



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

ORDER MO-1776

Appeal MA-020233-2

City of London



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NATURE OF THE APPEAL:

The requester (now the appellant) made a request to the City of London (the City) under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for access to, among other records, a termination agreement relating to a specified employee.

The City responded by claiming that the *Act* does not apply to the termination agreement due to the application of section 52(3), which excludes certain employment related records.

The appellant appealed the decision.

In a recent appeal involving the same parties (Order MO-1731) I dealt with a termination agreement and release between the City and another employee. In that case I found that the record was not excluded from the *Act* under section 52(3), since the exception under section 52(4)3 applied. Accordingly, I ordered the City to issue a new decision letter in accordance with the provisions of the *Act*.

With respect to this appeal, I first sought representations from the City, and I invited the City to comment on the relevance of Order MO-1731 to the termination agreement at issue in this appeal.

After reviewing representations received from the City I decided that it was not necessary to seek representations from the appellant.

RECORD:

There is one record at issue, the termination agreement and release between the City and a named employee.

DISCUSSION:

LABOUR RELATIONS AND EMPLOYMENT RECORDS

Introduction

As with the appeal involving Order MO-1731, the City has taken the position that section 52(3) applies to the records. And, as in Order MO-1731, it would appear that the City is relying upon section 52(3)1 and/or 3. If section 52(3)1 or 3 applies to the record, and none of the exceptions found in section 52(4) applies, section 52(3)1 or 3 has the effect of excluding the record from the scope of the *Act*.

Section 52(4)3 states:

This Act applies to the following records:

An agreement between an institution and one or more employees resulting from negotiations about employment-related matters between the institution and the employee or employees.

As stated above, in Order MO-1731, I found that a termination agreement and release between the City and a named individual falls into the exception under section 52(4)3.

The City submits that it concurs with my decision in Order MO-1731, and that section 52(4)3 applies to the record at issue in this appeal.

Due to the similar nature of the termination agreement and release in Order MO-1731 and the termination agreement and release in this case, I have no difficulty finding that section 52(4)3 applies to bring the record at issue in this appeal within the scope of the *Act*.

As in Order MO-1731, I will order the City to issue a new decision letter in respect of the record at issue in this appeal. I will request that the City issue its decision letter on an expedited basis since it is apparent from the City's representations that it has already turned its mind to the formulation of its decision.

ORDER:

I order the City to issue a new decision letter in respect of the record at issue in accordance with the *Act* no later than **April 22, 2004** and to provide me with a copy of it.

Original Signed by
Bernard Morrow
Adjudicator

April 8, 2004