



**Information and Privacy
Commissioner/Ontario**

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

ORDER MO-2432

Appeal MA08-315

The Corporation of the County of Prince Edward



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NATURE OF THE APPEAL:

The County of Prince Edward (the County) received a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*), for a copy of a letter sent by the deputy chief building/by-law enforcement officer to a named individual.

The County located the responsive record and, after notification of the third parties (the affected persons) pursuant to section 19 of the *Act*, the County issued a decision denying access to the record, citing the application of the mandatory exemption in section 14(1) (personal privacy).

As it was not possible to achieve a mediated resolution of the appeal, the file was transferred to the adjudication stage of the appeals process, where it was assigned to me to conduct an inquiry.

I sent a Notice of Inquiry, outlining the facts and issues in this appeal, to the City and affected persons initially. I received representations from one affected person only. I was informed by the affected person that the other affected person did not reside at the same address any longer.

I then sent a Notice of Inquiry to the appellant, who also provided representations. The appellant indicated in her representations that she is not interested in obtaining the affected persons' personal information.

RECORD:

The only record at issue is a letter from the deputy chief building/by-law enforcement officer to the affected person.

DISCUSSION:

PERSONAL INFORMATION

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

"personal information" means recorded information about an identifiable individual, including,

- (a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,
- (b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,

- (c) any identifying number, symbol or other particular assigned to the individual,
- (d) the address, telephone number, fingerprints or blood type of the individual,
- (e) the personal opinions or views of the individual except where they relate to another individual,
- (f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence,
- (g) the views or opinions of another individual about the individual, and
- (h) the individual's name if it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual;

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

The meaning of “about” the individual

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].

The meaning of “identifiable”

To qualify as personal information, it must be reasonable to expect that an individual may be identified if the information is disclosed [Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.)].

Analysis and finding

As stated above, the County did not make representations. However, as the County claimed the application of the mandatory personal privacy exemption at section 14(1), it appears that the County believes that the record contains the affected person's personal information.

The affected person submits that the letter to her from the County contains her personal information. The affected person's representations focus on the issues between her and the appellant and the possible consequences should I disclose the record to the appellant.

Previous orders of this office have drawn a distinction between records that contain information about an "individual" and information about "property". In Order 23, former Commissioner Sid Linden made the following findings regarding the distinction to be made between "personal information" and residential properties:

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

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

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

The rationale in Order 23 and the subsequent orders was applied in Order PO-1847 by Adjudicator Kathy Laird dealing with records similar to the record at issue here. Adjudicator Laird found that correspondence passing between the Ministry of Transportation and vendors of

properties contained information about the property and not personal information. Specifically, Adjudicator Laird stated:

All of the letters from the Ministry in this group [of records] include the names and addresses of the affected parties in the reference line above the body of the letter. Otherwise, the letters consist of discussion and questions with respect to the permitted land uses on the relevant property. The two letters of reply respond to the land use questions, and do not include any personal information.

Although the contents of these letters would have affected the purchase/sale negotiations between the Ministry and the vendors, I find that the letters in this group do not contain personal information, other than the identifying information readily severable from the reference line in the Ministry letters. The content of the letters is entirely in respect of the planning and land use issues affecting the property. This conclusion is consistent with previous decisions of this Office that have found that where records are **about a property**, and **not about an identifiable individual**, the record may be disclosed, with appropriate severances, notwithstanding the possibility that the owners of the property may be identifiable through searches in land registration records and/or municipal assessment rolls: Orders 23, M-188 and M-189. [emphasis in original]

The affected person's name and address are included in the record and constitute recorded information about her within the meaning of paragraph (d) of the definition of "personal information" in section 2(1) of the *Act*. However, as stated above, the appellant submits that she is not requesting the personal information of the affected person and that this information may be severed from the record. The affected person's name and address are not, therefore, at issue in the appeal.

Based on my review of the remaining information in the record, and applying the reasoning in Order 23 and subsequent orders, I find that it does not contain recorded information about an identifiable individual and that it does not, therefore, contain personal information as that term is defined in section 2(1) of the *Act*. Rather, the information in the record relates only to the property owned by the affected person and not the affected person in her personal capacity. In particular, the record discusses the *Building Code* as it relates to the property.

As I have found that the information in the letter is not personal information for the purposes of the *Act*, there is no need for me to consider the application of section 14(1) to the information.

ORDER:

1. I order the County to disclose a copy of the record, severing the name and address of the recipient of the letter as well as the names in the salutation, by sending a copy to the appellant by **July 23, 2009**, but not before **July 17, 2009**.

2. In order to verify compliance with provision 1 of this order, I reserve the right to require the County to provide me with a copy of the record disclosed to the appellant.

Original signed by: _____
Stephanie Haly
Adjudicator

_____ June 18, 2009