



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

# **ORDER P-1098**

**Appeal P-9500573**

**Ministry of Environment and Energy**



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/Télé: 416-325-9195  
TTY: 416-325-7539  
<http://www.ipc.on.ca>

## **NATURE OF THE APPEAL:**

The Ministry of Environment and Energy (the Ministry) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for access to the name of the individual who had filed a complaint (the complainant) with the Niagara Escarpment Commission (the Commission) against the requester. The Ministry identified a form entitled "Possible Contravention" as the record containing the responsive information. The Ministry denied access to the record under section 21(1) of the Act. The requester appealed the decision.

The Ministry then issued a supplementary decision letter, indicating that it was also relying on section 14(1)(d) of the Act. The Ministry therefore, denies access to the name of the complainant on the basis of section 21(1) of the Act (invasion of privacy) and section 14(1)(d) of the Act (confidential source in a law enforcement matter).

The appellant confirmed that he was only seeking access to the name of the complainant; therefore, it is only the name of the complainant that is at issue in this appeal.

A Notice of Inquiry was provided to the appellant, the complainant and the Ministry. Representations were received from the Ministry and the complainant.

## **DISCUSSION:**

### **LAW ENFORCEMENT/DISCRETION TO REFUSE REQUESTER'S OWN PERSONAL INFORMATION**

In order for information to qualify under section 14(1)(d), the matter to which the record relates must first satisfy the definition of the term "law enforcement" found in section 2(1) of the Act, which states:

"law enforcement" means,

- (a) policing,
- (b) investigations or inspections that lead or could lead to proceedings in a court or tribunal if a penalty or sanction could be imposed in those proceedings, and
- (c) the conduct of proceedings referred to in clause (b).

The Ministry submits that this matter relates to the possible violation of section 24(1) the Niagara Escarpment Planning and Development Act. The Ministry states that when a complaint is received, an investigation is conducted by the Ministry's Investigation and Enforcement Branch and where warranted, charges are laid. The Ministry further indicates that persons found to have contravened the above legislation are liable for fines of up to \$25,000. The Ministry submits that on this basis, the matter qualifies under the definition of "law enforcement" outlined

in clause (b). I agree and find that investigations under the Niagara Escarpment Planning and Development Act qualify as law enforcement matters. I find therefore that the record relates to a law enforcement matter.

Section 14(1)(d) of the Act states:

A head may refuse to disclose a record if the disclosure could reasonably be expected to,

disclose the identity of a confidential source of information in respect of a law enforcement matter, or disclose information furnished only by the confidential source.

As I have indicated previously, the appellant seeks access only to the name of the complainant. Therefore, the issue which I have to determine is whether disclosure of the name of the complainant would disclose the identity of a confidential source.

The Ministry states that it has consistently guaranteed the confidentiality of complainants and that it relies heavily on the public to come forth with allegations/complaints to ensure compliance with environmental legislation. The complainant states that when he contacted the Niagara Escarpment Commission with his complaint, he did so in confidence and fully expected that his identity would be protected.

I find that the confidentiality of a complainant's name forms part of the Commission's environmental legislation compliance process. As the names are treated in confidence by the Commission, the disclosure of the complainant's name would disclose the identity of a confidential source of information in a law enforcement matter, a possible violation of environmental legislation. Accordingly, I find that the complainant's name qualifies for exemption under section 14(1)(d) of the Act.

In reviewing the record, I find that it also contains the personal information of the appellant under section 2(1) of the Act.

Under section 49(a) of the Act, the Ministry has the discretion to deny access to records which contain an individual's own personal information in instances where certain exemptions would otherwise apply to that information. The exemptions listed in section 49(a) include the law enforcement exemption claimed for the name of the complainant.

Since the record contains the personal information of the appellant **and** qualifies for exemption under section 14(1)(d) of the Act, I find that the record is exempt under section 49(a).

## **ORDER:**

I uphold the decision of the Ministry.

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Mumtaz Jiwan  
Inquiry Officer

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January 12, 1996