



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

ORDER M-921

Appeal M_9600372

Township of Collingwood



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NATURE OF THE APPEAL:

The Township of Collingwood (the Township) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to copies of the certificates or licences of three named operators employed by the Township's Pollution Control Plant. The Township denied access to the records on the basis that disclosure would constitute an unjustified invasion of the personal privacy of the three operators (section 14(1) of the Act). The requesters appealed the decision to deny access.

The records consist of Certificates of Competency issued to each of the three operators (the affected persons) pursuant to O. Reg. 435/93 made under the Ontario Water Resources Act.

This office issued a Notice of Inquiry to the appellants, the Township and the affected persons. Representations were received from all parties.

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. The records contain the names of the affected persons, the dates of issue and the dates of expiry. In my view, this information satisfies the definition of personal information and relates to the affected persons.

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 made that section 16 of the Act applies.

Both the Township and the appellants refer to section 9, O. Reg. 435/93 made under the Ontario Water Resources Act. This section reads as follows:

The owner of a facility shall ensure that a copy of the licence of every licenced operator who is employed in the facility is conspicuously displayed at the operator's workplace or at premises from which the operations of the facility are managed.

I must therefore determine whether the disclosure of a copy of a licence that is required to be “conspicuously displayed at the operator’s workplace ...” would constitute an unjustified invasion of privacy of that individual.

The Township and the affected persons submit that the presumption in section 14(3)(d) applies in that the personal information in the records relates to employment or education history of the individuals named in the records. The Town states that the records hang on the wall in the waste water treatment plant (the plant) and that the appellants have viewed the records on various occasions. However, it is the Town’s position that viewing the records in this fashion is different from obtaining a copy under the Act.

In this regard, the Town and the affected persons have also raised section 14(2)(e) (unfair exposure to pecuniary or other harm) as a relevant consideration favouring protection. The Township states that the affected persons are “concerned about the [appellants’] use and/or possible distribution of the paper record.”

The appellants, who live in the vicinity of the plant, state their concern that it may be emitting contaminants into the air in the surrounding area. The appellants submit that the Ontario Water Resources Act requires that the plant be operated by certified operators and it is in this regard that they require copies of the certificates. The appellants point out that the certificates are posted on the wall and that they are on display for all entering the facility. The appellants submit that, therefore, disclosure of the certificates would not constitute an unjustified invasion of privacy of the affected persons.

I have carefully reviewed the evidence before me. In my view, the information on the certificates relates to the functions required to be performed by the affected persons in their **present** positions or occupations and does not qualify as educational or employment history. I find therefore, that the presumption in section 14(3)(d) does not apply to the information in the records.

I have also considered the relevance of the factor in section 14(2)(e), raised by the Township and the affected persons. However, their representations do not provide any evidence on how disclosure of the records would result in the affected persons being exposed unfairly to pecuniary or other harm.

I note that O. Regs. 435/93 made under the Ontario Water Resources Act requires that the records be posted “conspicuously” in the plant or workplace and in my view, this is a relevant consideration which favours disclosure.

I have considered all the factors listed in section 14(2) together with all the relevant circumstances of the appeal. In my view, in the particular circumstances of this appeal, disclosure of the records would not constitute an unjustified invasion of the personal privacy of the affected persons. Therefore, I find that the exception in section 14(1)(f) applies.

ORDER:

1. I do not uphold the decision of the Township.

2. I order the Township to disclose the records to the appellants by sending them a copy by **May 14, 1997** but not earlier than **May 9, 1997**.
3. In order to verify compliance with Provision 2 of this order, I reserve the right to require the Township to provide me with a copy of the records that are disclosed to the appellants pursuant to Provision 2.

Original signed by: _____
Mumtaz Jiwan
Inquiry Officer

_____ April 9, 1997