

ORDER M-694

Appeal M_9500569

City of Mississauga



80 Bloor Street West, Suite 1700, Toronto, Ontario M5S 2V1 80, rue Bloor ouest Bureau 1700 Toronto (Ontario) M5S 2V1 416-326-3333 1-800-387-0073 Fax/Téléc: 416-325-9195 TTY: 416-325-7539 http://www.ipc.on.ca

NATURE OF THE APPEAL:

The City of Mississauga (the City) received a request under the <u>Municipal Freedom of</u> <u>Information and Protection of Privacy Act</u> (the <u>Act</u>) for access to information related to the requester's unsuccessful application for a transit operator position with the City. The requester sought access to his own test results, a list of all the test marks showing his own standing within that list, his test paper, the number of candidates interviewed and the criteria for the interview selection process. Access was granted to the records requested with the exception of the test paper. The requester appealed the decision to deny access to this record.

The record at issue in this appeal consists of a test paper containing the test questions and the handwritten answers of the appellant. The City denied access to the test paper on the basis that it contains questions that are to be used in an examination or test for an educational purpose (section 11(h)).

A Notice of Inquiry was provided to the appellant and the City. Representations were received from both parties.

In its representations, the City indicated that it was prepared to disclose the handwritten answers to the appellant on the basis that they constitute the personal information of the appellant. The City confirmed that it was still relying on section 11(h) of the <u>Act</u> to withhold access to the test questions. I will therefore look at the application of this exemption only to the portion of the test paper that contains the test questions.

DISCUSSION:

EXAMINATION QUESTIONS

The City relies on section 11(h) of the <u>Act</u> to deny access to the test paper. This section of the <u>Act</u> provides:

A head may refuse to disclose a record that contains,

questions that are to be used in an examination or test for an educational purpose;

As I have indicated above, the test paper relates to the appellant's application for a position as a transit operator with the City.

In its representations, the City concedes that the test paper was used and completed by the appellant for the purpose of recruitment as a transit operator. The City points out, however, that it has a practice of using such a test for more than one recruitment process and that the test paper specifically has been used in at least three previous recruitment exercises. The City submits that creating a new test would be an inefficient use of its resources and releasing the test paper to the appellant would give him an unfair advantage in future competitions.

The appellant submits that the test paper was used for an employment related purpose and not an educational purpose and therefore, section 11(h) can have no application in this case.

I have reviewed the test paper in conjunction with the representations of the parties. I find that the test paper does not relate to an examination or test for an **educational** purpose as required by section 11(h) of the <u>Act</u>. Section 11(h) does not apply to the test paper. I find that no mandatory exemption applies to the test paper and no other discretionary exemption has been claimed by the City.

ORDER:

- 1. I order the City to disclose the test paper in its entirety to the appellant by **February 7**, **1996**.
- 2. In order to verify compliance with this order, I reserve the right to order the City to provide me with a copy of the test paper disclosed to the appellant pursuant to Provision 1.

Original signed by:	January 23, 1996
Mumtaz Jiwan	
Inquiry Officer	