



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

ORDER P-1092

Appeal P-9500308

Ministry of Municipal Affairs and Housing



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NATURE OF THE APPEAL:

The Ministry of Municipal Affairs and Housing (the Ministry) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for access to Metropolitan Toronto Housing Authority (MTHA) records relating to a named individual. Specifically, the records sought by the requester included a copy of any lease, as well as records of complaints and investigations, relating to the named individual (the affected person).

The Ministry granted partial access to several records and denied access to the other responsive records in their entirety. The Ministry relied on the exemption provided by section 21(1) of the Act (invasion of privacy) in connection with all information withheld from disclosure. The requester appealed the decision to deny access.

The records at issue consist of the withheld portions of insurance claim and security documents (pages 1 to 11) and the lease and related information in the affected person's MTHA file (pages 12 to 185). Hereafter, I will refer to pages 1 to 11 as Part I and pages 12 - 185 as Part II of the records.

A Notice of Inquiry was provided to the appellant and the Ministry. Because the records appear to contain the personal information of the appellant, the Notice of Inquiry included the possible application of section 49(b) of the Act. Representations were received from the Ministry only.

In its representations, the Ministry stated that the bottom portion of page 11 was not responsive to the request. The appellant was apprised of this new issue by the Appeals Officer in a supplement to the Notice of Inquiry. Representations during the course of this Inquiry were received from the Ministry only.

Page 11 of the record consists of a Security Officer's daily log. I have reviewed the portion of the record which the Ministry claims is not responsive to the request. I agree with the Ministry's position. I am satisfied that the bottom portion of this page does not relate to either the appellant or the affected person, and it is, therefore, not responsive to the request.

DISCUSSION:

PERSONAL INFORMATION

Under section 2(1) of the Act, "personal information" is defined, in part, to mean recorded information about an identifiable individual.

I find that the information in Part I that relates solely to the appellant has already been disclosed by the Ministry. I find that the remaining portions of the records contain the personal information of the appellant and the affected person. I find also that Part II of the records contains the personal information of the affected person only.

Section 47(1) of the Act gives individuals a general right of access to their own personal information held by a government body. Section 49 provides a number of exceptions to this general right of access.

Under section 49(b) of the Act, where a record contains the personal information of both the appellant and other individuals and the institution determines that the disclosure of the information would constitute an unjustified invasion of another individual's personal privacy, the institution has the discretion to deny the requester access to that information. I have previously found that Part I contains the personal information of both the appellant and the affected person and I will, therefore, consider the possible application of section 49(b) to Part I.

Where, however, the record only contains the personal information of other individuals, and the release of this information would constitute an unjustified invasion of the personal privacy of these individuals, section 21(1) of the Act prohibits an institution from releasing this information. I have found that Part II contains the personal information of only the affected person and therefore, I will consider the possible application of section 21(1) to this information.

In both these situations, 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 the personal privacy of the individual to whom the information relates. Section 21(2) provides some criteria for the head to consider in making this determination. Section 21(3) lists the types of information whose disclosure is presumed to constitute an unjustified invasion of personal privacy. Once a presumption against disclosure has been established, it cannot be rebutted by either one or a combination of the factors set out in 21(2) (Order M-170).

I find that none of the presumptions found in section 21(3) apply to the personal information in the records.

The Ministry submits that the information at issue (in both Parts I and II) was supplied in confidence to the Ministry, and that section 21(2)(h) is therefore a relevant factor in favour of privacy protection. Based on my review of the personal information in the records, I accept the Ministry's submissions and I find that section 21(2)(h) is relevant in the circumstances of this appeal.

No factors weighing in favour of disclosure of the personal information have been raised by the appellant. I find that disclosure of the personal information in the records would constitute an unjustified invasion of personal privacy and accordingly, Part I of the record is exempt under section 49(b) and Part II of the record is exempt under the mandatory exemption provided by section 21(1) of the Act.

ORDER:

I uphold the Ministry's decision.

Original signed by: _____
Mumtaz Jiwan

December 29, 1995

Inquiry Officer