

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-2879

Appeal MA11-529

Thames Valley District School Board

April 29, 2013

**Summary:** The board received a request for details of the specific sources of funds comprising the amount paid to the board by an affected party as part of a restitution order. The board took the position that the record detailing this information falls outside the scope of the *Act* under sections 52(2.1) (ongoing prosecution) and 52(3)1 (employment-related matters). In the alternative, the board took the position that the record was exempt under section 14(1) (personal privacy) of the *Act*. The appellant indirectly raised the possible application of section 16 (public interest override). This order determines that the withheld portions of the record are exempt under section 14(1), and that the public interest override does not apply. It also determines that the record is not excluded from the scope of the *Act* under section 52(3)1.

**Statutes Considered:** *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, sections 2(1) (definition of "personal information"), 14(1), 14(2)(a), 16, 52(3)1.

**Cases Considered:** *Ontario (Ministry of Correctional Services) v. Goodis* (2008), 89 O.R. (3d) 457, [2008] O.J. No. 289 (Div. Ct.).

### OVERVIEW:

[1] The Thames Valley District School Board (the board) received a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for all information relating to the restitution of funds to the board from a fraud involving the Thames Valley Recreational Athletic Association (T.V.R.A.A.). In response, the board

provided the appellant with some information relating to the restitution, and also provided the appellant with the exact amount of restitution it had received as of a certain date.

[2] The appellant subsequently clarified that his request included the following:

... a breakdown of the sources for that total [restitution] ie, insurance payout, money from sale of home, actual restitution from [former staff member] or any other sources.

I would also like to see a school by school accounting of the funds that have/will be returned.

[3] In response, the board issued a decision in which it indicated that, although it had located the requested information, the *Act* does not apply to the record containing the information because of the exclusionary provision in section 52(2.1) (ongoing prosecution) of the *Act*. The relevant portion of the decision read:

Because of ongoing litigation related to restitution, your request for a "breakdown of the sources for the total, i.e. insurance payout, money from sale of home, actual restitution from [former staff member] or any other sources" is denied under section 52(2.1) of the *Municipal Freedom of Information and Protection of Privacy Act* as the Act does not apply to a record relating to a prosecution if all proceedings in respect of the prosecution have not been completed.

[4] With respect to the request for a school-by-school accounting of the funds, the board also advised that there are no records that show the reallocation of funds on a school-by-school basis.

[5] The decision also specifically referred to the fact that the board had provided the public (and the appellant) with the actual amount of the restitution paid to it as of the specified date.

[6] The appellant appealed the board's decision.

[7] During mediation, the board maintained its position that all the proceedings in respect of the prosecution have not been completed, and that the exclusionary provision in section 52(2.1) of the *Act* applied to exclude the record from the scope of the *Act*.

[8] Also during the processing of this file, the board issued a revised decision letter in which it indicated that, in addition to section 52(2.1), it was also denying access to the record on the basis of the exclusionary provision in section 52(3)1 (employment-

related matters) of the *Act* and, alternatively, that the exemption in section 14(1) (personal privacy) applied to the record, with reference to the factors in sections 14(2)(h) and 14(2)(i), and the presumption in section 14(3)(f).

[9] In addition, during the processing of this file, the appellant was provided with additional information relating to his request for a school-by-school accounting of the funds that have been reallocated. As a result, this portion of the request is not at issue in this appeal.

[10] Mediation did not resolve this appeal, and it was transferred to the inquiry stage of the process where an adjudicator conducts an inquiry under the *Act*. I sought and received representations from the board and the appellant which were shared in accordance with section 7 of this office's *Code of Procedure* and *Practice Direction Number 7*.

[11] In his representations, the appellant refers to concerns about the accuracy of certain information regarding the restitution amounts, and provides copies of newspaper articles that deal with the restitution. By doing so, he is indirectly raising the possible application of the public interest override in section 16 of the *Act*, and I will consider that section in this order.

[12] Also, after reviewing the representations of the parties, I decided to send a Supplementary Notice of Inquiry to a party who may have an interest in the information in the record (the affected party). The affected party also provided representations to me.

[13] In this order, I uphold the decision of the board that the withheld information qualifies for exemption under section 14(1) of the *Act*. I also find that public interest override in section 16 does not apply.

## **RECORD:**

[14] The record at issue is a one-page record created by the board with the heading "Compilation of Restitution" as of a specific date. In addition to identifying the total amount of restitution (which was provided to the appellant), the record describes in detail the specific sources of funds and the amounts which constituted the total.

[15] I note that the total amount of restitution referred to in the record is publically available and not at issue in this appeal. The portion of the record at issue is the breakdown of the amounts and sources of the restitution from which the total is calculated.

## **Preliminary Issues**

### ***Section 52(2.1) - Ongoing prosecution***

[16] As noted above, one of the issues raised by the board in this appeal is whether the exclusion in section 52(2.1) applies to exclude the requested record from the ambit of the *Act*. Section 52(2.1) reads:

This Act does not apply to a record relating to a prosecution if all proceedings in respect of the prosecution have not been completed.

[17] The parties provided relatively brief representations on this issue, and the issue raised is whether the record in this appeal, which concerns the payment of restitution to the board arising from a criminal prosecution and conviction, is excluded from the scope of the *Act*. The payment of restitution to the board was ordered by the court under section 738 of the *Criminal Code* as part of a sentencing decision. The board argues that the record is excluded from the *Act* because there is a connection between the payment of restitution and the prosecution and, because the board has not yet been compensated in full, all proceedings in respect of the prosecution have not been completed. There is also some suggestion in the material provided to me that the restitution order may be appealable.

[18] No previous orders directly address the issue of whether ongoing restitution payments in the context of a criminal conviction from which no appeal has been taken constitute a "proceeding in respect of prosecution" that has not been completed. The issue of whether or not section 52(2.1) of the *Act* applies in such circumstances is a novel one, the resolution of which may require seeking representations from other parties, such as the Crown, who may have an interest in this issue.

[19] In the circumstances of this appeal, and in light of my finding below that the withheld portions of the record are in any event exempt under section 14(1) of the *Act*, I have decided that it is not necessary for me to determine whether section 52(2.1) applies to the withheld portions of the record.

### ***Search issue***

[20] In the appellant's representations, he refers for the first time to possible concerns he has that additional responsive records may exist. This issue was not raised in the earlier stages of this appeal, nor was it identified as an issue at the conclusion of mediation, when the parties were provided with a Mediator's Report which described the record at issue as a "one-page record describing the allocation of funds." In the circumstances, and because the record at issue contains the specific information identified by the appellant in the clarification of his request, I will not address the issue of the reasonableness of the board's search for records.

## **ISSUES:**

- A. Is the record excluded from the scope of the *Act* based on section 52(3)1?
- B. Do the withheld portions of the records contain "personal information" as defined in section 2(1)?
- C. Would disclosure of the personal information constitute an unjustified invasion of personal privacy under the mandatory exemption under section 14(1)?
- D. Does the public interest override in section 16 apply?

## **DISCUSSION:**

### **Issue A. Is the record excluded from the scope of the *Act* based on section 52(3)1?**

[21] The board takes the position that the record is excluded from the scope of the *Act* on the basis of the exclusionary provision in section 52(3)1 of the *Act*. This section reads:

Subject to subsection (4), this Act does not apply to records collected, prepared, maintained or used by or on behalf of an institution in relation to any of the following:

1. Proceedings or anticipated proceedings before a court, tribunal or other entity relating to labour relations or to the employment of a person by the institution.

[22] If section 52(3)1 applies to the record, and none of the exceptions found in section 52(4) applies, the record is excluded from the scope of the *Act*.

[23] For the collection, preparation, maintenance or use of a record to be "in relation to" the subjects mentioned in paragraph 1, it must be reasonable to conclude that there is "some connection" between them.<sup>1</sup>

[24] The term "employment of a person" refers to the relationship between an employer and an employee.

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<sup>1</sup> Order MO-2589; see also *Ministry of the Attorney General and Toronto Star and Information and Privacy Commissioner*, 2010 ONSC 991 (Div. Ct.).

[25] If section 52(3) applied at the time the record was collected, prepared, maintained or used, it does not cease to apply at a later date.<sup>2</sup>

[26] The exclusion in section 52(3) does not exclude all records concerning the actions or inactions of an employee simply because this conduct may give rise to a civil action in which the institution may be held vicariously liable for torts caused by its employees.<sup>3</sup>

[27] The type of records excluded from the *Act* by section 52(3) are documents related to matters in which the institution is acting as an employer, and terms and conditions of employment or human resources questions are at issue. Employment-related matters are separate and distinct from matters related to employees' actions.<sup>4</sup>

[28] For section 52(3)1 to apply, the institution must establish that:

1. the record was collected, prepared, maintained or used by an institution or on its behalf;
2. this collection, preparation, maintenance or usage was in relation to proceedings or anticipated proceedings before a court, tribunal or other entity; and
3. these proceedings or anticipated proceedings relate to labour relations or to the employment of a person by the institution.

[29] The board argues that section 52(3)1 applies to the record, and states that the information in the record relating to repayment:

... [is] being collected and used by the Board to determine how much money the Board receives on a recovery basis from all sources including directly from the former employee. In order to determine whether or not the Board will commence civil proceedings to recover any unpaid balance there is a clear connection between the records and the anticipated use that they may be put to if proceedings are commenced. ...

The anticipated proceedings relate to the former employment relationship between the Board and the former employee and the breach of the employment relationship by way of defalcation.

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<sup>2</sup> *Ontario (Solicitor General) v. Ontario (Assistant Information and Privacy Commissioner)* (2001), 55 O.R. (3d) 355 (C.A.), leave to appeal refused [2001] S.C.C.A. No. 507.

<sup>3</sup> *Ontario (Ministry of Correctional Services) v. Goodis* (2008), 89 O.R. (3d) 457, [2008] O.J. No. 289 (Div. Ct.).

<sup>4</sup> *Ministry of Correctional Services*, cited above.

The Board acknowledges that the anticipated civil proceeding may not take place if full restitution is made. However, at the time of the request, the records were being collected and maintained and used in relation to proceedings that are anticipated. Section 52(3)1 applies, and as such, it applies for all time.

[30] With respect to the issue of whether the records relate to labour relations or employment, the board states:

The documents are related to matters in which the Board is acting as employer and the terms and conditions of the employment are at issue, as it is the breach of the employment contract, which gives rise to the cause of action in the anticipated proceeding.

[31] In order to establish that a record falls outside the scope of the *Act* for the purpose of section 52(3)1, all three parts of the test set out above must be met.

[32] After reviewing the representations of the board, I find that the record does not fall within the exclusionary provision of section 52(3)1. In my view, the board has failed to establish that the third part of the three-part test above has been met. The board has referred to proceedings or anticipated proceedings; however, I am not satisfied that these proceedings relate to labour relations or to the employment of a person by the board.

[33] I make this finding on the basis of the discussion of the meaning of the provincial equivalent to section 52(3)1 found in the decision of the Divisional Court in *Ontario (Ministry of Correctional Services) v. Goodis*.<sup>5</sup> In that decision, the Court considered the application of the exclusionary provision to records relating to allegations of a criminal nature against a ministry employee, and possible vicarious liability against the ministry for torts committed by their employees in the course of their employment. In the initial order issued by this office,<sup>6</sup> former Senior Adjudicator Goodis rejected the application of section 52(3)1<sup>7</sup> to the records, stating:

... the fact that the records may have been collected, maintained, used and/or disclosed in relation to current and anticipated litigation in which the Ministry may be held vicariously liable for actions of its employees is not alone sufficient to qualify the records as arising in an employment or labour relations context.

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<sup>5</sup> Cited above.

<sup>6</sup> Order PO-1905.

<sup>7</sup> The analysis in Order PO-1905 and the Divisional Court decision dealt with section 65(6) of the *Freedom of Information and Protection of Privacy Act*, which is similar to section 52(3) at issue in this appeal. For clarity and consistency, I have referenced section 52(3) of the *Act* in my discussion of this issue in this order.

[34] The Divisional Court, in its review of Order PO-1905,<sup>8</sup> stated:

At the time of the request, there was past, ongoing and anticipated litigation against the Crown and some of its employees and former employees respecting these allegations. One civil action against the Crown and two deceased employees had recently been settled, and two other actions had commenced. In each case, it was alleged that the Crown was vicariously liable for torts committed by employees in the course of their employment. Therefore, the Ministry claimed that the requested records fell outside the scope of the Act pursuant to [section 52(3)], which excludes certain employment-related records. ...

In this case, the Ministry relied on subclauses 1 and 3 of [section 52(3)] in asserting that all the records are excluded from the Act. It took the position that allegations of misconduct committed by an employee in the course of his employment are "employment-related matters" within subclause 3 of [section 52(3)]. As well, a civil action against the Crown alleging vicarious liability for employee misconduct is a proceeding before a court relating to the employment of a person by the institution within paragraph 1 of the subsection. ...

In my view, the language used in s. 65(6) does not reach so far as the Ministry argues. Subclause 1 of [section 52(3)] deals with records collected, prepared, maintained or used by the institution in proceedings or anticipated proceedings "relating to labour relations or to the employment of a person by the institution." The proceedings to which the paragraph appears to refer are proceedings related to employment or labour relations *per se* – that is, to litigation relating to terms and conditions of employment, such as disciplinary action against an employee or grievance proceedings. In other words, it excludes records relating to matters in which the institution has an interest as an employer. It does not exclude records where the Ministry is sued by a third party in relation to actions taken by government employees.

[35] Applying this analysis to the circumstances of this appeal, I find that the records at issue are not excluded from the scope of the *Act* because of the possible proceedings which may be brought by the board. The records at issue relate to payment of restitution arising from a criminal prosecution and conviction. The proceedings or anticipated proceedings referenced by the board relate to the restitution of money to the board, and not to the employment of a person by the board.

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<sup>8</sup> As is clear from the discussion in the Divisional Court decision, PO-1905 was reconsidered in PO-1999. The reconsideration does not, however, affect my discussion of this issue.



[36] Accordingly, I find that the record does not fit within the exclusionary provision in section 52(3)1, and that it falls within the scope of the *Act*.

**Issue B. Do the withheld portions of the record contain “personal information” as defined in section 2(1)?**

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

“personal information” means recorded information about an identifiable individual, including,

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

[38] 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.<sup>9</sup>

[39] To qualify as personal information, it must be reasonable to expect that an individual may be identified if the information is disclosed.<sup>10</sup>

[40] The board states that the withheld information constitutes the personal information of the affected party. It states:

The records relating to the payment by the former employee from the sale of his house and by way of personal restitution are personal information pursuant to section 2(1)(b). This information relates to financial transactions in which the former employee has been involved. Indirectly, the record relating to the payment by the insurer pursuant to the insurance policy, if disclosed, will result in the disclosure of personal information because by simply deducting the amount paid by the insurance company from the amount disclosed by the Board ... will result in the disclosure of personal information relating to the financial transactions in which the former employee was involved.

The information about the former employee is in a personal capacity because it relates to his personal financial payments/transactions. ...

[41] The appellant does not directly address this issue.

[42] Based on the representations of the board and my review of the record, I find that breakdown of the amounts paid by the affected party and the sources of the specific amounts, contained in the record, constitute the personal information of this individual, as it is information relating to financial transactions in which the individual has been involved (paragraph (b) of the definition), and other personal information relating to him (paragraph (h) of the definition).

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<sup>9</sup> Order 11.

<sup>10</sup> Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).

**Issue C. Would disclosure of the personal information constitute an unjustified invasion of personal privacy under the mandatory exemption under section 14(1)?**

[43] Where the record contains only the personal information of other individuals and not the appellant, as is the case here, 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).

[44] The appellant questions whether the affected party was asked to provide consent to the disclosure of the information, thus raising the possible application of the exception in section 14(1)(a). He also argues section 14(1)(f) applies. These sections read:

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

- (a) upon the prior written request or consent of the individual, if the record is one to which the individual is entitled to have access;  
...
- (f) if the disclosure does not constitute an unjustified invasion of personal privacy.

[45] With respect to section 14(1)(a), as indicated above, I provided the affected party with the opportunity to provide representations in this appeal. In his representations, the affected party indicates that he consents to the partial release of the information, but that he has some concerns about the use others may make of specific information at issue in this appeal. In these circumstances, because of the qualified nature of this consent and the specifics of the information in the record, I find that the limited consent received from the affected party does not constitute consent for the disclosure of the specific information at issue in this appeal. Accordingly, I find that section 14(1)(a) does not apply.

[46] The only remaining 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."

***Section 14(1)(f)***

[47] 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.<sup>11</sup>

[48] Section 14(4) refers to certain types of information whose disclosure does not constitute an unjustified invasion of personal privacy.

[49] If none of the presumptions against disclosure contained in section 14(3) apply, the board 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.<sup>12</sup>

[50] The board argues that the presumption in section 14(3)(f)<sup>13</sup> applies because:

... the information describes the former employee's finances, specifically assets, liabilities, net worth, bank balances, financial history or activities or credit worthiness. Payments from the sale of the home is information about a specific asset and reveals its dollar value and size insofar as it relates to the former employee as an owner of the home. ...

Further payments made by way of restitution directly from the former employee describe the assets and net worth, bank balance/financial history or activities of the former employee.

[51] The appellant's representations on this issue focus on what he considers to be apparent discrepancies in the amount of restitution paid and the breakdown of the amounts. He refers to information which he states was made public in court concerning how much money the affected party was to provide to the board from various sources (including the sale of his home, insurance payments, and periodic payment amounts). He also provides newspaper articles which refer to these amounts, and questions why the total amount of restitution provided to him suggest that different amounts were received from the various sources. Besides indirectly raising the "public interest override" in section 16 (which I address below), the appellant also seems to be raising the factor in section 14(2)(a), which states:

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<sup>11</sup> *John Doe v. Ontario (Information and Privacy Commissioner)* (1993), 13 O.R. (3d) 767.

<sup>12</sup> Order P-99.

<sup>13</sup> This section 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.

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,

the disclosure is desirable for the purpose of subjecting the activities of the institution to public scrutiny;

[52] Previous orders have established that section 14(2)(a) contemplates disclosure in order to subject the activities of the government (as opposed to the views or actions of private individuals) to public scrutiny.<sup>14</sup> Previous orders have also confirmed that this factor exists because the public has a right to expect that expenditures of employees of government institutions during the course of performing their employment-related responsibilities are made in accordance with established policies and procedures, carefully developed in accordance with sound and responsible administrative principles.<sup>15</sup>

[53] In the circumstances of this appeal, I am not satisfied that the factor in section 14(2)(a) applies to the information at issue. As identified, the withheld portions of the record relate to the exact breakdown of the amount of restitution paid by the affected party. I am not satisfied that this triggers the application of the factor in section 14(2)(a) because there is no suggestion that the disclosure is desirable for the purpose of subjecting the activities of the board to public scrutiny.

[54] In the absence of any factors favouring disclosure, I find that the disclosure of the information contained in the withheld portions of the record would constitute an unjustified invasion of the personal privacy of the affected party. The information is, therefore, exempt from disclosure under the mandatory exemption in section 14(1), subject to my review of the public interest override, below.

**Issue D. Does the public interest override in section 16 apply?**

[55] Although not specifically raised by the appellant, his representations and the attached newspaper articles relating to the payment of restitution by the affected party suggest that there exists a public interest in the information relating to the exact breakdown of the amount of restitution paid by the affected party. As noted above, the appellant refers to what he considers to be apparent discrepancies in the amount of restitution paid and the breakdown of the amounts. He also refers to the newspaper articles and to information he states was made public in court concerning how much money the affected party was to provide to the board from various sources of funds. He refers to discrepancies in the amounts referenced, when compared with the total amount of restitution paid to the board, as disclosed by it. By making these arguments,

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<sup>14</sup> Order P-1134.

<sup>15</sup> Orders P-256 and PO-2536.

the appellant raises the possible application of the public interest override at section 16 of the *Act*.

[56] Section 16 states:

An exemption from disclosure of a record under sections 7, 9, 10, 11, 13 and 14 does not apply if a compelling public interest in the disclosure of the record clearly outweighs the purpose of the exemption.

[57] In order 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.

[58] 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.<sup>16</sup> 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 or enlightening the citizenry about the activities of their government or its agencies, 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.<sup>17</sup>

[59] The word “compelling” has been defined in previous orders as “rousing strong interest or attention.”<sup>18</sup> Furthermore, any public interest in non-disclosure that may exist also must be considered.<sup>19</sup> If there is a significant public interest in the non-disclosure of the record then disclosure cannot be considered “compelling” and the override will not apply.<sup>20</sup>

[60] A compelling public interest has been found *not* to exist where a significant amount of information has already been disclosed and this is adequate to address any public interest considerations.<sup>21</sup>

### ***Findings***

[61] I have considered the appellant’s representations as they relate to the exact breakdown of the amount of restitution paid by the affected party, which I have found qualifies for exemption under the personal privacy exemption in section 14(1) of the *Act*. I note again that the total amount of restitution received by the board was

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<sup>16</sup> Orders P-984, PO-2607.

<sup>17</sup> Orders P-984 and PO-2556.

<sup>18</sup> Order P-984.

<sup>19</sup> *Ontario Hydro v. Mitchinson*, [1996] O.J. No. 4636 (Div. Ct.).

<sup>20</sup> Orders PO-2072-F and PO-2098-R.

<sup>21</sup> Orders P-532, P-568, PO-2626, PO-2472 and PO-2614.

disclosed, but not the breakdown of the exact amounts paid by the affected party from various sources of funds.

[62] In considering whether there is a “public interest” in disclosure of the record, with respect to the first question set out above, I am not persuaded that there is a relationship between the information at issue and the *Act*’s central purpose of shedding light on the operations of government.<sup>22</sup> I am not satisfied that disclosure of information about exactly how much money from each source of funds the affected party has paid in restitution will “serve the purpose of informing or enlightening the citizenry about the activities of [the board]” or “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.”<sup>23</sup>

[63] I also note that, although the appellant is clearly interested in the breakdown of the amounts, I have not been provided with sufficient evidence to satisfy me that there is a public interest in this breakdown, and certainly not to the extent that there is a “rousing strong interest or attention.”<sup>24</sup> I again note that the total amount of restitution paid by the affected party to the board as of the specified date has been made public.

[64] Accordingly, I find that the public interest override provision in section 16 does not apply to the personal information remaining at issue in this appeal.

**ORDER:**

I uphold the board’s decision to deny access to the withheld portions of the record on the basis of the exemption in section 14(1) of the *Act*, and dismiss this appeal.

Original signed by: \_\_\_\_\_  
Frank DeVries  
Adjudicator

\_\_\_\_\_ April 29, 2013

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<sup>22</sup> Orders P-984, PO-2607.

<sup>23</sup> Orders P-984 and PO-2556.

<sup>24</sup> Order P-984.