



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

# **ORDER M-972**

**Appeal M\_9700044  
[Reconsideration]**

**London Police Services Board**



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## **BACKGROUND:**

On May 29, 1997, I issued Order M-943 which dealt with a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) made to the London Police Services Board (the Police). The request was for access to a list of all alarm companies registered with the Police.

The Police denied access to the requested record on the basis of sections 8(1)(a) (law enforcement), 8(1)(i) (security), 8(1)(l) (facilitate commission of an unlawful act) and 10(1) (third party information). The appellant appealed this decision.

During mediation, the Police disclosed the names of the alarm companies to the appellant but maintained that the above exemptions applied to their addresses.

This office sent a Notice of Inquiry to the appellant and the Police. Following the receipt of representations, I found that none of the exemptions claimed above applied and ordered the Police to disclose the addresses to the appellant.

Subsequently, the Police sent a letter to all of the companies listed "alerting" them of Order M\_943 and advising them to contact this office.

## **REQUEST FOR RECONSIDERATION:**

On June 10, 1997, I received a letter from one of the alarm companies requesting that I reconsider my decision in Order M-943. This request was made on the grounds that there is a fundamental defect in the adjudication process, namely, a lack of procedural fairness. This is based, in particular, on the fact that the company was neither informed nor given the opportunity to make representations with respect to the issues in Appeal Number M-9700044.

The Office of the Information and Privacy Commissioner/Ontario has developed a policy statement which summarizes the grounds upon which a decision-maker may reconsider an order.

The policy statement provides as follows:

When an application for reconsideration of an order is received, the order should be reconsidered only where:

1. There is a fundamental defect in the adjudication process (for example, lack of procedural fairness) or some other jurisdictional defect in the order, or;
2. There is a typographical or other clerical error in the order which has a bearing on the decision or where the order does not express the manifest intention of the decision maker.

An order should not be reconsidered simply on the basis that new evidence is provided, whether or not that evidence was obtainable at the time of the inquiry.

I decided to invite the original parties to this appeal, as well as the company which initiated the request for reconsideration, and all of the other companies included on the list (collectively, the affected parties), to make representations to me on the issue of whether I should reconsider Order M-943 in these circumstances. In total, 194 affected parties were notified of this request for reconsideration.

At the same time, for the purposes of expedience, I also decided to invite all of the parties (including the Police, the appellant and all of the affected parties) to make representations on the substantive issues raised by the reconsideration request. In doing so, I enclosed a copy of the original Notice of Inquiry which was sent to the original parties to the request.

Representations were received from the appellant and five affected parties. Two affected parties indicate their objection to disclosure of the information at issue but do not provide any additional information as to the reasons for their objection. The Police indicated that they would rely on their original representations. Twenty notices which had been sent to affected parties were returned to this office as being undeliverable. Although not notified of this appeal or reconsideration, representations were received from an association (the association) which represents the interests of a small number of alarm companies (none of which are currently on the list at issue). Because, this association is concerned about the interests of alarm companies and issues relevant to the industry, I have taken these representations into consideration.

## **JURISDICTION TO RECONSIDER:**

In considering the background to Order M-943 (as described above), I find that failure to notify the affected parties in the case where section 10(1) has been claimed by the institution amounts to a defect in the adjudication process. Therefore, I find that my decision in Order M-943 should be reconsidered, and I have done so. In reconsidering Order M-943, I have decided to revisit all of the exemptions which were at issue in the order.

Upon consideration of the representations received from the affected parties, I conclude that my decision in Order M-943 should not be altered. I have set out the representations of the affected parties and my decision and reasons below.

## **DISCUSSION:**

### **Section 10(1)**

Only two affected parties addressed the application of section 10(1) in particular.

One affected party argues that disclosure of this information will cause loss of employment for many staff, but does not say how or why. This affected party goes on to state that the information was supplied in confidence. This affected party also wants to know the name of the requester.

With respect to the name of the requester, this information is not at issue in this appeal, and I cannot deal with it. If it wishes to attempt to seek access to this information, the affected party may submit a request under the Act to the Police.

One affected party addressed all four exemptions claimed by the Police. I note that under its discussion of section 10(1), this affected party is primarily concerned that release of its **name** and business address would reveal commercial information about the extent of the company's operations.

This affected party must be aware that the Police have already disclosed its name to the appellant. Therefore, in my view, these concerns are now moot as disclosure of the address would not reveal any additional information of this nature.

With respect to the arguments presented by these two affected parties, I am not persuaded that the addresses of the affected parties are commercial information within the meaning of section 10(1). Therefore, I see no reason to alter my decision in Order M-943 with regard to this exemption.

### **Section 8(1)**

As I indicated above, one affected party also addressed the application of sections 8(1)(a), (i) and (l), and essentially reiterates the position of the Police regarding this exemption.

The association, in responding on behalf of the industry (although, as I indicated above, the association only represents a small number of companies), has raised two concerns. First, it indicates that many small companies operate their businesses out of their homes and many do not publicize their addresses, but rather only a telephone and/or facsimile number.

Second, many companies maintain files containing confidential information on various businesses and residences and a number of addresses are actual central stations employing staff to monitor emergency alarms. It argues that disclosure of this information could put employees at risk. It concludes that this information is not public knowledge.

One affected party has no objection to disclosure of the information in the records and indicates that as far as it is concerned, this information is already available from a number of sources and is not confidential.

I have considered the representations of the affected parties. I find it difficult to accept the arguments submitted by those objecting to disclosure of their addresses. A review of the telephone directory reveals that, although not all, most of the alarm companies listed in the yellow pages provide their addresses. Moreover, all of the affected parties that responded to the Notice of Inquiry did so on letterhead with their full addresses included.

In my view, despite the arguments presented regarding the inaccessibility of premises by the public, these companies are conducting business and their addresses are a necessary component for contact and billing purposes, and are, therefore, in the public realm.

I am not persuaded that disclosure of the addresses of alarm companies could reasonably be expected to result in the harms envisioned by sections 8(1)(a), (i) or (l). As a result, I am satisfied that the decision in Order M-943 regarding these exemptions should not be disturbed.

**ORDER:**

1. I order the Police to disclose the addresses of the alarm companies to the appellant by providing him with a copy of this information by **August 25, 1997** but not earlier than **August 20, 1997**.
2. In order to verify compliance with the provisions of this order, I reserve the right to require the Police to provide me with a copy of the records which are disclosed to the appellant pursuant to Provision 1.

Original signed by: \_\_\_\_\_  
Laurel Cropley  
Inquiry Officer

\_\_\_\_\_ July 21, 1997