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

ORDER MO-2571

Appeal MA09-278

City of Vaughan

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NATURE OF THE APPEAL:

A homeowner submitted a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) to the City of Vaughan (the city) for access to by-law enforcement information relating to her property. The appellant was specifically interested in obtaining access to correspondence passed between her neighbours and various city staff or elected officials.

The city identified responsive records and granted partial access to them. Access to various records, or portions of records, was denied under section 14(1) (personal privacy), section 8(1)(d), (identity of a confidential source), and section 8(3) (refuse to confirm or deny the existence of a law enforcement record). The city also advised that as some of the records appeared to be "constituency records," they were not "under the control of the city" for the purpose of section 4(1) of the *Act*.

Upon appeal of the decision, this office appointed a mediator to explore resolution of the issues. During mediation, the appellant expressed the view that additional records should exist, namely correspondence sent to the mayor's office and the by-law enforcement office by her neighbours. Consequently, the city carried out a further search for records, ultimately issuing a supplementary decision granting partial access to additional records that had been located as a result. As the appellant was not satisfied with the results of the further search, the adequacy of the city's search for correspondence sent to the mayor's, or the by-law enforcement, offices by her neighbours was added as an issue in this appeal.

As it was not possible to resolve this appeal by mediation, it was transferred to the adjudication stage of the appeal process, where it was assigned to me to conduct an inquiry. Initially, I sent a Notice of Inquiry to the city outlining the issues, including information relating to this office's past interpretation of section 8(3) of the *Act*, and whether constituency records fall within the city's custody or under its control. As it appeared that some of the records contained the appellant's personal information, I specifically sought representations from the city on the discretionary personal privacy exemption in section 38(b) of the *Act*.

In a supplementary decision letter issued to the appellant concurrently with the submission of its representations to this office, the city withdrew its claim of section 8(3) and instead substituted a claim that the personal privacy exemption in section 14(1) applies. The city also withdrew its claim of section 14(1) for a building permit inspection record and granted access to it, in its entirety. In addition, the city abandoned its earlier claim that certain records were not in its custody or under its control. In this manner, both custody or control and section 8(3) of the *Act* were removed from the scope of the appeal. Finally, for the first time, the city mentioned in its representations that it was relying on the presumption against disclosure in section 14(3)(b) (investigation into possible violation of law) to deny access to the records.

I then sent a modified Notice of Inquiry, along with a copy of the city's representations, to the appellant, seeking her representations on the remaining issues of reasonable search and the exemptions in sections 14(1) and 8(1)(d). The appellant provided representations in response.

RECORDS:

The undisclosed information in the records consists of brief portions of approximately 16 pages originating from the city's engineering services and enforcement services departments, as well as the mayor's office. These records consist of various emails, forms and correspondence.

DISCUSSION:

PRELIMINARY MATTERS

Duplicate records, inconsistent decisions and mootness

My review of the records during the initial part of this inquiry identified instances of duplicate records. There was one record in particular for which inconsistent decisions had been made by the city, and three different positions taken respecting its availability under the *Act*. This document consists of a letter written by the appellant's neighbours to the city, dated September 28, 2007. In the initial Notice of Inquiry sent to the city, therefore, I sought clarification regarding the inconsistent decisions conveyed to the appellant with respect to this record:

> It is my preliminary view that this appeal is unduly complicated by the inconsistent positions taken by the city with respect to this record in that it is claimed, variously, that the same record is exempt under section 14(1) and that it is exempt under section 8(3) or that it falls outside the *Act* by virtue of section 4(1). In my view, this approach may have contributed unnecessarily to the appellant's concerns about the subject matter of her request.
>
> Accordingly, I am asking the city to clarify its position in order to eliminate inconsistent claims with respect to this record and then to provide submissions on the record in response to the relevant tests outlined below.

Although the city disputed that the record had been indentified in four separate places, I note that it was the city's own description of the record in its index of records that led to my conclusion in this regard. Regardless, the information outlined for the city in the Notice of Inquiry led to the city clarifying its position that the record was exempt from disclosure under section 14(1) of the *Act*.

The letter is two pages long. The version of the record identified in the city's index as record 6 of the Engineering Services records is accompanied by four 8" X 11" photocopied photographs, which appear to have been disclosed to the appellant. This version of the letter also has a brief handwritten notation on it that does not appear on the other version. In my view, the handwritten notation is not significant enough to distinguish it (for the purposes of my inquiry) from the other copy that appears as record 4 of the Enforcement Services records.

In her representations, the appellant advised that the undisclosed September 28, 2007 letter from her neighbour to the city had already been provided to her, both by the city and by legal counsel

for her neighbours through civil litigation. Both of these copies of the record are attached to the appellant's representations.

In appeals before the Commissioner, the issue to be determined is whether a record should be disclosed to a requester. Where the record has previously been disclosed by the institution, or in another context, the issue of mootness is raised. The issue before me, therefore, is whether the appeal is moot as regards the September 28, 2007 letter that is already in the appellant's possession and if so, whether I ought nonetheless to proceed to a determination of the exemption claimed for it. In the circumstances, I conclude that I should not proceed with such a determination.

In Order P-1295, former Assistant Commissioner Irwin Glasberg outlined what is accepted as the appropriate approach to the determination of mootness in appeals adjudicated by this office (see also Orders PO-2046 and MO-2049-F). The former Assistant Commissioner stated:

> The leading Canadian case on the subject of mootness is the Supreme Court of Canada's decision [in *Borowski v. Canada (Attorney General)*, [1989] 1 S.C.R. 342]. There, the court commented on the topic of mootness as follows:
>
> > The doctrine of mootness is an aspect of a general policy or practice that a court may decline to decide a case which raises merely a hypothetical or abstract question. The general principle applies when the decision of the court will not have the effect of resolving some controversy which affects or may affect the rights of the parties. If the decision of the court will have no practical effect on such rights, the court will decline to decide the case. This essential ingredient must be present not only when the action or proceeding is commenced but at the time when the court is called upon to reach a decision. Accordingly if, subsequent to the initiation of the action or proceeding, events occur which affect the relationship of the parties so that no present live controversy exists which affects the rights of the parties, the case is said to be moot ...
>
> In the *Borowski* case, Sopinka J., speaking for the court, indicated that a two-step analysis must be applied to determine whether a case is moot. First, the court must decide whether what he referred to as "the required tangible and concrete dispute" has disappeared and the issues have become academic. Second, in the event that such a dispute has disappeared, the court must decide whether it should nonetheless exercise its discretion to hear the case.

Given the facts of the present appeal, any live controversy which might have been said to exist between the city and the appellant relating to the September 28, 2007 letter is now over given that this record was provided to the appellant by legal counsel for the neighbours. I am satisfied that this meets the first requirement of the mootness test set out in *Borowski*.

In reviewing the second part of the test, I considered whether the question of access to the disclosed letter is of sufficient public interest or importance to merit reviewing it notwithstanding the fact that the appellant has apparently been provided with copies of it previously. In the circumstances of this appeal, I have concluded that there is not sufficient public interest or importance in the disclosed record to merit such a review. Further, in my view, no useful purpose would be served by proceeding with my inquiry in relation to this record, and I will not proceed with a determination of the personal privacy exemption claimed for it in either batch of records it in which it appears (Engineering Services and Enforcement Services).

I will now review the application of the personal privacy exemption to the other records at issue.

PERSONAL INFORMATION

In order to determine which sections of the *Act* may apply, I must first decide whether the records contain "personal information" and, if so, to whom it relates. This is especially relevant in an appeal such as this one where some of the records at issue may contain the mixed personal information of the appellant and other individuals, thereby raising the possibility that the discretionary exemptions in sections 38(a) and 38(b) are applicable.

The definition of personal information is found in section 2(1) of the *Act* and reads, in its entirety, 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. 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, and PO-2225). 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 city submits that the records contain personal information that falls under paragraphs (d), (f) and (h) of the definition of that term in section 2(1) of the *Act*. The city also states that all the withheld information relates to individuals in their personal capacity, and that disclosure of the information may lead to the identification of those individuals.

The appellant's representations do not directly address the issue of whether the records contain "personal information" according to the definition of that term in section 2(1) of the *Act*.

I have reviewed the records to determine whether they contain personal information and, if so, to whom the information relates. Having done so, I agree with the city that the records contain the personal information of certain identifiable individuals other than the appellant that fits within paragraphs (d) (address and phone number), (f) (confidential correspondence) and (h) (name along with other information) of the definition in section 2(1) of the *Act*. I also note that some of the withheld information contained in the records relates to views or opinions about those individuals as contemplated by paragraph (g) of the definition. Accordingly, I find that all of the records contain the personal information of other identifiable individuals within the meaning ascribed to that term in section 2(1) of the *Act*.

In addition, I find that some of the records at issue also contain the personal information of the appellant that fits within paragraphs (d), (g) and (h) of the definition in section 2(1) of the *Act*.

Therefore, because records 1-3 from the mayor's office, records 7 and 8 from Engineering Services and records 1-3 from Enforcement Services all contain the mixed personal information of the appellant and other identifiable individuals, the relevant personal privacy exemption for

them is the discretionary exemption in section 38(b) of the *Act*. For the records that contain only the personal information of other identifiable individuals (records 2, 3 and 9 from Engineering Services), the relevant personal privacy exemption is the mandatory one at section 14(1) of the *Act*.

PERSONAL PRIVACY

The city takes the position that the undisclosed portions of the records are exempt under the mandatory personal privacy exemption in section 14(1).

However, it must be noted that section 36(1) of the *Act* gives individuals a general right of access to their own personal information held by an institution while section 38 provides a number of exemptions from this general right of access. As stated above, in circumstances where a record contains both the personal information of the appellant and other individuals, the relevant personal privacy exemption is the discretionary exemption at section 38(b). Under section 38(b) of the *Act*, the city had the discretion to deny the appellant access to that information if the city determined that the disclosure of the information *would* constitute an unjustified invasion of another individual's personal privacy. However, the city may also have chosen to disclose records with mixed personal information upon weighing the appellant's right of access to her own personal information against another individual's right to protection of their privacy.

Where the records contain *only* the personal information of other individuals and not the appellant, section 14(1) prohibits the disclosure of this information unless one of the exceptions listed in paragraphs (a) to (f) of section 14(1) applies. If the information fits within any of those paragraphs, it is not exempt from disclosure under section 14(1). The only exception which might apply in the circumstances of this appeal is section 14(1)(f), which permits disclosure if it "... does not constitute an unjustified invasion of personal privacy."

For both section 14(1) and section 38(b), 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 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).

Section 14(4) refers to certain types of information whose disclosure does not constitute an unjustified invasion of personal privacy. The city claims, and I agree, that none of the section 14(4) exceptions apply in the circumstances of this appeal. Similarly, the "public interest override" in section 16 has not been raised or argued in this appeal, and I find that neither the exceptions in section 14(4) nor the public interest override apply.

If none of the presumptions against disclosure contained in section 14(3) apply, the city must consider the application of the factors listed in section 14(2) of the *Act* as well as all other considerations which are relevant in the circumstances of the case (Order P-99).

In this order, I will review those records which do not contain the appellant's personal information under section 14(1) of the *Act*,[1] and I will then consider the possible application of section 38(b) to the records in which the appellant's personal information is found, along with the personal information of other identifiable individuals.[2]

Representations

The city's representations in this appeal are extremely brief. The city argues – without elaboration – that disclosure of the personal information in the records at issue would constitute an unjustified invasion of personal privacy and would not "further any of the objectives in section 14(2) of the *Act*." Similarly, the city takes the position that the presumption in section 14(3)(b) applies, but does not explain this submission further. The possible application of section 38(b) is not addressed in the city's representations.

Respecting the possible application of section 14(3)(b), the appellant suggests that it cannot apply because "there are no criminal proceedings ongoing," only civil litigation. The appellant also notes that any past proceedings relating to by-law infractions or enforcement have been completed.

The appellant's submissions allude to alleged defamatory statements by her neighbours about her which she believes have led to difficulties she has experienced with by-law enforcement and other areas of the city's administration. The appellant's assertion that she "only asked [that] the defamatory and unnecessary letters or portions of letters be disclosed" suggests the possible application of the factor in section 14(2)(d) (fair determination of rights). In reference to her concerns about unfair by-law enforcement, the appellant submits that "to allow the person involved [to] not know why they are perhaps being unfairly treated is wrong."

The remainder of the appellant's representations deal with concerns about her neighbour's alleged influence with elected city officials and administration; I will not review these submissions further as they fall outside the jurisdiction of this office and the scope of my authority in conducting this inquiry respecting the city's decision under the *Act*.

Analysis and Findings

Section 14(3)(b) of the *Act* states:

> A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy where the personal information,
>
> > was compiled and is identifiable as part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation;

[1] Records 2, 3 and 9 of the Engineering Services records.
[2] Records 1-3 from the mayor's office, records 7 and 8 from Engineering Services and records 1-3 from Enforcement Services.

Previous orders of this office have established that personal information relating to investigations of alleged violations of municipal by-laws falls within the scope of the presumption against disclosure in section 14(3)(b) of the *Act*.[3] Based on my review of the records and the surrounding circumstances, I am satisfied that the personal information of the other identifiable individuals was obtained or gathered by the city in the course of investigating possible violations of law, namely Building Code standards and zoning by-laws. In response to the appellant's argument that section 14(3)(b) is inapplicable because the by-law matters have come to an end, I note that there is no temporal limitation on the presumption and it will continue to apply to information that was compiled and is identifiable as part of such an investigation notwithstanding the completion of the investigation. Moreover, the presumption does not require that charges be laid or that offences actually be prosecuted. Accordingly, in the circumstances of this appeal, I find that the presumption in section 14(3)(b) applies to the personal information of other identifiable individuals which has been withheld by the city.

As previously stated, the presumption against disclosure in section 14(3)(b) cannot be overcome by any factors, listed or unlisted, under section 14(2). Further, as I have already made the finding that the exceptions in section 14(4) and the public interest override in section 16 do not apply in the circumstances of this appeal, I uphold the city's denial of access to the withheld information under section 14(1) of the *Act*.

Furthermore, given the application of 14(3)(b), disclosure of the personal information at issue in the records that contain mixed personal information is presumed to constitute an unjustified invasion of personal privacy of the identifiable individuals other than the appellant. Accordingly, subject to my discussion of the city's exercise of discretion, I find that the information is exempt under section 38(b). However, I will first consider whether it would be absurd to withhold the information.

Absurd result

In this appeal, many of the records relate to incidents in which the appellant was involved in some way. Whether or not the factors or circumstances in section 14(2) or the presumptions in section 14(3) apply, where the requester originally supplied the information, or the requester is otherwise aware of it, the information may be found not exempt under either section 38(b) or section 14(1), because to find otherwise would be absurd and inconsistent with the purpose of the exemption (Orders M-444 and MO-1323).

The absurd result principle has been applied where, for example, the requester was present when the information was provided to the institution (Order P-1414); or where the information is clearly within the requester's knowledge (Orders MO-1196, PO-1679 and MO-1755). Previous orders have also stated that, if disclosure is inconsistent with the purpose of the exemption, the absurd result principle may not apply, even if the information was supplied by the requester or is otherwise known to the requester (Orders M-757, MO-1323 and MO-1378).

[3] See Orders M-382, MO-1598, MO-1845 and MO-2334.

Former Senior Adjudicator David Goodis reviewed the issue of the consistency of disclosure with the purpose of the section 21(3)(b)[4] exemption in Order PO-2285. He stated:

> Although the appellant may well be aware of much, if not all, of the information remaining at issue, this is a case where disclosure is not consistent with the purpose of the exemption, which is to protect the privacy of individuals other than the requester.

In Order MO-1378, the former senior adjudicator explained the importance of a balanced approach to the issue:

> [It] recognizes one of the two fundamental purposes of the *Act*, the protection of privacy of individuals [see section 1(b)], as well as the particular sensitivity inherent in records compiled in a law enforcement context. The appellant has not persuaded me that I should depart from this approach in the circumstances of this case.

I adopt the approach taken to the absurd result principle in Orders MO-1378 and PO-2285 for the purposes of this appeal.

The parties provided little substantive argument one way or the other respecting the application of the absurd result principle to the undisclosed information. I have considered the circumstances of this appeal, including the background to the creation of the records, and the nature of the relationship between the appellant and her neighbour. In my view, there is a particular sensitivity to the context, and I find that disclosure of the remaining personal information would not be consistent with the fundamental purpose of the *Act*, as outlined in Order MO-1378. Accordingly, I find that the absurd result principle does not apply in this appeal.

EXERCISE OF DISCRETION

In situations where an institution has the discretion under the *Act* to disclose information even though it may qualify for exemption, this office may review the institution's decision to exercise its discretion to deny access. In this situation, this office may determine whether the institution erred in exercising its discretion, and whether it considered irrelevant factors or failed to consider relevant ones. The adjudicator, in reviewing the exercise of discretion by an institution may not, however, substitute his or her own discretion for that of the institution.

As previously noted, 38(b) is a discretionary exemption and I have upheld the city's decision to apply it to the withheld portions of some of the records remaining at issue.

The city's representations on this issue refer to withdrawing the claim of section 8(3) of the *Act*. No explanation for how this is connected with the city's exercise of discretion is provided nor is it apparent to me. In addition, the appellant does not address the city's exercise of discretion in her representations.

[4] Section 21(3)(b) is the provincial *Act's* equivalent to section 14(3)(b) of the municipal *Act*.

In reviewing the city's exercise of discretion under section 38(b), I have considered all of the circumstances of this appeal, including the fact that only brief snippets of text in the records remain at issue. Although the city's representations on the issue were limited, I am satisfied that the city nonetheless exercised its discretion with consideration of the need to balance the appellant's right of access with the protection of privacy of other individuals. In my view, this is evident by the amount of information the appellant received through the initial, and subsequent, disclosures. Overall, I am satisfied that the city exercised its discretion under section 38(b) of the *Act* properly, and I will not interfere with it on appeal.

Consequently, I find that disclosure of the personal information of the other identifiable individuals in the records would constitute an unjustified invasion of their personal privacy and that the information is exempt under section 38(b) of the *Act*. In view of my finding in this regard, it is unnecessary for me to consider the possible application of section 8(1)(d) of the *Act* to the undisclosed information in the records.

REASONABLE SEARCH

The appellant claims that the city has not conducted an adequate search for records responsive to her request because she is convinced that "defamatory" correspondence relating to her has been circulated by her neighbour amongst city staff and officials.

In appeals, such as this one, that involve a claim that additional responsive records exist, the issue to be decided is whether the city has conducted a reasonable search for the records as required by section 17 of the *Act*. If I am satisfied that the search carried out was reasonable in the circumstances, the city's search will be upheld. If I am not satisfied, further searches may be ordered.

The *Act* does not require the city to prove with absolute certainty that further records do not exist. However, the city must provide sufficient evidence to show that it has made a reasonable effort to identify and locate responsive records. A reasonable search is one in which an experienced employee expends a reasonable effort to locate records which are reasonably related to the request.[5] Furthermore, 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 submits that the offices of the appellant's city councillor and the mayor, as well as four city departments,[6] were searched for records responsive to the appellant's request. The city provided affidavits from four city staff[7] in support of its position that reasonable searches were conducted by knowledgeable staff. The city provided the following description of the searches conducted to identify records responsive to the appellant's request:

[5] Orders M-282, P-458, M-909, PO-1744 and PO-1920.
[6] Although the city refers to four city departments, only three are mentioned in the affidavit: Building Standards, Engineering Services and Enforcement Services. The fourth may implicitly refer to the Mayor's office.
[7] Affidavits were provided by the city's Records Management Supervisor, the Building Standards Department office coordinator, the Manager of Development Inspection and Grading, and the Enforcement Services Department office coordinator.

- In the mayor's office, her assistant searched in the following locations:
    - the 2009 Complaint Tracking System. No records were found.
    - the 2008 and 2009 archive folder on [the assistant's] personal computer. Two records were found. The records were part of the city's subsequent access decision dated November 12, 2009.
    - the November 2006, December 2006, and 2007 archives folder on [the assistant's] personal computer. No records were found.
- Based on the findings of the mayor's assistant, additional records from the Enforcement Services Department were requested, including a specific Call Summary document.
- Hard copy mayoral records for 2003-2006 held at the city's records centre were searched, but no responsive records were found.
- Building Standards Department searches of the property files for the appellant and her neighbours and the department's database were conducted, and revealed only the two complaints related to the appellant's property.
- Searches of the Building Standards file room, the appellant's property file and the email archives of the Manager of Development Inspection and Grading located records which were disclosed in part.
- In the Enforcement Services Department, the office coordinator's filing cabinet and email were searched, along with the correspondence files of a collections clerk in the department.

The appellant expresses the view that there must have been other correspondence sent to management, specifically the "by-law superior, who then reprimanded the by-law officer… who had till then been understanding of the silly nature of complaint (when at least nine other people were doing same as us without notice being given to them.)" The appellant also submits that:

> I do not know how many defamatory correspondences have circulated outside as per letter to Chief [of Police] Labarge or within City of Vaughan but to date the two letters sent to myself and my contractor … by the [neighbours'] lawyer … that states copies sent "via fax to engineer" on 2nd page bottom have not yet been identified to me even though it shows my address. (attached)[8]

Analysis and Findings

As previously stated, in appeals involving a claim that additional records exist, the issue to be decided is whether an institution has conducted a reasonable search for responsive records as required by section 17 of the *Act*. Furthermore, although requesters are rarely in a position to indicate precisely which records an institution has not identified, a reasonable basis for concluding that additional records might exist must still be provided.

Having considered the representations of the city and the appellant, as well as the general circumstances of this appeal, I am satisfied that the city has provided sufficient evidence to

[8] There is a note in the appeal file from the mediation stage of the appeal that the city denied having a copy of this letter.

demonstrate that it made a reasonable effort to identify and locate records responsive to the request.

The appellant's representations on the adequacy of the city's search for responsive records appear to be based on an assumption that more information must have been recorded or kept by the city, including additional responsive records in the form of "defamatory" correspondence written by her neighbour to city staff.

In the context of the direction the appellant provided in her request, however, I am satisfied that the city has conducted searches with adequate knowledge of the nature of the records said to exist. Ultimately, the issue comes down to whether or not I am satisfied that the city made a *reasonable* effort to identify and locate any existing records that might be responsive to the appellant's request. To reach my decision, I have considered whether the city engaged experienced employees to expend a reasonable effort to locate the records and based on the information provided by the city, I am satisfied that it did so.

Accordingly, based on the information provided by the city and the appellant, and having considered the circumstances of this appeal, I am satisfied that the city's search for records responsive to the request was reasonable in the circumstances.

ORDER:

1. I uphold the city's decision to deny access to the withheld portions of the records pursuant to section 14(1) or section 38(b), as applicable.

2. I uphold the city's search for responsive records.

Original signed by: November 29, 2010
Daphne Loukidelis
Adjudicator