

Information and Privacy Commissioner,  
Ontario, Canada



Commissaire à l'information et à la protection de la vie privée,  
Ontario, Canada

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## ORDER MO-2662

Appeal MA10-124

City of Toronto

October 26, 2011

**Summary:** The appellant sought access to records relating to the adoption of a dog. The City of Toronto (the city) identified responsive records and provided partial access to them, denying access to the non-disclosed portions pursuant to the mandatory personal privacy exemption in section 14(1). The records at issue were found to contain the personal information of identifiable individuals other than the appellant. Disclosure of some of this personal information, consisting of personal financial information, was presumed to be an unjustified invasion of the personal privacy of an identifiable individual other than the appellant, and thus exempt under section 14(1). Disclosure of the remaining personal information at issue was viewed as highly sensitive [section 14(2)(f)] and provided in confidence by the identifiable individual [section 14(2)(h)], and found exempt under section 14(1).

**Statutes Considered:** *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, ss. 2(1) (definition of "personal information"), 14(1), 14(2)(f), 14(2)(h), 14(3)(f).

**Cases Considered:** *John Doe v. Ontario (Information and Privacy Commissioner)* (1993), 13 O.R. (3d) 767

### OVERVIEW:

[1] The appellant submitted an access to information request to the city, pursuant to the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*), for records relating to the adoption of a dog. The appellant states that she was the original

owner of the dog and that it was put up for adoption in error. She seeks the dog's return to her.

[2] The city granted the appellant partial access to the requested information. The city denied access to the non-disclosed information pursuant to section 14(1) (personal privacy) of the *Act*.

[3] The appellant appealed the city's decision to the Information and Privacy Commissioner/Ontario (the Commissioner).

[4] During the course of the mediation stage of the appeal process, the mediator contacted an affected party to determine whether she would consent to the release of information about her in the records. The affected party did not consent to the release of this information.

[5] With respect to the application of section 14(1), the city advised the mediator that it is specifically relying upon the factor in section 14(2)(h) (supplied in confidence) of the *Act* to deny access to certain information contained in one of the records at issue (the adoption questionnaire).

[6] The parties were unable to resolve the appeal through mediation. The file was transferred to the adjudication stage of the appeal for a written inquiry. I was assigned to adjudicate the appeal.

[7] I commenced my inquiry by seeking representations from the city and one affected party. I invited representations on the application of the section 14(1) mandatory exemption and the factor in section 14(2)(h). However, as my review of the appeal file indicated that some additional factors in section 14(2) and the presumption in section 14(3)(f) (finances) might also apply in conjunction with section 14(1), I invited representations on the application of all factors in section 14(2) and the presumption in section 14(3)(f) to the circumstances of this case. The city submitted representations in response and in its representations addressed the application of the factors in sections 14(2)(f) (highly sensitive) and 14(2)(h), as well as the presumption in section 14(3)(f). The affected party chose to not submit representations.

[8] I then sought representations from the appellant. I shared portions of the city's representations with the appellant. Portions of the city's representations were withheld due to confidentiality concerns. The appellant responded with representations.

[9] In the discussion that follows, I reach the following conclusions:

- the records at issue contain the personal information of individuals other than the appellant, and

- the information at issue in those records is exempt, pursuant to section 14(1).

## **RECORDS:**

[10] There are four pages of records at issue comprised of an invoice and a receipt, which were severed in part, and the adoption questionnaire, which was not disclosed.

## **ISSUES:**

- A. Does the information at issue contain "personal information" as defined in section 2(1) and, if so, to whom does it relate?
- B. If the records contain personal information, would disclosure result in an unjustified invasion of another individual's personal privacy under section 14(1)?

## **DISCUSSION:**

### **A. Does the information at issue contain "personal information" as defined in section 2(1) and, if so, to whom does it relate?**

[11] In order to determine whether the section 14(1) personal privacy exemption applies, I must first decide whether the information at issue 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,

...

- (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,

. . .

- (h) the individual's name where 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;

[12] The city submits that the records at issue contain the personal information of individuals other than the appellant, including the following about an affected party:

- the name, address and telephone number of the affected party who adopted the dog;
- the affected party's credit card number and details of the fees she paid to Toronto Animal Services for the adoption;
- qualities that the affected party was looking for in a pet; and
- other personal information about the affected party, including whether she had children.

[13] The city also notes that the current dog license number has been severed, since it can be linked to the affected party's name, address and financial information about her (including her credit card number). The city also submits that one record contains the first name of another identifiable individual, who is the son of the affected party.

[14] The appellant's representations do not address this issue.

[15] On my review of the parties' representations and the records at issue, I find that the records contain recorded information about two identifiable individuals, other than the appellant, as described above in the representations submitted by the city. In conclusion, I find that the records at issue contain the personal information of two identifiable individuals, other than the appellant, within the meaning of that term in section 2(1).

**B. If the records contain personal information, would disclosure result in an unjustified invasion of another individual's personal privacy under section 14(1)?**

[16] 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.

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

[18] In the circumstances, it appears that the only exception that could apply is paragraph (f).

[19] That 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.

[20] 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.<sup>1</sup>

[21] If a section 14(3) presumption does not apply to all or some of the information at issue and the exception in section 14(4) does not apply, section 14(2) lists various factors that may be relevant in determining whether disclosure of personal information would constitute an unjustified invasion of personal privacy.<sup>2</sup> In order to find that disclosure does not constitute an unjustified invasion of personal privacy, one or more factors and/or circumstances favouring *disclosure* in section 14(2) must be present. In the absence of such a finding, the exception in section 14(1)(f) is not established and the mandatory section 14(1) exemption applies.<sup>3</sup>

[22] The list of factors under section 14(2) is not exhaustive. The institution must also consider any circumstances that are relevant, even if they are not listed under section 14(2).<sup>4</sup>

[23] In its representations, the city discusses the application of the presumption in section 14(3)(f). The appellant was invited to respond to the city's representations on the application of this presumption. The appellant chose not to do so.

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<sup>1</sup> *John Doe v. Ontario (Information and Privacy Commissioner)* (1993), 13 O.R. (3d) 767

<sup>2</sup> Order P-239

<sup>3</sup> Orders PO-2267 and PO-2733

<sup>4</sup> Order P-99

[24] Section 14(3)(f) reads:

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

describes an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness;

[25] The city submits that disclosure of the affected party's name would provide linkages to other personal information about her relating to the adoption of the dog, including information surrounding the payment of adoption fees. The city adds that disclosure of the affected party's name, along with her credit card information would provide linkages to sensitive financial and banking information, including her finances, liabilities and bank balances.

[26] Alternatively, the city reiterates in its representations that it relies on the factor in section 14(2)(h) to deny access to information at issue in the records. The city also raises the factor in section 14(2)(f).

[27] These sections read:

A head, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, shall consider all the relevant circumstances, including whether,

(f) the personal information is highly sensitive;

...

(h) the personal information has been supplied by the individual to whom the information relates in confidence; and

[28] With regard to section 14(2)(f), the city submits that the affected party's name and linkage to "sensitive personal financial and banking information" should be a factor weighing in favour of non-disclosure of the information at issue.

[29] With respect to section 14(2)(h), the city submits that the affected party would have "implicitly" provided the personal information contained in the adoption questionnaire to the city "in confidence" and that, accordingly, the city has continued to maintain it in confidence.

[30] The appellant's representations do not directly address the application of the presumption in section 14(3)(f) or the factors in sections 14(2)(f) and (h). The appellant is clearly motivated by a desire to be reunited with the dog, which she brought to Canada from China more than ten years ago. She describes the dog as "very special" and one of her "family members." She states that as both she and the dog grow older their need for each other grows stronger. The appellant is desperate to "trace" the dog and she seeks the affected party's personal information to help her in her search. The appellant believes that she has a right to the "address of the dog." The appellant suggests that the dog was improperly taken from her and put up for adoption. The appellant believes that she has a right to the affected party's personal information so that she can redress the wrong that has been committed.

[31] I have carefully considered the parties representations and the records at issue. While I acknowledge the appellant's view that the dog was improperly taken from her and her desire to be reunited with the dog, I am not able to assist the appellant in acquiring the information she seeks. In my view, the severed information in the records that the appellant seeks is exempt from disclosure under section 14(1).

[32] I am satisfied that the presumption in section 14(3)(f) applies to some of the information at issue in this case, including financial information linked to the affected party that relates to her adoption of the dog, such as the affected party's credit card number and a reference number assigned to the credit card transaction that completed the adoption process. I find that this information "describes" the affected party's "financial activities" within the meaning of section 14(3)(f). Accordingly, I find that the presumption at section 14(3)(f) applies to this personal information.

[33] I have not been provided with evidence that this personal information falls under the exception in section 14(4) and, on my review of the records, I am satisfied that section 14(4) does not apply. As well, the possible application of section 16 has not been raised and does not appear to have any application to the circumstances of this case. Accordingly, I find that this information is exempt under section 14(1) and should not be disclosed to the appellant.

[34] I must now assess the extent to which the factors raised by the city in sections 14(2)(f) and (h) weigh in favour of non-disclosure of the remaining personal information in the records.

[35] The information remaining at issue is contained in one record, the adoption questionnaire. It is clear on the face of this document that it has been created to assist the Toronto Animal Services staff in finding a compatible pet for a prospective adoptive family. The affected party completed this form and it contains her name, address and telephone number, as well as information about her family, including the first name of her son, the family's reasons for wanting to adopt a pet and the family's preferences for a pet.

[36] For the factor in section 14(2)(f) to apply and information to be found to be “highly sensitive”, it must be found that the disclosure of the personal information could reasonably be expected to cause significant personal distress to the subject individual.<sup>5</sup> In light of the sensitive nature of the personal information in the Adoption Questionnaire and the circumstances surrounding the adoption process in this case, I am satisfied that it would be reasonable to expect that disclosure of the information at issue, including the affected party’s name, address, and telephone number, as well as information about the affected party’s family, would cause *significant* personal distress to the affected party. Accordingly, I conclude that the factor at section 14(2)(f) weighing in favour of privacy, as it relates to this personal information, carries significant weight.

[37] With regard to the factor in section 14(2)(h), given that the majority of the personal information at issue consists of the affected party’s name and contact information as well as information about her family, I am satisfied that this information was supplied by the affected party in confidence. I understand that the appellant feels that the adoption process was not carried out properly and that, as a result, she should be entitled to information that assists her in righting a perceived wrong. However, I have no evidence to conclude that the affected party did not participate in good faith in the adoption process or that she intended for her personal information to be publicly disclosed. In the circumstances, while the appellant is seeking this information, disclosure of it is disclosure to the world and not only to the appellant. Accordingly, I give the factor in section 14(2)(h) significant weight.

[38] I have carefully considered the matter and find that, in this case, the factors favouring privacy protection, at sections 14(2)(f) and (h), far outweigh any interest that the appellant may have in gaining access to the personal information contained in the adoption questionnaire. I am satisfied that disclosure of the personal information of the affected parties in this record would constitute an unjustified invasion of their personal privacy.

[39] Therefore, I find that all of the personal information contained in the records at issue in this appeal qualifies for exemption under section 14(1) of the *Act*.

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<sup>5</sup> Order PO-2518



**ORDER:**

I uphold the city's decision to deny access to the withheld information, pursuant to section 14(1), and I dismiss the appellant's appeal.

Original Signed by: \_\_\_\_\_  
Bernard Morrow  
Adjudicator

\_\_\_\_\_ October 26, 2011