



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

ORDER P-845

Appeal P-9400582

Ministry of Education and Training



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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 the name, address, certification number, date of certification and present status of individuals who hold Certificates of Qualification as sheet metal workers as well as the names and addresses of individuals who are registered as apprentice sheet metal workers under the Trades Qualification Act (the TQA). The request was made on behalf of the trade union which represents sheet metal workers in Ontario.

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

- invasion of privacy - section 21

The requester appealed the decision to deny access to the requested information. 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, home addresses, certificate numbers, dates of certification and certification expiry dates for individuals holding Certificates of Qualification and names and addresses of individuals registered as apprentices, under the TQA. 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.

I find that the information contained in the record satisfies the definition of "personal information" in section 2(1) of the Act and that this information relates to individuals other than 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 except in certain circumstances.

Sections 21(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. I find that the personal information does not fall within any of the categories of records described in section 21(4).

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, 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 sheet metal workers and apprentices, this information alone is not sufficient to attract the application of the presumption contained in section 21(3)(d). Accordingly, I find that the disclosure of the personal information contained in the record would not constitute a presumed unjustified invasion of personal privacy under section 21(3)(d).

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

The Ministry submits that the following factors listed 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 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)

The appellant submits that disclosure of the information would enable it to assess how vigilantly the Ministry enforces the TQA (section 21(2)(a)). With its representations, the appellant has provided a copy of an Investigative Report from the Ombudsman's Office which addressed a complaint that the Ministry of Skills Development failed to properly monitor and enforce the ratio requirements of journeymen to apprentices as stipulated in regulations under the TQA.

I have carefully examined the representations of the appellant and the information at issue. The information contained in the record relates principally to individuals who are sheet metal workers and apprentices and not to the conduct of a government institution. In my view, the appellant has not provided sufficient evidence to demonstrate that the release of the personal information is desirable for the purpose of

subjecting the activities of the Government of Ontario and its agencies to public scrutiny. Accordingly, I find that section 21(2)(a) is not a relevant consideration in the circumstances of this appeal.

The appellant also submits that the 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)). The appellant, acting on behalf of the trade union representing sheet metal workers, submits that it plays a key role in educating the public about safety and making an informed choice in the marketplace. I find, however, that 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 sections 21(2)(b) and (c) are not relevant considerations in the circumstances of this appeal.

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 the personal information contained in the record at issue in this appeal.

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 raises public safety as a concern and submits that disclosure of the information in the record at issue would assist the appellant in its role of educating the public about safety and making informed choices in the marketplace. In addition, the appellant submits that disclosure would enable the appellant to assist the government in its enforcement of the TQA.

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

January 23, 1995