



**Information and Privacy  
Commissioner/Ontario**

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

# **ORDER M-1119**

**Appeal M-9800026**

**Toronto Licensing Commission**



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## **BACKGROUND:**

A union obtained certification to become the bargaining agent for drivers of a taxi company. The union applied to the Ontario Labour Relations Board (OLRB) for a declaration that a list of persons, referred to as “associates”, were related employers to the taxi company. The OLRB ordered the taxi company to provide it with the names, addresses, telephone and fax numbers for the associates operating within the company, so that it could notify all those potentially affected by the union’s application.

The taxi company reviewed its files, but found that it did not have information about the owner, operator, lessee, custodian or agent of some 183 taxi licenses operating under its “roof sign”. The taxi company informed the OLRB that the information was available from the Toronto Licensing Commission (TLC)(then known as the Metropolitan Toronto Licensing Commission). The taxi company asked the OLRB to order the TLC to provide this information. The OLRB concluded that it did not have jurisdiction to make an order of this kind, and directed the taxi company to request the information directly from the TLC.

## **NATURE OF THE APPEAL:**

Accordingly, the taxi company made a request under the Municipal Freedom of Information and Privacy Act (the Act) to the TLC for the name, address and telephone number of the owner, designated agent and lessee for each of the 183 taxi licenses.

The TLC responded by stating informally that information concerning corporations or partnerships could be provided, but that comparable information relating to natural persons would likely fall under section 14(1)(f) of the Act (invasion of personal privacy). In the same letter, the TLC offered to assist the OLRB by forwarding notices from the taxi company or the OLRB to the associates, using the addresses from their files.

The taxi company asked the TLC to provide them with information relating to corporations or partnerships, and to formally respond to their access request for information relating to natural persons.

The TLC responded by providing the taxi company with the corporate and partnership information, but denied access to information relating to natural persons, based on the exemption in section 14(1)(f) of the Act.

The TLC subsequently mailed out notices to owners of licenses informing them of the union’s application before the OLRB. Notices were not sent to agents or lessees, since the TLC felt it would be up to the owner to contact these other individuals, as appropriate.

The taxi company (now the appellant) appealed the TLC’s decision to deny access.

A Notice of Inquiry was sent to the appellant and the TLC. Representations were received from both parties.

The records consists of lists of names, addresses and telephone numbers of natural persons (as opposed to corporations or partnerships) who are holders of taxi licenses, are agents who represent each taxi license plate, or are lessees of each plate.

## **DISCUSSION:**

### **PERSONAL INFORMATION/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:

- (d) the address, telephone number, ... of the individual
- (h) 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 appellant submits that:

... [the appellant] is merely requesting the disclosure of the names, addresses and telephone numbers of the associates so that the parties to the proceeding currently before the O.L.R.B. and the eventual collective agreement are aware of their co-employers or related employers. ... The Union needs this information in order to enforce any Board order which may be issued and the ultimate collective agreement. [The appellant] requires this information because it could be found jointly liable for the actions of its joint employers, i.e., the individual unnamed associates without its knowledge. Thus, it is [the appellant's] position that the information requested does not fall within the meaning of "personal information" as defined in section 2(1) of the Act and, therefore, the requested information ought to be disclosed by the Commission.

The TLC submits that the requested information falls clearly within the scope of paragraphs (d) and (h) of section 2(1), outlined above.

In Order M-1010, Inquiry Officer Donald Hale dealt with a similar request involving the same type of information held by the TLC. He found that the names of license holders and agents who are natural persons, along with their addresses, telephone numbers, license numbers, leasing status and the date their licenses were issued, constitute the personal information of these individuals within the meaning of section 2(1) of the Act.

Although I understand the appellant's stated reasons for wanting access to the information, in my view, they are not relevant in determining whether the information qualifies as "personal information".

I find that, as in Order M-1010, the names, addresses and telephone numbers of license holders, agents or lessees who are natural persons constitute their personal information under section 2(1).

Once it has been determined that a record contains personal information, section 14(1) prohibits the disclosure of this personal information to any person other than the individual to whom it relates, except in certain circumstances. One such circumstance is contained in section 14(1)(f), which reads:

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, the only way such a presumption can be overcome is where the personal information falls under section 14(4) or where a finding is made that section 16 of the Act applies to the personal information [John Doe v. Ontario (Information and Privacy Commissioner) (1993), 13 O.R. (3d) 767].

If none of the presumptions in section 14(3) apply, then, and only then, the TLC must consider the application of the factors listed in section 14(2), as well as all other relevant considerations which are present in the circumstances of the case.

The TLC submits that the information falls within the presumption in section 14(3)(f), which reads:

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

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

The TLC submits that:

In the present case, identification of individuals on the list of individual licensees unavoidably results in the disclosure that the individual is the holder of a licence which has a particular market value in the marketplace for such licenses. While the value of such licence may fluctuate given changes in such marketplace, at any given time, there is a "going-rate" for such licenses, which are transferable subject to approval of the TLC. Consequently, disclosure of the identity of an individual licensee reveals a significant aspect of that individual's assets and financial worth, which will obviously vary depending on the number of licences held.

The TLC also submits that disclosure of the names would reveal information about these individuals' finances and financial activities, specifically that they lease taxi plates or act as agents on behalf of licensees, for a fee.

The appellant's representations do not deal specifically with section 14(3). Instead, they focus in considerable detail on the considerations contained in sections 14(2)(d) and (e) (fair determination of rights, and whether the individual would be unfairly exposed to pecuniary or other harm).

I can see no basis for distinguishing the records in this appeal from the ones dealt with by Inquiry Officer Hale in Order M-1010. I find that the undisclosed information in this appeal describes the assets, net worth and financial activities of licence holders, agents and lessees. As such, this information falls within the presumption in section 14(3)(f) of the Act, and its disclosure would constitute an unjustified invasion of personal privacy.

As noted above, the Divisional Court in John Doe has determined that the only way a presumption under section 14(3) can be rebutted is if the information falls within section 14(4) or if a finding is made that section 16 applies to it. I am precluded from considering the various factors under section 14(2), including those raised by the appellant, in determining whether the presumption has been rebutted.

I find that section 14(4) does not apply and the appellant has not raised the possible application of section 16. Therefore, the undisclosed information qualifies for exemption under section 14(1) of the Act

**ORDER:**

I uphold the decision of the TLC.

Original signed by: \_\_\_\_\_  
Tom Mitchinson  
Assistant Commissioner

\_\_\_\_\_  
June 10, 1998