



**Information and Privacy
Commissioner/Ontario**

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

ORDER MO-1602

Appeal MA-020049-1

City of Toronto



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NATURE OF THE APPEAL:

The appellant is the owner of a driving school. She submitted a request to the City of Toronto (the City) under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for a letter of employment relating to two named individuals (the affected persons) stating the date they each began their employment with two other driving schools. The affected persons are former employees of the appellant's driving school.

The City denied access to the requested information on the basis that disclosure would constitute an unjustified invasion of privacy pursuant to section 14(1) of the *Act*.

The appellant appealed this decision.

Mediation could not be effected and the appeal was referred to adjudication. I decided to seek representations from the appellant, initially, and sent her a Notice of Inquiry setting out the facts and issues at inquiry. The appellant did not submit representations.

RECORDS:

The records at issue consist of two letters and four computer print-outs relating to the two affected persons.

DISCUSSION:

PERSONAL INFORMATION/INVASION OF PRIVACY

The City has claimed the application of the mandatory exemption in section 14(1) to the records at issue. In order for section 14(1) to be applicable, the records must contain personal information. Personal information is defined, in part, as "recorded information about an identifiable individual", including:

- (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.

As I indicated above, the appellant is seeking information about the two affected persons with respect to the commencement of their employment with other employers. The records at issue identify both individuals and contain the information that the appellant is seeking, which is the start date of their employment with another employer.

Previous orders of this office have concluded that information that reveals the start date of employment qualifies as personal information (Orders M-173, PO-1885 and PO-2050). I agree, and find that the records at issue contain recorded information about the affected persons and thus qualify as personal information. The records do not contain any information about the appellant.

Where the record only contains the personal information of other individuals, section 14(1) of the *Act* prohibits an institution from releasing this information unless one of the exceptions in paragraphs (a) through (f) of section 14(1) applies.

In the circumstances, the only exception that could apply is section 14(1)(f), which states:

A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,

(f) if the disclosure does not constitute an unjustified invasion of personal privacy.

In determining whether section 14(1) applies, 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 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. Section 14(4) refers to certain types of information whose disclosure 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 section 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.

Section 14(3)(d)

Section 14(3)(d) provides:

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

relates to employment or educational history.

Previous orders of this office have found that the start date of employment falls within the section 14(3)(d) presumption (see: Orders M-173, PO-1885 and PO-2050, referred to above). I agree with the findings in these orders and on review find that all of the information contained in the records at issue falls within the presumption in section 14(3)(d).

I find further that the exceptions in section 14(4) are not applicable and that the circumstances do not warrant consideration of section 16.

Consequently, I find that the mandatory exemption provided by section 14(1) of the *Act* applies to the personal information contained in the records. This information is, accordingly, exempt from disclosure.

ORDER:

I uphold the City's decision.

Original signed by: _____
Laurel Cropley
Adjudicator

_____ January 7, 2003