it has withheld.
2. I order the City to disclose Record 3 to the appellant in accordance with the highlighted copy of the record which is being sent to the Freedom of Information and Privacy Co-ordinator of the City with a copy of this order. The highlighted portions **should** be disclosed.
3. I order the City to disclose the highlighted portions of Record 3 to the appellant within fifteen (15) days after the date of this order.
4. In order to verify compliance with the provisions of this order, I reserve the right to require the City to provide me with a copy of the record which is disclosed to the appellant pursuant to Provision 2.

Original signed by: _____
Anita Fineberg
Inquiry Officer

_____ July 6, 1994