



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

ORDER MO-2520

Appeal MA08-440

City of Vaughan



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NATURE OF THE APPEAL:

The City of Vaughan (the City) received a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for information related to a City employee's personal use of a City vehicle. In particular, the requester sought:

1. A copy of [the City employee's] T4 Revenue Amount and/or any other T-? Canada Revenue Forms (including details of other sources paid from the City of Vaughan, contributing to [his] taxable income, such as any benefits including but not limited to by any vehicles benefits, gas, insurance, rental maintenance and repairs, others if applicable) for the years 2004, 2005, 2006 & 2007.

These figures could have been also charged to any one of the detailed City of Vaughan General Ledger Codes for [his] Operating Budget Account Number [#]. This information can be found in the City of Vaughan Finance Department and/or more specifically generated through the City of Vaughan's Payroll Department/Accounts Payable Dept.

2. In addition, once you have the total figures requested above for each of the years, I am requesting a detailed breakdown for each of the years 2004, 2005, 2006 & 2007 taking into consideration and specifically itemizing: vehicle's standby charge provided for [his] 407 toll charges on account of [his] accounted as a revenue source, [his] total personal [kilometres] vs. business [kilometres]. as well as any other breakdown for gas, insurance, rental, and lease charges, maintenance and repairs etc. together with any and all supporting documentation processed through the City of Vaughan's Finance Department, Payroll Department, Accounts Payable.

With respect to item 2, the requester stated that she is also seeking access to specific copies of T4 Box 34 (personal use of employer's automobile) and T4 Box 40 (other taxable allowances and benefits).

The City located the responsive records and granted partial access. Access was denied to the severed portions of these records pursuant to the mandatory personal privacy exemption under section 14(1) of the *Act*.

The requester, now the appellant, appealed the City's decision.

During mediation, the appellant raised the issues of the City's search for responsive records and that there is a compelling public interest under section 16 of the *Act* in the disclosure of responsive records. Therefore, these issues were added to the appeal.

As this appeal was not fully resolved at mediation, the file was transferred to adjudication where an adjudicator conducts an inquiry. I sent a Notice of Inquiry, setting out the facts and issues in this appeal, to the City and to the City employee (the affected person) whose personal information may be contained in the records initially. I received representations from both

parties. I then sent a Notice of Inquiry to the appellant, along with a copy of the representations of the City. Portions of the City's representations and all of the affected person's representations were withheld due to my concerns about confidentiality. I received representations from the appellant in response. I then sent a copy of the appellant's representations to the City and received representations from it in reply.

RECORDS:

The information at issue in this appeal is contained in the following records:

- Record 1 T4 slips for 2004, 2005, 2006 and 2007 issued to the affected person (withheld in their entirety)
- Record 2 Spreadsheet containing lease cost, standby charge, personal and business kilometres, operating cost and taxable benefit for 2004, 2005 2006 and 2007 related to the affected person's use of the City's vehicle (withheld in part)
- Record 3 Three e-mails from the affected person advising of the total number of kilometres and the personal kilometres for 2005, 2006 and 2007 (withheld in part)

DISCUSSION:

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. That term is defined in section 2(1) as follows:

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

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

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

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

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

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

Section 2(2.1) modifies the definition of the term "personal information" by excluding an individual's name, title, contact information or designation which identifies that individual in a "business, professional or official capacity". Section 2(2.2) further clarifies that contact information about an individual who carries out business, professional or official responsibilities from their dwelling does not qualify as "personal information" for the purposes of the definition in section 2(1).

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.)].

The affected person submits that the information at issue is his personal information. He provides details in his confidential representations. He claims that the appellant has been

provided with the information in the records that is related to his business activities and what remains is his personal information.

The City provided non-confidential representations on this issue. It submits that:

...the records in question, namely T4 slips, a spreadsheet containing lease, standby, and kilometre information, and emails containing kilometre information, contain the personal information of [the affected person]. As records related to [his] income tax, these records contain “information relating to financial transactions in which the individual has been involved” as per subsection 2(l)(b) of the *Act*.

The records in question are “about” [the affected person]. The information contained in all the records at issue in this appeal is specific to [him]. The information is about [him] as an individual. Income tax is assessed on an individual basis and paid by individual taxpayers.

It is reasonable to expect that [he] will be identified if this information is disclosed. The nature of the request, which asked specifically for [the affected person’s] tax information, leaves no ambiguity as to whom the information pertains.

The appellant submits that:

...[she] is requesting a breakdown of the total yearly taxable benefits ... related to a City leased vehicle, together with a copy of the Canada Revenue Agency (CRA) T4 Form that identifies the specific section highlighting the taxable benefit that is reported under the *Public Sector Salary Disclosure Act, 1996 (PSSDA)*. For the purposes of clarification, the appellant is not seeking personal information, including the address and social insurance number. The appellant also waived the right to have any information noted as personal thereon as noted in mediation...

The appellant’s information request directly relates to information in records that is linked to [the affected person’s] use of a City vehicle and related operational expenses that are deemed a taxable benefit under the City’s By-law [#] as well as under the *PSSDA* and CRA regulations...

The appellant submits that the information requested does not reveal anything about [the affected person] and the information, particularly on its own, does not identify an individual.

According to the *PSSDA*, taxable benefits are defined as the amount shown as taxable benefits is the amount shown on the T4 slip as prepared for the Canada Revenue Agency. These amounts can include free or subsidized housing, board and lodging, travel in a designated area, personal use of employer’s vehicle, interest-free and low-interest loans, other payments made on behalf of the

employee such as relocation costs, employer contributions for basic life insurance, and tuition reimbursements...

In reply, the City submits that:

...the records at issue, namely [the affected person's] T4 slips, the spreadsheet to record the details of his lease costs, standby charges, personal kilometres and business kilometres, and emails he sent regarding taxable benefits, contain [his] personal information...

More specifically, the T4 slip contains personal information related to [the affected person's] total income, income tax deducted, Canada Pension Plan (CPP) contributions, employee Employment Insurance (EI) premiums, Registered Pension Plan (RPP) contributions, pension registration number, social insurance number, name and home address. The records, furthermore, do not contain the personal information of any other identifiable individuals. The City of Vaughan does not see how an identifiable individual's T4 slip "does not identify an individual". The City submits that the T4 slip clearly identifies an individual and is only about one individual...

The City of Vaughan acknowledges that the use of a City vehicle is a benefit accorded to [the affected person]... The City of Vaughan ...disclosed some records to the appellant regarding [the] lease charges and vehicle costs.

Analysis/Findings

As stated above, information associated with the affected person in a business capacity will not be considered to be his personal information. However, information that relates to him in a business capacity may still qualify as his personal information if the information reveals something of a personal nature about him. Therefore, although all of the information at issue is associated with the affected person in a business capacity, I must determine whether this information reveals something of a personal nature about him. In making this and other determinations in this order, I have taken into account the confidential representations of the affected person as well the confidential and non-confidential portions of the City's and the appellant's representations.

The City has accurately described the information contained in Record 1, the affected person's T4s, which are "Statement of Remuneration Paid" forms submitted by the City to the CRA on behalf of its employees. These forms list the affected person's total income, income tax deducted, CPP contributions, EI premiums, RPP contributions, pension registration number, social insurance number, name and home address. I find that the affected person's T4 slips which comprise Record 1 contain his personal information, including information in accordance with paragraph (b) of the definition of personal information, as well as paragraph (d) concerning his home address, paragraph (c) concerning the identifying numbers, the pension registration and social insurance numbers, and paragraph (h) with respect to his name which appears along with other personal information.

Record 2 is a spreadsheet concerning the City leased vehicle operated by the affected person. The information that has been disclosed from this record is the lease cost, standby charge, the business kilometres, the operating cost and the formula for the calculation of the taxable benefit. The information withheld is the personal kilometres used by the affected person and the taxable benefit for the use of this vehicle in 2004, 2005, 2006 and 2007. Using the formula provided in this record, the taxable benefit can be calculated from the amount of personal kilometres utilized. As the taxable benefit would form part of the income of the affected person, I find that this, along with the personal kilometres information that allows the calculation of this taxable benefit, is also the personal information of the affected person in accordance with the definition of personal information.

Record 3 comprises three e-mails from the affected person advising of the total number of kilometres and the personal kilometres for 2005, 2006 and 2007. The only information severed from these emails is the total kilometres and the personal kilometres driven by the affected person. Disclosure of the total kilometres driven would allow someone to calculate the personal kilometres of the affected person which would reveal the taxable benefit information for him which I found above is personal information. Therefore, I find that the information at issue in Record 3 is personal information as it reveals the taxable benefit accorded to the affected person in accordance with the definition of personal information in section 2(1).

Although the appellant is concerned as to how the City calculates the taxable benefit accorded to the affected person for his personal use of the City's leased vehicle, the correctness of the City's calculation is not within my mandate to review, nor does it affect my determination that the information at issue is personal information.

Therefore, all of the information at issue in the records is personal information. I will now consider whether the personal privacy exemption applies to this information.

PERSONAL PRIVACY

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.

In the circumstances, the appellant appears to argue that because of the provisions of the *PSSDA*, the exception in paragraph (d) could apply to the information concerning any taxable benefit listed in Record 1, concerning the salary listed in the T4s in Record 1 and the amount of the taxable benefit for the use of the City's vehicle by the affected person in Records 1 and 2.

Section 14(1)(d) reads:

A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,

under an Act of Ontario or Canada that expressly authorizes the disclosure;

The relevant provisions of the *PSSDA* read:

1. The purpose of this Act is to assure the public disclosure of the salary and benefits paid in respect of employment in the public sector to employees who are paid a salary of \$100,000 or more in a year.

2. (1) In this Act,

“benefit” means each amount that an employee,

(a) is required by subsection 6 (1) of the *Income Tax Act* (Canada) to include in his or her income from an office or employment, or

(b) is required by section 6 of that Act, except subsection 6 (1), (3) or (11), to include in his or her income from an office or employment as a benefit, within the meaning of that Act, or as an amount in respect of a group term life insurance policy;

Section 6(1)(a) of the *Income Tax Act*, referred to in the *PSSDA*, defines the value of this benefit (subject to certain exceptions) as:

(a) the value of board, lodging and other benefits of any kind whatever received or enjoyed by the taxpayer in the year in respect of, in the course of, or by virtue of an office or employment...”

Therefore, although the City is required to publish the salary and benefits paid to the affected person as an employee who earns in excess of \$100,000, the amount of the taxable benefit for use of the City’s vehicle by the affected person is not specifically required by the *PSSDA* to be set out separately. The amount of benefits required to be published under the *PSSDA* is a global amount representing the amount of taxable benefits allocated with respect to a number of items as reflected in section 6(1) of the *Income Tax Act*.

Similarly, although the City is required to publish the affected person’s salary as it exceeds \$100,000, this figure is not precisely the same as the figure for employment income in Box 14 of the affected person’s T4. The CRA, on its website, indicates that Box 14 of the T4 represents an employee’s total employment income before deductions. This amount includes not only an

employee's salary but also includes other items such as pay in lieu of termination notice, bonuses, vacation pay, tips and gratuities, honorariums, director's and management fees.

Therefore, I find that section 14(1)(d) does not apply to the information in the T4 as the *PSSDA* does not expressly authorize the disclosure of the information from the records concerning the exact amount of the taxable benefit for the affected person's use of the City vehicle, nor does the T4 contain a box that discloses only his salary. This T4 contains information as to his employment income which may include remuneration in addition to the affected person's salary.

In the circumstances, it appears that the exception that could apply is paragraph (f) of section 14(1). This section reads:

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).

If paragraphs (a), (b) or (c) of section 14(4) applies, disclosure is not an unjustified invasion of personal privacy and the information is not exempt under section 14. The City provided representations as to the applicability of section 14(4)(a) to the information at issue in the records which is information related to the personal kilometres driven by the affected person in the City leased vehicle and the taxable benefit accorded to him for his personal use of this vehicle, along with the information in his T4 slips.

Section 14(4)(a) provides that a disclosure of personal information does not constitute an unjustified invasion of personal privacy if it discloses the classification, salary range and benefits, or employment responsibilities of an individual who is or was an officer or employee of an institution.

The City acknowledges in its representations that the use of a City vehicle is a benefit accorded to the affected person. Concerning section 14(4)(a), the City submits that:

This information has been readily disclosed in accordance with subsection 14(4)(a). Additional information related to [his] benefits have been disclosed in accordance with the [*PSSDA*]. It is the City's position, however, that subsection 14(4)(a) was not intended to disclose personal information that is contained in records related to benefits.

The appellant submits that section 14(4)(a) applies and relies on the findings of Assistant Commissioner Brian Beamish in Order PO-2641. In that order, he stated:

...previous orders of this office have given a broad meaning to the term “benefits” in section 21(4)(a) [of the *Freedom of Information and Protection of Privacy Act*, the provincial equivalent of section 14(4)(a) of the *Act*].

The following definition of “benefits” was articulated by former Commissioner Wright in Order M-23:

Since the “benefits” that are available to officers or employees of an institution are paid from the “public purse”, either directly or indirectly, I believe that it is consistent with the intent of section 14(4)(a) and the purposes of the Act that “benefits” be given a fairly expansive interpretation. In my opinion, the word “benefits” as it is used in section 14(4)(a), means entitlements that an officer or employee receives as a result of being employed by the institution. Generally speaking, these entitlements will be in addition to a base salary. They will include insurance-related benefits such as, life, health, hospital, dental and disability coverage. They will also include sick leave, vacation, leaves of absence, termination allowance, death and pension benefits. As well, a right to reimbursement from the institution for moving expenses will come within the meaning of “benefits”. Therefore, clause 10, as well as clauses 7 and 11-16 of the record would fall within the meaning of “benefits”. In my view, the disclosure of these clauses would not constitute an unjustified invasion of personal privacy.

Former Assistant Commissioner Mitchinson considered and applied Order M-23 in Order P-1212 which involved a request for access to the “benefits” of the President of Algonquin College pursuant to his contract of employment. In that order, the former Assistant Commissioner stated:

It is clear from a reading of Order M-23 that Commissioner Wright did not intend the list of enumerated benefits in that order to be exhaustive or that the meaning of “benefits” should be restricted to a dollar value only. In my view, the list of enumerated benefits in Order M-23 were merely provided as examples, and I agree that the term “benefits” should be given an expansive definition, in order to be consistent with the intent of both section 21 and the *Act* as a whole.

After referring to Order P-380, the former Assistant Commissioner stated:

Therefore, in my view, all of the entitlements provided to the former President as part of his employment or upon conclusion of his employment as an officer and/or employee of the College are properly characterized as “benefits” for the purpose of section 21(4)(a).

I find that the benefits provided to the former President under the terms of his employment agreement, fall within the scope of section 21(4)(a) of the *Act* and, therefore, release of the parts of the record which would disclose this information would not constitute an unjustified invasion of his personal privacy. This information is found in clauses 6(a) and (b), 7, 8(a) and (b), 9(a) and (b), 12(a), (b) and (c) of the agreement and Schedule A in its entirety.

Adjudicator Steven Faughnan reviewed the definition of benefits applied in previous orders of this office in Order PO-2519 where he stated:

The Commissioner’s office has interpreted “benefits” to include entitlements, in addition to base salary, that an employee receives as a result of being employed by the institution (Order M-23). Order M-23 lists the following as examples of “benefits”:

- insurance-related benefits
- sick leave, vacation
- leaves of absence
- termination allowance
- death and pension benefits
- right to reimbursement for moving expenses

In subsequent orders, adjudicators have found that “benefits” can include:

- incentives and assistance given as inducements to enter into a contract of employment [Order PO-1885]
- all entitlements provided as part of employment or upon conclusion of employment [Order P-1212]

These principles and this reasoning have been applied in previous orders issued by this office including MO-1749 and MO-1796...

I adopt the reasoning consistently set out in the series of orders quoted above. In my opinion, that approach is consistent with the language of section 21(4) and the intent of the Legislature.

Analysis/Findings re: Section 14(4)(a)

Having reviewed the records, I find that all of the information at issue in Records 2 and 3 contains information about benefits accorded to the affected person and therefore section 14(4)(a) applies to that information [Orders PO-2519 and PO-2641]. These benefits accorded to the affected person concern his personal use of a City vehicle. This use of a vehicle leased by the City for the affected person is an entitlement that the affected person receives as a result of being employed by the institution and is an entitlement received in addition to his base salary.

Accordingly, the information related to the personal use of a City vehicle by the affected person qualifies as a “benefit” as contemplated by section 14(4)(a). In that regard, I adopt the findings of Assistant Commissioner Beamish in Order PO-2641 set out above. In that order, Assistant Commissioner Beamish found that information related to a leased vehicle leased by an institution for the personal use of an employee comes within section 21(4)(a) of the provincial *Act*, the equivalent of section 14(4)(a) of the *Act*.

The information at issue in Records 2 and 3 discloses the type and amount of personal use of a City vehicle by the affected person as well as the taxable value of that benefit.

When section 14(4)(a) is found to apply, disclosure of that information is not considered to be an unjustified invasion of personal privacy. Under section 14(1)(f), therefore, disclosure of that information is not an unjustified invasion of personal privacy and the section 14(1) exemption does not apply. Therefore, I conclude that the information at issue in Records 2 and 3, the kilometre usage of the City vehicle by the affected person and the taxable benefit accorded to him for this personal use of the vehicle, is not exempt under section 14(1) and I will order this information disclosed.

The information concerning the taxable benefit accorded to the affected person for his personal use of the City vehicle, as set out in Box 34 of the T4s in Record 1, is information that is also set out in Record 2. This information will be disclosed as a result of my findings above, therefore, it is not necessary for me to consider whether section 14(4)(a) applies to Box 34 of Record 1.

Turning to the remaining information in Record 1, the T4 slips, I am satisfied that this record does not contain information relating to benefits for the purpose of section 14(4)(a) and, therefore, section 14(4)(a) does not apply to it. Although this record has boxes for the input of various amounts, I have not been provided with evidence as to which specific taxable benefit amounts are required to be inputted into which specific boxes of this slip, nor has the appellant specifically requested any other specific taxable benefit amount other than that for the use of the City’s vehicle.

Accordingly, I will now consider whether the disclosure of the information in Record 1 which I have found does not fall under section 14(4), represents a presumed unjustified invasion of privacy under section 14(3).

Section 14(3): disclosure presumed to be an unjustified invasion of privacy

Section 14(3) of the *Act* lists the types of information, the disclosure of which is presumed to constitute an unjustified invasion of personal privacy. The Divisional Court has ruled that once a presumption against disclosure has been established under section 14(3), it cannot be rebutted by one or more factors or circumstances under section 14(2). A section 14(3) presumption can be overcome, however, if the personal information at issue is caught by section 14(4) or if the “compelling public interest” override at section 16 applies (*John Doe v. Ontario (Information and Privacy Commissioner)* (1993), 13 O.R. (3d) 767).

The City is relying on the presumptions in sections 14(3)(d), (e) and (f). These sections read:

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

- (d) relates to employment or educational history;
- (e) was obtained on a tax return or gathered for the purpose of collecting a tax;
- (f) describes an individual’s finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness;

I will consider the applicability of the presumption in section 14(3)(e) first. Neither party provided direct representations as to the applicability of this presumption to Record 1.

The T4 slips in Record 1 are CRA forms. According to the CRA website, CRA forms must be completed by employers in order for their employees to deduct employment expenses from their income on their income tax forms.

Information from a T4 is entered on an individual’s tax return. Therefore, I find that the information at issue in Record 1 is personal information gathered for the purpose of collecting a tax. Accordingly, section 14(3)(e) applies to the information at issue in Record 1.

As paragraph (e) of section 14(3) applies, it is not necessary for me to also consider whether the presumptions at paragraphs (d) and (f) of section 14(3) also apply to Record 1. As section 14(3)(e) applies, disclosure of the information at issue in Record 1 is presumed to be an unjustified invasion of personal privacy under section 14(1). As stated above, once established, this presumed unjustified invasion of personal privacy 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)*, cited above]. Section 14(4) is inapplicable to the information at issue in Record 1; however, as section 16 has been raised by the appellant, I will consider whether this applies to the information at issue in Record 1.

Therefore, subject to my consideration of the applicability of the public interest override in section 16, I find that Record 1 is exempt from disclosure by reason of section 14(1) of the *Act*.

PUBLIC INTEREST OVERRIDE

I will now determine whether there is a compelling public interest in disclosure of Record 1, the affected person's T4 slips, which clearly outweigh the purpose of the section 14(1) exemption. 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.

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.

In considering whether there is a "public interest" in 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 and 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].

A public interest is not automatically established where the requester is a member of the media [Orders M-773, M-1074].

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

Any public interest in *non*-disclosure that may exist also must be considered [*Ontario Hydro v. Mitchinson*, [1996] O.J. No. 4636 (Div. Ct.)].

The existence of a compelling public interest is not sufficient to trigger disclosure under section 16. This interest must also clearly outweigh the purpose of the established exemption claim in the specific circumstances.

The City's position is that the mandatory exemption under section 14(1) should take precedence over the public interest override. It submits that disclosure of the affected person's T4 slips does not arouse a "strong interest or attention". The interests of a handful of individuals, including the appellant, are not indicative of the interests of the City's 270,000 residents. It submits that:

The personal information of [the affected person] is, and should be, protected by the City of Vaughan's refusal to disclose [his] ...T4 slips. The *Act* contemplates a system of access wherein the right of the public to know is balanced against the right of an individual to privacy. In this case, the right of [the affected person] to have his personal information protected greatly outweighs the *Act's* inclination toward disclosure of information. The appellant, as previously stated, has been provided significant amounts of information even with exemptions and severances. The purpose of section 14 would not be served by disclosing the exempted records.

...The purpose of the exemption is being served and there is no compelling public interest in the contested portions of [the affected person's] tax information. The public interest override exemption, therefore, is not applicable in this appeal.

The appellant did not provide direct representations on why the public interest override applies to the particular record at issue, the affected person's T4 slips. Instead she focuses on why numerous individuals within the City have issues with how the City is being operated.

Analysis/Findings

The only information that remains at issue is in Record 1, the affected person's T4 slips. This information includes the affected person's employment income, deductions applied to this income, pension information, and other financial information, along with his name, address and social insurance number.

I find that, on balance, there is no compelling public interest in disclosure of the information at issue in the affected person's T4 slips. Disclosure would not cast light on the concerns raised by the appellant. Even if there was a compelling public interest, it would be outweighed in this case by the purpose of section 14(1), to protect individuals from having their personal information released to third parties without their consent. As section 16 does not apply, therefore, Record 1 is exempt from disclosure by reason of section 14(1).

SEARCH FOR RESPONSIVE RECORDS

I will now determine whether the City conducted a reasonable search for responsive records.

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].

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.

The City was asked to provide a written summary of all steps taken in response to the request. In particular, the City was asked to respond to the following questions:

1. Did the institution contact the requester for additional clarification of the request? If so, please provide details including a summary of any further information the requester provided.
2. If the institution did not contact the requester to clarify the request, did it:
 - (a) choose to respond literally to the request?
 - (b) choose to define the scope of the request unilaterally? If so, did the institution outline the limits of the scope of the request to the requester? If yes, for what reasons was the scope of the request defined this way? When and how did the institution inform the requester of this decision? Did the institution explain to the requester why it was narrowing the scope of the request?
3. Please provide details of any searches carried out including: by whom were they conducted, what places were searched, who was contacted in the course of the search, what types of files were searched and finally, what were the results of the searches? Please include details of any searches carried out to respond to the request.
4. Is it possible that such records existed but no longer exist? If so please provide details of when such records were destroyed including information about record maintenance policies and practices such as evidence of retention schedules.

The City submits that:

As part of the mediation process an additional search for records was undertaken by City staff. Both [the affected person] and his Secretary/Administrative Assistant [name] searched for the emails requested by the appellant but were unable to locate them. [The City's] Payroll Supervisor searched for the records

and was similarly unable to locate them. It is the City of Vaughan's position at this time that a reasonable search for records took place.

The appellant provided both confidential and non-confidential representations on this issue. She only directly addressed this issue in her non-confidential representations, where she submits that:

As previously stated, the appellant has not been provided with travel logs, instead ...the City's FOI [Freedom of Information] Coordinator, confirmed in a telephone discussion in January 2009, that Commissioner sends an email to ... the City's Payroll identifying his business use. Aside from travel logs, the appellant will not argue the City's position....

In reply, the City submits that:

...the appellant has made reference to "travel logs" in her representations. The appellant did not request these records in her access request and they are not identified as records at issue in the Mediator's Report. The City of Vaughan objects to the late addition of these previously unrequested items.

Analysis/Findings

I agree with the City that the appellant did not request the affected person's "travel logs". The appellant will have to file another request with the City if she wishes to obtain access to these records.

Concerning the information that is responsive to the appellant's request, the appellant does not appear to be challenging the City's search for responsive records and, in any event, I find that the City has provided sufficient evidence to show that it has made a reasonable effort to identify and locate any further information that may exist [Order P-624]. The City has provided a comprehensive description of the steps it undertook to locate the information sought by the appellant. I find that the appellant has not provided me with a reasonable basis for concluding that additional responsive information exists. Accordingly, I find that the City has performed a reasonable search.

ORDER:

1. I uphold the City's decision to withhold the information in Record 1.
2. I order the City to disclose to the appellant all of the information at issue in Records 2 and 3 by **June 4, 2010** but not before **May 28, 2010**.
3. I uphold the City's search for responsive records and dismiss that part of the appeal.

4. In order to verify compliance with this order, I reserve the right to require the City to provide me with a copy of the records disclosed to the appellant.

Original signed by: _____
Diane Smith
Adjudicator

_____ April 30, 2010