



**Information and Privacy
Commissioner/Ontario**

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

ORDER M-414

Appeal M-9400035

The Corporation of the Village of Tweed



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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). The Corporation of the Village of Tweed (the Village) received a request for access to the 1993 percentage salary increase awarded to each employee group or position in the Village and the total cost of increasing the employer paid portion of the employee benefits from the 1992 level of 50% to 100% in 1993. The Village identified the responsive record to consist of a total of 20 pages.

The Village relies on the following exemptions in denying access to the record:

- advice or recommendations - section 7(1)
- invasion of privacy - section 14(1)

The requester appealed this decision to the Commissioner's office.

A Notice of Inquiry was provided to the Village, the appellant and six Village employees being the incumbents in six of the seven positions in the Village (the employees). The seventh position is presently vacant. Representations from the employees were forwarded to the Commission by the Village. No representations were made by the Village on its own behalf.

The appellant has confirmed that she is only seeking access to the percentage salary increases awarded to each position and the total cost of the increased employee benefit coverage. In that regard, I have carefully reviewed the information on each page of the documents provided to this office by the Village. I find that the information at issue is contained on parts of Pages 1 and 4. The responsive portion of Page 1 shows the "Total increased cost of benefits" with the corresponding dollar value. Page 4 contains the heading "Salary Increases" and lists the various positions within the Village and the corresponding percentage salary increases for each. I have highlighted these parts of Pages 1 and 4 and it is only these highlighted portions that I will consider as the record at issue.

Pursuant to section 42 of the Act, where the Village denies access to a record or part of a record, the burden of proof that one of the exemptions applies to the information that has been withheld lies on the Village. Section 7 of the Act is a discretionary exemption. As the Village has not provided any representations regarding this exemption, I will not consider it further in this order.

Section 14(1) of the Act is a mandatory exemption and I will, therefore, consider the possible application of this exemption to the record.

DISCUSSION:

INVASION OF PRIVACY

Under section 2(1) of the Act, "personal information" is defined to mean recorded information about an identifiable individual.

Some background information may be useful in putting the information in the record in context. The salary increases and the cost of increased contributions to benefits do not represent increases to individuals based on merit or any other factor relating directly to individual employee performance.

The evidence before me indicates that the Village commissioned a survey of the salary and benefit structures of various municipalities. The results of the survey showed that the Village salaries and its contributions to employee benefits were lower than those of comparable municipalities for comparable positions. The Village decided to increase its contributions to employee benefits and increase the salaries for the various positions to bring its remuneration structure in line with comparable municipalities.

In its decision letter, the Village had indicated that with the exception of the position of clerical assistant for which there are two employees, all of the positions are occupied by a single incumbent. In this letter, the Village states that disclosure of the record would "lead to personal salary information prohibited from disclosure under the Act."

The submissions of the employees reiterate the above claim stating that because there is only one employee in each employee group or position, disclosure of the information in the record "could readily lead to a determination of dollar amounts." However, neither the Village nor the employees have provided me with any evidence to substantiate this viewpoint.

I have carefully reviewed the information on Page 1 of the record. As I have previously indicated, the information requested is the total increased cost to the Village of paying 100% of the employee benefits (excluding pension benefits) for all of its employees. This is represented by a dollar value set out on Page 1 of the record. This amount represents the **total increased cost** of increased employee benefits for **all seven positions**. In my view, the total increased cost of employee benefits to the Village is not recorded information about an identifiable individual and, therefore, does not qualify as personal information.

I have also carefully considered the information on Page 4 of the record. The information is the percentage salary increase allocated to each of the seven positions. As I have indicated previously, the salary increases were implemented as a result of a survey commissioned by the Village for the purpose of bringing the remuneration structure for the positions with the Village in line with comparable positions in other municipalities. The salary increases were not awarded as a result of merit or any other factor of an individual employee's performance appraisal. The salary adjustments were made to the **positions**, based on the results of the survey. Therefore, the information relates to the positions or employee groups within the Village. In addition, the information at issue is the **percentage** salary increase and not the **dollar value** of that increase nor the **actual income**.

In my view, in the circumstances of this particular appeal, the information does not qualify as personal information about an identifiable individual and disclosure would not reveal the actual income or financial information about an identifiable individual.

In summary, I find that the information on Pages 1 and 4 of the record does not qualify as personal information for the purposes of section 2(1) of the Act.

ORDER:

1. I order the Village to disclose the information to the appellant in accordance with the highlighted copy of the record provided to the Freedom of Information and Privacy Co-ordinator within thirty-five (35) days of the date of this order and not earlier than thirty (30) days following the date of this order. The highlighted portions identify the parts of the record which **should** be disclosed.
2. In order to verify compliance with Provision 1 of this order, I reserve the right to require the Village to provide me with a copy of the record which is disclosed to the appellant.

Original signed by: _____
Mumtaz Jiwan
Inquiry Officer

_____ November 1, 1994