



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

# **ORDER M-580**

**Appeal M\_9500108**

**Township of Portland**



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## **NATURE OF THE APPEAL:**

The Township of Portland (the Township) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for a copy of a petition signed in the Spring of 1992 concerning the condition of the requester's property.

The Township identified a two-page petition dated July 11, 1991 as the record which responds to the request. The first page contains the body of the petition; the second page consists of signatures only.

The Township relied on the following exemptions in denying access to the record:

- law enforcement - section 8(1)(d)
- endanger life or safety - section 8(1)(e)
- invasion of privacy - sections 14(2)(e), 14(2)(f), 14(3)(b) and 14(3)(g)

During the course of mediation, the appellant indicated he was not pursuing access to the first page of the petition.

A Notice of Inquiry was provided to the appellant, the Township and to 14 of the 22 individuals whose signature appears in the record (the petitioners) and whose address could be established. The Appeals Officer included sections 38(a) (discretion to refuse the requester's own information) and 38(b) (invasion of privacy) of the Act in the Notice of Inquiry as having possible application in the circumstances of this appeal. Representations were received from the appellant, three of the petitioners, and the Township.

## **PRELIMINARY MATTER:**

### **SCOPE OF THE RECORD AT ISSUE**

The record initially at issue consisted of the complete petition, containing both the body of the petition on the first page and the petitioners' signatures on the second page. During the course of mediation, the appellant narrowed the record at issue to the signatures on the second page; he no longer pursued access to page one, the body of the petition. The Notice of Inquiry, which was provided to the parties identified above, addressed the narrowed record.

The appellant's representations indicate that he now wishes access to the complete record consisting of both pages.

In Order P-931, Assistant Commissioner Irwin Glasberg stated:

Previous orders have held that the Commissioner's office has the power to control the manner in which the appeals process is undertaken. As part of this general authority, this tribunal's policy is that, once an appellant has narrowed the ambit of an appeal, he or she cannot reintroduce the excluded information at a later date.

This approach has been adopted for a number of reasons. First, absent such a policy, there would be no certainty as to the scope of an appeal. Second, unless the exact nature of the records at issue is known at an early stage in the proceedings, it will not be possible to successfully mediate the appeal under section 51 of the Act [the equivalent of section 40 of the Municipal Act]. Finally, the issue identification and notification functions performed by the Commissioner's office could not be conducted effectively unless the records in question are accurately identified.

I have carefully reflected on the appellant's application. While I appreciate his reasons for wishing to address all of his access-related issues in the context of the present appeals, I believe that it would be unfair to expand the scope of these proceedings at this late stage in the process. In making this determination, I am also mindful of the fact that the appellant would be entitled to make a further access request to the Ministry for the specific information that he is seeking...

The result, therefore, is that I will not consider Part A of the two requests in the context of the present appeals.

I adopt Assistant Commissioner Glasberg's reasoning for the purposes of this appeal. For the reasons described above, I am not prepared to expand the scope of the record at issue to the complete petition. In this order, I will only consider the issues as they apply to the signatures found on the second page of the petition.

## **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 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.

The record remaining at issue consists of the signatures of the petitioners. It reveals the fact that the petitioners have complained about the condition of the appellant's property. In my view, this information is recorded information about identifiable individuals (the petitioners) and qualifies as personal information under section 2(1) of the Act.

Section 14(1) of the Act is a mandatory exemption which prohibits the disclosure of personal information to any person other than to the individual to whom the information relates, except in the circumstances listed in sections 14(1)(a) through (f) of the Act. Section 14(1)(f) reads:

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

if the disclosure does not constitute an unjustified invasion of personal privacy.

Sections 14(2), (3) and (4) of the Act provide guidance in determining whether the disclosure of personal information would constitute an unjustified invasion of personal privacy. The Township claims that the presumption contained in section 14(3)(b) (information compiled and identifiable as part of an investigation into a possible violation of law) applies to the personal information at issue in this appeal. The Township submits that the petition was submitted by concerned taxpayers to initiate action under the Township's Property Standard's By-law.

The appellant submits that the petition may have initiated an investigation into a possible violation of law, but was not compiled as part of an investigation.

The ordinary grammatical meaning of "compiled" is to gather or collect. Having reviewed the circumstances under which the record was supplied to and used by the Township, I find that it was compiled and is identifiable as part of an investigation into a possible violation of law. Accordingly, the requirements for a presumed unjustified invasion of personal privacy under section 14(3)(b) have been satisfied.

Although petitions by their very nature are not documents which have an aura of confidentiality, there may be cases where, because of the sensitivity of their content, the requirements of a presumed unjustified invasion of privacy will be met. Where one of the presumptions found in section 14(3) applies to the personal information found in a record, the only way such a presumption against disclosure can be overcome is where the personal information falls under section 14(4) or where a finding is made that section 16 of the Act applies to the personal information. Section 14(4) is not applicable in the circumstances of this appeal, and the appellant has not argued that section 16 of the Act applies. Accordingly, I find that the record is properly exempt from disclosure under section 14 of the Act.

**ORDER:**

I uphold the Township's decision.

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

Holly Big Canoe  
Inquiry Officer

\_\_\_\_\_  
August 9, 1995