



Information and Privacy  
Commissioner/Ontario

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

# ORDER P-755

Appeal P-9400204

Ministry of Education and Training



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

## **NATURE OF THE APPEAL:**

This is an appeal under the Freedom of Information and Protection of Privacy Act (the Act). The Ministry of Education and Training (the Ministry) received a request for access to information concerning individuals who either hold Certificates of Qualification as electricians or are registered as apprentice electricians under the Trades Qualification Act (the TQA).

The Ministry denied access to the records, relying on the following exemption contained in the Act:

- invasion of privacy - section 21

A Notice of Inquiry was provided to the appellant and the Ministry and representations were received from both parties.

The record at issue in this appeal consists of the names, certificate numbers, home addresses and home telephone numbers of individuals who either hold Certificates of Qualification or are registered as apprentices under the TQA and the names, addresses and telephone numbers of their employers. The record in question is capable of being retrieved through the creation of a special computer program.

## **DISCUSSION:**

### **INVASION OF PRIVACY**

Under section 2(1) of the Act, "personal information" is defined, in part, to mean recorded information about an identifiable individual, including any identifying number assigned to the individual and 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.

Having reviewed the information contained in a sample page of the record provided to the Commissioner's office, I find that those portions which contain the name, certificate number, home address and home telephone number of electricians and apprentice electricians satisfy the definition of "personal information" in section 2(1) of the Act and that this information relates to individuals other than the appellant. The remaining information which describes the name, address and telephone number of the employers may not be characterized as personal information and should, therefore, be disclosed to the appellant.

Once it has been determined that a record contains personal information, section 21(1) of the Act prohibits the disclosure of this information to any person other than the individual to whom the information relates, except in certain circumstances. In its representations, the appellant submits that the exceptions to this general rule of non-disclosure outlined in sections 21(1)(b), (c) and (f) are applicable in the circumstances of this appeal. These sections read as follows:

A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,

[IPC Order P-755/September 13, 1994]

- (b) in compelling circumstances affecting the health or safety of an individual, if upon disclosure notification thereof is mailed to the last known address of the individual to whom the information relates;
- (c) personal information collected and maintained specifically for the purpose of creating a record available to the general public;
- (f) if the disclosure does not constitute an unjustified invasion of personal privacy.

Based upon the evidence before me, I find that there do not exist any compelling circumstances affecting the health or safety of an individual to trigger the application of section 21(1)(b) of the Act.

In order for the "public record" exception described in section 21(1)(c) of the Act to apply, it must be demonstrated that the personal information was "collected and maintained **specifically** for the purpose of creating a record available to the general public" (Order P-559). The appellant submits that the TQA requires that every contract of apprenticeship be registered and "it is difficult to conceive of a reason why this would be so if this was other than to create a record available to the general public". The Ministry, on the other hand, indicates that the information is collected strictly for the purpose of administering apprenticeship training programs and regulating trades people once they have been certified.

Based upon the evidence before me, I find that the personal information was not collected and maintained **specifically** for the purpose of creating a record available to the general public. Accordingly, I find that the exception provided by section 21(1)(c) has no application in the circumstances of this appeal.

The appellant further submits that, pursuant to section 21(1)(f) of the Act, disclosure of the personal information would not constitute an unjustified invasion of personal privacy. Sections 21(2), (3) and (4) of the Act provide guidance in determining this issue. Where one of the presumptions in section 21(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 21(4) or where a finding is made that the public interest override found in section 23 of the Act applies to the personal information.

If none of the presumptions in section 21(3) apply, the institution must consider the application of the factors listed in section 21(2) of the Act, as well as all other circumstances which are relevant in the circumstances of the case.

In its representations, the Ministry submits that the personal information in the record relates to employment and educational history (section 21(3)(d)) and, therefore, that the disclosure of the personal information would constitute a presumed unjustified invasion of personal privacy.

Previous orders have held that a person's name, occupation, position and employer, without more, will not attract the application of the presumption contained in section 21(3)(d).

In my view, while the information in the record bears some relationship to the education and employment of electricians and apprentices, this information, without more, is not sufficient to attract the application of the presumption contained in section 21(3)(d). Accordingly, disclosure of the information in the record would not constitute a presumed unjustified invasion of personal privacy under section 21(3)(d).

The Ministry also submits that the following factors outlined in section 21(2) weigh in favour of the non-disclosure of the information in the record:

- highly sensitive information - section 21(2)(f)
- supplied in confidence - section 21(2)(h)
- unfair damage to reputation - section 21(2)(i)

The appellant, on the other hand, submits that the following factors outlined in section 21(2), which favour disclosure, are relevant in the circumstances of this appeal:

- public scrutiny - section 21(2)(a)
- public health and safety - section 21(2)(b)
- informed choice - section 21(2)(c)

Having carefully reviewed the evidence before me, I find that the Ministry has not provided sufficient evidence to establish that sections 21(2)(f) and (i) are relevant considerations.

In its representations, the Ministry submits that, in accordance with section 39(2) of the Act, apprentices are informed that their personal information is collected for the purpose of administering apprenticeship training and, as such, the information will only be disclosed for reasons consistent with the purpose for which it is collected.

In my view, the manner in which the personal information is collected could lead to a reasonable expectation that it would otherwise be treated confidentially. It is also reasonable to expect, as the Ministry submits, that the information collected regarding certified individuals would only be disclosed for reasons consistent with the limited purpose of regulating trades people, thereby creating an expectation of confidentiality. Accordingly, I find that section 21(2)(h) is a relevant consideration in the circumstances of this appeal, weighing against disclosure of the information in the record.

The appellant submits, in its representations, that disclosure of the information would enable the appellant to assess how vigilant the Ministry is in enforcing the TQA. In my view, the appellant has not provided sufficient evidence to demonstrate that the activities of the Ministry have been called into question. In addition, the information at issue relates primarily to the electricians and apprentices and not to the conduct

of the Ministry. Accordingly, I find that section 21(2)(a) is not a relevant consideration in the circumstances of this appeal.

The appellant next argues that knowledge of the identity of holders of Certificates of Qualification and registered apprentices would help ensure that only those who are qualified and entitled to perform electrical work, with its inherent dangers, do so. It is the appellant's submission that disclosure of the information would promote both health and safety (section 21(2)(b)) and informed choice in the purchase of goods and services (section 21(2)(c)). In my view, the appellant has not provided sufficient evidence to demonstrate that disclosure of the information at issue would satisfy either of these objectives. Accordingly, I find that section 21(2)(b) and (c) are not relevant considerations in the circumstances of this appeal.

In summary, I find that the only factor under section 21(2) which is relevant in the circumstances of this appeal is section 21(2)(h) which weighs in favour of privacy protection. In the absence of any factors weighing in favour of disclosure, I find that the mandatory exemption provided by section 21(1) of the Act applies to prevent the disclosure of the personal information contained in the record.

### **COMPELLING PUBLIC INTEREST**

The appellant submits that there exists a compelling public interest in the disclosure of the record under section 23 of the Act. In order for this provision to apply, two requirements must be met. First, there must be a compelling public interest in the disclosure of the record. Second, this interest must clearly outweigh the purpose of the exemption which otherwise applies to the record.

The appellant submits that disclosure of the information in the record at issue is necessary to ensure that the requirements of the TQA are complied with. In addition, the appellant submits that electrical work done improperly is dangerous to both the person performing the work and the ultimate consumer. Consequently, disclosure of the identity of those who are qualified and entitled to perform such inherently dangerous work is a compelling public interest.

In my view, the appellant has not provided sufficient evidence to demonstrate the existence of a compelling public interest in the disclosure of the information found in the record. Accordingly, I find that section 23 does not apply in the circumstances of this appeal.

### **ORDER:**

I uphold the Ministry's decision not to disclose the record.

Original signed by: \_\_\_\_\_

Donald Hale  
Inquiry Officer

\_\_\_\_\_ September 13, 1994