



Information and Privacy
Commissioner/Ontario

Commissaire à l'information
et à la protection de la vie privée/Ontario

ORDER P-1420

Appeal P_9700088

Ministry of Consumer and Commercial Relations



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 Ministry of Consumer and Commercial Relations (the Ministry) received a request under the Freedom of Information and Protection of Privacy Act (the Act). The request was for access to records relating to a transfer of shares in a corporation in which the requester was also a shareholder. The Ministry located 28 records which were responsive to the request and granted access to 24 of them in their entirety, along with portions of Records 5 and 6. The Ministry also denied access to Records 11 and 20, claiming that they were exempt from disclosure under the following exemptions contained in the Act:

- third party information - section 17(1)
- invasion of privacy - section 21(1)

The requester, now the appellant, appealed the Ministry's decision to deny access to Records 11 and 20, as well as to the withheld portions of Records 5 and 6. During the mediation of the appeal, the appellant agreed to limit the scope of his request to include only Record 20. A Notice of Inquiry was provided to the Ministry, the appellant and to four other individuals whose interests may be affected by the disclosure of the information contained in Record 20 (the affected persons). Representations were received from the Ministry, the appellant and three of the affected persons.

DISCUSSION:

PERSONAL INFORMATION

Section 2(1) of the Act defines, in part, "personal information" as recorded information about an identifiable individual, including information relating to financial transactions in which the individual has been involved. I have reviewed the contents of Record 20 and find that it contains information relating to a financial transaction involving each of the affected persons. In my view, this information qualifies as their personal information. Record 20 does not contain any of the personal information of the appellant.

INVASION OF PRIVACY

Sections 21(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 in section 21(3) applies to the personal information found in a record, the only way such a presumption against disclosure can be overcome is where the personal information falls under section 21(4) or where a finding is made that section 23 of the Act applies to the personal information.

If none of the presumptions contained in section 21(3) apply, the Ministry must consider the application of the factors listed in section 21(2) of the Act, as well as all other considerations that are relevant in the circumstances of the case.

The Ministry submits that the presumption in section 21(3)(f) of the Act applies to the personal information contained in Record 20, which I found above pertains only to the affected persons. The section states:

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

describes an individual's finances, income, assets, liabilities, net worth, bank balances, **financial history or activities**, or creditworthiness;

[emphasis added]

Record 20 is a receipt by which the affected persons, the vendors and purchasers of certain shares, acknowledge the receipt of payment of a dollar amount in exchange for the shares. In my view, information of this sort clearly qualifies as information relating to each individual affected person's financial history or activities as contemplated by the section 21(3)(f) presumption. In addition, I find that the exceptions contained in section 21(4) have no application in the present appeal. The appellant has not claimed the application of section 23. As I have found that the presumption in section 21(3)(f) applies, the disclosure of the information contained in Record 20 would constitute an unjustified invasion of the personal privacy of the affected persons and the record is properly exempt under section 21(1).

Because of the manner in which I have addressed the application of the invasion of privacy exemption, it is not necessary for me to address the possible application of section 17(1).

ORDER:

I uphold the Ministry's decision.

Original signed by: _____
Donald Hale
Inquiry Officer

July 8, 1997