



**Information and Privacy  
Commissioner/Ontario**

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

# **ORDER MO-1837**

**Appeal MA-030418-1**

**Corporation of the City of Brantford**



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## **NATURE OF THE APPEAL:**

Under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*), the City of Brantford (the City) received a request for access to a copy of the tax bill for a specified property that would show all taxes paid for 2003 (the tax bill). The requested record contains the municipal address of the property, the names of the property owners, the legal description of the property, the owner's mortgage company and mortgage reference number, the amount of municipal tax levied and the amount of taxes due.

In its initial decision the City advised the individual that the information that was sought would be contained in a tax certificate. The City explained that tax certificates could be purchased by members of the public and denied access under section 15(a) of the *Act* (information available to the public). The requester (now the appellant) appealed the City's decision.

During mediation, the appellant explained that she was seeking the actual tax bill for the property. Also during mediation the City issued a supplementary decision in which it indicated that it could not provide a copy of the tax bill to the appellant because she was not the registered owner of the property in question. The supplementary decision indicated that access to the tax bill was denied under section 14(1) of the *Act* (personal privacy) with particular reference to sections 14(1)(f) and 14(3)(f).

Further mediation was not possible and the matter moved to the adjudication stage. This office sent a Notice of Inquiry to the City, initially, seeking representations on the issues in the appeal. The City provided representations. This office then sent the Notice of Inquiry to the appellant, together with the City's representations. The appellant provided representations in response to the Notice.

## **RECORD:**

As clarified by the appellant during mediation, the record at issue is the tax bill for the specified property.

## **DISCUSSION:**

### **PERSONAL INFORMATION**

Under section 2(1) of the *Act*, "personal information" is defined to mean "recorded information about an identifiable individual." It can include 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 (section 2(1)(h)).

In its representations the City submits that the information contained in the tax bill is personal information and relates to the present owners of the specified property and not the requester, or their family.

The appellant's representations consist of a document that appears to be a form of an affidavit with multiple handwritten notations thereon. In her representations the appellant asserts that:

1. The appellant is the legal representative for the Plaintiff in a civil action.
2. A chartered Bank registered a charge upon the specified property.
3. A Power of Sale proceeding took place and the specified property was lost.
4. The appellant takes issue with the Power of Sale proceedings and the current ownership of the specified property.

In Privacy Complaint Report MC-010006-1, the complainant, who was alleged to be in arrears of taxes, asserted that her personal information had been improperly disclosed when a Final Notice of Registration of Tax Arrears Certificate and a Tax Arrears Certificate – Document General had been sent out to 13 addressees. The report summarized previous decisions of this office regarding when information is “personal” and when it is merely about a property and concluded that information about the status of an identifiable individual's property taxes was personal information, stating:

I am satisfied that the information contained in the Notice of Registration of Tax Arrears does reveal financial information of the complainant ... I am satisfied this information, which is about the complainant personally, meets the definition of personal information as defined in paragraph (h) of in (sic) the Act.

I agree with the analysis found in Privacy Complaint Report MC-010006-1, and find that the tax bill contains personal information under the definition in section 2(1) of the *Act*, and in particular paragraph (h) of the definition. I find that the personal information relates only to individuals other than the appellant. The tax bill does not contain the appellant's personal information.

## **PERSONAL PRIVACY**

Section 14(1) of the *Act* prohibits an institution from disclosing personal information to any person other than the individual to whom the information relates, unless one of the exemptions in paragraphs (a) through (f) of section 14(1) applies.

In the circumstances of this appeal, it appears that the only exception that could be relevant is paragraph (f), which applies “if the disclosure does 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 where disclosure is

presumed to constitute an unjustified invasion of personal privacy. Section 14(4) refers to certain types of information where 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 14(2) [Order P-1456, citing *John Doe v. Ontario (Information and Privacy Commissioner)* (1993), 13 O.R. (3d) 767].

The Divisional Court has also stated that the only way in which a section 14(3) presumption can be overcome is if the personal information at issue falls under section 14(4) of the *Act*, or where 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 relies on section 14(2)(h) and the presumptions in sections 14(3)(e) and (f). The appellant's representations refer to a civil action, suggesting that section 14(2)(d) may be relevant. These sections state:

- (2) A head, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, shall consider all the relevant circumstances, including whether,
  - (d) the personal information is relevant to a fair determination of rights affecting the person who made the request;
  - (h) the personal information has been supplied by the individual to whom the information relates in confidence.
- (3) A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy if the personal information,
  - (e) was obtained on a tax return or gathered for the purpose of collecting a tax;
  - (f) describes an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness.

With respect to sections 14(3)(e) and (f) of the *Act*, the City submits that the personal information in the tax bill was gathered for the purpose of collecting a tax and states that the information requested discloses the name of the affected individuals' bank, the bank reference number relating to their mortgage, the amount of their current taxes and any special charges/credits and the Tax Department stamp showing the taxes are paid to date. The City adds that it collects this information for tax billing purposes by authority of the *Municipal Act 2001*, S.O. 2001, c.25 (the "*Municipal Act 2001*").

As set out in section 343(1) of the *Municipal Act 2001*, a tax bill is to be sent to every taxpayer at least 21 days before any taxes shown on the tax bill are due. Section 343(2) of the *Municipal Act 2001* provides that a tax bill is to contain the following information:

1. The name of the taxpayer;
2. The assessment roll number of the property;
3. A description of the property sufficient to identify it;
4. The assessed value of the property;
5. The total amount of taxes payable;
6. The amounts of the new taxes required to be shown separately on the tax roll unless the bill is for an interim tax;
7. The amount of any taxes previously billed for the year, including any accrued late payment charges;
8. The date or dates on which the taxes are due and any alternative schedule of due dates;
9. The place or places where the taxes may be paid;
10. The late payment charges which will be imposed on overdue taxes;
11. The discount which will be given for taxes paid in advance; and
12. If portions of the property are in two or more property classes, the matters set out in numbers (4), (5), (6) and (7) for each portion.

In light of what is required to be maintained by the City in the assessment roll under section 14(1) of the *Assessment Act*, R.S.O. 1990, c. A.31, I find that the contents of the tax bill were gathered for the purposes of collecting a tax, and therefore fall within the presumption at section 14(3)(e) of the *Act*.

As noted previously, a factor or combination of factors under section 14(2) cannot rebut a presumed unjustified invasion of privacy under section 14(3). Therefore, even if I found that the factor at section 14(2)(d) applied, it would not negate the application of the presumed unjustified invasion of privacy at section 14(3)(e).

The information in the tax bill is not information described in section 14(4). No submissions were made with respect to the application of section 16 of the *Act*. In the absence of submissions on the point, based on the record before me, I am not satisfied that on the facts of this case that a compelling public interest exists in the disclosure of the record which clearly outweighs the purpose of the section 14 exemption.

I therefore find that disclosure of the tax bill would be an unjustified invasion of privacy, and it is exempt under section 14(1) of the *Act*.

**ORDER:**

I uphold the City's decision not to disclose the tax bill.

Original signed by: \_\_\_\_\_  
Steven J. Faughnan  
Adjudicator

\_\_\_\_\_ September 27, 2004