



**Information and Privacy
Commissioner/Ontario**

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

ORDER M-607

Appeal M_9500251

Township of Osprey



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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 Township of Osprey (the Township) received a request for copies of its telephone bills for 1994. The requester, a former member of Council, had made an unsuccessful motion to have copies of the telephone bills made available to Council members.

The Township located responsive records, which consist of the Township's monthly telephone bills, and denied access to them pursuant to the following exemptions:

- third party information - sections 10(1)(a) and (c)
- invasion of privacy - section 14(1).

In appealing this decision, the appellant implicitly raised the application of the so-called "public interest" override in section 16 of the Act to the records at issue.

In responding to the Confirmation of Appeal sent by the Commissioner's office, the Township claimed that the discretionary exemption contained in section 8(1)(a) of the Act (law enforcement) also applied to the records at issue.

A Notice of Inquiry was provided to the appellant and the Township. Representations were received from both parties. The Township's representations did not refer to section 8(1)(a). As this is a discretionary exemption, and no representations have been provided with respect to its possible application to the records, I will not consider it further in this order.

DISCUSSION:

INVASION OF PRIVACY

In order to determine whether the invasion of privacy exemption applies to the information contained in the Township's telephone bills, I must first decide if this information may be characterized as "personal information" within the meaning of the Act.

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, symbol or other particular assigned to the individual; the address, telephone number, fingerprints or blood type of the individual; and financial transactions in which the individual has been involved.

The Township submits in its representations that its telephones are, on occasion, used for personal business. In previous correspondence to the Commissioner's office and in its decision letter, the Township also indicates that through the use of current technologies, anyone could take the telephone numbers listed in the bills and obtain additional information, such as the names and addresses of the parties to which the numbers have been assigned. In some cases, these parties will be individuals; in some cases they will be businesses. The Township states

further that determination of the identity of the telephone number holder may reveal other information, and in particular, financial information about a particular individual.

The appellant submits that as no individuals are named in the monthly telephone bills, they do not contain personal information.

As I indicated above, the records are monthly telephone bills issued by a named telephone company indicating the amounts charged for services, equipment rentals, chargeable messages and directory advertising. The telephone bills also contain 10 sections relating to chargeable messages, which consist of the following: Number; Date; Location (area and province); Telephone Number; Start time; Duration; Code; Charge; Discount; and Amount.

In my view, the only section of the bill which relates to the Township's arguments consists of the telephone numbers. I find that the remaining sections of the bill do not even remotely contain, nor would disclosure of this information reveal, personal information. Accordingly, this information does not qualify as "personal information" within the meaning of the Act.

With respect to the telephone numbers, I find that the linkage which the Township has attempted to make between the list of telephone numbers and the identification of particular individuals is too remote. Accordingly, I find that the telephone numbers do not qualify as "personal information" within the meaning of the Act.

In summary, I have found that the records do not contain personal information. Because the invasion of privacy exemption only applies to exempt **personal information** from disclosure, it follows that this section is not applicable to exempt the information in the records from disclosure. To disclose such information would not constitute an unjustified invasion of privacy.

THIRD PARTY INFORMATION

The Township also claims that sections 10(1)(a) and (c) of the Act apply to exempt the records at issue from disclosure. In its representations, the Township provides statements from two individuals who made use of its facsimile machine and telephone in 1994, in support of its position on the matter. The individuals objected to the disclosure of the records on the basis that they could reveal information about private businesses which made use of the Township's services.

For the records to qualify for exemption under sections 10(1)(a) or (c) of the Act, the Township must satisfy each of the following three-part test:

1. the record must reveal information that is a trade secret or scientific, technical, commercial, financial or labour relations information; **and**
2. the information must have been supplied to the institution in confidence, either implicitly or explicitly; **and**

3. the prospect of disclosure of the record must give rise to a reasonable expectation that one of the harms specified in (a), (b) or (c) of section 10(1) will occur.

Failure to establish the requirements of any part of this test will render the section 10(1) exemption claim invalid.

Part One of the Test

In order to meet part one of the test, the Township must establish that disclosure of the information contained in the records would reveal information that is a trade secret or scientific, technical, commercial, financial or labour relations information. With respect to this part of the test, the Township states that:

[T]he telephone records would reveal information of a technical, commercial or financial and perhaps labour relations [nature] in regard to the third parties who used the Township equipment. ... [I]n certain circumstances the equipment was used for business purposes by third party individuals or corporations and that the telephone numbers called and the destination is business information for the individuals and clearly could be, at the least, commercial information with respect to such third party and his, her or its business.

In essence, the Township is arguing that the mere fact that a telephone call was made to a particular number might reveal information which is of a technical, commercial, financial or labour relations nature. In my view, the connection the Township is attempting to make between the telephone number, the identity of the recipient of the call and the types of information referred to above, is too remote. Furthermore, the Township refers to the concerns of the individuals who use its services. However, I note that the identity of the caller is not included on the telephone bill, nor can it be inferred from the information which is contained on the bill.

I find that, based on the Township's arguments regarding the records, the information at issue does not qualify as commercial, technical or labour relations information. On the face of the record, however, the telephone bill itself contains billing information and this qualifies as financial information. Because I have found that the records contain financial information, I will now consider whether the Township has satisfied the second part of the test.

Part Two of the Test

The second part of the test has two elements. First, the party resisting disclosure must establish that the information was supplied to the Township and second, that it was supplied in confidence, either implicitly or explicitly.

The Township states in its representations that individuals who made use of its facsimile machine and telephone did not want information about the calls they made released to the public.

According to the Township, "the information was given in confidence and to disclose it would breach that confidence." It submits statements from two individuals in support of its assertion of confidentiality.

As I indicated above, the records are monthly bills submitted by the telephone company detailing the charges incurred by the Township for the period so that payments could be made. The bills do not distinguish between chargeable messages which are made by the Township staff and those which are made by other individuals. Furthermore, the telephone bills reflect a use which was made of Township facilities. The recording of the information contained in the bills is incidental to that use. In my view, this does not constitute a "supplying" of information within the meaning of this section. Accordingly, I find that the information contained in these bills cannot be deemed to have been supplied in confidence, either implicitly or explicitly, to the Township by external users of the Township's facsimile machine and telephone, and part two of the test has not been met.

As part two of the test has not been satisfied, section 10(1)(a) or (c) of the Act does not apply to exempt the records from disclosure and they should be disclosed to the appellant. Because of the manner in which I have disposed of the issues in this order, it is not necessary for me to consider the possible application of the "public interest override" in section 16 of the Act.

ORDER:

1. I order the Township to disclose the records in their entirety to the appellant within fifteen (15) days following the date of this order.
2. In order to verify compliance with the provisions of this order, I reserve the right to require the Township to provide me with copies of the records disclosed to the appellant pursuant to Provision 1.

Original signed by: _____
Laurel Cropley
Inquiry Officer

October 3, 1995