



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

ORDER M-599

Appeal M_9500195

Municipality of Metropolitan Toronto



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NATURE OF THE APPEAL:

The Municipality of Metropolitan Toronto (the Municipality) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to information relating to the application and assessment of eligibility for social assistance provided to a named individual (the named individual). The requester also sought access to general information about the assessment of eligibility for social assistance and scooters distributed by a specific company.

The Municipality granted access to budget forms used to determine eligibility and advised the requester that no records existed with respect to scooters distributed by the named company. The Municipality denied access to the 43 pages contained in the "Special Needs" file of the named individual. The requester appealed the decision to deny access.

The appellant represents a client who is pursuing a claim for damages resulting from allegedly being struck by a motorized scooter operated by the named individual.

The records to which access is denied consist of handwritten notes of the Special Needs Unit administrators, request forms and invoices. The Municipality denied access under the following exemption:

- invasion of privacy - section 14

A Notice of Inquiry was provided to the appellant and the Municipality. Representations were received from the Municipality only.

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. I have reviewed the records and in my view, all of the records contain the personal information of the named individual. The records do not contain the personal information of the appellant or his client.

Section 14 is a mandatory exemption which prohibits the disclosure of personal information to any person other than 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 Municipality submits that the records contain the medical information of the named individual (section 14(3)(a)). The Municipality states that some of the records also contain information relating to the named individual's finances and eligibility for social or welfare benefits under sections 14(3)(f) and (c) of the Act. The Municipality, therefore, submits that the presumptions found in sections 14(3)(a), (c) and (f) apply.

Having considered the information in the records and the representations of the Municipality, I find that the records contain information that relates to the named individual's medical history, diagnosis, condition, treatment or evaluation. I find that some of the records also contain information that relates to the named individual's eligibility for social service or welfare benefits or to the determination of benefit levels. I find that the requirements for a presumed unjustified invasion of privacy under sections 14(3)(a) and (c) of the Act have been 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 and section 16 has not been raised by the appellant. The records are, therefore, exempt from disclosure under section 14 of the Act.

ORDER:

I uphold the decision of the Municipality.

Original signed by: _____
Mumtaz Jiwan
Inquiry Officer

September 22, 1995