

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER MO-2695

Appeal MA10-383

City of Toronto

February 17, 2012

Summary: An individual made a request to the City of Toronto for the building plans of a neighbouring property. After giving notice to the affected persons, the city determined that the records should be disclosed to the requester. The affected persons appealed the city's decision arguing that the building plans contain confidential information about their property layout. The city's decision is upheld as the building plans do not contain personal information about the appellants.

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

Orders and Investigation Reports Considered: Order 23, MO-2081.

OVERVIEW:

[1] The requester made a request to the City of Toronto (the city) under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for access to a copy of the permit plans for a specified address in Toronto.

[2] After giving notice to two individuals whose interests may be affected by the outcome of the appeal (the affected persons), the city issued a decision granting full access to the records at issue.

[3] The affected persons, now the appellants, appealed the city's decision.

[4] Mediation did not resolve the appeal and the file was moved to the adjudication stage of the appeals process where an adjudicator conducts an inquiry under the *Act*. During my inquiry I sought and received representations from the city and the appellants.

[5] In this order, I uphold the city's decision to disclose the records.

RECORDS:

[6] The records at issue consist of building plans for a specified address.

DISCUSSION:

Do the records at issue contain personal information within the meaning of section 2(1) of the *Act*?

[7] 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 if 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 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;

[8] The appellants submit that the record contains confidential information relating to the layout of their property but concedes that the records do not contain personal information for the purposes of the *Act*.

[9] The city submits that the building plans for the appellant's property is not "personal information" as defined by section 2(1) of the *Act* but that it is information about property. The city cites Order 23, where former Commissioner Sidney B. Linden distinguished between "personal information" and information concerning residential properties. The Commissioner considered the introductory wording of section 2(1) of the *Act* which defines "personal information" as "...any recorded information about an identifiable individual" and concluded that the information in that appeal, a plan, was information about a property and not an identifiable individual. The city also cites Order MO-2081, where it was found that none of the information contained in permit drawings qualified as "personal information".

[10] Finally, the city states the following:

In the current situation, the building plans would, at most, identify the layout of the building utilized by the affected parties as a rental property. The city has been presented with no basis to believe that the particulars of this specific residential building would reveal anything of a personal nature "about" either of the affected parties. The city submits that, these building plans, like the records in issue in Order MO-2081, reveal only information about the property, and do not address any information "about" the individual owners of this property.

The IPC has previously reviewed the issue of building plans, and determined that while building plans could contain personal information about an individual, building plans for a building are normally information about the property, and not "personal information" of the owners. While it is possible for building plans to contain personal information about the

owners of a residential property, for example, a telephone number, the city would have severed such personal information.

It is the city's submission that in the present case, disclosing the building plans for the specific property owned by the affected parties would not reveal anything "about" an identifiable individual. Therefore, the city submits that the specific "permit plans" as requested in the current appeal, do not contain information which would constitute personal information for the purposes of s. 2(1) of *MFIPPA*.

[11] Based on my review of the parties' representations and the records themselves, I find that the records do not contain recorded information about an identifiable individual. The records are the building plans for the appellants' property. The building plans do not include information relating to the appellants and thus relate solely to the property. Accordingly, I find that the records do not contain "personal information" within the meaning of section 2(1) of the *Act*.

[12] I have reviewed the appellants' comments about their relationship with the requester of the information. I appreciate that the appellant's would prefer not to have this information disclosed to the requester. That being said, I do not have the ability to withhold disclosure of the information to the requester where an exemption does not apply.

[13] As the mandatory exemption in section 14(1) can only apply to personal information and no other mandatory exemptions apply to the information at issue, I find that the building plans should be disclosed.

ORDER:

I uphold the city's decision.

Original signed by: _____
Stephanie Haly
Adjudicator

February 17, 2012 _____