



**Information and Privacy
Commissioner/Ontario**

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

ORDER MO-1510

Appeal MA-010114-1

City of Toronto



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NATURE OF THE APPEAL:

The City of Toronto (the City) received a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for access to the current lease information for three named businesses located at three identified municipal addresses.

The City identified the responsive records held by the Toronto Housing Corporation now the Toronto Community Housing Corporation, a separate institution under the *Act*, and notified two of the three current lessees of the appellant's request. These two lessees consented to the disclosure of their records and the City accordingly disclosed these records to the appellant.

The appellant then narrowed her request to the lease documents for the third municipal address (the record). The record covers a period of about 19 years and the lessees include individuals as well as a numbered company. The current lessee (the affected party) is an individual.

The City denied access to the record, pursuant to the exemption in section 14(1) of the *Act* (invasion of personal privacy).

The appellant appealed the City's decision to this office.

I initially sent a Notice of Inquiry that set out the issues in this appeal to the City which submitted representations. I then sent the appellant a Notice together with the City's complete representations. The appellant provided no submissions. I subsequently sent the affected party a Notice, but received no submissions.

The appellant has indicated that she is not seeking access to the names of the individuals in the record.

DISCUSSION:

PERSONAL INFORMATION

Introduction

The City denied access to the record on the grounds that disclosure would constitute an unjustified invasion of the affected party's personal privacy under section 14 of the *Act*. The section 14 exemption applies only to personal information.

In making a determination as to whether the record at issue qualifies for exemption under section 14 of the *Act*, the following issues must be considered:

1. Does the record contain personal information for the purposes of the *Act*?
2. If so, to whom does that personal information relate?
3. If the names of the individuals are severed from the record, would this render the remaining information no longer "personal"?

Does the record contain “personal information” and to whom does it relate?

Section 2(1) of the *Act* defines “personal information” to mean, in part, recorded information about an identifiable individual, including

(a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,

.....

(b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,

....

(h) the individual’s name if it appears with other personal information relating to the individual ...

The City submits that the personal information contained in the record includes the names and signatures of the individual lessees, a declaration that two of the individual lessees were spouses and at least 18 years of age, and the name and signature of an individual who witnessed the declaration.

The City also indicates that the record identifies certain terms of the lease including the amount of the rent, the renewal terms, the additional expenses payable by the tenant and the purpose for which the premises can be used.

I have reviewed the record and find that the names of individuals appear with information concerning the terms of a lease. Since this is information relating to a financial transaction in which the individual has been involved, I find that the information in the record constitutes the personal information of the lessees who are individuals within the meaning of paragraphs (b) and (h) of the definition in section 2(1) of the *Act*. The record contains no personal information of the appellant, and the information relating to a numbered company is not personal information as defined in section 2(1).

Impact of severing the names of individuals

In some cases, if the names of individuals are severed from the record, the remaining information in the record will not constitute personal information for the purposes of the *Act*. However, in other cases where an appellant is aware of the identity of an individual, even if an individual’s name is removed from the record, the information in the record may still disclose the personal information of that individual.

The names of all but one individual lessee are found in that part of the record dating from the 1980s and the mid-1990s. Given the length of time since these individuals were associated with

the property, I am satisfied that it is unlikely that the appellant would be aware of their identity. Therefore I find that the information in the record related to these individuals is not “about an identifiable individual” and does not constitute “personal information” for the purposes of the *Act*. Accordingly, these parts of the record can be disclosed to the appellant.

The remaining individual is the affected party who is the current lessee. A small business is being operated from the property at issue. The appellant is representing a tenant association whose members are apparently being affected by the operation of the business. Accordingly, in the circumstances of this appeal, I find that the appellant is likely aware of, or could reasonably ascertain the identity of the affected party. I therefore find that the information in the document executed by the affected party is “about an identifiable individual”, and constitutes “personal information” pursuant to section 2 of the *Act*.

INVASION OF PRIVACY

General

Section 14(1) of the *Act* prohibits an institution from disclosing personal information, unless one of the exceptions in paragraphs (a) through (f) applies. In the circumstances of this case, the only exception that could apply is section 14(1)(f), which permits disclosure of personal information where the disclosure would not constitute an unjustified invasion of personal privacy.

Sections 14(2) and (3) 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 institution to consider in making this determination. Section 14(3) lists the types of information the disclosure of which is presumed to constitute an unjustified invasion of personal privacy. Section 14(4) refers to certain types of information the disclosure of which does not constitute an unjustified invasion of personal privacy.

The Divisional Court has stated that once a presumption against disclosure has been established, it cannot be rebutted by either one or a combination of the factors set out in 14(2) [*John Doe v. Ontario (Information and Privacy Commissioner)* (1993), 13 O.R. (3d) 767].

A section 14(3) presumption can be overcome if the personal information at issue falls under section 14(4) of the *Act* or if a finding is made under section 16 of the *Act* that a compelling public interest exists in the disclosure of the record in which the personal information is contained which clearly outweighs the purpose of the section 14 exemption.

The City submits that the presumption in section 14(3)(f) applies. This section 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 City submits that:

The records at issue either relate to, describe or reveal information about the finances, liabilities and financial activities of the identifiable individual lessees, including the financial terms and conditions of leasing the property to carry on their business.

I agree with the City that information in that part of the record relating to the affected party will reveal the financial activities of an identifiable individual and as such constitutes an unjustified invasion of personal privacy under section 14(3)(f) of the *Act*.

Since I have found that the information referring to the affected party falls under the presumption in section 14(3)(f) and that the remaining part of the record can be disclosed, it is not necessary for me to consider the application of the factors in section 14(2).

I am satisfied that sections 14(4) and 16 have no application in this appeal.

ORDER:

1. I order the City to disclose the record to the appellant with the exception of the portions highlighted on the copy of the record enclosed with the City's copy of this order, by **March 22, 2002**, but no later than **March 15, 2002**.
2. In order to verify compliance with Provision 1, I reserve the right to require the City to provide me with a copy of the record disclosed to the appellant.

Original signed by: _____
Dawn Maruno
Adjudicator

February 15, 2002 _____