



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

# **ORDER MO-1194**

**Appeal MA-980252-1**

**Town of Ancaster**



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 Town of Ancaster (the Town) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to “10 documents from Ancaster Fire Dept. with the signature of [a named deceased employee]”, the requester’s father-in-law. The requester stated that he required this information in order to verify the deceased’s signature on his Will.

The Town identified a number of records containing the deceased’s signature, and denied access to them pursuant to section 14(1) of the Act (invasion of privacy).

The requester, now the appellant, appealed this decision. He clarified that he was seeking access only to the deceased’s original signature on Town documents and no other information contained in these records.

A Notice of Inquiry was sent to the Town and the appellant. In addition to the section 14(1) exemption issue, the Notice also sought representations on the issues of whether section 54(a) of the Act (personal representative) applied in the circumstances of this appeal, and whether the Town could deny the appellant an opportunity to examine the original records for the purposes of submitting them for handwriting analysis.

Representations were received from both parties.

In his representations, the appellant stated that he was not the personal representative of the deceased, so section 54(a) is not relevant in the circumstances of this appeal. However, because the outcome of this appeal could affect the interests of the deceased’s estate, a copy of the Notice was sent to the administrator of the deceased’s estate (the affected party). The lawyer representing the affected party responded by stating: “Our client is taking no position with respect to this appeal.”

## **DISCUSSION:**

### **PERSONAL INFORMATION**

Under section 2(1) of the Act, “personal information” is defined, in part, to mean recorded information about an identifiable individual, including the following:

- (c) any identifying number, symbol or other particular assigned to the individual,
- (d) the address, telephone number, fingerprints or blood type 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 simply submits that a signature and name on a document does not qualify as personal information under section 2(1) of the Act.

The Town characterizes a person's signature as a unique identifier, analogous to a fingerprint. The Town submits that "one's signature is part of one's identity and is one factor that distinguishes one individual from the next. It is difficult to imagine anything that is more personal to an individual than one's signature."

This office has considered handwriting and signatures which appear on records in a number of different contexts.

In cases where the signature is contained on records created in a professional or official government context, it is generally not "about the individual" in a personal sense, and would not normally fall within the scope of the definition. (See, for example, Order P-773, which dealt with the identities of job competition interviewers, and Order P-194 where handwritten comments from trainers were found not to qualify as their personal information.)

In situations where identity is an issue, handwriting style has been found to qualify as personal information. (See, for example, Order P-940, which found that even when personal identifiers of candidates in a job competition were severed, their handwriting could identify them, thereby bringing the records within the scope of the definition of personal information).

Order M-585 involved both handwritten and typewritten versions of a by-law complaint. Former Inquiry Officer John Higgins found that the typewritten version did not qualify as personal information of the author, but that there was a reasonable expectation that the identity of the author could be determined from the handwritten version, and that it qualified as the complainant's personal information.

In my view, whether or not a signature or handwriting style is personal information is dependent on context and circumstances.

In the present circumstances, the deceased's signature as it appears on his Will is clearly his personal information. The appellant has indicated that he needs the ten other original signatures in order to verify the authenticity of the signature on the Will; a photocopy will not suffice. In other words, these original signatures will be used to verify personal information about the deceased, namely the signature that appears on his Will. In my view, this context clearly renders the original signatures as more than simply the deceased person's name. The signature in the context of this appeal would reveal whether or not the deceased person signed his Will which, in my view, brings it within the scope of paragraph (h) of the definition of the personal information contained in the Act. It is also my view that the fact that the signatures were made by the deceased in his professional capacity as an employee of the Town is not determinative of their characterization. The context in which they were requested had nothing whatsoever to do with the deceased's professional or employment responsibilities, and the content of the records, other than the signature, is of no interest or relevance to the appellant. I find that the signatures are "about the individual", and thereby satisfy the definition of personal information.

## INVASION OF PRIVACY

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 disclosure of personal information would result in an unjustified invasion of the personal privacy of the individual to whom the information relates. Section 14(2) provides some criteria for the head to consider in making this determination. Section 14(3) lists the types of information whose disclosure is presumed to constitute an unjustified invasion of personal privacy.

The Town submits, and I concur, that none of the presumptions listed in section 14(3) are present in this case.

It is clear from the context of the appellant's request that there is a dispute involving the deceased's Will, and the original signatures are relevant to resolving it. This raises the consideration in section 14(2)(d) (fair determination of rights of the appellant), which favours disclosure. The appellant's representations also attach a photocopy of the deceased's signature which appears on a record which was provided to him by the Town. He questions how this information can be distinguished from the requested original signatures for the purposes of determining whether disclosure would constitute an unjustified invasion of the deceased's personal privacy.

The Town acknowledges that disclosure of the original signatures might assist in resolving some issues in estate litigation, but maintains that the Act should not be used as a vehicle for gathering evidence for litigation. I do not accept this position. Section 51(1) of the Act provides:

This Act does not impose any limitations on the information otherwise available by law to a party to litigation.

As I stated in Order M-1109:

Accordingly, the rights of the parties to information available under the rules for litigation are not affected by any exemptions from disclosure to be found under the Act. Section 51(1) does not confer a right of access to information under the Act (Order M-852), nor does it operate as an exemption from disclosure under the Act (Order P-609).

...

The obligations of an institution in responding to a request under the Act operate independently of any disclosure obligations in the context of litigation. When an institution receives a request under the Act for access to records which are in its custody or control, it must respond in accordance with its statutory obligations. The fact that an institution or a requester may be involved in litigation does not remove or reduce these obligations.

Clearly, the fact that information may be obtainable through other vehicles such as discovery in the civil law context, should the appellant become involved in future litigation, is not an answer to whether access should be granted under the Act.

The Town also points out that disclosure would not further the objectives of “public scrutiny” articulated in section 14(2)(a), but points to no factors which actually support privacy protection. Similarly, the affected party’s brief representations do not contain any statements which support the privacy interests of the deceased.

Having carefully reviewed the unique circumstances of this appeal, I find that no factors favouring privacy protection are present. The deceased’s identity is known, the Town has disclosed a copy of the deceased’s signature and, while not specifically consenting to disclosure, the administrator of the deceased’s estate has also not objected. In my view, these factors all weigh in favour of disclosure, as do the factors identified by the appellant.

Accordingly, under these circumstances, I find that disclosure of the deceased’s original signature as it appears on ten Town documents would not be an unjustified invasion of personal privacy and, therefore, section 14(1) of the Act does not apply.

## **METHOD OF ACCESS**

Although the appellant would prefer to have the records disclosed to him for off-site analysis, he has also expressed a willingness to have the analysis completed on-site.

The Town has expressed concern about the security of the records, and has requested that access, if granted, should be limited to an on-site examination.

Since on-site access is acceptable to both parties, I find that to be the appropriate method of access in the circumstances.

**ORDER:**

1. I order the Town to provide the appellant with access to ten Town records of a routine or daily nature that contain the deceased's original signature and are dated within the last year. All other information contained on these records shall be severed.
2. I order that access be provided by means of an on-site examination of the records by **March 29, 1999** at a time and place to be mutually agreed upon by the parties.
3. I order the Town to contact the appellant to make the necessary arrangements to comply with Provisions 1 and 2.
4. I order the Town to advise this office once the above provisions are complete.

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

\_\_\_\_\_ March 8, 1999