Information and Privacy Commissioner,
Ontario, Canada

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

ORDER PO-3236

Appeal PA11-343

Human Rights Tribunal of Ontario

August 6, 2013

Summary: The appellant made a request to the tribunal for copies of the applications filed by two individuals. The tribunal withheld the records at issue on the basis of the mandatory personal privacy exemption in section 21(1) of the *Act*. The tribunal also advised the appellant that section 45(8) of the *Child and Family Services Act* applied which prohibited disclosure of the information. The tribunal's decision on the application of the section 21(1) exemption is upheld.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended, ss. 2(1) (definition of "personal information"), 21(1), 67(2)2.

Child and Family Services Act, R.S.O. 1990, c. C.11, as amended, ss. 45(2), (8).

OVERVIEW:

[1] The appellant made a request to the Human Rights Tribunal of Ontario (the tribunal) under the *Freedom of Information and Protection of Privacy Act* (the *Act*) for access to "…a copy of the original [applications] filed by [two named individuals]." The appellant specified two file numbers.

[2] Following notification of a number of affected parties, none of whom provided consent to the disclosure of the records, the tribunal issued a decision, denying access to the records in their entirety on the basis of the mandatory personal privacy exemption in section 21(1). The tribunal also advised the appellant that section 45(8) of the *Child and Family Services Act (the CFSA)* may apply to some or all of the content of the requested records, with the possible effect of prohibiting their disclosure. In addition, the tribunal advised the appellant that the records were reviewed for severance and it had determined that the personal information in the records was sufficiently extensive and integrated such that severing was not reasonable or practical.

[3] During mediation, the appellant indicated that he does not believe that section 45(8) of the *CFSA* applies and instead argues that the record can be severed such that section 45(8) would not apply. The mediator also sought notice from the two individuals identified in the appellant's request. These individuals did not provide consent to the disclosure of their information.

[4] During the inquiry to this appeal, the adjudicator sought and received representations from the tribunal, and an organization whose interests may be affected by the outcome of this appeal (the affected party), and the appellant. Representations were shared in accordance with section 7 of the IPC's *Code of Procedure* and *Practice Direction 7*. The file was then assigned to me to complete the inquiry.

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

RECORDS:

[6] The records consist of two application files consisting of the applications and attachments.

ISSUES:

A. Does section 67(2) of the *Act* and section 45(8) of the *Child and Family Services Act* apply to the records?

B. Do the records contain "personal information" within the meaning of section 2(1) of the *Act*?

C. Would disclosure of the "personal information" be an unjustified invasion of an individual's personal privacy under section 21(1) of the *Act*?

D. Can the records be severed pursuant to section 10(2) of the *Act*?

DISCUSSION:

A. Does section 67(2) of the *Act* and section 45(8) of the *Child and Family Services Act* apply to the records?

[7] As stated above, the tribunal submits that disclosure of the records may be prohibited pursuant to the confidentiality provision in section 45(8) of the *CFSA* and section 67(2) of the *Act*. Section 67(2)2 of the *Act* states:

> The following confidentiality provisions prevail over this *Act*:
>
> > 2. Subsections 45(8), (9) and (10), 54(4) and (5), 74(5), 75(6), 76(11) and 116(6) and section 165 of the *Child and Family Services Act*.

[8] Section 45(8) of the *CFSA* states:

> No person shall publish or make public information that has the effect of identifying a child who is a witness at or a participant in a hearing or the subject of a proceeding, or the child's parent or foster parent or a member of the child's family.

[9] The tribunal submits that the purpose of section 67(2)2 of the *Act* is to recognize specific situations where individuals may be entitled to enhanced privacy rights. The tribunal further submits that this is consistent with the purpose of section 45(8) of the *CFSA* which is intended to provide enhanced privacy rights for vulnerable children who are subject to child protection proceedings under the *CFSA*. The tribunal submits that the purpose of section 45(8) is emphasized in *Children's Aid Society of Hamilton-Wentworth* v. *D.* (1988), 63 O.R. (2d) 352 (U.F. Ct.) where Justice Mendes da Costa characterized the purpose of section 45(8) (then 41(8)) as follows:

> …a paramount objective of the Act is the promotion of the best interests, protection and well-being of children…
>
> Section 41(8) mandates a comprehensive and overriding prohibition on the publication of identifying criteria: no person shall "publish or make public" information that has the "effect of identifying" the parties designated. It is clear that the subsection is designed for the "protection of the innocent", and that the interests of a child in a child protection application have been recognized as social values of "superordinate importance", values which justify a departure from the principle of "openness"….

[10] The tribunal submits that it reviewed the two related responsive records as well as the two published decisions made in relation to the applications which are the subject of the responsive records in order to determine whether the information was captured by section 45(8). The tribunal states:

> The responsive records (Applications) set out in detailed narrative allegations of events and interactions between the applicants and the named respondents. As noted above, the [applicants] allege that the respondents discriminated against them through various actions culminating in decisions to remove two children in their care. Thus the entire matrix of the responsive records relates directly to the underlying circumstances of a decision or decisions that resulted in proceedings under the *CFSA*. Some of these details were made public in [named proceeding].

[11] The tribunal quotes from this decision and then states:

> On their face, these passages confirm that the Applications relate directly to (a) at least two children who were the subject of proceedings under the CFSA and (b) both foster parents of the two children who were subject of proceedings under the CFSA. The records themselves largely consist of detailed narratives of events relating to the foster parents, the two children and other members of the children's family (i.e. other members of the foster family, and in some circumstances the biological family). The records include references to teachers, counselors and other individuals who interacted with either the foster parents and/or the children and whose identity, taken in the context of the published decisions and the overall matrix of information in the responsive records might also identify the children subject to the proceedings.

[12] The tribunal submits that it concluded on the basis of the records and the proceedings that had occurred at the tribunal involving the applicants that the responsive records, if released, would have the "effect of identifying a child who is a…subject of a proceeding, [and] the child's…foster parent [and] a member of the child's family" pursuant to section 45(8).

[13] The tribunal submits that it has determined that section 45(8) of the *CFSA* may apply to proceedings before it and the records in those proceedings. The tribunal states:

> …the tribunal has consistently determined that where the factual matrix of an application made under the Human Rights Code raised facts and information that were the subject of a proceeding under the *CFSA*, s.

> 45(8) applied and required the anonymization of appropriate individuals and in some cases additional privacy protections.

[14] The appellant submits that section 45(8) of the *CFSA* does not apply and argues that I should consider the context of section 45(8) within its own statute. The appellant submits that section 45(2) of the *CFSA* restricts the application of section 45(8) to "child protection" hearings. Section 45(2) of the *CFSA* states:

> This section applies to hearings held under this Part, except hearings under section 76 (child abuse register).

[15] The appellant states:

> Section 45 subsection 2 provides the definitive answer that not only did the legislature intend for subsection 8 to be confined to court applications under "PART III CHILD PROTECTION" of the CFSA but the legislation specifically added subjection 2 to clearly dictate that this was to be the case.
>
> If the [tribunal] is found by the IPC to have the authority and jurisdiction to adjudicate Part III Child Protection hearings, by extension, Tribunals, such as: Workplace Safety and Insurance Appeals Tribunal (WSIAT), Pay Equity Hearings Tribunal (PEHT) etc. would also have this authority. It would be a shock to the public if Tribunals such as these suddenly had bestowed upon them the authority to adjudicate and conduct PART III CHILD PROTECTION hearings.
>
> None of these bodies have the expertise to adjudicate child protection proceedings and they are not legislated to render Child Protection orders nor should they. It would be a false and dangerous precedent to ascribe to these Tribunals the powers to adjudicate and hold hearings regarding child protection matters for which they do not have the expertise to adjudicate, the resources to try, nor the legislated authority to hear.
>
> …
>
> As the [tribunal] does not adjudicate nor preside nor issue orders concerning ***"Hearings held under Part III of the Child and Family Services Act"*** section 45(8), as per FIPPA and the CFSA legislation do not apply to Human Rights Proceedings as the Tribunal does not have the jurisdiction, expertise nor legislative duty to conduct such hearings. The [tribunal] has jurisdiction to conduct matters that deal with Human Rights Code violations. The Tribunal is not and should not be carrying out or even attempting to carry out adjudicating ***"Hearings held under Part***

> ***III of the Child and Family Services Act"***. This is the sole purview of the court. [emphasis in original]

[16] The appellant also argues that the "factual matrix" of the responsive records would be different from that of the child protection hearing material.

[17] This office recognizes that section 67(2) is not a jurisdiction-limiting provision that excludes certain categories of records from the *Act*'s application. Rather, it simply provides that the *Act* is not the controlling statute for protecting the confidentiality of information that falls within the scope of one of the listed confidentiality provisions of another statute.[1] Section 67(2)2 specifically includes section 45(8) among the listed confidentiality provisions that prevail over the *Act*.

[18] Based on my review of section 45(8) of the *CFSA*, I find that the prohibition of publishing identifying information applies in instances where the information of children who were witnesses, participants or the subject of child protection hearings under section 45 would be disclosed. This prohibition also extends to the disclosure of information that would identify that child's parent, foster parent or a member of that child's family. Section 45(2) limits the prohibition in section 45(8) to those circumstances where someone seeks to publish or make public information relating to a child who has been the subject of a child protection hearing. I find that section 45(2) does not only prohibit disclosure of the impugned information during a child protection hearing.

[19] The confidentiality provision in section 45(8) is intended to protect the privacy of a child involved as subject, participant or witness in a child protection proceeding. In interpreting section 45(8) in this matter, I am not finding that the tribunal has the jurisdiction or power to adjudicate child protection hearings. Instead, I find that where, in the course of a tribunal matter, disclosure of the type of information protected in section 45(8) could occur, then section 45(8) prohibits the publishing of this information.

[20] I find that the applications and the attachments contain information relating to various foster children that were in the applicants' care and the applicants' explanations for claims made against them. The applications and attachments also contain the applicants' basis for their discrimination claim which relates to their roles as foster parents. I accept that disclosure of some of the records at issue would disclose information relating to foster children as well as the foster parents. I further find that the foster children were the subject of child protection hearings such that the prohibition in section 45(8) prevents the disclosure of information identifying them or the foster parents. I find this despite the fact that this information is recorded in the context of the application files before the tribunal. As I find that section 45(8) of the

[1] Orders PO-2029, PO-2083 and PO-2411-I.

CFSA would apply to these portions of the records, then section 67(2)2 of the *Act* requires the prohibition against disclosure in section 45(8) prevails to prevent the tribunal from ordering disclosure of this information.

[21] I find that there are portions of the applications that would not disclose information relating to the foster children and relate solely to the applicants themselves. This is the information that the appellant argues could be severed so as not to engage section 45(8) of the *CFSA*. I will address the appellant's argument on severance of the records below. I will now address the application of the mandatory section 21(1) exemption to this information.

B. Do the records contain "personal information" within the meaning of section 2(1) of the Act?

[22] 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;

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

[24] 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.[2]

[25] Even if information relates to an individual in a professional, official or business capacity, it may still qualify as personal information if the information reveals something of a personal nature about the individual.[3]

[26] To qualify as personal information, it must be reasonable to expect that an individual may be identified if the information is disclosed.[4]

[27] The tribunal submits that the records at issue contain the personal information of two individuals that filed the applications, which are the subject of the request, and a number of other identifiable individuals.

[28] Regarding the applicants, the tribunal submits that the information is their personal information for the purposes of section 2(1) of the *Act* and that the individuals would be identifiable even if their names were severed as the information in the records was contained in the published tribunal decisions. The tribunal submits that the records contain the following:

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[2]Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F and PO-2225.

[3]Orders P-1409, R-980015, PO-2225 and MO-2344.

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

- Information relating to medical, psychiatric and criminal history of one of the applicants pursuant to paragraph (b) of the section 2(1) definition of "personal information";
- Information relating to the employment history and financial transactions of both applicants pursuant to paragraph (b) of the section 2(1) definition of "personal information";
- Personal opinions or views of both applicants pursuant to paragraph (e) of the section 2(1) definition of "personal information";
- Views and opinions of other individuals about the applicants
- Information that, when associated with the applicant's names, reveals other personal information about them pursuant to paragraph (h) of the section 2(1) definition of "personal information".

[29] The tribunal submits that the respondents of the applications are four individuals at the Catholic Children's Aid Society (CCAS) who were identified in the published decisions as well as throughout the responsive records. The individuals were named as personal respondents in the applications. The tribunal submits that while some of the information in the records relates to these individuals in an employment capacity, the majority of the information relates to the individuals in a personal capacity. The tribunal states:

> The applicants filed their tribunal applications because they allege that these CCAS employees discriminated against them under the *Human Rights Code*. The alleged conduct of these employees, as described in the applications, goes beyond a normal employment-related context and should be found to meet the definition of personal information.

[30] The tribunal cites Orders PO-2728 and PO-2372 where this office has found that allegations of wrong-doing against individuals in a business or employment capacity was found to be the personal information of those individuals. Lastly, the tribunal submits that the specific CCAS employees would be identifiable even if their names were severed from the records. It states:

> The tribunal decision of [specified date] contains a limited description of the events and allegations contained in the applications, and the appellant possesses this decision. If the names of the employees were redacted from the records, the appellant could potentially extrapolate from the information contained in the published decision to determine which of the four employees is referred to in a particular passage of the record…Disclosing the records would allow the appellant access to sensitive personal information about the employees.

[31] The appellant's submissions focus on the need for the records to be public and not the issue of whether the records contain personal information.

[32] Based on my review of the records and the representations of the tribunal, I find that the records contain the personal information of a number of identifiable individuals and do not contain any information relating to the appellant. Specifically, I find that the records contain:

- Information relating to the applicants which qualifies as their personal information within the meaning of paragraphs (a), (b), (c), (d), (e), (g) and (h) of the section 2(1) definition of that term in the *Act*.

- Information relating to the CCAS employees which qualifies as their personal information within the meaning of paragraphs (b), (e), (g) and (h) of the section 2(1) definition of that term in the *Act*.

- Information relating to other identifiable individuals which qualifies as their personal information within the meaning of paragraphs (a), (b), (g) and (h) of the section 2(1) definition of that term in the *Act*.

[33] I find that the information relating to the CCAS employees is information which relates to them in a personal capacity and not in a purely business or professional one. The applicants allege that the employees discriminated against them in contravention of the *Code* so that disclosure of the information would reveal something of a personal nature about these individuals. I further find that the employees would be identifiable even if their names were severed from the records.

[34] I find that severance of the applicants' names would also not render the information unidentifiable to a particular individual. As the published decisions contained the applicant's initials and file numbers and the appellant requested the application files by the applicants' names, the information would still be identifiable to these individuals even if their names were severed.

[35] As I have found that the records solely contain the personal information of individuals other than the appellant, I will proceed to consider the appellant's access to records under the mandatory personal privacy exemption in section 21(1).

C. Would disclosure of the "personal information" be an unjustified invasion of an individual's personal privacy under section 21(1) of the *Act*?

[36] Where a requester seeks personal information of another individual, section 21(1) prohibits an institution from releasing this information unless one of the exceptions in paragraphs (a) to (f) of section 21(1) applies.

[37] If the information fits within any of paragraphs (a) to (f) of section 21(1), it is not exempt from disclosure under section 21.

[38] In the circumstances, it appears that the only exception that could apply is paragraph (f) which requires that the institution withhold the personal information if disclosure constitutes an unjustified invasion of the individual's personal privacy.

[39] The factors and presumptions in sections 21(2), (3) and (4) help in determining whether disclosure would or would not be an unjustified invasion of personal privacy under section 21(1)(f).

[40] If any of paragraphs (a) to (h) of section 21(3) apply, disclosure of the information is presumed to be an unjustified invasion of personal privacy under section 21. Once established, a presumed unjustified invasion of personal privacy under section 21(3) can only be overcome if section 21(4) or the "public interest override" at section 23 applies [*John Doe v. Ontario (Information and Privacy Commissioner)* (1993), 13 O.R. (3d) 767 (Div.Ct.)].

[41] Once a presumed unjustified invasion of personal privacy is established under section 21(3), it cannot be rebutted by one or more factors or circumstances under section 21(2) [*John Doe*, cited above]. If no section 21(3) presumption applies, section 21(2) lists various factors that may be relevant in determining whether disclosure of personal information would constitute an unjustified invasion of personal privacy [Order P-239].

[42] The list of factors under section 21(2) is not exhaustive. The institution must also consider any circumstances that are relevant, even if they are not listed under section 21(2) [Order P-99].

[43] The tribunal submits that section 21(4) does not apply in this appeal and claims that the presumptions in sections 21(3)(a), (d), (f) and (g) apply to the records. The tribunal further submits that the factors against disclosure in sections 21(2)(f), (g) and (i) should be considered. The appellant submits that disclosure of personal information is supported by the factor in section 21(2)(a) and submits that the presumptions raised by the tribunal do not apply. These sections state:

> (2) 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,
>
> (a) the disclosure is desirable for the purpose of subjecting the activities of the Government of Ontario and its agencies to public scrutiny;

> (f) the personal information is highly sensitive;
>
> (g) the personal information is unlikely to be accurate or reliable;
>
> (i) the disclosure may unfairly damage the reputation of any person referred to in the record.
>
> (3) A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy where the personal information,
>
> (a) relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation;
>
> (d) relates to employment or educational history;
>
> (f) describes an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness;
>
> (g) consists of personal recommendations or evaluations, character references or personnel evaluations; or

[44] Regarding the application of the presumptions, the tribunal submits that section 21(3)(a) applies because the records contain information relating to one of the applicant's medical, psychiatric history and condition.

[45] The tribunal submits that in one of the decisions that resulted from the applications filed, which are the subject of the appellant's request, the tribunal found that even though the CCAS did not employ the applicants' in a traditional sense, the alleged actions of the CCAS and the impact on the applicants' relationship with their direct employer, was sufficient to bring the matter under section 5(1) of the *Code*. Section 5(1) of the Code relates to discrimination within the employment context. The tribunal submits that the details of the relationship between the applicants and the CCAS should be treated as "employment" for the purposes of the presumption in section 21(3)(d) of the *Act*. As such, the personal information should be found to relate to the applicants' employment history and fall under the presumption.

[46] Further, the tribunal submits that the responsive records contains personal information relating to the applicants' financial history such that the presumption in section 21(3)(f) applies.

[47] Lastly, the tribunal submits that the records contain examples of personal recommendations made with respect to the applicants and in particular character references with respect to their ability to act as foster parents. Accordingly, the tribunal submits that the presumption in section 21(3)(g) applies.

[48] The tribunal's arguments on the application of the factors weighing in favour of non-disclosure in section 21(2) consist of the following:

- The records contain personal information that is highly sensitive to both the applicants and the four CCAS respondents. Disclosure of this information would likely be very distressing to the applicants and the CCAS employees as none of these parties consented to disclosure of their personal information. Accordingly, the factor in section 21(2)(f) should apply.

- The personal information in the records is likely to not be accurate or reliable such that section 21(2)(g) should apply.

- If the records are disclosed, there is the potential that the personal information relating to the applicants or the CCAS employees could unfairly damage these individuals' reputations such that section 21(2)(i) should apply.

[49] The appellant submits that the tribunal cannot argue that the presumption in section 21(3)(d) applies as the tribunal earlier relied on the argument that the details of the application related to a child protection proceeding. The appellant's submission that disclosure is for the purpose of subjecting the activities of the tribunal and the CCAS to public scrutiny is as follows:

> The Human Rights Tribunal is quasi-judicial in nature. The documents and hence details upon which a tribunal's final decision rests, are not filed within the court system. As the documents are not filed within the court system the public cannot readily rely upon the common law established in the court system with this common law fully entrenching the public right to access to the details found in the documents filed in court proceedings.
>
> Absent legislation the facts/details which give the publicized Human Rights Tribunal (HRT) decisions merit and indeed legitimacy are hidden. Without legislation to correct this, specifically FIPPA, this would essentially amount to a closed star-chamber type of environment. I would assert that without the public having access to these details/facts that enabled the tapestry of the decision to be woven no Human Rights Decision has any legitimacy in law. (emphasis in original).

[50] Based on my review of the records, I find that the personal information at issue relates solely to individuals other than the appellant. I find that the presumptions in sections 21(3)(a),(d), (f), and (g) apply to portions of this personal information as the records detail the history of the applicants' relationship with the various agencies, the CCAS and their past history as foster parents. The personal information contains the applicants' medical information such that the presumption in section 21(3)(a) applies. The personal information specifically relates to the applicants' role and fitness as foster parents and the income they received performing this position such that the presumptions in sections 21(3)(d) and (f) are relevant. Finally, I find that the personal information contains the personal recommendations and evaluations of the applicants as foster parents and as such the presumption in section 21(3)(g) also applies. Accordingly, I find that disclosure of this personal information is presumed to constitute an unjustified invasion of the individuals' personal privacy and as such the exemption in section 21(1) applies to the personal information in the records.

[51] Moreover, I find the factors favouring non-disclosure in sections 21(2)(f) and (i) to be relevant.

[52] To be considered highly sensitive, there must be a reasonable expectation of significant personal distress if the information is disclosed.[5] The records contain the applicants' allegations of discrimination against various individuals at the CCAS, which, in the circumstances, have never been proven. The specific nature of these allegations was not set out in great detail in the tribunal's decision. Given the nature of the allegations and detail of the personal information in the records, I find that it is reasonable to expect that disclosure would result in significant personal distress to any of the individuals' whose information is in the records such that the factor in section 21(2)(f) should be given some weight.

[53] I find that the factor in section 21(2)(i) is also relevant. Disclosure of these untested allegations of discrimination, taken out of context and without either a response or determination of their merits, could unfairly damage the reputations of the CCAS employees. I find that the factor in section 21(2)(i) should also be given some weight.

[54] While I give some weight to the appellant's submission on the need for transparency with respect to tribunal decision making in a general sense, I find that the appellant has not established any facts that suggest that disclosure of this sensitive personal information in these particular circumstances is desirable for subjecting the tribunal to public scrutiny.

[5] Orders PO-2518, PO-2617, MO-2262 and MO-2344.

[55] Accordingly, having considered the presumptions in section 21(3) and the factors in section 21(2), I find that disclosure of the personal information would be an invasion of the personal privacy to other individuals and is therefore exempt under section 21(1). I uphold the tribunal's decision to exempt the records from disclosure.

D. Can the records be severed pursuant to section 10(2) of the *Act*?

[56] Section 10(2) of the *Act* obliges the institution to disclose as much of any responsive record as can reasonably be severed without disclosing material which is exempt. The tribunal submits that severing the record would not be reasonable or practical as the records entirely relate to allegations of discrimination. The tribunal submits:

> There is personal information related to a variety of affected individuals throughout the responsive records. Any information that does not meet the definition of personal information (such as references to individuals who were acting strictly in a professional capacity in their relationship with the Tribunal applicants) is thoroughly intertwined with the personal information found in the records. There are no portions of the records that could easily be severed without disclosing any personal information. The remaining portions could be described as "disconnected snippets" that would be of value to the appellant.

[57] The tribunal cites Orders PO-2778 and PO-2922 in support of its position that severance is not practical when all that would be left is substantially unintelligible.

[58] The appellant submits that the records could be severed to remove the names, addresses and contact information of the identifiable individuals but still disclosing the facts and basis of the application before the tribunal. As stated above, I find that severance of the names and contact information would not be adequate to render the information unidentifiable to a particular individual. The nature of the allegations and the fact that two decisions have been published establishes that disclosure of the "details" would mean that the individuals would be identifiable. Lastly, I find that the information prohibited from disclosure in section 45(8) of the *CFSA*, and the information exempt from disclosure under section 21(1) is so inextricably linked that severance is not possible or feasible in the circumstances of this appeal.

ORDER:

I uphold the tribunal's decision and dismiss the appeal.

Original signed by: August 6, 2013
Stephanie Haly
Adjudicator