



**Information and Privacy  
Commissioner/Ontario**

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

# **ORDER M-473**

**Appeal M-9400705**

**City of North York**



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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 City of North York (the City) received a request for records relating to a complaint that by-law violations had been committed by the requesters. The requesters made it clear in their request that they sought only the name and address of the complainant.

The City identified two responsive records which contained the information: a letter addressed to the By-Law Enforcement Section, and the follow-up report by an investigator with the Section. The City relied on the following exemption contained in the Act to deny access to the records:

- confidential source - section 8(1)(d)

The requester appealed the denial of access.

During mediation, the City attempted to notify the complainant pursuant to section 21 of the Act, but was unable to do so.

A Notice of Inquiry was provided to the City and the appellants. Representations were received from both parties.

## **DISCUSSION:**

### **LAW ENFORCEMENT**

In order for a record to qualify for exemption under section 8(1)(d), the matter to which the record relates must first satisfy the definition of the term "law enforcement" found in section 2(1) of the Act, which states:

"law enforcement" means,

- (a) policing,
- (b) investigations or inspections that lead or could lead to proceedings in a court or tribunal if a penalty or sanction could be imposed in those proceedings, and
- (c) the conduct of proceedings referred to in clause (b);

The City submits that this matter relates to the enforcement of the City's by-laws and, therefore, qualifies under the definition of "law enforcement" outlined in section 2(1)(b). After reviewing the records and representations, I agree that the records pertain to a law enforcement matter.

The City relies on section 8(1)(d) to exempt the information from disclosure. This section states:

A head may refuse to disclose a record if the disclosure could reasonably be expected to,  
[IPC Order M-473/February 24,1995]

disclose the identity of a confidential source of information in respect of a law enforcement matter, or disclose information furnished only by the confidential source;

The appellants made very clear that only the name and address of the complainant was being requested. Thus, the sole issue to be determined in this appeal is whether the release of the name and address of the complainant would disclose the identity of a confidential source.

I have reviewed the record and the representations submitted by the parties. The City claims that their complaints process has traditionally guaranteed the confidentiality of the complainants. They submit that this ensures that members of the public, on whom they rely to identify by-law infractions, will continue to do so, and that the disclosure of these names would deter others in future from complaining. The appellants state that they have a right to know who complained about the property.

There are unique circumstances in this case and in my view, the position and address of the complainant, if released, would not serve to identify the complainant. As such, I find that this information does not qualify for exemption under section 8(1)(d).

I do find, however, that confidentiality of the complainant's name is assumed in the City's process and that the complainant's name does fit within the parameters of the exemption.

A review of the investigation report shows that it contains the personal information of the appellants.

Section 36(1) of the Act gives individuals a general right of access to any personal information about themselves in the custody or under the control of institutions covered by the Act. However, this right of access is not absolute. Section 38 provides a number of exceptions to this general right of access, including section 38(a) which reads as follows:

A head may refuse to disclose to the individual to whom the information relates personal information,

if section 6, 7, **8**, 9, 10, 11, 12, 13 or 15 would apply to the disclosure of that personal information; [emphasis added]

Section 38(a) of the Act provides the City with the discretion to refuse to disclose an appellant's personal information where section 8 otherwise applies to the information. I have reviewed the factors considered by the City regarding its exercise of discretion in favour of refusing to disclose the record to the appellants. I find nothing improper in the determination which has been made with respect to the name of the complainant and would not alter it on appeal.

**ORDER:**

1. I order the City to disclose to the appellants the portion of the records which contains the position and address of the complainant within fifteen (15) days of the date of this order.
2. I uphold the City's decision to deny access to the name of the complainant.
3. In order to verify compliance with this order, I reserve the right to require the City to provide me with a copy of the records disclosed to the appellants pursuant to Provision 1.

Original signed by: \_\_\_\_\_  
Holly Big Canoe  
Inquiry Officer

\_\_\_\_\_ February 24, 1995