



**Information and Privacy
Commissioner/Ontario**

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

ORDER MO-2234

Appeal MA-040390-1

City of Mississauga



Tribunal Services Department
2 Bloor Street East
Suite 1400
Toronto, Ontario
Canada M4W 1A8

Services de tribunal administratif
2, rue Bloor Est
Bureau 1400
Toronto (Ontario)
Canada M4W 1A8

Tel: 416-326-3333
1-800-387-0073
Fax/Téloc: 416-325-9188
TTY: 416-325-7539
<http://www.ipc.on.ca>

NATURE OF THE APPEAL:

Background Information

The City of Mississauga (the City) received two requests under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for access to information relating to a Taxicab Owner's Priority Waiting List maintained by the City. Both requests were filed by the same individual.

At the time of these two access requests, the City regulated the drivers, owners and brokers of taxicabs according to the provisions of By-law 142-89 (Public Vehicle Licensing).

Section 10 of this by-law limits the number of taxicab owner's licences that may be issued by Mississauga City Council. Consequently, the by-law also provides for a waiting list for the issuance of additional owner's licences, which is known as the Taxicab Owner's Priority Waiting List (the priority list).

Under section 69(1) of the by-law, when a completed application that meets all requirements for a taxicab owner's licence is received by the City's Licencing Section, the Licence Manager is required to place the applicant's name on the priority list if a licence cannot be issued at that time because of the limitation on the number of licences set out in section 10.

The names of the applicants on the priority list are set out in chronological order based on the date and time that an individual's application was received by the Licencing Section, although individuals may be removed from the list for various reasons. City Council uses the priority list to issue any additional taxicab owner's licences that become available, starting with the individual at the top of the list.

Section 69(5) of the by-law requires that the priority list be made available for inspection during normal business hours at the office of the Licencing Section. Consequently, the names of the individuals on the priority list and their standing on this list are publicly available.

In 2004, the City repealed By-law 142-89 and replaced it with a new Public Vehicle Licencing by-law (By-law 420-04). The updated rules governing the priority list are found in this new by-law. However, the two access requests were filed while the former by-law was in effect (By-law 142-89) and refer to specific provisions of it. Consequently, this order will refer primarily to the former by-law but will also refer to the updated by-law, where necessary.

Access Requests

The requester filed two broad, multi-part requests for information relating to the priority list.

Request #1 (Schedule A)

The first request, which has ten parts, is contained in a "Schedule A" that the requester appended to the request form filed with the City. Schedule A states the following:

The records requested are relating to the first forty two people listed on the priority list as set out under THE PUBLIC VEHICLE LICENSING BY-LAW 142-89, provisions 69, 70 and Schedule 5.

1. Application of the applicant at the time they were added on the priority list.
2. Any and all statutory declarations the person has made directly or indirectly related to the priority list.
3. Copies of Taxicab driver's licences to check the renewal dates or other licences if they are on the list as other than drivers.
4. Name of any applicant who has been listed on the priority list as other than a driver be identified, including the justification for their name appearing on the priority list.
5. All fleet owners – list the plate numbers they have actively managed over the term their name has remained on the priority list under this category and/or any other category.
6. Any and all notices by any persons on the list that have invoked subsections 4(1) and 4(2) of SCHEDULE 5 TO BY-LAW 142-89.
7. Any communication between City of Mississauga and the people listed on the priority list that is directly and indirectly related to the priority list in any format, written, verbal, or electronic. This includes notices for production of proof their being in compliance with the provisions to remain on the priority list.
8. All lists of drivers that brokers have submitted listing any of the names on the priority list.
9. Any and all information on those applicants on the list with appeals or medicals, including appeal hearing transcripts or minutes and any and all records related directly or indirectly to these applicants on the list.
10. Dates of reviews done on all of these applicants since they have been on the priority list and any communication done after such reviews, including any reports of the review of the individual applicants.

In light of the fact that the applicants will have their names made public for objections to them receiving relatively free Mississauga Taxicabs, I submit that in the release of above information there is a compelling public interest in disclosure, which clearly outweighs any objections.

Request #2 (Schedule B)

The second request, which has eight parts, is contained in a “Schedule B” that the requester appended to the request form filed with the City. Schedule B states the following:

This request relates to the priority list as under THE PUBLIC VEHICLE LICENSING BY-LAW 142-89, provisions 69, 70 and Schedule 5.

1. I am requesting [a] job description or any document that could be considered as outlining the responsibilities of the licensing manager in charge of enforcing Bylaw 142-89 and the provisions under it relating to the priority list.
2. The names and any documents listing the job description or any document listing the responsibilities of any person under the licensing manager that administers, updates, or is generally responsible for the maintenance of the priority list.
3. Any documentation listing the amount of time spent on the maintenance of the priority list. Including the performance reviews of the Licensing Manager and any subordinates that deal directly or indirectly with the priority list.
4. Any documentation generated by any city of Mississauga employee with respect to the review of the priority list and the eligibility of the applicants on the priority list as set out under the By-Law 142-89 and any previous versions of this By-law.
5. Any documentation or communication related to any applicant's status to remain on the priority list. In particular any exemptions or discretionary decisions made by any employee of the city not provisioned for by the current and any previous By-Laws.
6. Any documents that deal with discretionary decisions made in respect of the provisions in the By-laws dealing with priority list for the first forty one applicants on the list. Including decisions made by any staff or committee of the city of Mississauga.
7. Any policies, standards, or regulations that the city of Mississauga has with respect to the priority list not listed in the By-law.
8. A list of any gifts or items or services, which have any monetary value, received by the licensing manager or any subordinate from the current forty one applicants listed on the priority list, directly or indirectly. This

includes, but is not limited to, Christmas gifts, gifts for the office where employees work who maintain the priority list and any services performed by any of the applicants for the above mentioned employees of the City.

The request for the release of information is limited to the period from December 1, 1984 to date of final settlement of this request.

In light of [the fact that the] City of Mississauga will be issuing Taxicabs that are currently valued in excess of approximately \$180,000 relatively free to applicants on the priority list, I submit that in the disclosure of the above information there is a compelling public interest, which clearly outweighs any objections.

The City's decision

The City responded to both requests in one decision letter. The City issued a final access decision and a fee estimate for part of the requested information; as well as an interim access decision and fee estimate for the remainder of the requested information.

Final access decision and fee estimate

The City issued a final access decision and fee estimate in relation to records responsive to the following items described in the requests:

Schedule	Items	Total Fee Estimate
A	1,2,3,4,5,9	\$1654.00
B	1,2,3	\$0.40

The City provided the requester with separate indexes of records for the items listed in both Schedule A (Index 1) and Schedule B (Index 2) for which it made a final access decision. These indexes provide a general description of the records identified by the City as responsive to each item in the requester's schedules; the number of pages that exist for each requested item of records; whether access is granted to these records; the exemptions claimed by the City for those records to which access is denied, either in whole or in part; and a breakdown of the fee estimate for providing access (search time, severing time, number of photocopies).

The City granted the requester full access to some of the requested records and partial access to others. It denied the requester access to a large portion of the requested information pursuant to the mandatory exemption in section 14(1) (personal privacy) of the *Act*, in conjunction with the presumptions in section 14(3), which lists situations in which the disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy.

In addition, the City advised the requester that no documents exist with respect to some of the information he requested in item 3 of "Schedule B".

Interim access decision and fee estimate

The City issued an interim access decision and fee estimate in relation to records responsive to the following items described in the requests:

Schedule	Items	Total Fee Estimate
A	6,7,8,10	\$864.00
B	4,5,6,7,8	\$4197.90

The City based its interim decision on a review of a representative sample of the records.

The City provided the requester with separate indexes of records for the listed items in both Schedules A (Index 3) and B (Index 4). These indexes provide the same information as Indexes 1 and 2, but rather than stating whether access is granted, they provide an estimate of the degree of access that would be provided to such records (e.g., “very limited access – 10%”).

Based on its review of a representative sample of the records, the City estimated that full access would likely be granted to some records, partial access would likely be given to other records, and access would likely be denied in full to some records. The City stated that where access is likely to be denied, this would be pursuant to the discretionary exemption in section 12 (solicitor-client privilege) and the mandatory exemption in section 14(1) (personal privacy), in conjunction with the presumptions in section 14(3) of the *Act*. In addition, the City informed the requester that no records exist with respect to items 7 and 8 of Schedule B.

Finally, the City advised the requester that “to complete the request in its entirety,” the time for responding to the request would be extended pursuant to section 20 of the *Act* for an additional 90 days from the requester’s written acceptance of the fee estimates and payment of the fee deposits.

Fee waiver request

After receiving the City’s decision letter, the requester submitted a request for a fee waiver pursuant to section 45(4) of the *Act*. The requester claimed payment of the fees would cause him financial hardship, and he submitted financial information in support of his request. In addition, the requester questioned the reasonableness of the fee estimates. He also indicated a willingness to combine the two requests to bring down the cost and to “narrow the request to the most essential information.”

The requester met with the City’s Freedom of Information Coordinator and agreed to narrow the scope of his request. Specifically, the requester narrowed the scope of his request with respect to the documents listed in item 2 of Schedule A and item 6 of Schedule B. The requester also eliminated his request for information relating to item 5 of Schedule B.

After considering the financial information provided by the requester and the narrowed scope of the revised request, the City issued a revised fee estimate. In addition, the City agreed to waive 50% of the fees and provided the requester with the following summary of the revised fee estimates:

Index	Access Decision	Total Fee Estimate	Fee with 50% Waiver	50% Deposit Required to Proceed with Request
1 (Schedule A)	Final	\$415.50	\$207.79	\$103.89
2 (Schedule B)	Final	\$0.40	\$0.00	\$0.00
3 (Schedule A)	Interim	\$819.00	\$409.50	\$204.75
4 (Schedule B)	Interim	\$356.90	\$178.45	\$89.22
		\$1591.80	\$795.74	\$397.86

The City also prepared new indexes of records for each of the schedules that are based on the revised requests. These revised indexes are attached to this order as Appendix B.

Appeal

The requester (now the appellant) appealed the City's access, fee estimate and fee waiver decisions to the Commissioner's office.

This office appointed a mediator to assist the parties in resolving the issues in this appeal. The mediator advised the appellant that where the City has issued a final access decision with respect to specific records, the question of whether the section 14(1) exemption applies to the severed information in those records can be addressed as an issue in this appeal.

The mediator further explained that the Commissioner's office cannot review the interim access decisions made by the City. Interim access decisions are not binding on an institution and therefore cannot be appealed to the Commissioner [Order 81]. The City's interim fee estimates are not based on a review of all of the requested records. As a result, the exemptions cited in the City's interim access decision cannot be raised as issues before the Commissioner's office until the City has issued a final access decision (following its receipt of the requested fee deposit from the appellant).

Consequently, the application of the exemption in section 12 (solicitor-client privilege), which was raised only with respect to records for which an interim decision was made, is not at issue.

In addition, whether the section 14(1) exemption (personal privacy) applies to records for which an interim decision has been made cannot be appealed to the Commissioner's office until the City makes a final decision regarding access to those records.

Moreover, the appellant confirmed during mediation that he is raising the issue of whether there is a compelling public interest in disclosure of the requested records that overrides the application of certain exemptions. As a result, the application of section 16 of the *Act* (the public interest override) is an issue in this appeal but only with respect to those records for which the City has made a final access decision.

With respect to its search for records, the City advised the appellant that some of the records he is seeking do not exist. However, the appellant submits that records should exist with respect to item 8 of Schedule B and that additional records should exist with respect to item 3 of Schedule B. As a result, whether the City has conducted a reasonable search for these records, as required by section 17 of the *Act*, is an issue in this appeal.

Finally, the appellant sent a fax to the mediator stating that he wishes to appeal the time extension claimed by City under section 20 of the *Act*. Consequently, the 90-day time extension claimed by the City for responding to the appellant's request is an issue in this appeal.

This appeal was not resolved in mediation and was moved to adjudication. This office started its inquiry by sending a Notice of Inquiry, setting out the facts and issues, to the City, which submitted representations in response.

The same Notice of Inquiry was then sent to the appellant, along with the complete representations of the City. The appellant submitted representations in response but asked that small portions of his representations be withheld from the City.

This office then sent a letter to the City, along with a severed version of the appellant's representations. The letter invited the City to respond to the appellant's representations. In response, the City submitted representations by way of reply.

RECORDS:

The records at issue in this appeal, which contain voluminous amounts of information, are summarized in the revised indexes of records that the City prepared after the appellant agreed to revise portions of his two requests. These indexes (1, 2, 3, and 4) are attached to this order as Appendix B.

DISCUSSION:

SUMMARY OF ISSUES

There are seven issues in this complex appeal:

- whether the information that the City has decided to sever from the records for which it has issued a final access decision is “personal information,” as that term is defined in section 2(1) of the *Act*;
- if this severed information is “personal information,” whether disclosure of this information would constitute an unjustified invasion of personal privacy pursuant to the exemption in section 14(1) of the *Act*;
- if the severed information is exempt from disclosure under section 14(1), whether there is a compelling public interest in disclosure that overrides the purpose of the exemption (the public interest override in section 16 of the *Act*);
- whether the City conducted a reasonable search for the requested records;
- whether the City’s fee estimate for both its final and interim access decisions on the requested records should be upheld;
- whether the City’s decision to grant a 50% fee waiver should be upheld or whether a further fee waiver should be granted; and
- whether the 90-day time extension claimed by the City for responding to the appellant’s request should be upheld.

PERSONAL INFORMATION

In order to determine which sections of the *Act* may apply, it is necessary to decide whether the records contain “personal information” and, if so, to whom it relates.

The only records at issue in this appeal are those for which the City has made a final access decision.

With respect to the list of requested records in Schedule A, the City issued a final access decision for items 1, 2, 3, 4, 5 and 9. The City has decided to sever information relating to taxi drivers from these records pursuant to the personal privacy exemption in section 14(1) of the *Act*.

With respect to Schedule B, the City issued a final access decision for items 1, 2 and 3. The City decided to disclose records responsive to items 1 and 2 to the appellant. However, it also decided to withhold records responsive to item 3, pursuant to the personal privacy exemption in section 14(1) of the *Act*. The records responsive to item 3 contain information relating to City staff.

The section 14(1) exemption only applies to “personal information.” In order to determine whether this exemption applies to the information at issue relating to taxi drivers and City staff,

it must first be determined whether this information is “personal information,” as that term is defined in section 2(1) of the *Act*:

“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].

Summary of the parties' representations

In its representations, the City concedes that the name of a taxi driver alone is information about that individual in his or her business capacity. However, it submits that the name of a taxi driver together with certain other personal information in the records "reveals something of a personal nature" about that individual.

In his representations, the appellant states that he is not seeking personal information, such as the addresses, home telephone numbers, postal codes, provincial driver's licence numbers, dates of birth, heights or weights of taxi drivers on the priority list.

The appellant further states that he is only interested in accessing information about individuals "in their business capacity as licenced taxi drivers":

It is because they are licenced that the applicants are on the priority list. Thus, the list itself and information relating to it is in a business capacity. The applicants are not on the list to receive kidney or heart transplants, they are on list because they operate or work in particular business. Therefore, it is difficult to understand how the City can claim it is of a personal nature.

The appellant further submits that the information relating to the taxi drivers that the City has decided to withhold is business information, not personal information:

The records as they pertain to the employment of the individual are in fact business records of the individuals. Taxicab drivers are not employed by anyone as such, as least not in Mississauga, as far as I am aware. They are in fact operating a business. They do not get paid per hour or a salary, they are paid based upon their sales less their costs. The information they provide ... is business information.

Analysis and findings

Schedule A – Information relating to taxi drivers

In determining whether information relating to an individual is "personal information," the appropriate approach is to look at the *capacity* in which the individual is acting and the *context* in which their name appears. This was enunciated in Order PO-2225, in which former Assistant Commissioner Tom Mitchinson considered the definition of "personal information" and the distinction between information about an individual acting in a business capacity as opposed to a

personal capacity. Assistant Commissioner Mitchinson posed two questions that help to illuminate this distinction:

... the first question to ask in a case such as this is: "*in what context do the names of the individuals appear*"? Is it a context that is inherently personal, or is it one such as a business, professional or official government context that is removed from the personal sphere?

....
The analysis does not end here. I must go on to ask: "*is there something about the particular information at issue that, if disclosed, would reveal something of a personal nature about the individual*"? Even if the information appears in a business context, would its disclosure reveal something that is inherently personal in nature?

The requested records in Schedule A relate to the first 42 people listed on the priority list, who are mainly taxi drivers. The Commissioner's office has issued two recent orders that address whether information relating to taxi drivers is personal information or business information.

In Order MO-1858, the appellant was seeking access to the name of the owner of a specified taxicab licensed by the City of Toronto. Adjudicator Donald Hale found that the reasoning contained in Order PO-2225 sets out the most recent interpretation by the Commissioner's office about the personal information/business information distinction. As a result, he adopted the two-step approach set out by former Assistant Commissioner Mitchinson in that decision.

With respect to whether to the first question posed in Order PO-2225, ("*In what context do the names of the individuals appear?*"), Adjudicator Hale found that a taxicab owner is engaged in a profit-motivated business activity:

The holder of a taxicab license has also made a business arrangement in order to realize income and/or capital appreciation in the asset, the license, that he or she owns. Again, income and expenses incurred in the operation of that license fall within the provisions of the *Income Tax Act* as well. I find that, for the purposes of the first part of the test set forth in Order PO-2225, the taxicab license holder is carrying on a business activity.

With respect to whether to the second question posed in Order PO-2225 ("*Is there something about the particular information at issue that, if disclosed, would reveal something of a personal nature about the individual?*"), Adjudicator Hale found that there is nothing inherently personal about the holding of a taxicab licence that would allow the information to "cross over" into the personal realm:

The holding of a taxicab license is not something that relates to the individual's "personal life" but rather is concerned with his or her business activities. As a result, I find that in the circumstances of this appeal, it does not qualify as

information that is inherently personal for the purposes of the test outlined in Order PO-2225.

Consequently, Adjudicator Hale concluded that the name of the taxicab licence owner was about an individual in a business rather than a personal capacity, and it did not qualify as “personal information,” as that term is defined in section 2(1) of the *Act*.

Similarly, in Order MO-1862, Adjudicator Bernard Morrow followed the reasoning in Order MO-1858 and found that the name of the registered licence holder of a specified taxicab did not qualify as “personal information,” as that term is defined in section 2(1) of the *Act*.

I agree with the reasoning in Orders MO-1858 and MO-1862. In my view, the information relating to taxi drivers in the records at issue appears in a business context, for the following reasons.

The information at issue relates to taxi drivers on the priority list, which is a waiting list for the issuance of additional taxicab owner’s licences. The applicants are primarily individuals who are licenced to drive cabs but do not own cabs and must often lease them from individuals who have taxicab owner licences.

I agree with the appellant that these individuals are acting primarily in a business capacity, rather than a personal capacity. Taxicab drivers generate income by charging passengers fares for transporting them between various destinations, which is a business transaction. Drivers who apply to be on the waiting list do so because they can presumably generate greater revenues if they obtain a licence to own their own cabs. Consequently, I find that the information relating to taxi drivers in the records in Schedule A appears in a business, not a personal, context.

However, that is not the end of the analysis in determining whether the information relating to taxi drivers in the records at issue is personal information or business information. In accordance with the approach in order PO-2225, I must go on to ask: *Is there something about the particular information at issue that, if disclosed, would reveal something of a personal nature about the individual? Even if the information appears in a business context, would its disclosure reveal something that is inherently personal in nature?*

These latter questions can only be answered by scrutinizing the information in the records relating to taxi drivers that the City has decided to withhold pursuant to the personal privacy exemption in section 14(1) of the *Act*. With respect to the list of requested records in Schedule A, the City issued a final access decision for items 1, 2, 3, 4, 5 and 9. Collectively, these records contain a large amount of information relating to taxi drivers.

Item 1—Priority list applications

The appellant is seeking the priority list application filed by each of the 42 taxi drivers. The City decided to withhold all of the applications in their entirety pursuant to the personal privacy exemption in section 14(1) of the *Act*.

Each application includes the following information relating to the taxi driver who filed the application:

- name of applicant;
- applicant's number on priority list;
- date and time application was received;
- applicant's present job (taxicab owner operator, taxicab driver, taxicab fleet manager or taxicab dispatcher);
- applicant's taxicab employment during previous year;
- applicant's employment other than in taxicab industry;
- applicant's signature;
- copy of the taxicab driver's licence attached to application (includes licence number, name, address, age, phone number, provincial driver's licence number, employer, date of issue, date of expiry)

In my view, the following information in the application form is business information about a taxi driver: the name of the applicant; the applicant's number on the priority list; the date and time the application was received; and the applicant's present job.

There is nothing about this particular information that, if disclosed, would reveal something personal in nature about a taxi driver and therefore bring it within the realm of personal information. Because this information is not personal information, it cannot qualify for exemption under the personal privacy exemption in section 14(1) of the *Act*. As the City has not claimed any other exemptions for this information, I will order that these portions of the application forms be disclosed to the appellant.

However, not all information relating to the taxi drivers who filed these applications is necessarily business information, even if it appears in the business context of an application to have one's name put on a priority list for a taxicab owner's licence.

In my view, information relating to a taxi driver's employment history crosses into the personal realm and falls within the ambit of paragraph (b) of the definition of "personal information" in section 2(1) of the *Act*. This includes information on the application relating to the applicant's taxicab employment during the previous year and the applicant's employment outside the taxi industry. In the next section of this order, I will consider whether this information is exempt from disclosure under the personal privacy exemption in section 14(1) of the *Act*.

The signature of the applicant also appears on the application to be on the priority list. Whether a signature is personal information depends on the circumstances (Order MO-1194). In cases where the signature is contained on records created in a professional or official government context, it is generally not “about the individual” in a personal sense, and would not normally fall within the scope of the definition. (See, for example, Order P-773, which dealt with the identities of job competition interviewers.)

In the circumstances of this appeal, I find that the signature of an applicant for the priority list appears in a business context. In my view, an applicant has signed the application in that individual’s capacity as a taxi driver who is operating a business, not in his or her personal capacity.

Accordingly, I conclude that the signature of a taxi driver in such circumstances does not cross into the personal realm and, therefore, cannot constitute that individual’s personal information. There is nothing about this particular information that, if disclosed, would reveal something personal in nature about a taxi driver. Because this information is not “personal information,” it cannot qualify for exemption under the personal privacy exemption in section 14(1) of the *Act*. As the City has not claimed any other exemptions for this information, I will order that the signature portion of the application forms be disclosed to the appellant.

Finally, the sample record provided by the City includes a copy of the municipal taxicab driver’s licence issued to the applicant. This is the same information that is at issue in item 3 of Schedule A. Consequently, I will consider whether the information in this licence is business or personal information in my analysis of item 3, below.

Item 2 – Statutory declarations

The appellant is seeking “any and all statutory declarations the person has made directly or indirectly related to the priority list” for the first 42 individuals on the priority list.

Each statutory declaration includes the following information relating to the taxi driver who filed this document with the City:

- Taxi driver’s name
- Taxi driver’s home phone number
- Priority waiting list number
- Whether taxi driver is driving at least 40 hours per week
- Whether taxi driver wishes to be voluntarily removed from priority list
- Driving history
- Vacation leave
- Sick or disabled leave
- Employment in taxi industry (other than driving)
- Education leave

- Other employment
- Acknowledgement that individual no longer meets requirements of by-law
- Signature

The City has decided to provide the appellant with access to all portions of the statutory declaration except for the following: taxi driver's name, home phone number, driving history, and signature.

In my view, the following information on the statutory declaration is business information about a taxi driver: name; priority waiting list number; whether the 40-hour driving requirement is being met; whether the individual wishes to be voluntarily removed from the priority waiting list; employment in taxi industry (other than driving); acknowledgement that the individual no longer meets the requirements of the by-law; and signature.

There is nothing about this particular information that, if disclosed, would reveal something personal in nature about a taxi driver and bring it within the realm of personal information. Because this information is not personal information, it cannot qualify for exemption under the personal privacy exemption in section 14(1) of the *Act*. As the City has not claimed any other exemptions for this information, I will order that these portions of the statutory declarations be disclosed to the appellant.

However, other information on the statutory declaration crosses into the personal realm and, therefore, constitutes a taxi driver's personal information, as that term is defined in section 2(1) of the *Act*. This includes a taxi driver's driving history and vacation leave (paragraph (b) – employment history); sick or disabled leave (paragraph (b) – medical history); education leave (paragraph (b) – educational history); and other employment (paragraph (b) – employment history). Consequently, in the next section of this order, I will consider whether this information is exempt from disclosure under the personal privacy exemption in section 14(1) of the *Act*.

In his representations, the appellant states that he is not seeking access to several types of personal information, including an individual's home telephone number. Consequently, the home telephone number section of the statutory declaration is not responsive to the appellant's request, and the City may sever this information on that basis.

Item 3 – Taxicab driver operator's licence

The appellant is seeking, “[c]opies of Taxicab driver's licences to check the renewal dates or other licences if they are on the list as other than drivers” for the first 42 individuals on the priority list. The City decided to withhold all of the licences in their entirety pursuant to the personal privacy exemption in section 14(1) of the *Act*.

The City provided this office with sample documents of a municipal taxicab driver operator's licence. One document, which indicates that the holder is “licenced to operate as a taxicab driver,” includes the following information:

- Reference number
- Licence number
- Fee
- Issue date
- Expiry date
- Taxicab driver's name
- Address
- Ontario driver's licence number
- Vehicle make/Year
- Serial No.
- Prov. Plate No.
- Miss. Plate No.
- Operating name conditions

Another document, which appears to be the actual taxicab driver operator's licence carried by an individual on his or her person, includes the following information:

Side 1

- Licence number
- Fee
- Name of taxi driver
- Address
- Postal code
- Provincial driver's licence number
- Date of issue
- Date of expiry

Side 2

- File No.
- Seq. No.
- Date of birth
- Height
- Weight
- Phone number
- Leases/Plate #
- Make of vehicle
- Prov. Plate No.
- Serial No.

In my view, a taxicab driver's operator licence is clearly a business licence, not a personal licence. The City issues such licences to individuals to allow them to legally drive taxicabs and derive income for themselves. When an individual drives a taxicab and collects fares from passengers, he or she is, therefore, acting in a business capacity, not a personal capacity.

Moreover, under section 3(7) of Schedule 8 of the City's new Public Vehicle Licencing by-law (By-law 420-04), a taxi driver is required to give a passenger a receipt on an authorized form showing the driver's name, the driver's licence number and an identifying number for the vehicle, if requested by the passenger or if there is a dispute over the fare. In other words, taxicab drivers are required to provide their name and licence number to any member of the public if a dispute arises with respect to the business transaction that is taking place between them.

In my view, this mandated disclosure is further evidence that the taxicab driver's operator licence number is a business licence, not a personal licence. A taxicab driver carries such a licence in his or her business capacity. In contrast, the Ontario driver's licence that must also be carried by taxicab drivers is a personal licence, not a business licence.

This does not mean, however, that all of the information on a taxicab driver's licence is necessarily business information. I have reviewed the information on the sample records submitted to this office by the City and find that a taxicab driver's licence contains a mixture of business information, personal information, and vehicle information.

However, in his request, the appellant makes it clear that he is only interested in "[c]opies of Taxicab driver's licences to check the renewal dates or other licences if they are on the list as other than drivers" for the first 42 individuals on the priority list. Moreover, he states elsewhere in his representations that he is not interested in pursuing access to the addresses, home telephone numbers, postal codes, provincial driver's licence numbers, dates of birth, heights or weights of taxi drivers on the priority list.

Consequently, the only information in each licence that is responsive to the appellant's request is the taxicab driver's name, licence number, and the expiry date of the licence. In my view, this is business information about a taxi driver, not personal information. There is nothing about this particular information that, if disclosed, would reveal something personal in nature about a taxi driver and bring it within the realm of personal information.

Because this information is not personal information, it cannot qualify for exemption under the personal privacy exemption in section 14(1) of the *Act*. As the City has not claimed any other exemptions for this information, I will order that these portions of the taxicab driver operator's licences (name, licence number, expiry date) be disclosed to the appellant.

Item 4 – Names of applicants on priority list other than as a driver/justification for being on list

The appellant is seeking, “[n]ame of any applicant who has been listed on the priority list as other than a driver be identified, including the justification for their name appearing on the priority list.”

In its representations, the City states that the information responsive to the first part of item 4 (“name of applicant who has been on the priority list other than as a driver ...”) is found in the statutory declarations filed by the first 42 individuals on the priority list. In particular, one would need to examine the section of the statutory declaration that asks applicants whether they have been employed in the taxi industry other than as a driver.

With respect to the second part of item 4 (“... the justification for their name appearing on the priority list.”), the City states that the specific justification for an individual to be on the priority list other than as a driver could be verified by scrutinizing two sections of the statutory declarations.

First, one could verify which categories of employment in the taxi industry (other than as a driver) were checked off by an applicant on the statutory declaration. Second, if an applicant indicates on the statutory declaration that he or she has taken sick or disabled leave for a period of time, this could also provide a reason why that individual has not been driving for the period covered by the declaration.

The City’s decision was to withhold those sections of the statutory declaration pursuant to the personal privacy exemption in section 14(1) of the *Act*. With respect to whether this information is “personal information,” it submits that although the name of a taxicab driver is information about that individual in a business capacity, the name of that individual coupled with other information on the statutory declaration reveals something of a personal nature about him or her.

I partially agree with the City. In my analysis of item 2 (statutory declarations) above, I found that several pieces of information in the statutory declarations are business information relating to an applicant for the priority list, including a taxi driver’s name and his or her employment in the taxi industry other than driving a taxi.

I found that there is nothing about this particular information that, if disclosed, would reveal something personal in nature about a taxi driver and bring it within the realm of personal information. Because this information is not personal information, it cannot qualify for exemption under the personal privacy exemption in section 14(1) of the *Act*. As the City has not claimed any other exemptions for this information, I ordered that these portions of the statutory declarations be disclosed to the appellant.

However, I also found that other information on the statutory declaration crosses into the personal realm and, therefore, constitutes a taxi driver’s personal information. This includes the information on the statutory declaration relating to sick or disabled leave, which falls within the

ambit of paragraph (b) (medical history) of the definition of “personal information” in section 2(1) the *Act*.

In the next section of this order, I will consider whether this information is exempt from disclosure under the personal privacy exemption in section 14(1) of the *Act*.

Item 5 – Names of fleet owners/plate numbers

The appellant is seeking, “[a]ll fleet owners – list the plate numbers they have actively managed over the term their name has remained on the priority list under this category and/or any other category.”

In its representations, the City states that the information responsive to the first part of item 5 (names of fleet owners) is found in the statutory declarations filed by the first 42 individuals on the priority list. As with item 4, one would need to examine the section of the statutory declaration that asks applicants whether they have been employed in the taxi industry other than as a driver. One of the categories of employment that an applicant can check off is “Taxicab Fleet Manager.” The City’s decision was to withhold this section of the statutory declaration pursuant to the personal privacy exemption in section 14(1) of the *Act*.

With respect to the second part of item 5 (list of plate numbers that fleet managers have actively managed), the City submits that it does not compile a list of vehicles managed by fleet managers. Consequently, the City is arguing that no records exist that are responsive to the second part of item 5.

As noted above, I have already found that several pieces of information in the statutory declarations are business information relating to an applicant for the priority list, including a taxi driver’s name and his or her employment in the taxi industry other than driving a taxi (which includes the “Taxicab Fleet Manager” category).

I found that there is nothing about this particular information that, if disclosed, would reveal something personal in nature about a taxi driver and bring it within the realm of personal information. Because this information is not personal information, it cannot qualify for exemption under the personal privacy exemption in section 14(1) of the *Act*. As the City has not claimed any other exemptions for this information, I will order that these portions of the statutory declarations be disclosed to the appellant.

Item 9 – Information on applicants with appeals

The appellant is seeking:

- (a) “any and all information on those applicants on the list with appeals or medicals, including appeal hearing transcripts or minutes and

(b) any and all records related directly or indirectly to these applicants on the list.”

In its representations, the City states that under the regulatory scheme in former By-law 142-89, any individual on the priority list has the right to appeal a decision by City staff to remove that individual from the priority list. The appeal is made to an Appeal Committee, which conducts a hearing and forwards its recommendation to City Council for a final decision.

Item 9(a)

In its representations, the City states that the information responsive to part (a) of item 9 is found in the minutes of the City’s Appeal Committee and resolutions of Mississauga City Council pertaining to three appeals.

The City located three appeal files relating to the first 42 individuals on the priority list: LA16-KAN, LA16-DIA and LA16-ROZ. (See Index 1, which is attached to this order in Appendix B.) For each appeal file, the City decided to provide access to “public” minutes of the Appeal Committee hearings and Council resolutions, which presumably refers to records relating to meetings of those bodies that were open to the public.

I have reviewed the records in each file relating to part (a) of item 9. They include the minutes of the Appeal Committee with respect to each appeal and various letters that the City sent to each appellant (including letters that cite City Council’s resolution on their appeal). The City has decided to disclose these records, except for the home address of the individual (which is non-responsive to the appellant’s request, because he has indicated that he is not pursuing that information). Consequently, there is no information in these records that remain at issue in this appeal.

Item 9(b)

The City states that the information responsive to part (b) of item 9 is the supporting documentation submitted by the appellant or the City’s staff to the Appeal Committee in preparation for the hearing. The documents located by the City are in two appeal files (LA16-KAN and LA16-DIA) and also from several related files (LP13-KAN, LP13-DIA, LP13-ROZ, and LP20-KAN) pertaining to the individuals who filed appeals.

The City has decided to withhold the records in these files in their entirety pursuant to the personal privacy exemption in section 14(1) of the *Act*. I have grouped these files in the manner they appear in Index 1, which is attached to this order in Appendix B. These files include a large number of documents, including:

Files LP13-KAN, LP13-DIA, LP13-ROZ

- Criminal record searches
- Licence renewal applications

- Applications for taxicab driver's licence
- Mississauga taxicab drivers application checklists (Files LP13-KAN and LP13-ROZ only)
- Photocopies of Ontario driver's licence
- Applications for MTO driver record search
- MTO three-year driver's record searches
- Letter from MTO to taxi driver (File LP13-KAN only)
- Doctor's notes relating to taxi driver (Files LP13-KAN and LP13-ROZ)
- Documents relating to taxicab driver's examination (Files LP13-KAN and LP13-ROZ)
- Printout from City database on taxi driver (File LP13-DIA only)
- Priority list disposition (File LP13-DIA only)

File LA16-KAN, LA16-DIA

- Notice of Evidence (LA16-KAN)/Document Brief (LA16-DIA) of evidence that City intends to produce at appeal hearing
- Priority list application
- Letter from Vehicle Licencing Manager to taxi driver advising of removal from priority list
- Appeal letter filed by taxi driver
- Statutory declarations filed by taxi driver
- Medical reports relating to taxi driver
- Letter from MTO to taxi driver (File LA16-KAN only)

File LP13-KAN

- Letter from Mayor to taxi driver
- Correspondence between taxi driver's lawyers and City

File LP20-KAN

- Correspondence from taxi driver's employer to City
- Notes to file by City staff
- Medical reports relating to taxi driver

The City submits that the documents in these files contain the personal information of taxi drivers, including: statutory declarations, medical documentation, employment history, driving record, and periods of medical leave. In addition, it asserts that there is personal information in the correspondence submitted by each of the appellants or the lawyers with respect to their appeals.

I have reviewed the records in these files and find that although they contain some business information, most of the information crosses into the personal realm and constitutes a taxi driver's personal information, as that term is defined in section 2(1) of the *Act*.

Files LP13-KAN, LP13-DIA, LP13-ROZ

In my view, the following records in these files contain business information relating to the taxi drivers who filed appeals with the Appeal Committee: licence renewal applications; applications for taxicab driver's licences; taxicab drivers application checklists (Files LP13-KAN and LP13-ROZ only); printout from City database on taxi driver (File LP13-DIA only); and priority list disposition (File LP13-DIA only).

Specifically, on the licence renewal applications, the applicant's name coupled with the "type of licence" constitutes business information. On the applications for a taxicab driver's licence, the applicant's name coupled with the type of licence being sought ("For a licence to conduct the business of ...") constitutes business information. On the taxicab driver's application checklists, the applicant's name coupled with the "date licence issued" and "licence number and year" constitutes business information. There is nothing about this particular information that, if disclosed, would reveal something personal in nature about a taxi driver and bring it within the realm of personal information.

The printout from a City database on a taxi driver (File LP13-DIA) also contains several pieces of information, including the taxi driver's name, the issuance and expiry dates of his taxicab driver's licence and his priority waiting list number. In my view, this is business information about a taxi driver, not personal information. There is nothing about this particular information that, if disclosed, would reveal something personal in nature about a taxi driver and bring it within the realm of personal information.

The priority list disposition (File LP13-DIA) is a handwritten note that contains several pieces of information, including the taxi driver's name, his file number, his plate number and when he was issued this plate. In my view, this is business information about a taxi driver, not personal information. There is nothing about this particular information that, if disclosed, would reveal something personal in nature about a taxi driver and bring it within the realm of personal information.

Because the above information is not personal information, it cannot qualify for exemption under the personal privacy exemption in section 14(1) of the *Act*. As the City has not claimed any other exemptions for this information, I will order the City to disclose these portions of the records to the appellant.

The remaining information on the licence renewal applications (home address, date of birth, provincial driver's licence number, etc.), licence applications (e.g., home address), and printout from the City database (home address, phone number, provincial driver's licence number, etc.) is personal information that the appellant is not seeking, and it may be severed on that basis. In addition, the following records contain similar personal information and may be withheld on the basis that they are not responsive to the appellant's request: the photocopies of the taxi drivers' Ontario driver's licences, the applications for MTO driver record searches, and the MTO three-year driver's record searches.

I will now address the remaining information at issue in these files. In my view, if this information is disclosed, it would reveal something of a personal nature about these taxi drivers. In other words, it crosses into the personal realm and therefore constitutes the “personal information” of these individuals.

Specifically, the answers given to the questions on the original licence application (e.g., has the applicant been convicted of any criminal offence) constitute the personal information of the applicant (paragraph (b) of the definition in section 2(1) – criminal history). Similarly, the remaining information on the taxicab driver’s application checklists (e.g., date of police check, examination dates and results, etc.) constitutes the personal information of the applicant (paragraph (b) – criminal history and unlisted personal information).

Moreover, the remaining records in the above files contain information that constitutes the personal information of the taxi driver who filed an appeal with the Appeal Committee: criminal record searches (paragraph (b) – criminal history); letter from MTO to taxi driver and doctor’s notes relating to taxi driver (paragraph (b) – medical history); and documents relating to taxicab driver’s examination (which I find to be unlisted personal information).

In the next section of this order, I will consider whether this personal information is exempt from disclosure under the personal privacy exemption in section 14(1) of the *Act*.

Files LA16-KAN, LA16-DIA

In my view, only two of the records in these files contain business information relating to the taxi drivers who filed appeals with the Appeal Committee: their priority list applications and statutory declarations.

In my analysis of item 1 above, I found that the following information in the priority list application form is business information about a taxi driver: the name of the applicant; the applicant’s number on the priority list; the date and time the application was received; the applicant’s present job; and signature. I found that the remainder of the information in the application is personal information.

In my analysis of item 2 above, I found that the following information on a statutory declaration is business information about a taxi driver: name; priority waiting list number; whether the 40-hour driving requirement is being met; whether the individual wishes to be voluntarily removed from the priority waiting list; employment in taxi industry (other than driving); acknowledgement that the individual no longer meets the requirements of the by-law; and signature. I found that the remainder of the information in the declaration is personal information.

For items 1 and 2, I found that the business information in the priority list applications and statutory declarations, respectively, cannot qualify for exemption under the personal privacy

exemption in section 14(1) of the *Act*. As the City has not claimed any other exemptions for this information, I decided to order that these portions of those records be disclosed to the appellant.

Consequently, the same business information relating to taxi drivers in the priority list applications and statutory declarations in the appeal files must be disclosed to the appellant.

In my view, however, if the information at issue in the remaining records is disclosed, it would reveal something of a personal nature about these taxi drivers. In other words, it crosses into the personal realm and therefore constitutes the “personal information” of these individuals.

This personal information is found in the Notice of Evidence (LA16-KAN)/Document Brief (LA16-DIA) of evidence that the City intended to produce at the appeal hearing (paragraph (b) of the definition in section 2(1) – medical history); the letter from the Vehicle Licencing Manager to the taxi driver advising of removal from the priority list (paragraph (f) – confidential correspondence); the appeal letter filed by the taxi driver (paragraph (f) – confidential correspondence); medical reports relating to the taxi driver (paragraph (b) – medical history); and the letter from MTO to the taxi driver (paragraph (f) – confidential correspondence).

In the next section of this order, I will consider whether this information is exempt from disclosure under the personal privacy exemption in section 14(1) of the *Act*.

File LP13-KAN

In my view, if the information at issue in the records in this file is disclosed, it would reveal something of a personal nature about this taxi driver. In other words, it crosses into the personal realm and therefore constitutes the “personal information” of that individual.

This personal information is found in the letter from the Mayor to the taxi driver and correspondence between the taxi driver’s lawyers and the City (paragraph (f) of the definition in section 2(1) – confidential correspondence).

In the next section of this order, I will consider whether this information is exempt from disclosure under the personal privacy exemption in section 14(1) of the *Act*.

LP20-KAN

In my view, if the information at issue in the records in this file is disclosed, it would reveal something of a personal nature about this taxi driver. In other words, it crosses into the personal realm and therefore constitutes the “personal information” of that individual.

This personal information is found in the correspondence from the taxi driver’s employer to the City (paragraph (f) of the definition in section 2(1) – confidential correspondence); notes to file by City staff (paragraph (g) – views of another individual); and medical reports (paragraph (b) – medical history).

In the next section of this order, I will consider whether this information is exempt from disclosure under the personal privacy exemption in section 14(1) of the *Act*.

Schedule B – Information relating to City staff

I will now assess whether the information relating to City staff in Schedule B is “personal information,” as that term is defined in section 2(1) of the *Act*. The City issued a final access decision for items 1, 2 and 3 of Schedule B. In particular, it decided to provide full access to items 1 (job description of the Vehicle Licencing Manager) and 2 (name and job description of person under the Vehicle Licencing Manager who is responsible for managing the priority list).

Consequently, access to the records responsive to request items 1 and 2 are not at issue in this appeal. The only records at issue are those responsive to item 3.

Item 3 – Documentation, including performance reviews

The appellant is seeking, “[a]ny documentation listing the amount of time spent on the maintenance of the priority list. Including the performance reviews of the Licensing Manager and any subordinates that deal directly or indirectly with the priority list.”

The City states that no responsive records exist that are responsive to the first part of item 3. In other words, the City asserts that it does not have any documents in its custody or under its control that list the amount of time that its staff have spent on maintaining the priority list.

With respect to the second part of item 3, the City located performance reviews for two staff: the Vehicle Licencing Manager and the Vehicle Licencing Inspector. It decided to withhold these records in their entirety pursuant to the personal privacy exemption in section 14(1) of the *Act*.

The information in a performance review includes the staff person’s name and comments made by that person’s superior about his or her job performance. In my view, this constitutes the personal information of the Vehicle Licencing Manager and the Vehicle Licencing Inspector, for the following reasons.

With respect to whether to the first question posed in Order PO-2225, (“*In what context does [the information] appear?*”), both individuals are employed by the City, and the performance reviews are evaluations of their competence in their positions. Consequently, I find that the information in the performance reviews relating to the Vehicle Licencing Manager and the Vehicle Licencing Inspector appears in an employment or professional context.

However, that is not the end of the analysis in determining whether the information in the performance reviews is personal information or employment/professional information. In accordance with the approach in order PO-2225, I must go on to ask: *Is there something about the particular information at issue that, if disclosed, would reveal something of a personal nature about the individual?*

This office has found in previous orders that employment-related information, whether of an evaluative nature, or in relation to human resources matters, generally qualifies as personal information (Order P-1409). In my view, the particular information at issue, if disclosed, would reveal something of a personal nature about these individuals. Specifically, it would reveal how these individuals are performing in their jobs and how they can improve their job performance. As a result, I have determined that it crosses into the personal realm and is categorized as “personal information.”

I find, therefore, that the information relating to the Vehicle Licencing Manager and the Vehicle Licencing Inspector in their performance reviews is personal information about these individuals. In the next section of this order, I will consider whether this information is exempt from disclosure under the personal privacy exemption in section 14(1) of the *Act*.

PERSONAL PRIVACY

General principles

In the previous section of this order, I found that the following information relating to taxi drivers in the records responsive to items 1, 2, 4 and 9 of Schedule A constitutes the personal information of those individuals:

- *Item 1 (Priority list applications)* – the applicant’s taxicab employment during the previous year and the applicant’s employment outside the taxi industry.
- *Item 2 (Statutory declarations)* – a taxi driver’s driving history, vacation leave, sick or disabled leave, education leave, and other employment.
- *Item 4 (Justification for being on priority list)* – information on the statutory declaration relating to sick or disabled leave.
- *Item 9 (Information on applicants with appeals):*
 - Files LP13-KAN, LP13-DIA, LP13-ROZ – criminal record searches; questions on application for taxicab driver’s licence (e.g., has the applicant been convicted of any criminal offence); information on taxicab driver’s application checklists (e.g., date of police check, examination dates and results); letter from MTO to taxi driver; doctor’s notes relating to taxi driver; and documents relating to taxicab driver’s examination.
 - Files LA16-KAN, LA16-DIA – Notice of Evidence/Document Brief of evidence that the City intends to produce at hearing; letter from Vehicle Licencing Manager to taxi driver advising of removal from priority list; appeal letter filed by taxi driver; medical reports related to taxi driver; letter from MTO to taxi driver.

- File LP-13-KAN – letter from Mayor to taxi driver; correspondence between taxi driver’s lawyers and City.
- LP20-KAN – Correspondence from taxi driver’s employer to City; notes to file by City staff; and medical reports relating to taxi driver.

With respect to item 3 of Schedule B, I found that the information relating to the Vehicle Licencing Manager and the Vehicle Licencing Inspector in their performance reviews is personal information about these individuals.

As noted above, the appellant states that he is not seeking personal information, such as the addresses, home telephone numbers, postal codes, provincial driver’s licence numbers, dates of birth, heights or weights of taxi drivers on the priority list. However, the personal information contained in the above records does not include these types of information. Consequently, much of the personal information in the records described above, remains at issue in this appeal.

Where a requester seeks personal information of another individual, section 14(1) prohibits an institution from releasing this information unless one of the exceptions in paragraphs (a) to (f) of section 14(1) applies.

If the information fits within any of paragraphs (a) to (f) of section 14(1), it is not exempt from disclosure under section 14.

It appears that 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,

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

The factors and presumptions in sections 14(2), (3) and (4) help in determining whether disclosure would or would not be an unjustified invasion of personal privacy under section 14(1)(f).

The presumptions in section 14(3)

Section 14(3) of the *Act* sets out a series of circumstances in which a disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy.

Section 14(3) states, in part:

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

- (a) relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation;
- (d) relates to employment or educational history;
- (g) consists of personal recommendations or evaluations, character references or personnel evaluations;

In its representations, the City submits that section 14(3) applies to the personal information at issue but does not specify which specific presumptions might apply.

The appellant submits that the information at issue in this appeal is primarily business information and does not address whether the section 14(3) presumptions might apply.

I have carefully reviewed the personal information at issue and find that significant portions fall within the ambit of the presumptions in section 14(3) of the *Act*.

Under section 14(3)(a), a disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy if the personal information relates to an individual's *medical history, diagnosis, condition, treatment or evaluation*. I find that the following personal information in the records at issue falls within this presumption:

- information relating to a taxi driver's sick or disabled leave in the statutory declarations (Items 2 and 4 of Schedule A);
- letter from MTO to taxi driver (Item 9 of Schedule A, File LP13-KAN);
- doctor's notes relating to taxi driver (Item 9 of Schedule A, Files LP13-KAN, LP13-DIA and LP13-ROZ);
- the Notice of Evidence/Document Brief of Evidence that City intends to produce at hearing (Item 9 of Schedule A, Files LA16-KAN, LA16-DIA);
- the letter from Vehicle Licencing Manager to taxi driver, advising of removal from priority list (Item 9 of Schedule A, Files LA16-KAN, LA16-DIA);
- the appeal letter filed by taxi driver (Item 9 of Schedule A, Files LA16-KAN, LA16-DIA);
- medical reports related to taxi driver (Item 9 of Schedule A, Files LA16-KAN, LA16-DIA);
- letter from MTO to taxi driver (Item 9 of Schedule A, File LA16-KAN);
- portions of notes to file by City staff and accompanying medical reports (Item 9 of Schedule A, File LP20-KAN).

Moreover, under section 14(3)(d), a disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy if the personal information relates to an individual's *educational or employment history*. I find that the following personal information in the records at issue falls within this presumption:

- an applicant's taxicab employment during the previous year and the applicant's employment outside the taxi industry (Item 1 of Schedule A);
- a taxi driver's driving history, vacation leave, education leave, and other employment (Item 2 of Schedule A);
- correspondence from the taxi driver's employer to the City (Item 9, File LP20-KAN of Schedule A);
- the remaining portions of the notes to file by City staff (Item 9 of Schedule A, File LP20-KAN).

Finally, under section 14(3)(g), a disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy if the personal information consists of personal recommendations or evaluations, character references or *personnel evaluations*. I find that the Vehicle Licencing Manager and the Vehicle Licencing Inspector's performance reviews (Item 3, Schedule B) clearly fall within this presumption, because the personal information in these records consists of personnel evaluations.

If any of paragraphs (a) to (h) of section 14(3) apply, disclosure of the information is presumed to be an unjustified invasion of personal privacy under section 14. Once established, a presumed unjustified invasion of personal privacy under section 14(3) can only be overcome if section 14(4) or the "public interest override" at section 16 applies. [*John Doe v. Ontario (Information and Privacy Commissioner)* (1993), 13 O.R. (3d) 767]

I have considered the application of the exceptions in section 14(4) of the *Act* and find that they do not apply to the personal information in the records at issue that falls within the section 14(3) presumptions. Consequently, unless the public interest override in section 16 applies in the circumstances of this appeal (which will be considered in the next section of this order), I find that disclosure of all of this personal information would result in a presumed unjustified invasion of personal privacy. It is therefore exempt from disclosure under the personal privacy exemption in section 14(1) of the *Act*.

The factors in section 14(2)

Once a presumed unjustified invasion of personal privacy is established under section 14(3), it cannot be rebutted by one or more factors or circumstances under section 14(2) [*John Doe*, cited above]. However, if no section 14(3) presumption applies, section 14(2) lists various factors that may be relevant in determining whether disclosure of personal information would constitute an unjustified invasion of personal privacy [Order P-239].

Some of the personal information in the records at issue does not fall within the section 14(3) presumptions. The factors in sections 14(2) can therefore assist in determining whether disclosure of this personal information would be an unjustified invasion of personal privacy under section 14(1)(f).

Section 14(2) states:

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,

- (a) the disclosure is desirable for the purpose of subjecting the activities of the institution to public scrutiny;
- (b) access to the personal information may promote public health and safety;
- (c) access to the personal information will promote informed choice in the purchase of goods and services;
- (d) the personal information is relevant to a fair determination of rights affecting the person who made the request;
- (e) the individual to whom the information relates will be exposed unfairly to pecuniary or other harm;
- (f) the personal information is highly sensitive;
- (g) the personal information is unlikely to be accurate or reliable;
- (h) the personal information has been supplied by the individual to whom the information relates in confidence; and
- (i) the disclosure may unfairly damage the reputation of any person referred to in the record.

The list of factors under section 14(2) is not exhaustive. The institution must also consider any circumstances that are relevant, even if they are not listed under section 14(2) [Order P-99].

The factors in paragraphs (a), (b), (c) and (d) of section 14(2) generally weigh in favour of disclosure, while those in paragraphs (e), (f), (g), (h) and (i) weigh in favour of privacy protection (Order PO-2265).

Neither of the parties submitted any representations on the possible application of the factors set out in section 14(2).

The personal information that is not subject to one of the presumptions in section 14(3) of the *Act* is in the files of taxi drivers who filed appeals with the Appeals Committee (Item 9 of Schedule A) and other files related to these individuals. This personal information includes:

- Files LP13-KAN, LP13-DIA, LP13-ROZ – criminal records searches; questions on the application for taxicab driver’s licence (e.g., has the applicant been convicted of any criminal offence); information on taxicab driver’s application checklists (e.g., date of police check, examination dates and results); documents relating to taxicab driver’s examination.
- File LP13-KAN – letter from Mayor to taxi driver; correspondence between the taxi driver’s lawyers and the City.

I have carefully reviewed these records. The information that remains at issue in Files LP13-KAN, LP13-DIA, LP13-ROZ relates to the criminal history (if any) of these taxi drivers and the results of the examinations they took to obtain a licence to drive a taxi cab. In my view, this information is highly sensitive and would cause significant personal distress to the individuals concerned if it were disclosed. Consequently, the factor in section 14(2)(f) (highly sensitive) of the *Act*, which favours privacy protection, is relevant in determining whether disclosure of this information would be an unjustified invasion of the taxi drivers’ personal privacy.

In my view, none of the listed or unlisted factors in section 14(2) favoring disclosure apply to this specific personal information. Consequently, I find that section 14(2)(f) (highly sensitive) is the only relevant factor, and that disclosure of the information relating to a taxi driver’s criminal history or taxi licence examinations would be an unjustified invasion of personal privacy. The records containing this information are, therefore, exempt from disclosure under the personal privacy exemption in section 14(1) of the *Act*.

The last two records containing personal information that remain at issue are the letter from the Mayor to a taxi driver and the correspondence between that taxi driver’s lawyers and the City concerning his appeal (File LP13-KAN). The letter from the Mayor was in response to a letter that the taxi driver had originally sent to her with respect to his place on the priority list. The letters between the taxi driver’s lawyer and the City are with respect to the outcome of his appeal of the Vehicle Licencing Manager’s decision to remove him from the priority list.

In my view, all of this correspondence contains personal information that was originally supplied to the City in confidence by the taxi driver or his lawyers. Consequently, I find that the factor in section 14(2)(h) (supplied in confidence), which weighs in favour of privacy protection, is relevant in determining whether disclosure would be an unjustified invasion of the taxi driver’s personal privacy.

The appellant did not submit any specific representations on the relevance of the section 14(2) factors. However, it is evident from his submissions that he wishes to scrutinize records relating to the priority list to determine if it is being administered fairly. Consequently, it could be argued that disclosure of the personal information in the correspondence between the taxi driver and the City is desirable for the purpose of subjecting the activities of the City to public scrutiny [section 14(2)(a)].

In my view, however, the factor in section 14(2)(h) (supplied in confidence) favouring privacy outweighs the factor in section 14(2)(a) (public scrutiny) favouring disclosure.

I find, therefore, that disclosure of this correspondence would result in an unjustified invasion of the taxi driver's personal privacy. Consequently, the letter from the Mayor to the taxi driver and the correspondence between that taxi driver's lawyers and the City, are exempt from disclosure under the personal privacy exemption in section 14(1) of the *Act*.

CONCLUSION

Given the complex nature of the analysis above, I have decided that it would be useful, at this point in the order, to summarize my findings with respect to the records for which the City has issued a final access decision:

- I find that some of the records contain business information relating to taxi drivers on the priority list. I have summarized this information in Appendix A of this order. As the City has not claimed any exemptions for this information, it must be disclosed to the appellant.
- I find that the remaining information in the records is personal information relating to taxi drivers on the priority list. Most of this information qualifies for exemption under the personal privacy exemption in section 14(1) of the *Act*, and some of it is not responsive to the appellant's request.
- I find that the information relating to the Vehicle Licencing Manager and the Vehicle Licencing Inspector in their performance reviews is personal information about these individuals. This information qualifies for exemption under the personal privacy exemption in section 14(1) of the *Act*.

PUBLIC INTEREST OVERRIDE

General principles

In his two requests, the appellant submits that "... there is a compelling public interest in disclosure, which clearly outweighs any objections."

Section 16 states:

An exemption from disclosure of a record under sections 7, 9, 10, 11, 13 and **14** does not apply where a compelling public interest in the disclosure of the record clearly outweighs the purpose of the exemption. [my emphasis added]

For section 16 to apply, two requirements must be met. First, there must be a compelling public interest in disclosure of the records. Second, this interest must clearly outweigh the purpose of the exemption.

I have found that most of the personal information in the records relating to taxi drivers and City staff is exempt from disclosure pursuant to the mandatory personal privacy exemption in section 14(1) of the *Act*. Consequently, I must determine whether there is a compelling public interest in disclosure of these records that clearly outweighs the purpose of the section 14(1) exemption.

Summary of the parties' representations

In its representations, the City submits that neither of the two requirements of the section 16 public interest override is met with respect to the records at issue in this appeal.

It asserts that the Public Vehicle Licencing By-law (142-89) contains adequate mechanisms to ensure that the administration of the priority list is subject to public scrutiny. This includes a requirement that the priority list be made available for public inspection at the office of the City's Licencing Section, public notification procedures when a taxicab owner's plate is issued to an individual on the priority list, and mechanisms for objecting and appealing a decision to issue a plate to a taxi driver on the priority list.

In his representations, the appellant submits that "[m]aking the priority list public and not the records behind it is for the most part useless." In addition, he asserts that the Vehicle Licencing Manager is not managing the list fairly and transparently. In response to the City's submission that there are mechanisms available for objecting and appealing a decision to issue a plate, the appellant submits that his objections were "arbitrarily and capriciously" dismissed by the Vehicle Licencing Manager.

In its reply representations, the City submits that "the fact that the appellant has a dispute with the City about whether proper procedure was followed in the public notification process does not constitute an overriding public interest that would weigh in favour of the disclosure of the personal information contained in the files of individual taxicab drivers or the performance reviews of city staff."

Analysis and findings

It is evident from the appellant's representations that he believes that the City is not managing the priority list fairly and transparently. Consequently, he wishes to scrutinize the records relating to taxi drivers on the priority list and the records pertaining to City staff to determine if there is any evidence that would support his belief.

In considering whether there is a "public interest" in the disclosure of the record, the first question to ask is whether there is a relationship between the record and the *Act's* central purpose of shedding light on the operations of government [Order P-984]. Previous orders have stated that in order to find a compelling public interest in disclosure, the information in the record must serve the purpose of informing the citizenry about the activities of their government, adding in some way to the information the public has to make effective use of the means of expressing public opinion or to make political choices [Order P-984].

A public interest does not exist where the interests being advanced are essentially private in nature [Orders P-12, P-347, P-1439]. Where a private interest in disclosure raises issues of more general application, a public interest may be found to exist [Order MO-1564].

The word “compelling” has been defined in previous orders as “rousing strong interest or attention” [Order P-984].

Although disclosure of the records at issue would shed some light on the manner in which the City regulates the taxi industry and manages the priority list, I am not persuaded that there is a compelling public interest in disclosure of these records.

The appellant has not provided me persuasive evidence, beyond his own private interest in accessing the records at issue, to demonstrate that there is “strong interest or attention” amongst the public in Mississauga with respect to the City’s management of the priority list. Consequently, I find that the appellant has failed to establish that there is a compelling public interest in disclosure of the records at issue.

Because the first requirement of section 16 of the *Act* has not been met, the public interest override does not apply to the records at issue, and it is not necessary to consider whether the second requirement has also been met.

SEARCH FOR RESPONSIVE RECORDS

The City advised the appellant that some of the records he is seeking do not exist. However, the appellant submits that records should exist with respect to the first part of item 3 of Schedule B and item 8 of Schedule B. As a result, whether the City has conducted a reasonable search for responsive records, as required by section 17 of the *Act*, is an issue in this appeal.

With respect to the first part of item 3 of Schedule B, the appellant is seeking, “Any documentation listing the amount of time spent on the maintenance of the priority list.”

With respect to item 8 of Schedule B, the appellant is seeking, “A list of any gifts or items or services, which have any monetary value, received by the licensing manager or any subordinate from the current forty one applicants listed on the priority list, directly or indirectly. This includes, but is not limited to, Christmas gifts, gifts for the office where employees work who maintain the priority list and any services performed by any of the applicants for the above mentioned employees of the City.”

General principles

Where a requester claims that additional records exist beyond those identified by the institution, the issue to be decided is whether the institution has conducted a reasonable search for records as required by section 17 [Orders P-85, P-221, PO-1954-I]. If I am satisfied that the search carried

out was reasonable in the circumstances, I will uphold the institution's decision. If I am not satisfied, I may order further searches.

The *Act* does not require the institution to prove with absolute certainty that further records do not exist. However, the institution must provide sufficient evidence to show that it has made a reasonable effort to identify and locate responsive records [Order P-624].

A reasonable search would be one in which an experienced employee expending reasonable effort conducts a search to identify any records that are reasonably related to the request [Order M-909].

Although a requester will rarely be in a position to indicate precisely which records the institution has not identified, the requester still must provide a reasonable basis for concluding that such records exist.

Summary of the parties' representations

The City submits that it conducted a reasonable search for records responsive to the first part of item 3 of Schedule B and item 8 of Schedule B.

To support its position, the City provided affidavits from its Freedom of Information Coordinator and Vehicle Licencing Manager that outline the steps that they took to locate records responsive to these items of the appellant's request.

In her affidavit, the Freedom of Information Coordinator states that she asked the Vehicle Licencing Manager to assist her in locating records that were responsive to the request.

With respect to item 3 of Schedule B ("documentation listing the amount of time spent on maintenance of the priority list"), she states that the Vehicle Licencing Manager told her that the amount of time spent on maintaining the priority list is not documented by staff. However, the Vehicle Licencing Manager estimates that 1050 hours or 60% of one vehicle inspector's time is spent maintaining the priority list.

With respect to item 8 of Schedule B ("a list of any gifts, items or services which have any monetary value received by the Licencing Manager or subordinates"), she states that the Vehicle Licencing Manager told her that no such list exists.

In the affidavit submitted by the Vehicle Licencing Manager, he provides the same information as the Freedom of Information Coordinator with respect to the existence of records responsive to items 3 (first part) and 8 of Schedule B. In addition, he points out that he and his staff must comply with the City's Conflict of Interest Policy (Policy No. 01-02-03), which contains rules governing the acceptance of gifts.

In his representations, the appellant submits that the City's evidence relating to its search efforts is not credible.

With respect to the first part of item 3 of Schedule B, the appellant submits that it is "difficult to believe that where one inspector spends 60% of his time on maintaining the priority list that there should be no records of such activity." He further submits that the figure of 1050 hours that the City provided for time spent by staff on maintaining the priority list must have been generated based on records that have not been provided.

Before providing a summary of the appellant's representations on item 8 of Schedule B, I would point out that the City states in its reply representations that the appellant's comments about its staff with respect to this item are defamatory. Consequently, it has asked that I not refer to those portions of the appellant's representations or the City's response in this order.

At the outset, I would note that the wording of the request itself expresses the appellant's belief that the Vehicle Licencing Manager or his subordinates have received "gifts, items or services" which have monetary value. Consequently, it is difficult to address this component of the City's search for responsive records without mentioning this allegation made by the appellant.

However, in his representations, the appellant provides further particulars with respect to his allegation about the Vehicle Licencing Manager and his subordinates receiving gifts and other items of monetary value. In my view, it is not necessary to include these details in this order and I will simply provide a general summary of the appellant's position on this issue and the City's response.

With respect to item 8 of Schedule B, the appellant submits that there should be records associated with the gifts that the Licencing Manager or his staff have received or a list of those gifts. He further asserts that the City has failed to explain whether its records retention policy applies to such records.

In its reply representations, the City states that with respect to the first part of item 3 of Schedule B, it does not maintain a record of the number of hours that its staff spend maintaining the priority list, whether in the form of "activity reports" or other tracking documents. It submits that although the *Act* does not require an institution to create a record in response to an access request, it decided to provide the appellant with an estimate (1050 hours) of the time spent maintaining the priority list as an act of good faith.

With respect to item 8 of Schedule B, the City states that gifts do not fall within a category of records that it is required to retain under its Records Retention By-law (537/96). It further submits that although the appellant has asked that the City create a list of gifts, the *Act* does not require an institution to create a record.

Analysis and findings

As noted above, a reasonable search would be one in which an experienced employee expending reasonable effort conducts a search to identify any records that are reasonably related to the request [Order M-909].

It is evident, based on the City's representations, that its staff have devoted significant time and resources to search for records responsive to the appellant's two multi-part requests. Experienced City employees, including its Freedom of Information Coordinator and Vehicle Licencing Manager, have searched for responsive records. In my view, they have made significant efforts to locate records that would satisfy the appellant's requests.

Although a requester will rarely be in a position to indicate precisely which records the institution has not identified, the requester still must provide a reasonable basis for concluding that such records exist.

With respect to item 3 of Schedule B ("documentation listing the amount of time spent on maintenance of the priority list"), I find that the appellant has not provided a reasonable basis for concluding that such records exist. The City has acted in good faith in providing the appellant with an estimate of the time (1050 hours per year) that its staff spend maintaining the priority list. I am satisfied with the City's explanation that it does not maintain "activity reports" or other documents that track the specific time that staff devote to maintaining the priority list.

With respect to item 8 of Schedule B ("a list of any gifts, items or services which have any monetary value received by the Licencing Manager or subordinates"), I find that the appellant also has not provided a reasonable basis for concluding that such records exist. He has not submitted any tangible or credible evidence to support his assertion that a list must exist that enumerates gifts or other items that the appellant alleges have been received by the Vehicle Licencing Manager or his staff.

Moreover, it is not my role to determine whether Mississauga City staff have acted in accordance with the City's Conflict of Interest Policy. If the appellant believes that the Vehicle Licencing Manager or other staff have acted in contravention of this policy, and he has evidence to substantiate his allegation, his recourse lies with other public bodies and not this office.

My role is to determine whether the City has conducted a reasonable search for records, as required by section 17 of the *Act*. I accept the City's explanation it has been unable to locate such a record because the list described by the appellant does not exist, and the *Act* does not require the City to create such a list.

In short, I am satisfied that the City has made reasonable efforts to locate and identify records responsive to items 3 and 8 of Schedule B of the appellant's request. I find, therefore, that the City has conducted a reasonable search for such records, as required by section 17 of the *Act*.

FEES

General principles

Where the fee is \$100 or more, the fee estimate may be based on either:

- the actual work done by the institution to respond to the request, or
- a review of a representative sample of the records and/or the advice of an individual who is familiar with the type and content of the records.

[Order MO-1699]

The purpose of a fee estimate is to give the requester sufficient information to make an informed decision on whether or not to pay the fee and pursue access [Orders P-81, MO-1367, MO-1479, MO-1614, MO-1699].

The fee estimate also assists requesters to decide whether to narrow the scope of a request in order to reduce the fees [Order MO-1520-I].

In all cases, the institution must include a detailed breakdown of the fee, and a detailed statement as to how the fee was calculated [Order P-81, MO-1614].

The Commissioner's office may review an institution's fee and determine whether it complies with the fee provisions in the *Act* and Regulation 460, as set out below.

Section 45(1) requires an institution to charge fees for requests under the *Act*. That section reads:

A head shall require the person who makes a request for access to a record to pay fees in the amounts prescribed by the regulations for,

- (a) the costs of every hour of manual search required to locate a record;
- (b) the costs of preparing the record for disclosure;
- (c) computer and other costs incurred in locating, retrieving, processing and copying a record;
- (d) shipping costs; and
- (e) any other costs incurred in responding to a request for access to a record.

More specific provisions regarding fees are found in sections 6, 7 and 9 of Regulation 823. Those sections read:

6. The following are the fees that shall be charged for the purposes of subsection 45(1) of the *Act* for access to a record:

1. For photocopies and computer printouts, 20 cents per page.
2. For floppy disks, \$10 for each disk.
3. For manually searching a record, \$7.50 for each 15 minutes spent by any person.
4. For preparing a record for disclosure, including severing a part of the record, \$7.50 for each 15 minutes spent by any person.
5. For developing a computer program or other method of producing a record from machine readable record, \$15 for each 15 minutes spent by any person.
6. The costs, including computer costs, that the institution incurs in locating, retrieving, processing and copying the record if those costs are specified in an invoice that the institution has received.

7. (1) If a head gives a person an estimate of an amount payable under the *Act* and the estimate is \$100 or more, the head may require the person to pay a deposit equal to 50 per cent of the estimate before the head takes any further steps to respond to the request.

(2) A head shall refund any amount paid under subsection (1) that is subsequently waived.

9. If a person is required to pay a fee for access to a record, the head may require the person to do so before giving the person access to the record.

As noted above, after considering the financial information provided by the requester and the narrowed scope of his revised request, the City issued a revised total fee estimate of \$1591.80. It also agreed to waive 50% of the fees, which reduced the total fee estimate to \$795.74.

Consequently, for the purposes of determining whether the City's fee estimate should be upheld, the figure that must be examined is the pre-waiver total fee estimate of \$1,591.80. This entails scrutinizing the individual fee estimates that the City generated for each requested item in

Schedules "A" and "B" to which the City decided to provide access (either in whole or in part), and determining whether these fee estimates are in compliance with the fee provisions in the *Act* and Regulation 460.

The City's decision to waive 50% of the fees will be considered in the next section of this order (fee waiver), which will assess whether this decision should be upheld or whether the fees should be further waived, either partially or fully.

In the updated indexes of records that the City prepared based on the appellant's revised requests, the City provided fee estimates for the requested items for which access would be provided, either in whole or in part. It did not provide fee estimates for the requested items for which access was denied.

Final access decision

Items for which the City did not issue a fee estimate

At the outset, I would note that the City decided to withhold the records responsive to Items 1, 3, 4, 5 and 9(b) of Schedule A in their entirety. As a result, the City did not provide the appellant with a fee estimate for these items.

However, I have found that portions of these records contain business information relating to taxi drivers that must be disclosed to the appellant.

When an institution has decided not to disclose records that are the subject of an access request and the Commissioner subsequently orders that these records be disclosed, the institution has the right to require that the requester pay the requisite fees before releasing the records (Order M-372).

In principle, the City has the right to charge a fee for providing the appellant with access to the records that are responsive to Items 1, 3, 4, 5 and 9(b) of Schedule A. However, as noted above, the information responsive to Items 4 and 5 of Schedule A is found in the statutory declarations filed by the first 42 taxi drivers on the priority list. Consequently, it would constitute duplication for the City to charge a fee for providing the appellant with access to the information responsive to Items 4 and 5 of Schedule A.

In short, I find that the City has the right to charge a fee for providing the appellant with access to the records that are responsive to Items 1, 3, and 9(b) of Schedule A, but not Items 4 and 5.

Schedule A, Item 2 – Statutory Declarations

The appellant is seeking the first and last statutory declaration filed for 37 applicants on the priority list, and all declarations filed by five applicants who are not listed as full time taxi drivers.

The City provided the following fee estimate for providing access to severed versions of the statutory declarations sought by the appellant:

Search time	Severing time	Photocopies
1 minute per file	2 minutes per page x 298 pages	298 pages total @ \$0.20 per page
42 minutes total @ \$30 per hour	9.93 hours total @ \$30 per hour	\$59.60
\$21	\$297.90	

Search time

With respect to the City's fee estimate for searching for the statutory declarations, I accept the City's position that it would require one minute to locate and retrieve each of the 42 files and then extract the statutory declarations from each file.

The appellant asserts that the City's vehicle licencing staff could retrieve these records more quickly than the Senior Records Clerk who conducted the search. I am not persuaded by this argument. In my view, the one-minute search time that the City has allotted to searching for the statutory declarations in each of the 42 files is reasonable and would not change substantially, even if the vehicle licencing staff performed the search, as suggested by the appellant.

Moreover, the City's fee estimate of \$21 for searching for these records (42 minutes total @ \$30 per hour) is in compliance with section 6(3) of Regulation 823, which requires an institution to charge \$7.50 for each 15 minutes spent by any person to manually search for a record.

Preparing records for disclosure

Earlier in this order, I found that the City was required to disclose business information on the statutory declarations relating to taxi drivers, but that any personal information in these records was exempt under the personal privacy exemption in section 14(1) of the *Act*. Consequently, in order to prepare the records for disclosure, the City will be required to sever the personal information in the statutory declarations.

In my view, the City's submission that there it would take approximately two minutes to sever the information on each page would continue to apply.

Moreover, I find that the City's fee estimate of \$297.90 for preparing the statutory declarations for disclosure (9.93 hours total @ \$30 per hour) is in compliance with section 6(4) of Regulation 823, which requires an institution to charge \$7.50 for each 15 minutes spent by any person to prepare a record for disclosure, including severing.

Photocopying

I find that the City's fee estimate of \$59.60 for photocopying the statutory declarations (298 pages total @ \$0.20 per page) is in compliance with section 6(1) of Regulation 823, which requires an institution to charge 20 cents per page for photocopying records.

Conclusion

In short, I uphold the City's fee estimate for providing access to severed versions of the statutory declarations sought by the appellant in Schedule A, Item 2 of his request.

Schedule A, Item 9 – Information on applicants with appeals

The appellant is seeking:

- (a) "any and all information on those applicants on the list with appeals or medicals, including appeal hearing transcripts or minutes and
- (b) any and all records related directly or indirectly to these applicants on the list."

In accordance with the appellant's revised request, he is only seeking this information with respect to the first 42 individuals on the priority list.

For part (a) of Schedule A, Item 9, the City located three appeal files and decided to provide access to 35 pages of "public records" in these files. For part (b) of the same request item, the city located 60 pages of records in several related files and decided to deny access to these records. Consequently, it did not provide a fee estimate for this portion of the request.

The City provided the following fee estimate for providing access to the 35 pages of "public records" in the three appeal files:

Search time	Severing time	Photocopying
1 hour @ \$30 per hour \$30	N/A	35 pages @ \$0.20 per page \$7

I have carefully reviewed the records provided to me by the City and the representations of the parties. In my view, the City's fee estimate with respect to Schedule A, Item 9 is in compliance with section 45(1) of the *Act* and Regulation 823, for the following reasons.

Search time

In its representations, the City states that the appellant asked it to locate appeal file records tracing back to December 1, 1984. Consequently, it was required to search for all appeal hearing files going back to this date.

To conduct this search, a Records Technician/By-law Clerk conducted a search on WORDS, a City database of Council and Committee documents. She spent one hour entering the names of each of the 42 individuals on the priority list and then produced a printout of all references in Council or Committee documents to a taxi driver on the priority list.

The City then reviewed this printout to determine whether any of these reference relate to a taxi driver's appeal before the Appeal Committee or Council. It identified three appeal hearing files that were responsive to the appellant's request.

In his representations, the appellant submits that it was not necessary for the City to spend one hour entering the names of each of the 42 taxi drivers on the priority list into the WORDS database. He states that the priority list itself contains an asterisk beside the name of taxi driver who has filed an appeal, and the City could have quickly located responsive appeal files by simply referring to the priority list itself.

In its reply representations, the City states that the asterisks beside the names of individuals on the priority list is not a reliable indicator of all taxi drivers who have filed appeals and would not indicate, for example, whether there had been any previous appeals. It submits that in order to exercise due diligence and verify whether any of taxi drivers on the priority list had filed appeals, it was necessary to enter each of the 42 names in the WORDS database.

I have carefully considered the parties' representations and find that it was necessary for the City to spend one hour entering the names of each of the 42 individuals on the priority list. I accept the City's position that the asterisks the names of individuals on the priority list are not necessarily a reliable indicator of all taxi drivers who have filed appeals, and that it was necessary to conduct a broader search to ensure that it located all appeal files that are responsive to part (a) of Schedule A, Item 9.

Moreover, I find that the City's fee estimate of \$30 for searching for these records (one hour total @ \$30 per hour) is in compliance with section 6(3) of Regulation 823, which requires an institution to charge \$7.50 for each 15 minutes spent by any person to manually search for a record.

Photocopying

I find that the City's fee estimate of \$7 for photocopying 35 pages of "public records" in these files (35 pages total @ \$0.20 per page) is in compliance with section 6(1) of Regulation 823, which requires an institution to charge 20 cents per page for photocopying records.

Conclusion

In short, I uphold the City's fee estimate for providing access to 35 pages of "public records" in the appeal files sought by the appellant in Schedule A, Item 9(a) of his request.

Schedule B, Items 1 and 2 – Information relating to City staff

The appellant is seeking the job description of the Vehicle Licencing Manager (Item 1) and the name and job description of the person under the Vehicle Licencing Manager who is responsible for administering the priority list (Item 2).

The City located two records responsive to this portion of the appellant's request and decided to provide access to these records. It charged a photocopying fee of \$0.40.

The parties did not provide detailed representations on the fees charged for these two records.

I find that the City's fee estimate of \$0.40 for photocopying the two job descriptions (2 pages total @ \$0.20 per page) is in compliance with section 6(1) of Regulation 823, which requires an institution to charge 20 cents per page for photocopying records

Interim access decision

Schedule A, Item 7 – Communications between City and taxi drivers on priority list

The appellant is seeking, "Any communication between City of Mississauga and the people listed on the priority list that is directly and indirectly related to the priority list in any format, written, verbal, or electronic. This includes notices for production of proof their being in compliance with the provisions to remain on the priority list."

In accordance with the appellant's revised request, he is only seeking this information with respect to the first 42 individuals on the priority list.

The City's interim access decision is based on a representative sample of records from the files of three taxi drivers on the priority list. It estimates that there is an average of 30 pages of records in each of the 42 files.

The City states that the appellant would be provided with "very limited access" (approximately 10%) to the records in each file, because most information would be exempt under the mandatory exemption in section 14(1) (personal privacy) and the discretionary exemption in section 12 (solicitor-client privilege) of the *Act*.

The City provided the following fee estimate for providing "very limited access" to the information in these files:

Search time	Severing time	Photocopying
15 minutes per file x 42 files = 10.5 hours	2 minutes per page (estimated 10 pages per file) = 20 minutes per file	10 pages per file x 42 files = 420 pages
10.5 hours @ \$30 per hour	20 minutes per file x 42 files = 840 minutes (14 hours)	420 pages @ \$0.20 per page
\$315	14 hours @ \$30 per hour	\$84
	\$420	

Search time

In its representations, the City states that it has several files relating to each taxi driver, including:

- LP13 – Taxi owners/drivers licences
- LP20 – Taxi plate priority list

It further states that the Freedom of Information Coordinator consulted with the Senior Records Clerk. They determined that the following steps would be required to locate records responsive to Schedule A, Item 7 of the appellant’s request:

- Search for responsive files by entering the name of the taxi drivers on the priority list;
- Produce a printout of all responsive files;
- Locate and retrieve each file from the shelf;
- Review each file to identify responsive record;
- Review extracted records to ensure that no duplication exists.

The City submits that it would take an estimated 15 minutes to locate and retrieve responsive records from the files for the first 42 priority list applicants.

In his representations, the appellant states that the City’s filing system is disorganized and he should not be charged a high search fee “for the City’s inability to administer these files properly.” He submits that if the City organized its files properly, he would only be interested in records from the LP20 files relating to taxi drivers.

In its reply representations, the City submits that the appellant’s request is very broad, which requires the City to exercise due diligence in identifying records which may be reasonably responsive. With respect to the appellant’s assertion that the City’s filing system is disorganized and that all records relating to priority list applicants should be in the LP20 files, the City submits that the City’s records retention by-law contains a classification system, and that

information about taxi drivers on the priority list can appear in a number of different files in accordance with that system.

I have carefully considered the parties' representations and agree with the City's submission that it would take an estimated 15 minutes to locate and retrieve responsive records from the various files for each of the 42 priority list applicants.

I agree with the City's submission that the wording in Schedule A, Item 7 of the appellant's request is extremely broad. He is seeking "Any communication between City of Mississauga and the people listed on the priority list that is directly and indirectly related to the priority list in any format, written, verbal, or electronic."

In my view, it is not reasonable for the appellant to submit a broadly worded request but then expect the City to be able to rapidly retrieve records from various files responsive to that request. Although the appellant claims that the City's files should be better organized, I find that the City has provided a credible explanation as to why records responsive to this portion of the appellant's request may be found in various files.

I find that the City's fee estimate of \$315 for searching for these records (10.5 hours total @ \$30 per hour) is in compliance with section 6(3) of Regulation 823, which requires an institution to charge \$7.50 for each 15 minutes spent by any person to manually search for a record.

Preparation for disclosure

The City states that in order to prepare the records for disclosure, it must sever significant amounts of personal information from them. It estimates that very limited access (10%) would be provided to the records and submits that it would take approximately two minutes per page to sever personal information from the records.

The appellant submits that it is not credible that there are 30 pages of records in the files of each priority list applicant, unless the City is considering statutory declarations to be "communications." He submits that access to these records is already covered by Schedule A, Item 2 of his request and that it would be unnecessary "duplication" for the City to include them in this part of his request.

I have carefully considered the parties' representations and agree with the City's position that it would take approximately two minutes to sever the personal information on each page of the records.

With respect to the appellant's concern about the City severing "duplicate" records, such as statutory declarations, it is not clear to me whether the City, in fact, considers these records responsive to this portion of the appellant's request. However, I agree that such records should not, in principle, form part of the records that are prepared for disclosure in response to Schedule A, Item 7 of the appellant's request.

I find that the City's fee estimate of \$420 for preparing the records for disclosure (14 hours @ \$30 per hour) is in compliance with section 6(4) of Regulation 823, which requires an institution to charge \$7.50 for each 15 minutes spent by any person to prepare a record for disclosure, including severing. However, if the City has included any "duplicate" records in the severing process that would be disclosed under other parts of the appellant's request, it must eliminate such records and reduce the total preparation fee for this particular item.

Photocopying

I find that the City's fee estimate of \$84 for photocopying an estimated 420 pages of responsive records in these files (420 pages @ \$0.20 per page) is in compliance with section 6(1) of Regulation 823, which requires an institution to charge 20 cents per page for photocopying records. However, if the City has included any "duplicate" records in the photocopying process that would be disclosed under other parts of the appellant's request, it should eliminate such records and reduce the photocopying fee for Schedule A, Item 7.

Conclusion

In short, I uphold the City's fee estimate for providing access to the records responsive to Schedule A, Item 7 of the appellant's request, subject to any fee reductions that result from the elimination of duplicate records.

Schedule B, Item 4 – Documentation generated by City staff regarding review of priority list

The appellant is seeking, "Any documentation generated by any city of Mississauga employee with respect to the review of the priority list and the eligibility of the applicants on the priority list as set out under the By-Law 142-89 and any previous versions of this By-law."

The City's interim access decision is based on a representative sample of records from one of the general files that it maintains on the priority list (LP20). It estimates that there are 14 general files with approximately 15 pages of records in each file.

The City states that the appellant would be provided with "very limited access" (approximately 30%) to the records in each file, because most information would be exempt under the mandatory exemption in section 14(1) (personal privacy) of the *Act*.

The City provided the following fee estimate for providing "very limited access" to the information in these 14 files:

Search time	Severing time	Photocopying
3 hours @ \$30 per hour \$90	2 minutes per page (estimated 100 pages) = 200 minutes @ \$30 per hour \$99.90	100 pages @ \$0.20 per page \$20

Search time

The City states that its Freedom of Information Coordinator consulted with the Senior Records Clerk. They determined that the following steps would be required to locate records responsive to Schedule B, Item 4 of the appellant's request:

- Search for responsive files by entering the subject in the OMNIRIM database;
- Produce a printout of responsive files;
- Locate and retrieve files from shelf;
- Extract responsive records and review to ensure there is no duplication

The City submits that it would take an estimated 15 minutes to locate and retrieve responsive records from the files or 3.5 hours in total (14 files x 15 minutes = 3.5 hours).

In his representations, the appellant states the City has provided conflicting information about how many files exist that are responsive to this portion of his request. He points out that the City claims that there are 14 files with an estimated 15 pages each, but on Index 4, it states that there are 20 files.

In its reply representations, the City states that the number of files has fluctuated over the course of the appellant's access request, because the City has merged and split various files.

The appellant also states that any correspondence in these files should be in the records covered under Schedule A, Item 7 of his request. Consequently, he submits that the City is duplicating its search time fee.

He further states that although the Senior Records Clerk may be responsible for maintaining these files, the Vehicle Licencing Manager and his staff maintain the priority list and could locate these records more quickly. Consequently, he asserts that the City's search fee is unnecessarily high, because the wrong people are searching for the records.

I have carefully considered the parties' representations and accept the City's submission that it would take an estimated 15 minutes per file for the City to locate and retrieve responsive records from the 14 general files.

In my view, the City has provided a credible explanation as to why there is conflicting information about how many files exist that are responsive to this portion of his request. In

particular, I accept the City's explanation that it has merged and split various files during the course of the appellant's access request and appeal, and this has caused the total number of files to fluctuate.

I am not persuaded by the appellant's argument that the Senior Records Clerk is not the most appropriate person to conduct the search. In my view, the 15-minute search time that City has allotted to searching for responsive records in each file is reasonable and would not change substantially, even if the Vehicle Licencing Manager or his staff performed the search, as suggested by the appellant.

Moreover, I find that the City's fee estimate of \$90 for searching for these records (3 hours total @ \$30 per hour) is in compliance with section 6(2) of Regulation 823, which requires an institution to charge \$7.50 for each 15 minutes spent by any person to manually search for a record. I would note that the City claimed in its representations that it would take 3.5 hours to search for the records. However, the 3 hour search time cited in Index 4 produces a lower search fee, which is of benefit to the appellant.

Preparation for disclosure

The City states that to prepare the records for disclosure, it would take approximately two minutes per page to sever personal information from the records.

As noted above, the appellant states that any correspondence in these files should be in the records covered under Schedule A, Item 7 of his request. Consequently, he submits that the City is duplicating its fee for severing the records.

I have carefully considered the parties' representations and find that it would take approximately two minutes to sever the information on each page of the records.

With respect to the appellant's concern about the City severing "duplicate" records, particularly those that it has already located with respect to Schedule A, Item 7 of his request, it is not clear to me whether the City, in fact, considers these records responsive to this portion of his request. However, I agree that such records should not, in principle, form part of the records that are prepared for disclosure in response to Schedule B, Item 4 of the appellant's request.

I find that the City's fee estimate of \$99.90 for preparing the records for disclosure (200 minutes @ \$30 per hour) is in compliance with section 6(4) of Regulation 823, which requires an institution to charge \$7.50 for each 15 minutes spent by any person to prepare a record for disclosure, including severing. However, if the City has included any "duplicate" records in the severing process that would be disclosed under other parts of the appellant's request, it should eliminate such records and reduce the total preparation fee for this particular item.

Photocopying

I find that the City's fee estimate of \$20 for photocopying an estimated 100 pages of responsive records in these files (100 pages @ \$0.20 per page) is in compliance with section 6(1) of Regulation 823, which requires an institution to charge 20 cents per page for photocopying records. However, if the City has included any "duplicate" records in the photocopying process that would be disclosed under other parts of the appellant's request, it should eliminate such records and reduce the photocopying fee for Schedule B, Item 4.

Conclusion

In short, I uphold the City's fee estimate for providing access to the records responsive to Schedule B, Item 4 of the appellant's request, subject to any fee reductions that result from the elimination of duplicate records.

Schedule B, Item 6(a) – Documents dealing with discretionary decisions

The appellant is seeking, "Any documents that deal with discretionary decisions made in respect of the provisions in the By-laws dealing with priority list for the first forty one applicants on the list. Including decisions made by any staff or committee of the city of Mississauga."

The City's interim access decision indicated that the appellant would be provided with access to all "public records," specifically minutes of Appeal Committee hearings and Council decisions. This appears to be similar to the records at issue with respect to Schedule A, Item 9 of the appellant's request.

The City provided the following fee estimate for providing access to these records:

Search time	Severing time	Photocopying
3.5 hours @ \$30 per hour	N/A	210 pages @ \$0.20 per page
\$105		\$42

In its brief representations on this item, the City states that responsive records for the first 42 names on the priority list have been accounted for in the fee estimate for Schedule A, Item 9 of the appellant's request. However, it would have to search an additional 198 names of additional individuals on the priority list. It submits that this search would be done in the same manner as the search conducted for the top 42 names on the priority list with respect to Schedule A, Item 9.

In his representations, the appellant states that he has only requested information with respect to the first 41 applicants on the priority list. He submits that it is not clear why the City is proposing to search 198 additional names to locate records responsive to Schedule B, Item 6A of his request.

In its reply representations, the City acknowledges that if the appellant is only interested in the first 41 applicants on the list, it would not be necessary to search all 198 names, and the fee would be adjusted accordingly.

I have carefully reviewed the parties' representations and Index 4 submitted by the City. It appears that the records that the City has identified as responsive to Schedule B, Item 6(a) of the appellant's request are the same types of responsive records as for Schedule A, Item 9 of his request (Appeal Committee hearing minutes and Council decisions). However, its fee estimate for Schedule B, Item 6(a) is based not on the first 41 individuals on the priority list, as the appellant requested, but for the subsequent 198 individuals on that list.

It is clear from the wording of the appellant's request and his representations that he is only seeking access to the first 41 taxi drivers on the priority list. Consequently, the City's proposal to search for records relating to the subsequent 198 individuals on the priority list is unnecessary, and I find that the fee estimate for Schedule B, Item 6(a) cannot be upheld.

FEE WAIVER

General principles

Section 45(4) of the *Act* requires an institution to waive fees, in whole or in part, in certain circumstances. Section 8 of Regulation 823 sets out additional matters for a head to consider in deciding whether to waive a fee. Those provisions state:

45. (4) A head shall waive the payment of all or any part of an amount required to be paid under subsection (1) if, in the head's opinion, it is fair and equitable to do so after considering:

- (a) the extent to which the actual cost of processing, collecting and copying the record varies from the amount of the payment required by subsection (1);
- (b) whether the payment will cause a financial hardship for the person requesting the record;
- (c) whether dissemination of the record will benefit public health or safety; and
- (d) any other matter prescribed by the regulations.

8. The following are prescribed as matters for a head to consider in deciding whether to waive all or part of a payment required to be made under the Act:

1. Whether the person requesting access to the record is given access to it.
2. If the amount of a payment would be \$5 or less, whether the amount of the payment is too small to justify requiring payment.

A requester must first ask the institution for a fee waiver, and provide detailed information to support the request, before this office will consider whether a fee waiver should be granted. This office may review the institution's decision to deny a request for a fee waiver, in whole or in part, and may uphold or modify the institution's decision [Orders M-914, P-474, P-1393, PO-1953-F].

The institution or this office may decide that only a portion of the fee should be waived [Order MO-1243].

In the circumstances of this appeal, the requester submitted a fee waiver request pursuant to section 45(4) of the *Act*. The requester claimed payment of the fees would cause him financial hardship, and he submitted financial information in support of his request.

The requester also met with the City's Freedom of Information Coordinator and agreed to narrow the scope of his request. After considering the financial information provided by the requester and the narrowed scope of the revised request, the City issued a revised fee estimate. In addition, the City agreed to waive 50% of the fees, which reduced the total fee estimate from \$1591.80 to \$795.74.

Consequently, it must be determined whether the City's decision to provide a 50% fee waiver should be upheld or whether the fees should be further waived, either partially or fully.

Part 1: basis for fee waiver

According to the appellant's representations, he is seeking a fee waiver on the basis of section 45(4)(b) (financial hardship) of the *Act*.

Section 45(4)(b): financial hardship

In deciding whether it is fair and equitable to waive payment of all or part of the fees, an institution must consider whether the payment will cause a financial hardship for the person requesting the record.

The fact that the fee is large does not necessarily mean that payment of the fee will cause financial hardship [Order P-1402].

Generally, a requester should provide details regarding his or her financial situation, including information about income, expenses, assets and liabilities [Orders M-914, P-591, P-700, P-1142, P-1365, P-1393].

The City submits that payment of the fees would not cause the appellant any financial hardship.

The appellant states that after he provided the City's Freedom of Information Coordinator with information about his financial status to support his application for a fee waiver, she indicated that she did not require any further information from him. He submits that the City is being inconsistent by granting a 50% fee waiver but arguing in its representations that payment of the remaining fee will not cause financial hardship for him.

The appellant provided further evidence in his representations to support his argument that payment would cause him financial hardship. For example, he states that he is attending university full-time and driving a taxi cab to make ends meet. He also provided several attachments that show his liabilities, including a university student account statement and a line of credit statement.

I have carefully considered the representations of the parties. In my view, the evidence submitted to this office by the appellant only provides a partial overview of his financial situation. Although he provided evidence that shows that he has significant liabilities, such as his outstanding university tuition and the money owing on his line of credit, he did not submit any documents that might demonstrate his overall financial situation, such as a Notice of Assessment issued under the *Income Tax Act*.

However, I am satisfied, based on the limited evidence submitted to me, that the appellant is in a sufficiently difficult financial situation that payment of the fees would cause him some degree of financial hardship. Subject to my determination as to whether a fee waiver is fair and equitable in the circumstances of this appeal, I find that section 45(4)(b) applies to the appellant's request for a fee waiver.

Part 2: fair and equitable

I have found that the only basis for a further fee waiver is that payment of the fees would cause financial hardship for the appellant [section 45(4)(b)].

However, for a fee waiver to be granted under section 45(4), it must be also "fair and equitable" to do so in the circumstances. Relevant factors in deciding whether or not a fee waiver is "fair and equitable" may include:

- the manner in which the institution responded to the request;
- whether the institution worked constructively with the requester to narrow and/or clarify the request;

- whether the institution provided any records to the requester free of charge;
- whether the requester worked constructively with the institution to narrow the scope of the request;
- whether the request involves a large number of records;
- whether the requester has advanced a compromise solution which would reduce costs; and
- whether the waiver of the fee would shift an unreasonable burden of the cost from the appellant to the institution.

[Orders M-166, M-408, PO-1953-F]

The City states that based on the financial information submitted by the appellant in his application for a fee waiver and his willingness to narrow the scope of his request, it decided that a 50% fee waiver would be fair and equitable.

It further submits that a complete fee waiver is not justified. It states that section 45(1) of the *Act* contemplates a user pay principle, and the appellant is asking for an extensive amount of information:

The City has already invested a considerable amount of time working with the requester to try to respond to his request. While the scope of the original request has been narrowed, the volume of information, search time and severing involved in responding to the revised request are still considerable.

The appellant did not provide representations that specifically address whether it would be “fair and equitable” to provide a further fee waiver. However, he submits that he spent a considerable amount of time working with the City to narrow his request. In particular, he states that his request originally pertained to 240 taxi drivers on the priority list, and he agreed to narrow it to only the first 41 individuals on this list.

There are a number of factors in this appeal that are relevant to determining whether it would be fair and equitable in the circumstances to grant a further fee waiver to the appellant.

In my view, the City worked constructively with the requester to narrow and clarify his two requests in order to reduce the fees that would be charged. Although the appellant submitted two broad, multi-part requests, the City devoted significant time and resources locating and copying responsive records and provided the appellant with indexes of records to assist him in reducing the scope of his requests. I find that this factor weighs against granting a fee waiver.

On the other hand, it is clear that the requester also worked constructively with the City to narrow the scope of his requests. In addition, he advanced a compromise solution to reduce the cost. For example, he agreed to narrow the scope of his requests from 240 taxi drivers on the priority list to the first 41 individuals. I find that this factor weighs in favour of granting a fee waiver.

I have also considered whether the request involves a large number of records. Even with the reduced scope of the requests, the City will still be required to process a voluminous amount of records. I find that this factor weighs against granting a further fee waiver.

Another important factor to consider is the fact that a further waiver of the fee would shift an unreasonable burden of the cost from the appellant to the City, particularly given the substantial efforts the City has already made to locate, retrieve and copy records, and that fact that it has already granted the appellant a 50% fee waiver. I find that this factor weighs against granting a further fee waiver.

As noted above, I have found that the only basis for a fee waiver is that payment of the fees would cause financial hardship for the appellant [section 45(4)(b)]. However, after considering the factors that are relevant in deciding whether granting a further fee waiver would be “fair and equitable,” I have concluded that the factors that weigh against doing so outweigh those in favour.

The City has already granted the appellant a 50% fee waiver, which is substantial. Consequently, I am particularly swayed by the fact that providing a further fee waiver would shift an unreasonable burden of the cost from the appellant to the City.

In my view, given that the *Act* is based on a user pay principle, it is not reasonable for the appellant to file two broad, multi-part requests for huge amounts of information, but then expect the City (and, by extension, other taxpayers) to foot the entire bill for his requests. Consequently, I find the City’s decision to grant the appellant a 50% fee waiver is fair and equitable in the circumstances, and that it would not be appropriate to grant a further fee waiver.

TIME EXTENSION

General principles

Once an institution has received a request and, if necessary, clarified it with the requester, section 19 of the *Act* prescribes a 30-day time limit in which the institution must respond to the request:

Where a person requests access to a record, the head of the institution to which the request is made or if a request is forwarded or transferred under section 18, the head of the institution to which it is forwarded or transferred, shall, subject to sections 20, 21 and 45, within thirty days after the request is received,

- (a) give written notice to the person who made the request as to whether or not access to the record or a part of it will be given; and
- (b) if access is to be given, give the person who made the request access to the record or part, and if necessary for the purpose cause the record to be produced.

Section 20(1) of the *Act* allows an institution to extend the 30-day time limit for responding to a request in prescribed circumstances. This provision states:

A head may extend the time limit set out in section 19 for a period of time that is reasonable in the circumstances, if,

- (a) the request is for a large number of records or necessitates a search through a large number of records and meeting the time limit would unreasonably interfere with the operations of the institution; or
- (b) consultations with a person outside the institution are necessary to comply with the request and cannot reasonably be completed within the time limit.

Section 20(2) of the *Act* sets out the process that an institution must follow if it decides to extend the time for responding to a request:

A head who extends the time limit under subsection (1) shall give the person who made the request written notice of the extension setting out,

- (a) the length of the extension;
- (b) the reason for the extension; and
- (c) that the person who made the request may ask the Commissioner to review the extension.

In its decision letter to the appellant, the City states that it is extending the time limit for responding to the request by 90 days from the date it receives written acceptance of the fee estimate and payment of the fee deposit.

During the mediation stage of this appeal, the appellant sent a fax to the mediator stating that he wishes to appeal the time extension claimed by City under section 20 of the *Act*.

Analysis and findings

In the circumstances of this appeal, the application of the time extension provision in section 20 of the *Act* is muddled by the fact that the City responded to the appellant's two requests in one decision letter and issued a final access decision for some items of his two requests and an interim access decision for others.

In its decision letter, the City appears to be claiming a time extension for responding to both the items for which it has made a final access decision and those for which it has made an interim access decision, because it refers to the request as a whole:

... [W]e will be extending the time for responding to this request in accordance with section 20 of the *Act*. The reason for the time extension is because the request is for a very large volume of records. To complete the request in its entirety, it will be necessary to search files for each individual on the priority list over a 20 year period (240 in total) and sever a significant number of documents. This search and preparation will unreasonably interfere with the operation of the departments involved.

However, in its representations, the City clarifies that its time extension claim only applies to those items for which it had issued an interim access decision:

With respect to the reasonableness of the time extension, the City notes that 90-day time extension was based on the original request submitted by the appellant and that subsequently, the appellant reduced the scope of his request. The time extension was not reduced to reflect this. Accordingly, the City agrees that a time extension of 45 days is more reasonable for responding to the items identified in the interim access decision.

Consequently, it must be determined whether the City is permitted to claim a time extension with respect to the items for which it made an interim access decision and, if so, whether the adjusted 45-day time extension claimed by the City is reasonable.

In his representations, the appellant asserts that the City decided "unnecessarily" to combine his two access requests and asserts that he should not have to wait further because of the City's actions. He submits that while any time extension would be unreasonable, he would agree to a 30-day time extension to accommodate the City's request.

In Order 81, former Commissioner Sidney Linden stated that section 27 of the *Freedom of Information and Protection of Privacy Act* [the provincial equivalent to section 20] cannot be invoked to extend the time limit set out in section 26 [the provincial equivalent to section 19] where the institution is experiencing a problem because a record is unduly expensive to produce for inspection by the institution in making a decision because of the size of the record, the number of records or the physical location of the record within the institution.

In Order M-555, Senior Adjudicator John Higgins reviewed and interpreted Order 81. In particular, he found that if an institution issues an interim access decision along with a fee estimate, it cannot invoke section 20 and claim a time extension for responding to the request:

Order 81 states that "[s]ection 27 [the provincial equivalent to section 20 of the *Act*] is not applicable to a situation where the institution is experiencing a problem because a record is unduly expensive to produce for inspection by the head in making a decision". In other words, where an interim decision is being made to accompany a fee estimate, it is inappropriate for an institution to claim a time extension under section 20. I agree with that interpretation.

In my view, Order 81 also stands for the proposition that, once the question of fees is settled and any requested deposit has been paid, if the institution finds that it faces one of the situations described in section 20, it may claim a time extension at that point (subject to the requester's right to appeal that time extension in the usual way).

The City states that it has reviewed Order 81 and acknowledges that an institution is not entitled to claim a time extension in situations in which an interim access decision has been issued. However, the City insists that "notwithstanding the above," a time extension is justified pursuant to section 20(1)(a) of the *Act*.

I am not persuaded by the City's submission on this point. In my view, it is clear that the City has prematurely claimed a time extension for responding to those items of the appellant's two requests for which it has issued an interim access decision. In accordance with the reasoning in Orders 81 and M-555, if the City meets the requirements of section 20, it may claim a time extension for those items **after** it receives the appellant's deposit in connection with any fees upheld in this order. The appellant has the right to appeal any such time extension to the Commissioner's office in the manner prescribed in the *Act*.

In short, I do not uphold the City's existing decision to claim a time extension with respect to the items for which it made an interim access decision.

CONCLUSION

This order has addressed a number of complex issues, which are rooted largely in the broad nature of the appellant's two requests, but also in the City's decision to issue a final access decision for the records responsive to some items of his requests and an interim access decision for others. Consequently, I have decided to provide the parties with a roadmap, based on Order 81, that sets out how they should proceed after receiving and reviewing this order. This roadmap should be read in conjunction with the order provisions below.

In this order, I have upheld the City's fee estimates for some items of the appellant's two requests (subject to any fee reductions that may result from the elimination of duplicate records),

and not upheld its fee estimate for one item. In addition, I have found that the City has the right to charge a fee for some items for which it issued a final access decision but did not provide a fee estimate. Consequently, the first action that the City must undertake after receiving and reviewing this order is to send the appellant a revised fee estimate. In the order provisions below, I will be ordering the City to provide a revised fee estimate to the appellant within 14 days of this order.

In accordance with section 7(1) of Regulation 823, if the fee estimate is \$100 or more (as will likely be the case in the circumstances of this appeal), the City may require the appellant to pay a deposit equal to 50 per cent of the estimate before it takes any further steps to respond to the request.

The onus then shifts to the appellant to decide whether he wishes to pay the fees and continue pursuing access to the records, either in whole or in part. If the appellant decides that he does not wish to pay the fees, that is the end of the matter. However, if he decides to pay the fee deposit, the City must then take further steps to provide him with access to the records.

In Order 81, former Commissioner Linden summarized the steps that institutions must follow when responding to access requests under the *Act*. In particular, step 5 sets out what an institution must do once it has received a fee deposit:

... receipt of deposit or decision to waive fees reactivates the 30-day time limit, subject to extensions under [sections 20 and 21], and;

- if final decision under [section 19] notice was sent granting access in whole or in part, head provides access according to [section 19(b)], or

- if an "interim" [section 19] notice was sent, head reviews all of the records covered by the request and issues a final decision under [section 19].

Consequently, if the City receives a fee deposit from the appellant after sending him a new total fee estimate, it must take the following steps:

- In accordance with section 19(b) of the *Act*, the City must provide the appellant with access to those records for which it has already issued a final access decision. In the order provisions below, I will be ordering the City to provide these records to the appellant within 30 days of receiving the fee deposit. However, the City is not required to disclose these records until the appellant has paid the remainder of the fees owing for these records.
- The City must retrieve and review all of the records for which it issued an interim access decision and then issue a final access decision for these records, in accordance with section 19 of the *Act*. In the order provisions below, I will be ordering the City to issue a final

access decision for these records, in accordance with sections 19, 20, 21 and 22 of the *Act*. If the City meets the requirements of section 20 of the *Act*, it may claim a time extension for issuing a final access decision and providing the appellant with access to these records. The City is not required to disclose these records until the appellant has paid the remainder of the fees owing. In accordance with section 39 of the *Act*, the appellant has the right to appeal the City's final access decision and/or any time extension decision to the Commissioner's office within 30 days of receiving such decisions.

ORDER:

Fees estimates and fee waiver:

1. I uphold the City's fee estimates for the following request items for which it issued a final access decision: Schedule A, Items 2 and 9(a) and Schedule B, Items 1 and 2.
2. I find that the City has the right to charge a fee for the following request items for which it issued a final access decision but did not provide a fee estimate: Schedule A, Items 1, 3, and 9(b).
3. I uphold the City's fee estimates for the following request items for which it issued an interim access decision, subject to any fee reductions that result from the elimination of duplicate records: Schedule A, Item 7 and Schedule B, Item 4.
4. I do not uphold the City's fee estimate for the following request item for which it issued an interim access decision: Schedule B, Item 6(a).
5. I order the City to provide the appellant with a revised fee estimate within 14 days of this order.
6. I uphold the City's fee waiver decision.

Items for which the City issued a final access decision:

7. I order the City, within 30 days of receiving a fee deposit from the appellant, to disclose those portions of the responsive records containing business information relating to taxi drivers, as set out in the chart in Appendix A of this order.
8. I uphold the City's decision to withhold the remaining information in these records.
9. In order to verify compliance with provision 7 of this order, I reserve the right to require the City to provide me with a copy of the records that it discloses to the appellant.

Items for which the City issued an interim access decision:

10. I order the City, upon receiving a fee deposit from the appellant, to retrieve and review all of the requested records and issue a final access decision, in accordance with sections 19, 20, 21 and 22 of the *Act*.

Original signed by: _____
Colin Bhattacharjee
Adjudicator

_____ October 11, 2007

APPENDIX A

Request Items	Business information relating to taxi drivers that the City must disclose to the appellant
Schedule A, Item 1: Priority list applications	Name of applicant; applicant's number on priority list; date and time application received; applicant's present job; and signature
Schedule A, Item 2: Statutory declarations	Name; priority waiting list number; whether the 40-hour driving requirement is being met; whether the individual wishes to be voluntarily removed from the priority waiting list; employment in taxi industry (other than driving); acknowledgement that the individual no longer meets the requirements of the by-law; and signature
Schedule A, Item 3: Taxicab driver operator's licence	Taxicab driver's name; licence number; and the expiry date of the licence
Schedule A, Item 4: Names of applicants on priority list other than as a driver/justification for being on list	Taxi driver's name and his or her employment in the taxi industry other than driving a taxi (from statutory declarations – see item 2)
Schedule A, Item 5: Names of fleet owners/plate numbers	Taxi driver's name and his or her employment in the taxi industry other than driving a taxi (which includes the "Taxicab Fleet Manager" category) (from statutory declaration – see item 2)

<p>Schedule A, Item 9(b):</p> <p>Information on applicants with appeals</p>	<p><u>Files LP13-KAN, LP13-DIA, LP13-ROZ:</u></p> <p>Licence renewal applications – the applicant’s name coupled with the “type of licence”</p> <p>Applications for taxicab driver’s licence – the applicant’s name coupled with the type of licence being sought (“For a licence to conduct the business of ...)</p> <p>Taxicab driver’s application checklists – the applicant’s name coupled with the “date licence issued” and “licence number and year” (Files LP13-KAN and LP13-ROZ only)</p> <p>Printout from a City database on a taxi driver – the taxi driver’s name; the issuance and expiry dates of his taxicab driver’s licence; and his priority waiting list number (File LP13-DIA only)</p> <p>Priority list disposition – the taxi driver’s name; his file number; his plate number; and when he was issued this plate (File LP13-DIA only)</p> <p><u>Files LA16-KAN, LA16-DIA:</u></p> <p>Priority list application form – the name of the applicant; the applicant’s number on the priority list; the date and time the application was received; the applicant’s present job; and signature</p> <p>Statutory declaration – name; priority waiting list number; whether the 40-hour driving requirement is being met; whether the individual wishes to be voluntarily removed from the priority waiting list; employment in taxi industry (other than driving); acknowledgement that the individual no longer meets the requirements of the by-law; and signature</p>
---	---

APPENDIX B

**Fee Estimate and Final Access Decision
Schedule "A"
REVISED REQUEST
INDEX 1**

The Schedule "A" request pertains only to information relating to the first forty-two people on the priority list. The time span for the search is from the time the person was added to the list to present. **The revised fee estimate is based on the meeting with the requester on October 27, 2004, during which he indicated that he was willing to reduce the scope of the request in specific areas.**

Please note that for Items 1 to 5 (below) a sample of an applicant file was searched for responsive records, not each file. The records requested in Items 1 to 5 are contained on standard forms which are the same for all applicants therefore the search time is estimated based on the sample file and projected for all applicant files.

No.	Schedule "A" Item No.	General Description	# Pages	Access Decision	Section Applied	Comments/Explanation	Fee Estimate		
							Search Time	Severing Time	# Photo copies
1.	Item 1 No change	Application of Applicant at time they were added to the Priority List. (contained in 42 separate files)	2 pg per applicant x 42 84 pg TOTAL	No Access	14(1) 14(3)	Personal Information of Applicant - Invasion of Privacy	n/a	n/a	n/a
1 sample application included in appeal package 2 pages File Ref: LP20 SID									

No.	Schedule "A" Item No.	General Description	# Pages	Access Decision	Section Applied	Comments/Explanation	Fee Estimate		
							Search Time	Severing Time	# Photo copies
2.	Item 2 Reduced request	<p>Statutory declarations related to the Priority List</p> <p>The first and last declaration filed for 37 applicants.</p> <p>All declarations filed by 5 applicants who are not listed as full time drivers.</p> <p>(contained in 42 separate files)</p>	<p>4 pages x 37 = 148 pages</p> <p>30 pages x 5 = 150 pages</p>	Very limited access 10% (extensive severing) name and all personal information of applicant severed	14(1) 14(3)	<p>Personal Information of Applicant - Invasion of Privacy</p> <p>Declarations would be grouped together and identified by a reference number (no name).</p> <p>Access would be provided to answers to the following questions – <i>Are you earning a living as a driver on a full time basis?</i> and - <i>Are you earning living in taxi industry as other than a driver?</i>, only</p> <p>Name and other personal information of applicant would be severed</p>	<p>1 min. per file</p> <p>42 min. TOTAL @ \$30 per hr. \$21</p>	<p>2 min. per pg. X 298 pg.</p> <p>9.93 hr TOTAL @ \$30 per hr. \$297.90</p>	<p>298 TOTAL @ \$0.20 per pg. \$59.60</p>
<p>3 sample statutory declarations included in appeal package</p> <p>6 pages</p> <p>File Ref: LP20 SID</p>									
3.	Item 3 No change	<p>Copies of Taxicab Drivers' Licenses</p> <p>(contained in 42 separate files)</p>	<p>Ave. 15 licenses in each file x 42</p> <p>630 pg TOTAL</p>	No Access	14(1) 14(3)	<p>Personal Information of Applicant – Invasion of Privacy</p> <p>name, address, issue date, expiry date, business (employer), license number</p>	n/a	n/a	n/a
<p>7 sample licenses from one applicant file</p> <p>3 pages</p> <p>File Ref: LP13 ZOG</p>									

No.	Schedule "A" Item No.	General Description	# Pages	Access Decision	Section Applied	Comments/Explanation	Fee Estimate		
							Search Time	Severing Time	# Photo copies
4.	Item 4 No change	Name of any applicant who has been on the list as other than a driver, including justification.	Part of affidavit See Index No. 2	No Access	14(1) 14(3)	Personal Information of Applicant – Invasion of Privacy This information could only be obtained by providing access to the applicant's name <u>and</u> the applicant's answer to the question: <i>are you earning living in taxi industry as other than a driver? and the category of employment</i> on the statutory declaration. This would be providing personal information of the applicant identifying the applicant's employment history.	n/a	n/a	n/a
5.	Item 5 No change	Names* of all fleet managers* on the list – plate numbers they have actively managed over the term their name has remained on the priority list under this category or any other category. * this was clarified with the requester on June 28/04 – the request had originally been for fleet owners.	Part of affidavit See Index No. 2	No Access	14(1) 14(3)	Personal Information of Applicant – Invasion of Privacy This information could only be obtained by providing access to the applicant's name <u>and</u> the applicant's answer to the question: <i>are you earning living in taxi industry as other than a driver? and the category of employment</i> on the statutory declaration. This would be providing personal information of the applicant identifying the applicant's employment history.	N/a	N/a	N/a

No.	Schedule "A" Item No.	General Description	# Pages	Access Decision	Section Applied	Comments/Explanation	Fee Estimate		
							Search Time	Severing Time	# Photo copies
6.	Item 9 No change	Any and all information on those applicants on the list with appeals or medicals , including appeal hearing transcripts or minutes	35 pages	Access to public records only.		Access is provided to Public Appeal Hearing Minutes and Council Resolutions pertaining to appeals.	1.0 hr. @ \$30 per hr. \$30	n/a	35 pgs. @ \$0.20 per pg. \$7
There are 3 appeal files for the top 42 names on the priority waiting list Additional Exemption being claimed: S. 14 – sever address of appellant from correspondence File Ref: LA 16 - ROZ LA 16 - DIA LA 16 - KAN									
7.	Item 9 No change	; and any and all records related directly or indirectly to those applicants on the list.	60 pages	No Access	S. 14(1) s. 14(3)	Personal Information of Applicant – Invasion of Privacy Supporting documentation for appeal hearings - Personal information of the applicant contained in copies of statutory declarations, correspondence from applicant or applicant's representative to City, City's response to correspondence.	n/a	n/a	n/a
See files listed below :									
A	LP13-KAN LP13-DIA LP-13ROZ					Personal information of applicant: application for license, criminal record search, driver's extract, driver's license			
B	LA16-KAN LA16-DIA					Documents Brief for Appeal Hearing: medical notes, statutory declarations indicating place and dates of employment, address,			
C	LP13-KAN					Series of correspondence to and from applicant, applicant's solicitor and city staff regarding Appeal Committee decision, contains personal information of the applicant, submitted in confidence.			

No.	Schedule "A" Item No.	General Description	# Pages	Access Decision	Section Applied	Comments/Explanation	Fee Estimate		
							Search Time	Severing Time	# Photo copies
D	LP20-KAN					Correspondence, notes on file from staff summarizing personal information of the applicant: details of employment, medical leave, driving record.			
FEE ESTIMATE						TOTAL: \$415.50	\$51	\$297.90	\$66.60

**Fee Estimate and Final Access Decision
Schedule "B"
REVISED REQUEST
INDEX 2**

The Schedule "B" request pertains to all people on the priority waiting list – 240 people. The time span for the search is from December 1, 1984 to present. **The revised fee estimate is based on the meeting with the requester on October 27, 2004, during which he indicated that he was willing to reduce the scope of the request in specific areas.**

No.	Schedule "B" Item No.	General Description	# Pages	Access Decision	Section Applied	Comments/Explanation	Fee Estimate		
							Search Time	Severing Time	# Photo Copies
8.	Item 1	Job Description of the Licensing Manager	1 pg.	Access			n/a	n/a	1 pg. @ \$0.20 per page \$0.20
9.	Item 2	Names and Job Description of Person Under the Licensing Manager who is responsible for administering the priority list,	1 pg	Access					1 pg. @ \$0.20 per page \$0.20
10.	Item 3	Documentation listing the amount of time spent on maintenance of the priority list.	Not responsive	Not responsive		No documentation exists.	N/a	N/a	N/a
11.	Item 3	Performance Review of Licensing Manager and any Sub-Ordinates	8	No Access	14(1)	Personal Information of Staff – Invasion of Privacy	N/a	N/a	N/a
There are 2 performance reviews responsive to this request – Licensing Manager Vehicle Licensing Inspector 8 pages									
FEE ESTIMATE						TOTAL \$0.40			\$0.40

**Fee Estimate and Final Access Decision
REVISED REQUEST
 Fee Estimate and Interim Access Decision
 Schedule "A"**

INDEX 3

The Schedule "A" request pertains only to information relating to the first forty-two people on the priority list. The fee estimate is based on a sample applicant file. The time period is from the time the person was added to the list to present. **The revised fee estimate is based on the meeting with the requester on October 27, 2004, during which he indicated that he was willing to reduce the scope of the request in specific areas.**

No.	Schedule "A" Item No.	General Description	# Pages in <u>sample</u> applicant file	Estimate of Access Provided	Section Applied	Comments/Explanation	Fee Estimate		
							Search Time	Severing Time	# Photo Copies
12.	Item 7 No change	Any communication between the City of Mississauga and the people listed on the priority list that is directly or indirectly related to the priority list, written, verbal or electronic. This includes notices for production of proof of their being in compliance with the provisions to remain on the priority list.	30 pg per applicant 1260 pg TOTAL	Very limited access 10% (extensive severing) name and all personal information of the applicant severed. Note that there are no verbal records – this portion of the request is non-responsive	14(1) 12	Personal Information of Applicant – Invasion of Privacy Description of responsive records found in sample: Correspondence to applicant from Licensing Supervisor, correspondence from applicant's Solicitor to City staff, Letters to Applicant's Solicitor from City staff, trip sheets, individual drivers' licenses, drivers' abstracts, test results, license application	15 min. per file x 42 (10.5 hr.) @ \$30 per hr. \$315	2 min. per pg (est. 10 pg. per file @ 2 min. per page x 42 (14 hr.) @ \$30 per hr. \$420	10 pg. per file x 42 @ \$0.20 per page \$84
Sample files included with appeal package: LP20RAN LP20Z0G, LP13Z0G									

No.	Schedule "A" Item No.	General Description	# Pages in sample applicant file	Estimate of Access Provided	Section Applied	Comments/Explanation	Fee Estimate		
							Search Time	Severing Time	# Photo Copies
13.	Item 6 No change	Any and all notices by any persons on the list that have invoked subsections 4(1) and 4(2) of Schedule 5 to By-Law 142-89.	No separate notice – part of affidavit	Very limited access (see Index 1 – Item 4)	14(1) 14(3)	Personal Information of Applicant – Invasion of Privacy (see Index 1 – Item 4) No formal notice given – subsections 4(1) and 4(2) invoked by applicant's answer to the question: <i>are you earning living in taxi industry as other than a driver? and the category of employment</i> on the statutory declaration. This would be providing personal information of the applicant identifying the applicant's employment history.		n/a	n/a
14.	Item 8 No change	List of Drivers that brokers have submitted listing any names on the priority list.	*Est. No. of pages – 300 per year x 6 years (1998-2004) TOTAL 1800 pages	No Access	14(1) 14(3)	Personal Information of Applicant – Invasion of Privacy This information is submitted in confidence by brokers as confirmation of their standing for brokers' license. It contains the personal information of individual taxi drivers – their names and place of employment and license #		n/a	n/a
<p>*These lists are submitted on an annual basis. The retention for these lists is 6 years; therefore we have records for 1998-2004. A sample of 1 year is enclosed.</p>									

No.	Schedule "A" Item No.	General Description	# Pages in sample applicant file	Estimate of Access Provided	Section Applied	Comments/Explanation	Fee Estimate		
							Search Time	Severing Time	# Photo Copies
15.	Item 10 No change	Dates of review s done on applicants since they have been on priority list – communication/reports done after review s.	See Item 7	See Item 7	See Item 7	This is addressed Under Item 7 – correspondence betw een applicant and City. There is no report listing dates of review s. Any reference to dates would be in correspondence to applicant from City staff.	N/a	N/a	N/a
FEE ESTIMATE						TOTAL: \$819.00	\$315	\$420	\$84

**Fee Estimate and Interim Access Decision
Schedule "B"**

INDEX 4

The Schedule "B" request pertains to information relating to all of the people on the priority list. The fee estimate is based on a sample file. The time period is from December 1, 1984 to present. **The revised fee estimate is based on the meeting with the requester on October 27, 2004, during which he indicated that he was willing to reduce the scope of the request in specific areas.**

No.	Schedule "B" Item No.	General Description	# Pages in <u>sample</u> applicant file	Estimate of Access Provided	Section Applied	Comments/Explanation	Fee Estimate		
							Search Time	Severing Time	# Photo Copies
16.	Item 4 No change	Any documentation generated with respect to the review of the priority list.	14 general files – est. 15 pages each 300 pages total	Very limited access 30% (extensive severing) name and all personal information of the applicant severed. Access would be provided to the priority list itself.	14(1)	Personal Information of Applicant – Invasion of Privacy Description of responsive records found in sample: Correspondence to applicant from Licensing Supervisor, correspondence from applicant's Solicitor to City staff, Letters to Applicant's Solicitor from City staff. Copy of Priority List for each year	3 hrs. @ \$30 per hr. \$90	2 min. per pg (est. 5 pg.per file) @ \$30 per hr. \$99.90	100 pg. @ \$0.20 per pg. \$20

File: LP20 Gen

Files are retained for 6 years. There are 2 files for each year from 1998 to 2004
1st file – is the priority waiting list itself (access provided)
2nd file – is background documentation related to the priority list (partial access)

Samples from 2002 and 2003 are provided with the appeal package.

No.	Schedule "B" Item No.	General Description	# Pages in sample applicant file	Estimate of Access Provided	Section Applied	Comments/Explanation	Fee Estimate		
							Search Time	Severing Time	# Photo Copies
17.	Item 5 Applicant no longer requests this information	Any documentation or communication related to an applicant's status to remain on the priority list including any exemptions or discretionary decisions made by any employee, not provisioned for by by-law .	198 individual files @ est. 60 pgs. each (does not include the 42 files already accounted for in Sch "A" request) est. 11,880 pages total	Very limited access 15% (extensive severing) name and all personal information of the applicant severed.	14(1) 12	Personal Information of Applicant – Invasion of Privacy Description of responsive records found in sample: Statutory declarations, Individual applications for license, Correspondence to applicant from Licensing Supervisor, correspondence from applicant's Solicitor to City staff, Letters to Applicant's Solicitor from City staff.	198 files @ 15 min. per file 49.5 hours @ \$30 per hr. \$1485	2 min. per pg (est. 10 pg. per file (66hr.) @ \$30 per hr. \$1980	1980 pg. @ \$0.20 per pg. \$396
18.	Item 6a No change	Documents dealing with discretionary decision made in respect of the provisions of the by-law by any committee of the City of Mississauga	Appeal Hearing Files est. 7% appeals – 14 applicant files est. 210 pgs.	Access to public records only - hearing minutes and Council decisions		Public Appeal Hearing Minutes and Council Resolutions – Search required by individual name to determine whether appeals have taken place over the 20 year time period.	3.5 h r. @ \$30 per hr. \$105	N/a	210 pg. @ \$0.20 per pg. \$42
A sample has not been provided; however, see Index 1, No. 6									
	Item 6b Applicant no longer requests this information	Supporting documentation			14(1) 14(3)	Personal Information of Applicant – Invasion of Privacy Supporting documentation for appeal hearings - Personal information of the applicant contained in copies of statutory declarations, correspondence from applicant or applicant's representative to City, City's response to correspondence.	n/a	n/a	n/a
19.	Item 7	Any policies, standards or regulations that the City has with respect to the priority list not listed in the By-Law .	Not responsive	Not Responsive	N/a	No policies, standards or regulations exist other than the By-Law .	N/a	N/a	n/a

No.	Schedule "B" Item No.	General Description	# Pages in sample applicant file	Estimate of Access Provided	Section Applied	Comments/Explanation	Fee Estimate		
							Search Time	Severing Time	# Photo Copies
20.	Item 8	A list of gifts, items or services which have any monetary value received by the Licensing Manager or subordinates.	Not Responsive	Not Responsive	N/a	No Records	N/a	N/a	N/a
FEE ESTIMATE						TOTAL: \$356.90	\$195	\$99.90	\$62