



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

ORDER M-981

Appeal M_9700088

Townships of Belmont and Methuen



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/Télé: 416-325-9195
TTY: 416-325-7539
<http://www.ipc.on.ca>

NATURE OF THE APPEAL:

The appellant submitted a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) to the Townships of Belmont and Methuen (the Townships). The appellant requested the following records:

- (1) General accounts for the month of December 1996;
- (2) Year end accounts for the year 1996;
- (3) If accounts are referenced by account numbers only, a cross reference to link account numbers to account names;
- (4) Status of the budget report for the month of December 1996.

The Townships charged the appellant a fee totalling \$57 for responding to the request. Some information was withheld under the following exemptions in the Act:

- economic and other interests - section 11
- solicitor-client privilege - section 12
- invasion of privacy - section 14(1).

The appellant appealed the fees charged, and the Townships' decision to withhold information pertaining to a specific cheque. The Township denied access to this information under section 14(1), and accordingly, that exemption is at issue in this appeal. It will not be necessary for me to consider sections 11 and 12 in this regard, as they were not claimed by the Townships for this information.

The Townships initially calculated their fees under a fee by-law rather than the fee provisions of the Act and Regulation 823 (the Regulation), made under the Act. However, during mediation, the Townships revised the fee estimate based on the Act and Regulation. The total amount of the revised fee is \$40.50. Therefore, in this order, I will consider whether the fees charges are in accordance with the fee provisions of the Act and Regulation.

This office sent a Notice of Inquiry to the appellant and the Townships. Both parties submitted representations.

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, including the individual's name if it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual.

The information which is at issue in this appeal relates to one particular cheque issued by the Townships. This information was severed from a journal page, the balance of which was disclosed. The severed information would identify an individual whose taxes were in arrears.

I find that the severed passage consists of information about an identifiable individual, and qualifies as personal information.

Section 14(1) of the Act prohibits an institution from disclosing personal information except in the circumstances listed in sections 14(1)(a) through (f). Of these, only section 14(1)(f) could apply in this appeal. It permits disclosure if it “does not constitute an unjustified invasion of personal privacy.”

Disclosing the types of personal information listed in section 14(3) is presumed to be an unjustified invasion of personal privacy. If one of the presumptions applies, the institution can disclose the personal information only if it falls under section 14(4) or if section 16 applies to it.

If none of the presumptions in section 14(3) apply, the institution must consider the factors listed in section 14(2), as well as all other relevant circumstances.

In order to conclude that the exception in section 14(1)(f) applies to permit disclosure of personal information, I must be satisfied that disclosure would **not** constitute an unjustified invasion of personal privacy. The appellant has not made submissions in this regard, nor does any of the information before me indicate that disclosure would not be an unjustified of personal privacy.

On this basis, I have concluded that the exception in section 14(1)(f) has not been established, nor does section 14(4) or 16 apply. Therefore, I find that the information at issue is exempt under section 14(1).

While the foregoing analysis is sufficient to dispose of this issue, I believe that a further comment may be helpful. It is possible that one could find the type of information that is at issue in this appeal by searching in the Registry Office. However, the Registry Office allows searches in relation to a particular property, whose address or legal description must be known to the searcher in advance. By contrast, access to the information at issue in the context of the Townships' accounts would identify, potentially in a comprehensive way, all individuals and properties for which tax registrations were undertaken during the period covered by the accounts, and in my view, disclosure in that context would, in the circumstances of this appeal, constitute an unjustified invasion of personal privacy. On this basis as well, the information is exempt under section 14(1).

FEES

I will begin this discussion by setting out the relevant provisions of the Act and Regulation. The charging of fees is authorized by section 45(1) of the Act, which states:

A head shall require the person who makes a request for access to a record to pay fees in the amounts prescribed by the regulations for,

- (a) the costs of every hour of manual search required to locate a record;
- (b) the costs of preparing the record for disclosure;
- (c) computer and other costs incurred in locating, retrieving, processing and copying a record;
- (d) shipping costs; and
- (e) any other costs incurred in responding to a request for access to a record.

Section 6 of the Regulation also deals with fees. It states:

The following are the fees that shall be charged for the purposes of subsection 45(1) of the Act for access to a record:

- 1. For photocopies and computer printouts, 20 cents per page.
- 2. For floppy disks, \$10 for each disk.
- 3. For manually searching a record, \$7.50 for each 15 minutes spent by any person.
- 4. For preparing a record for disclosure, including severing a part of the record, \$7.50 for each 15 minutes spent by any person.
- 5. For developing a computer program or other method of producing a record from machine readable record, \$15 for each 15 minutes spent by any person.
- 6. The costs, including computer costs, that the institution incurs in locating, retrieving, processing and copying the record if those costs are specified in an invoice that the institution has received.

The Townships indicate that the fees being charged in this case were calculated as follows:

Photocopying charges (15 pages @ \$0.20 per page)	\$3.00
Computer costs	\$15.00
Preparing record for disclosure	\$22.50
TOTAL	\$40.50.

In addition, due to severances, the Townships had to make a second photocopy of the severed pages, and charges for these are not included in the above calculations. In their representations, the Townships seek to recover fees for these additional copies.

Photocopies

The sum of \$3.00 charged for the 15 pages which were disclosed is in accordance with the amount prescribed by item 1 in section 6 of the Regulation and is therefore upheld.

In my view, the provision for photocopying charges should be based on the number of pages which are disclosed, and on this basis, I am of the view that photocopying charges may not be rendered where a second copy is made for severing purposes. Therefore, in my view, \$3.00 is the proper amount to charge for photocopies in this case.

Computer Costs

The Townships submit that the computer time required to create and generate the record from the database was 10 minutes. The Townships also argue that the full amount of \$15.00 (prescribed in item 5 of section 6 of the Regulation) may be charged for each 15 minutes, or part thereof, spent in this way. However, this is not supported by the wording of the section, and could produce unfair results (e.g. under this approach, where 15 minutes are spent, the fee would be \$15.00, but if 16 minutes are spent, the fee doubles to \$30.00). In my view, a pro-rated approach makes more sense. Therefore, applying the pro-rated approach, I uphold a fee of \$10.00 for computer costs.

Preparing the Record for Disclosure

The Townships state that the charges under this heading relate to severing the record, and that this activity took 40 minutes. Eleven pages were severed, and in some cases, a number of severances were required on each page. Thus the Townships' submission is based on a time of nearly four minutes to sever each page. I note that severing time has been held not to include time spent considering whether a particular passage is exempt (Order 4). Based on my review of the severances which were applied, I am not satisfied that it took four minutes per page to remove the exempt information. Previous orders have upheld two minutes per page as an acceptable average, and in my view, this is a more reasonable time to allow for the severing which was done in this case. Therefore I uphold preparation charges based on 22 minutes. Based on the same method of pro-rated calculation I have applied under "Computer Costs", at a rate of \$7.50 per 15 minutes as specified in item 4 of section 6 of the Regulation, this amounts to a fee of \$11.00, and I uphold a fee in that amount for preparation time.

ORDER:

1. I uphold the Townships' decision to deny access to the information at issue in this appeal.
2. I uphold a fee of \$3.00 for photocopying, \$10.00 for computer costs and \$11.00 for preparing the records for disclosure, for a total fee of \$24.00. I order the Townships to

refund to the appellant any additional fees which have been collected in connection with this request (other than the original application fee), on or before **August 29, 1997**.

Original signed by: _____ July 31, 1997
John Higgins
Inquiry Officer