



**Information and Privacy
Commissioner/Ontario**

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

INTERIM ORDER MO-1654-I

Appeal MA-010346-2

City of Hamilton



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NATURE OF THE APPEAL:

The City of Hamilton (the City) received the following access request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*):

I would like access to all records related to the review of the management and or operations of the City's emergency medical service (EMS). Without limiting the generality of the foregoing, please include all memoranda, e-mails and consultant reports. Please also include all records related to the dismissal of the manager of the EMS [a named individual].

The City identified six files of responsive records, and provided the requester with partial access to some of them. The City claimed that almost all of the records fell within the scope of either section 52(3)2 or section 52(3)3, and were thereby excluded from the *Act*. The City stated:

The records for which exemptions are claimed relate to the EMS organization, in particular staffing, organizational changes, the work environment and other personal and employment related matters. These responsive records are not subject to the *Act*, pursuant to section 52(3)3.

The City denied access to two records on the basis of the section 10 exemption (third party commercial information), as well as section 11 (economic interests of the institution) for one of these records. The City also raised section 14 (invasion of privacy) as the reason for denying access to seven records.

The requester attended at the City and reviewed the partially disclosed records. He was provided with an index of records at that time.

The requester (now the appellant) appealed the City's decision.

A number of records were removed from the scope of the appeal during mediation, including four of the records covered by the section 14 exemption claim. Mediation was otherwise not successful and the appeal was transferred to the adjudication stage.

Because the City relied on section 52(3) as the basis for denying almost all of the records, I decided to restrict my inquiry to that section initially. If a record falls within the scope of section 52(3), it is excluded from the *Act*.

I first sought representations from the City. In its representations, the City withdrew section 52(3)2, leaving section 52(3)3 as the only issue in the inquiry. The City also agreed to disclose a number of additional records to the appellant. It is not clear to me whether these records have in fact been disclosed, so I will include them in my order provisions here.

I then provided the appellant with the non-confidential portions of the City's representations and sought representations from him. The appellant responded with representations, which were in turn shared with the City. The City submitted a final set of reply representations.

RECORDS:

The records the City agreed to disclose during the course of this inquiry are:

File #1 - *Ambulance Personnel Issues* - Records 6, 7, 31, 32, 50, 63 (in part), 75 and 79

File #4 - *Ambulance Re-organization File* - Records 1, 2 (in part), 4 (in part), 5 (in part), 7 and 10

File #5 - *Ambulance* - Records 4, 6, 10, 11(a), 12, 19, 21, 25, 26, 26(a) and 26(b)

Accordingly, the records remaining at issue in this appeal are:

File #1 - *Ambulance Personnel Issues* - all 83 identified records, with the exception of Records 1, 4, 5, 5A, 6, 7, 12, 13, 31, 32, 47, 50 (including the attachment), 63 (in part), 64, 75 and 79

File #2 - *Ambulance Amalgamation* - Records 1-5, 7 and 8

File #4 - *Ambulance Re-organization File* - Records 2 (in part), 3, 4 (in part), 5 (in part), 6, 8, 9 and 11

File #5 - *Ambulance* - Records 1-24, with the exception of Records 4, 6, 7, 10, 11(a), 12, 19 and 21

File #6 - *EMS Organizational Review* - Records 1-5

DISCUSSION:

Introduction

The City claims section 52(3)3 as the basis for denying access to the following records:

File #1 - all remaining records, except Records 3, 58 and 64(a)

File #2 - all remaining records

File #4 - all remaining records

File #5 - all remaining records, except Record 1 and page 2 of Record 3

File #6 - all records

Having compared the contents of Records 3 and 58 with other File #1 records, in my view, they are also appropriately considered in the context of section 52(3)3.

Section 52(3)3 reads as follows:

(3) Subject to subsection (4), this *Act* does not apply to records collected, prepared, maintained or used by or on behalf of an institution in relation to any of the following:

...

3. Meetings, consultations, discussions or communications about labour relations or employment-related matters in which the institution has an interest.

None of the section 52(4) exceptions are relevant in the context of this appeal.

In order to fall within the scope of paragraph 3 of section 52(3), the City must establish that:

1. the records were collected, prepared, maintained or used by the City or on its behalf; **and**
2. this collection, preparation, maintenance or usage was in relation to meetings, consultations, discussions or communications; **and**
3. these meetings, consultations, discussions or communications are about labour relations or employment-related matters in which the City has an interest.

In its representations the City divides the records into two categories:

1. records relating to the former manager of EMS; and
2. records relating to an identified consultant.

The City does not identify which records fall into each category.

Having carefully reviewed all of the records, I have been able to divide them into the two categories identified by the City. The titles of the five files assisted me in this regard, although I relied primarily on the content of the records themselves in determining the appropriate category for each record.

Two records in File #2 do not appear to fit either of the two categories. Record 5 is a report on ambulance staffing and recruitment issues from a senior City official to the transition board for the new City of Hamilton, which would appear to pre-date the organizational review undertaken by the consultant. Record 8 is an operational review of ambulance services prepared by the consultant and submitted to the former Regional Municipality of Hamilton-Wentworth in 2000.

Record 8 is similar in nature to the second category identified by the City in its representations, and I will treat it as falling within that category for the purposes of this interim order. Record 5, on the other hand, deals primarily with staffing issues involving the City and its workforce and, in my view, it is appropriately considered along with the first category of records.

The records are described in the index provided by the City to the appellant, so I won't repeat the descriptions here.

I have divided the records into the two categories as follows:

Category 1

File #1 - Records 3, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 30, 33, 37, 38, 40, 41, 42, 43, 44, 45, 46, 48, 49, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62 (cover e-mail only), 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 76, 77, 78, 80, 81, 82, 83

File #2 - Record 5

File #4 - Records 10a, 11

File #5 - Record 11

File #6 - none

Category 2

File #1 - Records 2, 8, 9, 10, 11, 14, 19, 28, 29, 34, 35, 36, 39, 62 (attachment only), 64

File #2 - Records 1, 2, 3, 4, 7, 8

File #4 - Records 3, 6, 8, 9

File #5 - Records 3 (page 1 only), 5, 8, 9, 13, 14, 15, 16, 17, 18, 20, 22, 23, 24

File #6 - Records 1, 2, 3, 4, 5

Part 1: Were the records collected, prepared, maintained or used by the City or on its behalf?

Category 1

The records in this category consist primarily of e-mail messages about the former manager. The City submits:

These records were prepared, collected and maintained by City staff in relation to communications, discussions, and consultations the Fire Chief had with Senior management and EMS staff.

The appellant concedes that some records in this category may have been prepared, collected or used in relation to meetings, consultations, discussions or communications.

Having reviewed the records and representations, I am satisfied that all Category 1 records, including Record 5 in File #2, were collected, prepared and/or maintained by the City or on its behalf.

Category 2

The City submits that the consultants prepared and collected the records in this category. The City identifies the scope of the consultant's work - to examine the EMS with a view to improving its work as an operating division - and submits that the records were prepared and collected by the consultants and used by the City.

Again, having reviewed the records and representations, I am satisfied that the consultants prepared and collected the records in this category, including Record 8 in File #2, on behalf of the City, in accordance with the terms of a consulting contract.

Therefore, I find the first part of the section 52(3)3 test has been established for all Category 1 and Category 2 records.

Part 2: Were the records collected and/or used in relation to meetings, consultations, discussions or communications?

Category 1

Based on the City's representations outlined above, I am satisfied that the records relating to the former manager were collected and/or used in relation to meetings, consultations, discussions or communications. Similarly, I find that Record 5 in File #2 was collected in relation to meetings, consultations, discussions or communications involving the City and the author of the staffing report.

Category 2

As far as the records in this second category are concerned, the City describes the consulting assignment and submits:

The records were prepared and collected by the consultants and used by the City to that end. The meetings, conversations and correspondence to and from [the consultants] or pertaining to [the consultants] relate to an employment related matter, specifically the management of the City EMS unit, in which the City has a strong interest.

I will review the issue of whether the records relate to an employment-related matter below. For the purpose of second part of the section 53(3)3 test, I am satisfied that the records, including Record 8 in File #2, were collected and/or used in relation to meetings, consultations, discussions or communications concerning the terms of a consulting contract.

Therefore, I find that the second part of the section 52(3)3 test has also been established for all Category 1 and Category 2 records.

Part 3: Were the meetings, consultations, discussions or communications about employment-related matters in which the City has an interest?

Previous orders have established that Section 52(3) has no application outside the employment or labour relations context (See Orders P-1545, P-1563, P-1564 and PO-1772).

Category 1

The City submits:

The records [in this category] are about employment-related matters in which the City has an interest; in particular the performance or non-performance of the EMS manager.

The City also states that it is involved in litigation with this individual.

The appellant concedes that some of the records relating to the former employee may have been prepared, collected or used in relation to meetings, consultations, discussions or communications about labour relations or employment-related matters in which the City had an interest.

In framing his request, the appellant acknowledges that certain responsive records “related to the dismissal of the manager of EMS”. Clearly, records that meet this description deal with the former manager’s employment and are properly characterized as “about employment-related matters” for the purposes of the third part of the section 52(3) test.

I am also satisfied that the City has an interest in these records. The City clearly has an interest in its ongoing litigation with the former manager. In addition, based on the decision in *Ontario (Solicitor General) v. Ontario (Assistant Information and Privacy Commissioner)* (2001), 55 O.R. (3d) 355 (C.A.), the resolution of this dispute would not impact the application of section 52(3)3.

As far as Record 5 in file #2 is concerned, I find that it deals with various employment-related staffing and recruitment matters involving the City and its workforce, and that the City has an interest in these matters for the purpose of section 52(3)3.

Therefore, I find that the third part of the section 52(3)3 test has been established for all Category 1 records.

Category 2

The City's position

The City describes this category of records as follows:

The consulting firm [the consultant] was hired by the City of Hamilton to address several issues and challenges related to the newly established Emergency Services unit of the newly amalgamated City of Hamilton (January 2001) and the impact on the EMS. The objectives for [the consultants] were to review the EMS organizational structure and develop recommendations for an effective and efficient EMS operation.

Some of the issues and challenges being examined by [the consultants] included:

- Development of a business plan
- Development of job description for key management personnel
- Defining roles and responsibilities
- Securing financial and budgetary information in a timely manner
- Maintaining proper staffing levels
- Recruiting qualified staff

[The consultants] examined and evaluated the challenges and issues facing the newly amalgamated EMS mainly through reviewing existing EMS documents, and consulting with key divisional personnel – such as the manager of EMS, and Manager of Fire Operations. With respect to the latter [the consultants] consulted with the EMS staff through meetings, e-mail and telephone conversations.

The result of [the consultant's] evaluation of its meetings, e-mail messages, and telephone conversations with EMS staff is a draft report (File #6 – Record 5) and the final report (File #2 – Record 1; File #6 – Record 1, 3).

The City relies on these arrangements with the consultant as the basis for its position that the City has an interest in all records relating to the consultant and any communications between the consultant and the City about the EMS unit. The City concludes:

The meetings, conversations, and correspondence to and from [the consultant], or pertaining to [the consultant] relate to an employment related matter, specifically the management of the City EMS unit, in which the City has a strong interest.

The appellant's position

The appellant disagrees, maintaining that the City's interpretation of the scope of section 52(3)3 is overly broad and not supportable. In the appellant's view, section 52(3)3 should be applied in a limited and specific manner in accordance with the overall purposes of the *Act*, not in the expansive and general manner proposed by the City in this case.

The appellant offers his view of the proper interpretation of the phrase "labour relations or employment related matters" as follows:

So, for the records to be excluded, they must have been prepared, used or collected in relation to meetings, consultations, discussions or communications on the subject of labour relations or employment-related matters. This means that the meetings, consultations, discussions or communications had to have been substantially concerned with labour relations or employment-related matters. It is not sufficient that the subject matter may have an incidental impact on these areas.

The logic of this is obvious. If one were to interpret this terminology broadly, a city budget meeting, for example, would be a meeting "about labour relations or employment related matters" in that decisions on spending levels affect how many employees a city has on staff.

Therefore, this must be read narrowly to mean the primary subject of the meetings, consultations, discussions or communications must have been labour relations or employment-related matters.

The appellant points out that the *Act* does not define the terms "labour relations" or "employment-related matter", and outlines what he believes to be the proper definition of these terms. He states:

Labour relations is clearly defined in the Canadian Oxford Dictionary as "the relations between management and employees". This is a specific and narrow term and deals with matters such as union contracts, arbitrations, grievances and the like.

The second term, "employment-related" is also relatively clear. Oxford (ibid) defines employment as "the act of employing or the state of being employed."

Matters that are employment-related must therefore be related to the act of employing or the state of being employed." This is labour relations up close. It refers to the specific issues related to employing people or being employed, such as what employees are paid, how they can claim expenses, how many sick days they take, what they think of their bosses, etc.

There is no indication in Bill 7, its stated purpose, in the legislature debate or anywhere else, that a much wider interpretation of employment-related was

intended, such that it could be used to exclude records – such as audits, budgets, efficiency studies, or organizational reviews – whose subject matter incidentally may affect employment.

In my view, for the 52(3)3 exclusion to apply, the meetings, consultations, discussions or communications must be about the relations between management and employees or about the act of employing or the state of being employed as I have defined it above. One of these must be the substantial subject matter.

In the case of the records in question, it is unlikely that meetings, consultations, discussions or communications about issues such as the best way to run and organize an EMS unit would be primarily about labour relations or employment-related matters. The consultant, for example, would have been asking questions related to the two key terms of reference noted above, dealing primarily with the structure of the EMS organization. The consultant's assignment was to look at overall structure, not to make specific recommendations about matters such as labour agreements, or specific individuals who should be employed.

Further, an organizational review takes place prior to any labour relations or employment-related matters emerging. Labour relations and employment only become issues when the review is put into practice. At that point there might be other meetings, consultations, discussions or communications, but the preparation or collection of the records at issue here would not have been in relation to those later meetings, consultations, discussions or communications. Almost all of the records are dated prior to the consulting firm delivering its report and therefore could not have been collected or prepared in relation to meetings that would have taken place much later. As the City has made no claim that these records were "maintained", I have not addressed that here.

...

The City has not provided evidence of any specific instance where the records in question were used in relation to any meetings, consultations, discussions or communications about labour relations or employment-related matters. It has not identified a single meeting, consultation, discussion or communication during which, or in which, or in connection with, any of the records were used.

There is a general assertion that the records were used to help change "the EMS into an effective, efficient and cohesive operating division." Besides not mentioning any specific meetings, etc. this also tends to undermine the City's position because the matters the City says the records were used for are matters of a general and broad nature related to operation of a department, matters that have only a peripheral impact on labour relations or employment and therefore do not fall within the meaning of section 52(3)3.

The appellant also points to the wording of the exception to section 52(3) in section 52(4) to support his view of how section 52(3) should be interpreted. He states:

I do not believe that there are any records that are covered by section 52(4). However, the wording of the section is important to this matter. Section 54 was added to the legislation by way of a government-sponsored amendment at the report stage on Bill 7. It was evidently added because of concerns the wording of the rest of section 52 could be interpreted to prohibit access to various management-labour contracts and to expense accounts filed by employees.

The very fact that section 52(4) addresses only matters that are directly related to labour relations or the employment of individuals is further evidence that section 52 was not intended to be used as a blanket exclusion to block access to any record that could be connected to matters that could affect the work force. If that wider application had been intended, the legislature would surely have also included city budgets, audits and other such records in the documents not affected by section 52.

The City's response

The City takes issue with the definitions proposed by the appellant, particularly the phrase "labour relations". The City states:

The City employs both union and non-union personnel. ... the phrase "labour relations" extends to all City personnel, and encompasses not only issues related to union contracts, grievances and arbitration, but also such issues as work environment, (eg: wages, salaries, job specifications), organization structure, policies and procedures, attendance and disciplinary actions. The labour relations definition of "relations between management and employees" cannot be interpreted so narrowly as to exclude labour relations issues that all of the City's employees have an interest in. Labour relations involves interaction between management and its employees, be they union or non-union.

... the phrases "labour relations" and "employment related matters" are closely tied, in that all of the issues listed in the forgoing paragraph are also related to "the act of employing or the state of being employed".

The City also points out that the consultant's mandate included an examination of all aspects of the EMS division, "...from reporting relationships, morale, policies and procedures, to specific individual job responsibilities", and submits that the breadth of the assignment and content of the report support the City's position that all of the records in this category fall within the scope of section 52(3)3.

Findings

This office has considered the application of section 52(3) to records such as organizational or operational reviews on a number of occasions. These cases have turned on the issue of whether the preparation, collection, maintenance or use of a records is "in relation to" a labour relations or employment-related matter.

In Order M-941, former Adjudicator Mumtaz Jiwan found that section 52(3)3 did not apply to a Town of Oakville report entitled "Department of Public Works Operational Review". She stated:

The Town submits that the report relates to the "short term and the long term planning for the Department... and focused on the staffing levels and staff functions" and therefore, was directly related to labour relations and employment related matters in which the Town has an interest.

I have carefully reviewed the record. While the report includes suggestions for the elimination of certain positions and the creation of others, in my view, it is primarily an organizational review of the department and contains summaries of management's areas of concerns, employees' concerns, department goals, and a summary of a survey conducted of the local residents on the efficiency of the service delivery mechanisms of the department. In my view, the report is more appropriately characterized as relating to the "efficiency and effectiveness of the operation" than to labour-relations or employment-related matters. I find, therefore, that the third requirement has not been met and section 52(3)3 does not apply.

Accordingly, I conclude that the report is subject to the *Act* and as a consequence, it falls under the jurisdiction of the Commissioner's office. Accordingly, I will proceed to consider whether any of the claimed exemptions apply.

Similarly, in Order P-1369, former Adjudicator John Higgins dealt with a report on the review of the Liquor Control Board of Ontario (LCBO) that had been conducted by the Ministry of Consumer and Commercial Relations. The Ministry had relied on the equivalent exclusionary provision to section 52(3) contained in the provincial *Freedom of Information and Protection of Privacy Act* (section 65(6)) as the basis for denying access. In rejecting the Ministry's position, he stated:

With regard to section 65(6)3, the Ministry submits that:

... the record in question was prepared by or on behalf of the Ministry in relation to meetings, consultations, discussions or communications about labour relations matters in which the Ministry has an interest. The document in question is in fact a consultation or discussion about labour relations and employment-related matters involving the LCBO.

In order to qualify under either section 65(6)2 or 3, a record must have been collected, prepared, maintained or used by or on behalf of an institution "in relation to" the subjects referred to in those sections. In Order P-1223, ... Assistant Commissioner Tom Mitchinson indicated that the collection, preparation, maintenance or use of a record must have a "fairly substantial" connection with an activity listed in sections 65(6)1, 2 or 3 in order to meet this requirement. He went on to state:

In the context of section 65(6), I am of the view that if the preparation (or collection, maintenance, or use) of a record was for the purpose of, as a result of, or substantially connected to an activity listed in sections 65(6)1, 2, or 3, it would be "in relation to" that activity.

I agree with these views of the ... Assistant Commissioner and I adopt them for the purposes of this order.

I have reviewed the record in its entirety, including the portions indicated by the Ministry in its representations as supporting its section 65(6) arguments. In my view, the purpose of the record described in the first quote from the Ministry's submissions, above (i.e. "setting the policy and direction for the future management of the LCBO"), is an accurate characterization.

Although the record may have an impact on future labour relations negotiations, I have concluded that the relationship between its contents and any such negotiations is too remote to allow me to find that the collection, preparation, maintenance or use of the record was "in relation to" the negotiations. Therefore, I find that section 65(6)2 does not apply.

Similarly, in my view, the connection between the contents of the record and "meetings, consultations, discussions or communications about labour relations or employment-related matters" is too remote to allow me to find that the collection, preparation, maintenance or use of the record was "in relation to" such meetings, consultations, discussions or communications. In addition, I am not persuaded that the record itself represents a consultation or discussion "about" labour relations or employment-related matters; rather, it is a broadly-based organizational review which touches occasionally, and in an extremely general way, on staffing and salary issues. For these reasons, I find that section 65(6)3 does not apply.

Therefore, my conclusion is that this record is subject to the *Act* and as a consequence, it falls under the jurisdiction of the Commissioner's office. Accordingly, I will proceed to consider whether any of the claimed exemptions applies.

In my view, the consulting assignment that led to the creation of most of the Category 2 records in this appeal is similar to the situation considered by former Adjudicators Jiwan and Higgins in these previous orders. I agree with the approach they took to this issue, and will apply it to my analysis of the various records at issue here.

As referenced in the quotation from Order P-1369, I examined the interpretation of the phrase “in relation to” in Order P-1223. After considerable review, I determined that if the preparation, collection, maintenance, or use of a record was for the purpose of, as a result of, or substantially connected to an activity listed in sections 65(6) (or its municipal equivalent, 52(3)), it would be “in relation to” that activity.

Although the parties in this case take differing views of the proper definition of the term “labour relations”, it is not necessary for me to resolve this issue for the purposes of this appeal. It is clear to me that there was an employment relationship between the City and its EMS manager, which satisfies the requirements of “employment-related” for the purposes of section 52(3)3, and that is sufficient.

Having reviewed the terms of reference for the consultant’s assignment, as described in the City’s representations, I find that records produced in this context were not created or prepared for “the purpose of” or “as a result of” an employment-related matter. The consultant was hired to conduct a review of the newly-established EMS organization that was put in place at the time of the amalgamation of various municipalities into the new City of Hamilton. The mandate, as described by the City, was to “review the EMS organizational structure and develop recommendations for an effective and efficient EMS operation”, not to investigate the performance of a particular employee. In this regard, it closely resembles the situation in Order M-941. The fact that a review of this nature involves organizational issues and job design is not, in my view, sufficient to alter the purpose of the review and the nature of the records produced in that context.

The question of whether any of the records stemming from the consultant’s review are “substantially connected to” an employment-related matter turns on the question of how the records were maintained or used by the City outside the primary purpose of assessing the effective and efficient operation of the EMS. In my view, if the City were able to establish that records were maintained or used in relation to a labour relations or employment-related matter, that would satisfy the “substantially connected to” component of the test, regardless of whether they were created or prepared by the consultant for this purpose.

The City states in its representations that there is ongoing litigation involving the City and its former EMS manager. It is clear from the confidential portion of the City’s representations that the nature of this litigation stems from an employment context. I accept that records created in other contexts can, at times and depending on circumstances, be maintained or used by an institution for different purposes that are sufficient to bring these records within the scope of section 52(3)3. However, with the exception of the various Category 1 records that fall within the scope of section 52(3)3, I find in this case that the City has not provided evidence necessary to establish that any specific Category 2 record created or prepared in the context of the consultant’s review was subsequently maintained or used in any employment-related context,

including the litigation identified by the City. The appellant points to this absence of evidence in his representations and, although his representations were shared with the City, no additional evidence was included in the City's reply representations.

Having carefully reviewed the representations and evidence provided by the City, I am not persuaded that any of the records created or prepared in the context of the consultant's organizational review were subsequently maintained or used for meetings, consultations, discussions or communications about labour relations or employment-related matters, including the employment-related dispute involving the City and its former EMS manager. As such, these records are not "substantially connected to" any of the activities listed in section 53(3)3, and therefore not "in relation to" them. I make the same finding with respect to Record 8 in File #2, which would appear to pre-date any identified dispute between the City and the former manager.

Accordingly, I find that the third requirement of section 52(3)3 has not been established for any of the Category 2 records at issue in this appeal.

The City did not claim any exemptions for any of the Category 2 records. Having carefully reviewed them, I find that, with 4 exceptions, no mandatory exemptions have any potential application. Accordingly, I will order the City to provide the appellant with access to these records.

The exceptions are Records 2, 3 and 4 in File #2, and 2 pages of Record 24 in File #5.

The three File #2 records are all various versions of the proposal submitted by the consultant to the City that led to the EMS organizational review assignment. It would appear that these records might contain the type of information listed in the section 10 mandatory third party commercial exemption claim, and I have decided that it would not be appropriate to determine whether these records are accessible under the *Act* without providing notice to the consultant, pursuant to section 21 of the *Act*.

Record 24 in File #5 is a 1-page agenda of an EMS team meeting, together with 25 pages of attachments. Page 3 and the top portion of page 22 of the attachments are e-mail exchanges that identify a number of individuals and makes comments about them. Based on the City's representations, it is not clear to me how this information relates to the appellant's request, other than the fact that the e-mails would appear to have been included with the agenda materials that were identified as being responsive. In any event, because page 3 and the top portion of page 22 of the attachments might contain "personal information" as described in section 2 of the *Act*, I have decided it would not be appropriate to determine whether this page is accessible without, at a minimum, obtaining representations from the City.

In addition, the following three records, which were not covered by the City's section 52(3) claim, will be addressed in my final order after the parties have been provided with an opportunity to provide representations on the various exemptions claimed by the City for these records: File #1 - Record 64(a) (sections 10 and 11); File #5 - Record 1 (section 10) and page 2 of Record 3 (section 14).

INTERIM ORDER:

1. I uphold the City's decision to deny access to the following records:

File #1 - Records 3, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 30, 33, 37, 38, 40, 41, 42, 43, 44, 45, 46, 48, 49, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62 (cover e-mail only), 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 76, 77, 78, 80, 81, 82 and 83;

File #2 - Record 5;

File #4 - Records 10a and 11; and

File #5 - Records 11 and page 3 and the top portion of page 22 of the attachments to Record 24.

2. I order the City to disclose the following records to the appellant by **June 18, 2003**:

File #1 - Records 2, 6, 7, 8, 9, 10, 11, 14, 19, 28, 29, 31, 32, 34, 35, 36, 39, 50, 62 (attachment only), 63, 64, 75 and 79;

File #2 - Records 1, 7, 8;

File #4 - Records 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10;

File #5 - Records 3 (page 1 only), 4, 5, 6, 8, 9, 10, 11a, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24(with the exception of page 3 and the top portion of page 22 of the attachments), 25, 26, 26a and 26b;

File #6 - Records 1, 2, 3, 4, 5.

3. In order to very compliance with this interim order, I reserve the right to require the City to provide me with a copy of the material disclosed to the appellant in accordance with provision 2 of this order.

Original signed by: _____

Tom Mitchinson
Assistant Commissioner

_____ May 29, 2003