



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

# ORDER M-734

Appeal M\_9500776

City of Toronto



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## NATURE OF THE APPEAL:

The City of Toronto (the City) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to a copy of “everything in the file, except the Notice of Violation” held by the City’s Fire Department relating to a named residential address. The City identified 14 pages of records as responsive to the request and granted partial access to them. These records comprise a letter, reports, various other internal documents and a copy of a Provincial Offences Act Information and Summons. For those records, or parts thereof, to which access was denied, the City claimed the application of the following exemption contained in the Act:

- invasion of privacy - section 14

The requester appealed the City’s decision to deny access only to the Information and Summons and also claimed that further responsive records exist.

A Notice of Inquiry was provided to the appellant, the City and two individuals whose interests may be affected by the outcome of this appeal (the affected persons). Representations were received from the City and the affected persons. While the appellant did not submit representations, he requested that I refer to the submissions which he had provided to this office during the course of the appeal.

During the Inquiry stage of the appeal, the City located a further responsive record and disclosed it to the appellant who then advised the Appeals Officer that his assertion that additional records responsive to the request exist had been resolved. The sole remaining issue for disposition in this appeal is the application of section 14(1) to the Information and Summons.

## 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 information contained in the record (the Information and Summons), and I find that it satisfies the definition of personal information. In my view, the personal information is that of the affected persons only.

Once it has been determined that a record contains personal information, section 14(1) of the Act prohibits the disclosure of this information. The only exception which might apply in the circumstances of this appeal is section 14(1)(f), which permits disclosure if it “... 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. 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 can be overcome is if the personal information at issue falls under section 14(4) of the Act or where a finding is that section 16 of the Act applies to the personal information.

If none of the presumptions contained in section 14(3) apply, the City must consider the application of the factors listed in section 14(2), as well as all other considerations that are relevant in the circumstances of the case.

In its representations, the City submits that the personal information of the affected persons was compiled and is identifiable as part of an investigation into a possible violation of law, in this case, the Fire Marshals Act. It submits, therefore, that the disclosure of the record would constitute an unjustified invasion of personal privacy under section 14(3)(b) of the Act.

The affected persons also submit that the records were compiled as part of an investigation into a possible violation of law (section 14(3)(b)). In addition, they further claim that the presumptions found in sections 14(3)(e) and (f) apply in the circumstances of this appeal. These sections state:

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

- (e) was obtained on a tax return or gathered for the purpose of collecting a tax;
- (f) describes an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness;

Finally, the affected persons submit that, should the records at issue be disclosed they would be exposed unfairly to pecuniary or other harm (section 14(2)(e)), their reputations would be unfairly damaged (section 14(2)(i) and that the information is unlikely to be accurate or reliable (section 14(2)(g)).

The appellant submits that the records at issue are court records and are, therefore, part of a public record, as convictions have already been registered in the matters relating to the Information and Summons. This is not a factor which appears in section 14(2) but may be a relevant consideration favouring the disclosure of the personal information contained in the records.

Having carefully reviewed the representations and the records, I have made the following findings:

- (1) The records at issue are documents which are generated upon the **completion** of an investigation at which time charges are laid. The Information and Summons are not compiled as part of the investigation but rather these documents initiate the court proceedings which follow the investigation.
- (2) The information contained in the records was not obtained or gathered for the purpose of collecting a tax and does not describe an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness.
- (3) I have not been provided with any substantial basis for the assertions by the affected persons that the disclosure of the information relating to them would expose them **unfairly** to pecuniary or other harm or that their reputations would be **unfairly** damaged.

- (4) I have not been provided with any evidence to demonstrate that the information in the records is unlikely to be accurate or reliable.
- (5) Although the records at issue are **copies** of the original Information and Summons, the originals are court records which form part of the public record (except in situations where the presiding judge orders the record sealed) and are kept on file at the court office once the matter has been before the court. These records, being part of the public record, are available to any member of the public upon request. I find that the fact that these records are available through the court office which heard the matter is an unlisted factor in favour of disclosure.
- (6) In balancing the privacy interests of the affected persons against the appellant's right to access, I find that the factors in favour of the disclosure of the records outweigh the factors in favour of privacy protection. Therefore, I find that the disclosure of the personal information in the record at issue would not constitute an unjustified invasion of the personal privacy of the affected persons. Accordingly, the record is not exempt from disclosure under section 14 of the Act.

**ORDER:**

1. I order the City to disclose the Information and Summons by sending the appellant a copy no later than **April 24, 1996** but not before **April 19, 1996**.
2. In order to verify compliance with this order, I reserve the right to require the City to provide me with a copy of the records which are disclosed to the appellant pursuant to Provision 1.

Original signed by: \_\_\_\_\_

Donald Hale

Inquiry Officer

\_\_\_\_\_ March 20, 1996