



**Information and Privacy  
Commissioner/Ontario**

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

# **ORDER P-975**

Appeal P-9500094

Liquor Control Board of Ontario



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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 Liquor Control Board of Ontario (the Board) received a request for a copy of the resumes and job applications of all successful Board head office candidates from September 1, 1993 to January 4, 1995, the date of the request. The two requesters are former employees of the Board who had their job category eliminated and were advised that they were not qualified for any other positions. The requesters seek to verify this through a review of the qualifications of those individuals who were in fact hired for these positions.

The Board identified the records responsive to the request and denied access in full based on the following exemption contained in the Act:

- invasion of privacy - section 21

The requesters appealed this decision.

During mediation, the appellants narrowed the scope of the appeal to exclude the names or other personal identifiers of individuals contained in the records. The appellants indicated that they now only sought access to the educational background and work experience of the successful candidates. The Board declined to provide this more limited information to the appellants on the basis that, even without the personal identifiers, the resumes and job applications contained the personal information of the successful candidates.

Both the Board and the appellants agreed that, because of the number of resumes and job applications (127) and the similarity of all the documents, the appeal could proceed by way of a representative sample of 24 records.

A Notice of Inquiry was provided to the appellants and the Board. Representations were received from the Board only.

The records at issue consist of the educational background and work experience portions of the representative sample of 24 resumes and job applications.

## DISCUSSION:

### INVASION OF PRIVACY

In order for the mandatory exemption in section 21 of the Act to apply, the information at issue must constitute "personal information". Under section 2(1) of the Act "personal information" is defined to mean recorded information about an **identifiable** individual.

The Board maintains that even if it were to "anonymize" the records by removing the personal identifiers of the employees, the remaining information would still constitute the personal information of these individuals.

The Board indicates that upon hiring a new employee, it issues an announcement advising the other employees of the appointment. The staff announcements identify the successful candidates and include a wide range of information also contained in the resumes, i.e. previous employers and positions, post-secondary institutions attended and degrees attained, previous positions held at the Board and the employee's original starting date at the Board. The Board has provided me with copies of the staff announcements of those individuals whose resumes and job applications are included in the representative sample of records.

I have carefully reviewed the information at issue in the records and their corresponding staff announcements. In my view, given the information contained in the announcements, there is a reasonable expectation that a particular employee can be identified from the information at issue in the resumes and job applications. Accordingly, I find that the records contain the personal information of the successful candidates.

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. Where one of the presumptions in section 21(3) applies to the personal information found in a record, the only way such a presumption against disclosure can be overcome is if the personal information falls under section 21(4) or where a finding is made that section 23 of the Act applies to the personal information.

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

The Board submits that the presumption contained in section 21(3)(d) of the Act applies. Section 21(3)(d) states:

A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy where the personal information,

relates to employment or educational history.

In the appellants' letter of appeal they state that sections 21(2)(a)(subjecting the activities of an institution to public scrutiny) and (d)(fair determination of rights) of the Act are factors favouring the disclosure of the records.

Several past orders of the Commissioner's office have found that resumes contain the employment and/or educational history of an individual. I agree with this approach and have applied it to those portions of the resumes and job applications at issue in this appeal. Accordingly, I find that the presumed unjustified invasion of personal privacy found in section 21(3)(d) of the Act applies. Since the 21(3)(d) presumption applies, factors favouring disclosure of the records under section 21(2) cannot be used to rebut the

presumption (Order M-170).

None of the information in the records falls within section 21(4) of the Act, nor have the appellants claimed that there is a public interest in the disclosure of the records. Accordingly, disclosure of any of the information at issue would result in an unjustified invasion of personal privacy pursuant to section 21 of the Act.

**ORDER:**

I uphold the decision of the Board

Original signed by: \_\_\_\_\_ August 10, 1995  
Anita Fineberg  
Inquiry Officer