



**Information and Privacy  
Commissioner/Ontario**

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

# **FINAL ORDER MO-2377-F**

## **Appeal MA-050049-1**

### **City of Ottawa**



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This Final Order follows from the previously issued Interim Order MO-2192-I in this same appeal, which was released on May 9, 2007. This Final Order operates to resolve the outstanding issues in this appeal.

## **NATURE OF THE APPEAL:**

The City of Ottawa (the City) received a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for the following:

... a list of all properties within [the City] that have a tax capping or clawback applied to them [with] the amount of the clawback [being] indicated for each property.

The City identified records responsive to the request and denied access to them based on a number of identified exemptions. The requester, now the appellant, appealed the decision.

Following mediation, Adjudicator Steven Faughnan conducted an inquiry into the appeal, and sought and received representations from the City and the appellant. After reviewing the issues, Adjudicator Faughnan issued Order MO-2192-I, in which a number of the issues raised in this appeal were addressed. Those issues included the scope of the request, the late raising of a discretionary exemption, whether the provisions in sections 53(1), (2) and (4) of the *Assessment Act* apply to “preclude” the City from disclosing the assessment roll numbers in the records at issue, and whether the records fall within the exemptions in sections 9(1)(b) and (d) or 11(1)(a), (c) and (d). In his review of these issues, as set out in Order MO-2192-I, Adjudicator Faughnan found that the identified sections of the *Assessment Act* did not preclude the City from disclosing the information, and that the exemptions claimed by the City did not apply to the records. However, Adjudicator Faughnan also stated:

In its representations, the City also asserted that if the section 9(1)(b) and (d) mandatory exemptions were found not to apply, [the Municipal Property Assessment Corporation’s (MPAC’s)] interests might be affected by disclosure, thereby raising the possible application of the mandatory exemption in section 10(1) of the *Act*. ... [I]n the course of adjudicating this appeal, MPAC was not given an opportunity to make submissions on the application of the section 10(1) mandatory exemption. For this reason, I will address the other exemptions claimed by the City in this interim order, leaving the issue of the application of the section 10(1) exemption to a final order, after MPAC has been given an opportunity to provide representations on the application of that section.

Accordingly, the order provisions in Order MO-2192-I read:

1. I do not uphold the City’s application of the exemptions claimed.
2. I will make a final order in this appeal once MPAC has been provided with an opportunity to make submissions on the application of section 10(1) of the *Act*.

Following the issuance of Order MO-2192-I, Adjudicator Faughnan sent a Notice of Inquiry to MPAC, inviting it to provide representations on the possible application of section 10(1). MPAC provided representations in response to the Notice of Inquiry, in which it addressed the possible application of section 10(1) and also took the position that the records ought not to be disclosed on the basis of the exemptions in sections 11 and 15 of the *Act*. The Notice of Inquiry, along with a copy of MPAC's representations was then sent to the appellant, and the appellant provided brief representations in response.

The file was subsequently transferred to me to complete the adjudication process.

## **RECORDS**

The records at issue consist of two documents that the City produced for the purposes of the appeal:

A multi-page list of assessment roll numbers under the heading "tax capping", without amounts, and,

A multi-page list of assessment roll numbers with a heading entitled "clawback" with the amount of "clawback" shown for each assessment roll number.

The City and MPAC state that the information in the records does not include personal information.

## **DISCUSSION:**

### **PRELIMINARY MATTERS**

#### **Nature of the Records**

As identified above, the records at issue in this appeal both include multi-page lists of assessment roll numbers, either simply under a heading (tax capping) or under a heading (clawback) with the amount of the clawback referenced for each roll number.

In this final order I address the issues raised by MPAC regarding its concerns that the disclosure of the assessment roll numbers will lead to economic or other harm to MPAC. MPAC makes it clear in its representations that it is only the assessment roll numbers that it is concerned with, not the other information contained in the records. It states:

[The records are] created by the City, but a major component of the data in the record[s] belongs to MPAC -- namely, the assessment roll numbers for [the City] supplied by MPAC to the City. MPAC makes these representations with respect to that component only.

Accordingly, in this order I will only be reviewing the issues as they relate to the assessment roll numbers themselves, not the categories or other information listed in the records.

### **Exemption claim**

As identified above, as a result of the findings in Order MO-2192-I, MPAC was notified as an affected party and invited to provide representations on the possible application of section 10(1) to the records at issue. Section 10(1) is designed to protect the confidential “informational assets” of businesses or other organizations that provide information to government institutions [*Boeing Co. v. Ontario (Ministry of Economic Development and Trade)*, [2005] O.J. No. 2851 (Div. Ct.)]. MPAC, however, is an institution under the *Act*, and section 11 of the *Act* is a section whose purpose is to protect certain economic interests of institutions. The report titled *Public Government for Private People: The Report of the Commission on Freedom of Information and Individual Privacy 1980*, vol. 2 (Toronto: Queen’s Printer, 1980) (the Williams Commission Report) explains the rationale for including a “valuable government information” exemption in the *Act*:

In our view, the commercially valuable information of institutions ... should be exempt from the general rule of public access to the same extent that similar information of non-governmental organizations is protected under the statute . . . Government sponsored research is sometimes undertaken with the intention of developing expertise or scientific innovations which can be exploited.

Previous orders have established that possible harm to an institution ought to be addressed under section 11, not section 10. In Order P-218 former Assistant Commissioner Tom Wright stated as follows regarding sections 17 and 18 of the *Freedom of Information and Protection of Privacy Act* (similar to sections 10 and 11, respectively, at issue in this appeal):

In my view, the scheme of the *Act* contemplates that harm to the competitive or financial position of an institution should be addressed by a claim for exemption pursuant to section 18 of the *Act* and not section 17. Accordingly, I have considered only the institution’s representations regarding the impact that disclosure would have on the affected parties in my discussion of section 17. I will consider the institution’s submission relating to harms to the institution under section 18.

I agree with the statement made by the former Assistant Commissioner, and adopt it for the purpose of this appeal. In this appeal, the City of Ottawa initially issued its access decision and denied access to the responsive records based on a number of exemptions, including section 11. Adjudicator Faughnan reviewed the representations of the City on the application of section 11 to the records, and found that section 11 did not apply to the records, as the possible harms *to the City* were not made out. However, in response to the invitation to provided representations, MPAC has submitted that disclosure of the records would lead to economic harms to it. It provided representations on the possible harms under both section 10 and section 11. In the

circumstances, since MPAC is an institution under the *Act*, in this appeal I will consider the possible application of section 11 to the records at issue, based on the possible harm to MPAC.

## **ECONOMIC AND OTHER INTERESTS**

MPAC takes the position that sections 11(c) and (d) apply to its information contained in the records. These sections read:

A head may refuse to disclose a record that contains,

- (c) information whose disclosure could reasonably be expected to prejudice the economic interests of an institution or the competitive position of an institution;
- (d) information whose disclosure could reasonably be expected to be injurious to the financial interests of an institution;

For sections 11(c) or (d) to apply, the institution must demonstrate that disclosure of the record “could reasonably be expected to” lead to the specified result. To meet this test, the institution must provide “detailed and convincing” evidence to establish a “reasonable expectation of harm”. Evidence amounting to speculation of possible harm is not sufficient [*Ontario (Workers’ Compensation Board) v. Ontario (Assistant Information and Privacy Commissioner)* (1998), 41 O.R. (3d) 464 (C.A.)].

## **Representations**

### ***Section 11(c) and (d): prejudice to economic interests and injury to financial interests***

The purpose of section 11(c) is to protect the ability of institutions to earn money in the marketplace. This exemption recognizes that institutions sometimes have economic interests and compete for business with other public or private sector entities, and it provides discretion to refuse disclosure of information on the basis of a reasonable expectation of prejudice to these economic interests or competitive positions [Order P-1190].

MPAC’s representations on the application of section 11(c) are combined with its representations on section 11(d). It refers to previous decisions of this office dealing with appeals made in response to non-disclosure of records by MPAC, including Orders MO-2030 and MO-1953, and states:

In upholding MPAC’s decisions not to disclose the records at issue, Assistant Commissioner Beamish in MO-2030 specifically noted (at page 19) that both the case before him and the appeal he addressed in MO-1953 involved requests for access to information that MPAC sells for revenue-generating purposes. This appeal also involves such information and it is respectfully submitted that it

would be appropriate for the IPC to adopt in this case the analysis from those decisions, along with the conclusion that the sections 11(c) and (d) exemptions apply. In Order MO-1953, the IPC found that disclosure in electronic format of nine fields for each property in Ontario could reasonably be expected to prejudice MPAC's economic interests or be injurious to its financial interest, and therefore MPAC could rely on sections 11(c) and (d) to deny access. In Order MO-2030, the IPC held at pages 22 to 23:

If MPAC is required to disclose information from [MPAC's property database known as Ontario Assessment System (OASYS)] or through Municipal Connect to the appellant under the *Act*, it would be deprived of the significant amount of fees that a request of this size would generate. Moreover, it would be required to release the same information to anyone else who asked, which could reasonably be expected to jeopardize MPAC's ability to earn money in the marketplace. The OASYS database allows MPAC to generate reports and products that it routinely sells to mortgage brokers, financial institutions, and planners, which generates millions of dollars in revenues. I find that if OASYS data must be disclosed in bulk for free in response to access requests under the *Act*, MPAC will be deprived of this revenue stream, which could reasonably be expected to prejudice its economic interests and be injurious to its financial interests.

In short, I find that any information in the OASYS database or accessible through Municipal Connect that MPAC makes available for sale is exempt under sections 11 (c) and (d) of the *Act*.

In addition, as discussed with respect to section 10, above, the electronic compilation of assessment roll numbers at issue on this appeal constitutes MPAC's commercial and technical information, and has monetary value. As well, its disclosure would harm MPAC's economic interests and competitive position (also discussed under section 10), and would be injurious to its financial interests for the same reasons. Allowing free access to data which MPAC is authorized by legislation to sell for a fee hurts MPAC's bottom line. The injury is exacerbated in a case such as this one, where the access is being sought indirectly through [a Freedom of Information request] to a municipality, as a precedent of access through one of MPAC's customers would seriously undermine MPAC's knowledge of and control over disclosure of its data and products.

MPAC refers to the earlier arguments it made in support of its view that the harms under section 10 of the *Act* (some of which are similar to the harms referred to in section 11(c) and (d)) apply to the assessment roll numbers. In those representations MPAC begins by providing certain background information about it: that it is a non-share capital, not-for-profit corporation, whose

main responsibility is to provide its customers with consistent and accurate property assessments. It also identifies that it administers a uniform, province-wide property assessment system based on current value assessment, and that the management of its information is governed primarily by the *Act*, the *Assessment Act*, and the *Municipal Property Assessment Corporation Act* (the *MPAC Act*).

MPAC confirms that, based on its guidelines, property owners have a right of access, free of charge, to factual information about their own property and non-personal information about selected comparable properties. In that respect, MPAC provides a free online service called "AboutMyProperty" for the convenience of property owners, which gives electronic access to property valuation data that will assist them in determining the fairness of their assessments.

MPAC identifies that the *MPAC Act* explicitly gives MPAC the right to engage in revenue-generating opportunities to offset amounts payable by municipalities for its services, and states:

... previous IPC and Divisional Court decisions have recognized MPAC's statutory authority to sell assessment data and to earn surplus income (MO-2030, MO-1564, *Municipal Property Assessment Corporation v. Ontario (Assistant Information and Privacy Commissioner)* (2004), 71 O.R. (3d) 303 (*MPAC v. IPC*). Revenue generated by MPAC effectively reduces the cost of MPAC's services to taxpayers. MPAC provides various electronic services to members of the public in addition to the "AboutMyProperty" service, including various other Mproperty reports (scrubbed of personal information) that can be purchased using "propertylineT" based on a published fee schedule.

MPAC then provides the following background regarding the assessment roll information:

MPAC prepares an assessment roll for each municipality in Ontario pursuant to and in accordance with section 14 of the *Assessment Act*. MPAC provides each municipality with a paper copy of the assessment roll related to that municipality, and individual property owners are entitled to view a hard copy of the assessment roll for a respective municipality free of charge at municipal offices. Each municipality receives only the portion of the roll for that municipality and, accordingly, that portion of the roll is all that is available for viewing by the public at a given municipality's office. There is no statutory obligation pursuant to the *Assessment Act* or any other legislation regarding the format in which MPAC must deliver the relevant portion of the assessment roll to municipalities, including no obligation to provide it in electronic form.

MPAC has available a variety of products in electronic form that it can provide to municipalities under section 53(3) of the *Assessment Act*. The products contain assessment roll information as well as other information. In all cases, such products are only provided to municipalities under licence agreements which prohibit the disclosure of such information to any other party, and pursuant to

which municipalities agree, inter alia, to only use the data for internal planning purposes. These licences are consistent with the *Assessment Act*...

MPAC explains how its information would be disclosed in the event that the records at issue were to be disclosed. In addition to arguing that having the City provide the information it received from MPAC (pursuant to a licensing agreement with restrictions) would violate the licensing agreement as well as the restrictions in the *Assessment Act*, MPAC states:

... the Appellant has effectively, albeit indirectly, requested access to data from MPAC's electronic assessment roll by way of a freedom of information request to the City of Ottawa. That is, for the City to fulfill the request made by the Appellant, it would necessarily have to use the electronic assessment roll (to which it only has access through certain MPAC products based on statutory provisions, for a limited purpose, and pursuant to licence agreements). The City cannot provide the requested capping and clawback lists without relying on or extracting information from these sources ....

The Appellant should not be permitted to use [the *Act*] to gain access to MPAC's information by indirect means through an access request to the City.... Further, the Appellant should not be allowed to obtain information for free that he could otherwise obtain directly from MPAC for a fee through a regularized system of access. That is, he should not receive the benefits of the electronic assessment roll for free pursuant to an access request from the City of Ottawa (which, as noted above, is only permitted to use the data for planning purposes), when he could not do so from MPAC. To allow access in this manner would be to allow the Appellant to use [the *Act*] to circumvent the proper access procedure for this data. It is MPAC's understanding that the Appellant requires the assessment roll information for the commercial, industrial, and multi-residential property classes for the entire City of Ottawa in electronic form in order for his ultimate request to the City to be met. Had the Appellant first made a request to MPAC for the assessment roll information in electronic form, MPAC would have advised him that this information is available for purchase from MPAC for a fee.

MPAC also makes the following points:

- MPAC has statutory authority pursuant to the *MPAC Act* to develop and sell services to generate revenue to offset the cost of providing its statutory services to individual taxpayers and municipalities.
- MPAC provides non-personal data in response to requests for a fee.
- MPAC is mandated by the *Assessment Act* to collect personal and property information from all property owners in Ontario for the assessment roll, and uses this information to fulfil its statutory duty to prepare the assessment roll for the province and to provide each municipality with its assessment roll.



- MPAC is not required by legislation to prepare an electronic version of the roll or to create any type of electronic database.
- MPAC does use the information it obtains to populate electronic databases of property information to offer value-added services to members of the public generally and to its commercial customers.
- The information requested by the Appellant is covered by contracts between MPAC and its commercial customers, and constitutes the very product that MPAC provides to them.

MPAC reiterates that it makes the assessment roll for a municipality available to that municipality in electronic form, upon request, pursuant to a licence agreement in which the municipality agrees that information shall not be used for any purpose other than its planning requirements, which mirrors the language of sections 53(3) and (4) of the *Assessment Act*. It then states:

... assessment roll numbers generated from the electronic version of the assessment roll, to which the Appellant is effectively requesting access (albeit indirectly through his request to the City), are sold by MPAC to the public for a fee....

MPAC also sells the assessment roll number information to commercial customers. This product provides value to these customers, and has generated approximately \$45,000 in revenue to date in 2007.... As outlined further below, it would be unfair for the Appellant to be permitted to access for free the very same data that is purchased by others.

MPAC refers to the terms under which the City (and other bodies that purchase the information in electronic format) receives the information, and provides copies of the relevant licenses.

MPAC then identifies how the disclosure will result in the identified harm. It states:

It is reasonable to expect that MPAC will suffer both direct and indirect competitive harm if it is required to disclose the requested assessment roll information to the Appellant for the entire Municipality of Ottawa in electronic form and, more importantly, if a precedent is set that this information can be made available to the public in bulk, free of charge, through an access to information request (rather than through purchasing information from MPAC through a regularized system of access).

MPAC has expended significant time, money, and human resources in collecting and compiling data for the assessment roll, and in developing value-added products and services for the convenience of municipalities, institutional purchasers, and the public in general. Databases have been developed by MPAC's Business Development Group in order to offer convenient electronic

products to municipalities and to offer the public a convenient way to access property records for legitimate uses in a manner that is consistent with the objectives of the *Assessment Act* and [the *Act*]. Limited access to property information in electronic format is available for specific purposes that achieve the objectives of the relevant legislation (and in a format that will not invade the privacy of the individuals to whom it relates).

Disclosure of an electronic version of the requested assessment roll data for Ottawa would undermine MPAC's competitive position and allow individuals and private enterprises free access to the value-added services MPAC provides. MPAC's services are unique. ... It is reasonable to expect that MPAC will suffer monetary losses if MPAC or its customers (the municipalities) are required to make this record available to members of the public in response to access requests... such a precedent would effectively erode any control that MPAC has over its data and render any attempt to protect the information meaningless. MPAC will have lost the opportunity and benefit of offering a revenue-generating service to members of the public and to its commercial customers (namely, selling assessment roll numbers for a fee).

Further, the breadth of this request creates significant concerns in terms of the precedent a disclosure order would set. The Appellant has requested a record from the City of Ottawa (that necessarily requires MPAC-supplied information in order to fulfill the request) relating to a very large municipality. The request requires, by definition, that the Appellant receive all of the roll numbers for the multi-residential, industrial, and commercial property classes in the City, totalling 9,341 roll numbers .... This is the case because the Appellant would not know which of these roll numbers would be needed or associated with a clawback or cap, and would therefore need access to the full compilation of roll numbers to take them to the City of Ottawa to allow the City to "match them up" with its capping and clawback information.

In terms of competitive harm, the potential uses that an individual could make of this information are limitless, and there would be nothing to stop this Appellant or any other individual or business from requesting similar records for all municipalities in the province once a disclosure order is deemed appropriate. Disclosure to one individual is tantamount to disclosure to the world at large. Disclosure would erode MPAC's competitive position and undermine its right to generate revenue to offset the cost of its services.

Further, MPAC submits that, upon disclosure of the record, there is a reasonable expectation that the Appellant or others could copy or share the information they receive through an access request (for a fee or for free). MPAC would not have the protection of a licence agreement. Once this information is released, users

could create databases which could then be offered to the public to compete with MPAC, to the detriment of MPAC.

MPAC also states:

... there is a reasonable expectation that MPAC will suffer an undue financial loss if the record is disclosed to the Appellant. As explained above, MPAC is empowered to generate revenue to offset its costs, which is a benefit to municipalities and the taxpaying public. Free access to the record requested can reasonably be expected to cause undue loss to MPAC - and, ultimately, the taxpaying public. The loss of revenue from commercial customers and from property owners alone (as discussed above when addressing the commercial nature of the assessment roll numbers) would result in a tangible undue loss. Together with the potential for widespread dissemination of the information, the undue loss to MPAC is compounded.

... the information requested by the Appellant is available to the public for a fee, through MPAC's Business Development Group and the products MPAC sells. The fees are based on the pricing system established by the Business Development Group, which conducted market research into sales of similar data products by other organizations. MPAC will lose revenue if the assessment roll information is provided in bulk to the Appellant for free. Moreover, if this information is provided to the Appellant for free, it is reasonable to expect that other customers will not pay for the service in the future - including MPAC's "value-added" competitors (private enterprises seeking to compete with MPAC to provide value-added property services) who have already made and been denied similar requests. If a precedent is set that this information is available at no cost to members of the public pursuant to an access request, MPAC will suffer an obvious and material loss that will extend far beyond the loss attributable to the loss of revenue from the current request. This type of disclosure of data effectively eliminates MPAC's revenue-generating activities.

MPAC also provides an affidavit in support of its position. The affidavit is sworn by the Manager of Legislation and Policy Support Services and Freedom of Information Coordinator for MPAC. The affidavit confirms a number of the items referred to in MPAC's representations. It then describes the process by which MPAC's information is sold:

To work toward [the goals of recovering costs and generating revenue for its bottom line], MPAC created its Business Development Group to seek new revenue sources [and maintain existing revenue sources for MPAC].

The Business Development Group has successfully negotiated the licensing of products to a variety of corporate clients, to all levels of government, and to individuals as well.

Among other value-added services, MPAC maintains an e-commerce site called “propertyline™”, which affords users an opportunity to purchase property information on a property-by-property basis for any property in the province. The items available on propertyline™ are copyright-protected.

In accordance with the provisions of [the *Act*] and the *Assessment Act*, no personal or income and expense information is available on the site. Further, to ensure that privacy interests are protected, the information is not available on the e-commerce website in bulk format.

Users may also request custom orders either on a “one-off” or recurrent basis from the Business Development Group, which are vetted with respect to the intended use of the data and the type of data requested. Non-personal data is provided under license to users, who agree to maintain the confidentiality of the information they received and use it for their internal business purposes.

Pricing for the propertyline™ system and for custom orders has been established by the Business Development Group based on market research into sales of similar data products by other organizations. The Business Development Group then developed a standard pricing structure available to all prospective customers based on the volume and the type of information requested. Each data element is assigned a different value based on market requests and demand. The fee includes hourly rates for the computing time and resources involved in fulfilling a request as well as standard administration, marketing, and delivery charges.

Members of the public can purchase property information from MPAC through the propertyline™ system. The same pricing structure, fee schedule and rates apply to all individual requesters, although the total amount of the fee for each request will differ based on the number of records and type of information requested.

Assessment roll numbers for a bulk request such as the one at issue on this appeal would cost \$2.50 each.

By way of example, financial institutions purchase assessment roll numbers for purposes of identifying and verifying properties on which they are making mortgage payments on behalf of customers. Sales of this information totalled approximately \$45,000.00 from January to May 2007.

#### *Supply of Data to Municipalities*

The provisions of the *Assessment Act* mandate MPAC to prepare an assessment roll for each municipality containing particulars identified in that Act. The

*Assessment Act* also mandates MPAC to deliver the assessment roll to the clerk of each municipality who, in turn, must make it available to the public for inspection. The assessment roll, delivered in paper format, contains the assessment roll number for each property, the name and the mailing address of the owner, and a description of each property, among other information.

A municipality that wants an electronic copy of its portion of the assessment roll must sign a licence agreement that states that it will only use the information contained in the record it receives for its planning requirements. This is consistent with section 53(3) of the *Assessment Act*, which requires MPAC to make available to municipalities information sufficient to meet their planning requirements, and with section 53(4), which states that the information provided under section 53(3) shall not be used by the municipalities for any other purpose.

The record requested by the Appellant from the City requires the City to use its electronic copy of the assessment roll for a purpose not contemplated by or permitted pursuant statute and to the licences between [the City] and MPAC.

[The City] would have to use the electronic version of the assessment roll supplied by MPAC in order to generate a list of which roll numbers in the multi-residential, commercial, and industrial property classes are associated with a clawback or cap. There would be 9,341 roll numbers for [the City] in these categories. MPAC does not know how many roll numbers would be disclosed in response to the Appellant's request.

The appellant's response to MPAC's representations is brief. He refers specifically to his actual request, which was for "... a list of all properties within [the City] that have a tax capping or clawback applied to them [with] the amount of the clawback [being] indicated for each property." He then states:

The information that I am requesting is of a tax nature and not an assessment nature. MPAC seems to be indicating in their response that I am requesting assessment roll information however I am not requesting roll information. The information being requested from the [the City] is completely independent of MPAC. MPAC is not required to provide information either to myself or to [the City] in order for [the City] to meet my request. The request is strictly of a tax nature and not an assessment nature. [The City] would not be in violation of any agreement with MPAC by divulging this information. The information is derived from calculations done by [the City] and not by MPAC.

The licensing issue of product between MPAC and [the City] would not be jeopardized if [the City] was to provide the requested information.

## **Findings**

I have carefully reviewed the representations and the records at issue in this appeal, and make the following findings.

The records at issue in this appeal, and MPAC's connection to them, are somewhat unique. It is clear from the representations that the records at issue in this appeal were created by the City, and not by MPAC. MPAC specifically states that it does not know how many roll numbers are contained in the records responsive to the appellant's request. In that regard, MPAC clearly identifies that its interest is not in all of the information contained in the records; rather, its interest is in the assessment roll information contained in the records, namely, the assessment roll numbers.

MPAC also identifies that the assessment roll numbers are available in bulk in response to a bulk request such as the one at issue on this appeal, and that the cost MPAC charges for such a bulk request would be \$2.50 for each assessment number. It notes that the request is for particular types of properties (the commercial, industrial, and multi-residential property classes associated with a clawback or cap) for the entire City, and that there would be 9,341 roll numbers for the City in these categories.

On my review of the records, I note that the record for one of the categories requested is comprised of over 55 pages, with approximately 70 assessment roll numbers on each page. The record for the other requested category is comprised of over 104 pages, also with approximately 70 assessment roll numbers per page.

In the circumstances of this appeal, I am satisfied that the disclosure of the records at issue would reveal or disclose information which would deprive MPAC of a legitimate revenue stream, and I am satisfied that this could reasonably be expected to prejudice MPAC's economic interests and be injurious to its financial interests for the purposes of sections 11(c) and (d). Based on previous orders of this office (including Orders MO-2030 and MO-1953) and based on the Divisional Court decision in *MPAC v. IPC*, it is clear that MPAC is an institution that has a right to engage in revenue-generating opportunities to offset amounts payable by municipalities for its services. It sells the assessment roll numbers in bulk for \$2.50 each. In my view, the disclosure of these assessment roll numbers, in response to a request to the City under the *Act* and for the cost of a request under the *Act*, would deprive MPAC of a legitimate revenue stream. Accordingly, I am satisfied that the disclosure of the records at issue in this appeal will result in the harms set out in sections 11(c) and (d), and that the exemption applies to the assessment roll numbers in this appeal.

## **Additional matters**

I have found that the disclosure of the assessment roll numbers contained in the records would result in economic and financial harms to MPAC under section 11 of the *Act*. However, as set out above, the appellant clearly stated in his representations that his request is not for assessment

roll information. He specifically states that the request is of a tax nature, and that “MPAC is not required to provide information either to myself or to [the City] in order for [the City] to meet my request”.

This appeal and the issues before me relate to access to the records identified as responsive to this request, which are the records described above. These records clearly contain assessment roll information (the assessment roll numbers). The issue of whether there may be other ways in which to produce records responsive to the request without referencing or using assessment roll information was not raised in this appeal until raised by the appellant in the latter stages of this appeal, and representations from the other parties on this issue have not been sought. In the circumstances, I will not address this issue in this appeal.

In addition, as identified above, in this order I only reviewed the issues as they relate to the assessment roll numbers themselves, as MPAC indicated that this information is the only information it has an interest in. Issues regarding access to the categories or other information listed in the records were addressed in Interim Order MO-2192-I and, in the event that the appellant is interested in access to this information without the assessment roll numbers, this information ought to be disclosed to him.

**ORDER:**

I find that the disclosure of the assessment roll numbers contained in the records would result in harm to MPAC under sections 11(c) and (d), and I uphold the City’s decision to deny access to them.

Original Signed By: \_\_\_\_\_ December 17, 2008  
Frank DeVries  
Adjudicator

**POSTSCRIPT:**

In this order I have found that the disclosure of the assessment roll information contained in the records would result in harms to MPAC under sections 11(c) and (d) of the *Act*. The main reason for my finding, as set out above, is that assessment roll numbers are sold by MPAC in bulk for a fee and that, in this appeal, disclosure of the assessment roll numbers in response to the request to the City under the *Act* and for the cost of a request under the *Act*, would deprive MPAC of a legitimate revenue stream.

However, in this appeal the actual records at issue were created by the City, but disclosure would reveal information which would result in harm to MPAC. In its representations one of the suggestions made by MPAC is that the appellant could purchase from MPAC all of the assessment roll numbers in the categories he is seeking, and could then take these numbers and request the City to "match" the numbers with the capping and clawback information that the City has or can calculate. In my view this sort of approach would be contrary to the spirit of the access to information legislation, and would require requesters to take extraordinary and expensive steps to obtain information in the hands of government. It appears to me that alternate methods of providing the information to a requester for a fee, but without requiring a requester to incur unnecessary costs as suggested by MPAC, could be possible and would be appropriate. This might include having MPAC and the City work together to identify the requested information, or other alternatives.