



**Information and Privacy  
Commissioner/Ontario**

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

# **ORDER M-929**

**Appeal M\_9700037**

**City of Toronto**



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## **NATURE OF THE APPEAL:**

This is an appeal under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The City of Toronto (the City) received a request for access to "any and all documents relating to the appointment of [a named individual] to the Toronto Mayor's Committee on Community and Race Relations". The City granted access to two sets of "Executive Committee Reports" but denied access to six pages of documents which consist of a three-page "Application for Appointment to City of Toronto Committees, Boards, Commissions" with two pages of attachments and a covering letter, dated April 4, 1993. The City relies on the following exemption contained in the Act to deny access to the records at issue:

- invasion of privacy - section 14

The appellant appealed this decision.

A Notice of Inquiry was provided to the appellant, the City and an individual whose interests may be affected by the outcome of this appeal (the affected person). Representations were received from all three 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. I have reviewed the information contained in the records and I find that they contain the personal information of the affected person only.

Once it has been determined that a record contains personal information, section 14(1) of the Act prohibits the disclosure of this information except in certain circumstances. Specifically, section 14(1)(f) of the Act reads as follows:

A head shall refuse to disclose personal information to any person other than the individual to whom the information relates, except,

if the disclosure 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 which are relevant in the circumstances of the case.

The City submits that the personal information contained in the records relates to the employment and educational history of the affected person and also indicates the individual's racial or ethnic origin. Therefore, the City submits that the disclosure of the records would constitute a presumed unjustified invasion of personal privacy under sections 14(3)(d) and (h) of the Act, respectively. The City also claims that the information was explicitly supplied by the affected person in confidence (section 14(2)(h)).

The affected person submits that the records contain the names of personal references and that their disclosure would result in a presumed unjustified invasion of personal privacy under section 14(3)(g) of the Act. The affected person also submits that the records contain information relating to his racial or ethnic origin (section 14(3)(h)). In addition, the affected person points out that the records are clearly marked confidential and were submitted to the City with the understanding that they would be kept confidential. Finally, the affected person adds that the disclosure of the records may expose him unfairly to pecuniary or other harm (section 14(2)(e)).

The appellant submits that the Committee to which the affected person was appointed a member is public and that its meetings, and the minutes taken at those meetings, are available to the public. Therefore, the appellant argues that the records at issue, which relate to the affected person's professional qualifications to sit on this Committee should also be publicly available. The appellant further submits that disclosure of the records at issue is relative to his defence of a complaint against him before a "Human Rights Tribunal", thereby raising the consideration set forth in section 14(2)(d) of the Act (disclosure is relevant to a fair determination of the appellant's rights).

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

- (1) Page two of the application form and the attachments identified as "Schedule A" and "Schedule B" contain information relating to the affected person's racial and ethnic origin and his employment and educational history. Accordingly, sections 14(3)(d) and (h) apply to these parts of the records. I also find that sections 14(4) and 16 do not apply to this information.
- (2) Because the records do not contain information consisting of personal recommendations or evaluations, character references or personal evaluations, section 14(3)(g) does not apply.
- (3) I have been provided with sufficient evidence to establish that all of the records were supplied to the City by the affected person explicitly in confidence. Section 14(2)(h) is, therefore, a relevant consideration, weighing in favour of privacy protection.
- (4) I am also satisfied that, based on the information before me, the disclosure of the records will expose the affected person **unfairly** to pecuniary or other harm. Section 14(2)(e) is, therefore, also a relevant consideration weighing in favour of privacy protection.

- (5) In my view, the fact that the Committee to which the affected person was appointed meets publicly is not a relevant factor weighing in favour of the disclosure of the records.
- (6) While the appellant submits that the disclosure of the records is relevant to a fair determination of his rights before a "Human Rights Tribunal", he has not provided any evidence of his present involvement in any proceeding involving either the Federal or Provincial Human Rights Codes. Accordingly, section 14(2)(d) is not a relevant consideration favouring disclosure of the records in this appeal.

I have found that the presumptions contained in sections 14(3)(d) and (h) of the Act apply to the personal information contained in page two of the application form and the two attached "schedules". As I have previously indicated, a factor or combination of factors favouring disclosure under section 14(2) cannot rebut a presumption of unjustified invasion under section 14(3). This information is, therefore, properly exempt from disclosure under section 14(1).

With respect to the remaining information, I have found that the records contain only the personal information of the affected person. In the absence of any relevant considerations weighing in favour of disclosure, I find that the disclosure of the personal information in these portions of the records would constitute an unjustified invasion of the personal privacy of the affected person. The exception contained in section 14(1)(f) does not apply and these portions of the records are, therefore, also properly exempt from disclosure under the mandatory exemption in section 14(1) of the Act.

**ORDER:**

I uphold the City's decision.

Original signed by: \_\_\_\_\_  
Donald Hale  
Inquiry Officer

\_\_\_\_\_ April 24, 1997