



**Information and Privacy
Commissioner/Ontario**

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

ORDER MO-2053

Appeal MA-050150-1

County of Lambton



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NATURE OF THE APPEAL:

The County of Lambton (the County) received a six-part request under the *Municipal Freedom of Information Act and Protection of Privacy* (the *Act*) for all septic system applications and permits received and issued by the County from July 1, 2002 to February 28, 2005. With respect to a particular property, the requester also asked for photographs with related information, documents pertaining to soil tests and percolation test results, all geological and soil reports relating to a land-fill located across the road from the property, as well as the current contact information for all inspectors and County staff who inspected the particular property.

In response to the request, the County granted access to information relating to geological and soil reports pertaining to the land-fill located across from the particular property. The County denied access to the remaining information on the basis that sections 8(2)(a) (law enforcement), 10(1) (third party information) and 14(1) (invasion of privacy) of the *Act* apply. In addition, the County refused to confirm or deny the existence of some information under section 14(5) of the *Act* and denied access to some of the information on the basis that portions of the request are frivolous or vexatious.

The requester appealed the County's decision.

During mediation, the County amended its decision so that access was granted to the information sought, with the exception of contact information for former County employees, to which section 14(1) of the *Act* was applied to deny access. The County's amended decision no longer relied on sections 8(2)(a), 10(1) and 14(5), and dropped the claim that the request was frivolous or vexatious. The County also identified that fees would apply.

The County subsequently clarified that it is also applying the exemption found in section 14(1) to deny access to names, addresses and telephone numbers of the applicants found in the applications and permits. Section 14(1) would be applied to names, addresses and telephone numbers of natural persons, but not to those of corporate entities. The County issued another decision to reflect this.

The County and the appellant arranged for the appellant to view the records to which access had been granted.

After viewing the records, the appellant informed the mediator that the sole issue remaining in the appeal is the denial of access to the locations of the septic systems as found in the septic system applications. The appellant is not seeking access to the names of applicants who are private individuals. The mediator confirmed with the appellant that the information remaining at issue consists of the following:

The addresses of the locations of the septic systems as found in the septic system applications submitted by private individuals, and to which access has been denied under section 14(1) of the *Act*.

The appellant took the position that some of the locations of septic systems as described in the applications may not be the same as the home address of the applicants.

Mediation did not resolve the appeal, which proceeded to the adjudication stage. I sent a Notice of Inquiry to the County, inviting representations. The County responded with representations. I then sent a Notice of Inquiry to the appellant, enclosing the non-confidential parts of the County's representations and inviting representations from the appellant. The appellant informed me that he had nothing to add to the information he had provided earlier in the appeal process.

RECORDS:

The record remaining at issue is the addresses of the locations of the septic systems as found in the septic system applications submitted to the County by private individuals dated from July 1, 2002 to February 28, 2005, to which access has been denied under section 14(1) of the *Act*. The County provided this office with a 13-page spread sheet containing the responsive information.

DISCUSSION:

PERSONAL INFORMATION

In order to determine which sections of the *Act* may apply, it is necessary to decide whether the record contains "personal information" and, if so, to whom it relates. That term is defined in section 2(1) as follows:

"personal information" means 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,
- (c) any identifying number, symbol or other particular assigned to the individual,
- (d) the address, telephone number, fingerprints or blood type of the individual,
- (e) the personal opinions or views of the individual except where they relate to another individual,

- (f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence,
- (g) the views or opinions of another individual about the individual, and
- (h) 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;

The list of examples of personal information under section 2(1) is not exhaustive. Therefore, information that does not fall under paragraphs (a) to (h) may still qualify as personal information [Order 11].

To qualify as personal information, the information must be about the individual in a personal capacity. As a general rule, information associated with an individual in a professional, official or business capacity will not be considered to be "about" the individual [Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F, PO-2225].

Even if information relates to an individual in a professional, official or business capacity, it may still qualify as personal information if the information reveals something of a personal nature about the individual [Orders P-1409, R-980015, PO-2225].

As noted previously, the information at issue in this appeal is the "location", or municipal address, of properties for which septic system applications have been filed during the identified period of time. This raises the question of whether the information is about an "identifiable individual" (qualifying it as personal information) or information about a property (see Order 23).

In its brief representations, the County states:

1. The personal information in this case is not described in clauses (a) to (h) of [the definition of personal information in] Section 2(1).
2. A septic system is a service system appurtenant to a dwelling, even though it is located outside the four walls of the dwelling.
3. The existence and location of a service system for a dwelling is a private matter. By disclosing the property location listed on any application, it is inevitable that personal information: namely the address of the applicant will be released.

I have carefully reviewed the records and considered the representations provided to me. For the reasons that follow, I have concluded that the municipal addresses of properties for which septic system applications have been submitted is not "personal information" as defined in section 2(1) of the *Act*. Rather, this is information about a property.

The distinction between "personal information" and information concerning residential properties was first addressed by Commissioner Sidney B. Linden in Order 23. The Commissioner made the following findings, which have been applied in a number of subsequent orders of this office (e.g. Orders MO-188, MO-189, PO-1847):

In considering whether or not particular information qualifies as "personal information" I must also consider the introductory wording of subsection 2(1) of the *Act*, which defines "personal information" as "...any recorded information about an identifiable individual...". In my view, the operative word in this definition is "about". The *Concise Oxford Dictionary* defines "about" as "in connection with or on the subject of". Is the information in question, i.e. the municipal location of a property and its estimated market value, **about** an identifiable individual? In my view, the answer is "no"; the information is **about a property** and not **about an identifiable individual**.

The institution's argument that the requested information becomes personal information about an identifiable individual with the addition of the names of the owners of the property would appear to raise the potential application of subparagraph (h) of the definition of "personal information".

Subparagraph (h) provides that an individual's name becomes "personal information" where it "...appears with other personal information **relating to the individual** or where the disclosure of the name would reveal other information **about the individual**" (emphasis added). In the circumstances of these appeals, it should be emphasized that the appellants did not ask for the names of property owners, and the release of these names was never at issue. However, even if the names were otherwise determined and added to the requested information, in my view, the individual's name could not be said to "appear with other personal information relating to the individual" or "reveal other personal information about the individual", and therefore subparagraph (h) would not apply in the circumstances of these appeals. [emphasis in original]

Subsequent orders have further examined the distinction between information about residential properties and "personal information". Several orders have found that the name and address of an individual property owner together with either the appraised value or the purchase price paid for the property are personal information (Orders MO-1392 and PO-1786-I). Similarly, the names and addresses of individuals whose property taxes are in arrears were found to be personal information in Order M-800. The names and home addresses of individual property owners applying for building permits were also found to be personal information in Order M-138. In addition, Order M-176 and Investigation Report I94-079-M found that information about

individuals alleged to have committed infractions against property standards by-laws was personal information. In my view, the common thread in all these orders is that the information reveals something of a personal nature about an individual or individuals.

The information at issue in this case bears a much closer resemblance to information which past orders have found to be about a property and not about an identifiable individual. For example, in Order M-138, the names and home addresses of individual property owners who had applied for building permits were found to be personal information, but the institution in that case did not claim that the property addresses themselves were personal information, and the addresses were disclosed. In Order M-188, the fact that certain properties owned by individuals were under consideration as possible landfill sites was found not to be personal information. Similarly, in Order PO-2322, former Assistant Commissioner Tom Mitchinson found that water analysis and test results concerning an identified property were information about the property, not personal information.

The record at issue in this case contains several fields, and those which contain responsive information are the fifth and sixth columns titled "street no" and "street name". This information is analogous to what was at issue in Orders M-188 and PO-2322, and I find that it is "about" the properties in question and not "about" an identifiable individual. As such, it falls outside the scope of the definition of "personal information" in section 2(1) of the *Act*. Because only "personal information" can qualify for exemption under section 14(1), this exemption has no application in the circumstances of this appeal.

As no other exemptions have been claimed, I will order the responsive information disclosed.

ORDER:

1. I order the County to disclose columns five and six of the record to the appellant by sending a copy to the appellant no later than **May 31, 2006**.
2. To verify compliance with this order, I reserve the right to require the County to provide me with a copy of the record disclosed to the appellant upon request.

Original signed by: _____
John Higgins
Senior Adjudicator

_____ May 9, 2006