

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER MO-2994

Appeals MA12-320 and MA12-388

City of Greater Sudbury

January 10, 2014

Summary: The requester sought access to certain residential building permit records. The city denied access, citing the discretionary law enforcement exemption in section 8(1) and the mandatory personal privacy exemption in section 14(1). In this order, the adjudicator does not uphold the section 8(1) exemption but does partly uphold the section 14(1) exemption.

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), 8(1)(i).

Orders and Investigation Reports Considered: Orders MO-2053, MO-2074, MO-2181, MO-2969, MO-2986, and PO-1847.

OVERVIEW:

[1] The City of Greater Sudbury (the city) received the following request under the *Municipal Freedom of Information and Protection of Privacy Act* (*MFIPPA* or the *Act*):

I am writing this request to access copies of all records concerning the two (2) residences that exist at [address] in Sudbury.

I am aware that the existing cottage on the property was replaced by a new residence. The cottage was then relocated on the property and, I believe continued to be used as a residence.

The situation that appears to have been created is one of two (2) residences on a property zoned R1 – single family/one residence.

I understand that the owner(s) has now indicated to the City that he wishes to use the cottage as a workshop. Hence my request for copies all of the records regarding this new use by the owner(s).

Without limiting the generality of the foregoing, please provide me with the following records:

- Original Building Permit
- Revised Building Permit
- Drawings revising the cottage into a workshop
- Committee of Adjustments
 - Notice(s) to area residences
 - Minutes of Committee meetings
 - Decisions/Motions
- Original by-law
- Revised By-law
- Zoning changes

I am also curious as to whether or not this conversion from a cottage to a workshop will create the need for a variance(s) and will it comply with the zoning. Needless to say I am requesting access to copies of all records.

[2] The city identified the responsive records related to the request. Before making an access decision the city notified six individuals whose interests may be affected by the outcome of the request to obtain their views regarding disclosure of the records.

[3] Two individuals (the affected persons) objected to the disclosure of the records on the basis that disclosure of this information would constitute an unjustified invasion of personal privacy and disclosing the records would endanger the security of the building.

[4] Three individuals responded to the city that they had no objection to disclosing the records. One individual did not respond.

[5] After considering the representations from the individuals that responded, the city issued a decision and granted partial access to the responsive records. Portions of the records were withheld on the basis of the exemptions in sections 8(1)(i) (endanger the security of a building) and 14(1) (personal privacy) of the *Act*.

[6] Also, the city advised there were no responsive records related to portions of the request. Specifically, there were no records for the original house (cabin) or Committee

of Adjustments (notices to area residents, minutes of committee meeting, decision/motions.)

[7] In addition, the city advised that the requester may obtain access to zoning by-laws through the city's website, and denied access to bylaw information in accordance with section 15(a) of the *Act*.

[8] The requester and the two affected persons appealed the city's decision. Specifically, the requester appealed the city's decision to deny access to portions of the records. The affected persons appealed the city's decision to grant the requester access to the records. The requester's appeal is file MA12-320. The affected persons' appeal is file MA12-388. Because these appeals deal with the same records and issues, they are both addressed in this order.

[9] During the mediation process, the requester confirmed that:

- The information withheld by the city as personal information in accordance with section 14 is not subject to appeal.
- The requester is not seeking access to the one record (Record 1.j) related to the individual that did not respond to the city, therefore, the record related to HVAC (heating ventilation and air conditioning) information is not subject to appeal.
- The by-laws are not at issue in accordance with section 15(a) the *Act*.
- The city's search for records for the original house (cabin) or committee of adjustments (notices to area residents, minutes of committee meeting, decision/motions) is not subject to appeal.

[10] The remaining issues were not resolved in mediation. Accordingly, the files were referred to the adjudication stage where an adjudicator conducts an inquiry. I sent a Notice of Inquiry, setting out the facts and issues in these appeals, to the city and the affected persons, seeking their representations.

[11] I received representations from the city and the affected persons. I then sent a copy of the city's representations to the requester, seeking their representations in response. Portions of the city's representations were withheld from the requester due to confidentiality concerns. All of the affected persons' representations were withheld from the requester due to confidentiality concerns. I also sought representations from the affected persons in response to the city's representations.

[12] I received representations from the affected persons in response to the city's representations. The requester, however, did not provide representations in response to the city's representations.

[13] In this order, I do not uphold the application of the law enforcement exemption in section 8(1). I do, however, partly uphold the personal privacy exemption in section 14(1).

RECORDS:

[14] The records at issue are described in the following chart. The requester has only appealed the application of section 8(1)(i) to these records. However, as the city has also claimed the application of the mandatory personal privacy exemption in section 14(1) to portions of the records, and the affected persons have appealed the city's decision to disclose any portions of the records, I sought representations on this issue as well.

RECORD	DESCRIPTION	EXEMPTIONS
1.a	Permit No. [#] (Single Family Dwelling, with Finished Basement Area, Covered Deck, Move Existing Cottage and Convert to Shed/Workshop) Application for a Building Permit Permit Application Checklist	14(1)
1.b	Application for a Permit to Construct or Demolish	14(1)
1.c	Property Assessment Notice 2005	14(1)
1.d	Floor Area and Cost Estimation Sheet Permit Approval Forms - City of Greater Sudbury Sewer & Water - Roads & Drainage Comments - Nickel District Conservation Authority	14(1)
1.e	Third Party letter dated November 3, 2005	14(1)
1.f	Declaration of Applicant for Building Permit regarding The Ontario New Home Warranty	14(1)

1.g	Fax cover sheet and heat loss calculations	8(1)(i) and 14(1)
1.h	Inspection Notices dated June 16, 2010 November 4, 2009 November 6, 2009 February 6, 2009 No date August 10, 2006	14(1)
1.i	Permit Number [#]	14(1)
1.k	Map	14(1)
1.l	Property Sketch	8(1) and 14(1)
1.m	Third Party Information regarding Trusses	14(1)
1.n	Building Plans	8(1) and 14(1)

ISSUES:

- A. Does the discretionary law enforcement exemption at section 8(1)(i) apply to the records?
- B. Do the records contain "personal information" as defined in section 2(1) and, if so, to whom does it relate?
- C. Does the mandatory exemption at section 14(1) apply to the information at issue?

DISCUSSION:

A. Does the discretionary law enforcement exemption at section 8(1)(i) apply to the records?

[15] Sections 8(1)(i) states:

A head may refuse to disclose a record if the disclosure could reasonably be expected to,

endanger the security of a building or the security of a vehicle carrying items, or of a system or procedure

established for the protection of items, for which protection is reasonably required;

[16] Generally, the law enforcement exemption must be approached in a sensitive manner, recognizing the difficulty of predicting future events in a law enforcement context.¹

[17] Except in the case of section 8(1)(e), where section 8 uses the words "could reasonably be expected to", the institution must provide "detailed and convincing" evidence to establish a "reasonable expectation of harm". Evidence amounting to speculation of possible harm is not sufficient.²

[18] It is not sufficient for an institution to take the position that the harms under section 8 are self-evident from the record or that a continuing law enforcement matter constitutes a *per se* fulfilment of the requirements of the exemption.³

[19] Although this provision is found in a section of the *Act* dealing specifically with law enforcement matters, its application is not restricted to law enforcement situations but can be extended to any building, vehicle or system which reasonably requires protection.⁴

[20] By way of background, the city states that the requester has expressed concerns about the use of the affected persons' property (the property) and has indicated that the property is being used as a multi-residential property in contravention of the city's zoning by-law. It further states that the requester's concerns about the use of the property have a nexus with a neighbour's concerns about road construction which has evolved into a dispute with the city about enforcement of by-laws against other neighbours.

[21] The city states that the relationship between the requester, the affected persons and other neighbouring property owners has been acrimonious for some time and has caused multiple issues to arise over time which in turn even resulted in requiring paid duty police officers to monitor the area. The tensions and disputes among these parties have been reflected in media coverage and resulted in a police presence in the neighbourhood.

[22] The city describes the records for which it has claimed the application of section 8(1)(i) as building plans, specifications and by-laws relating to the construction of a

¹ *Ontario (Attorney General) v. Fineberg* (1994), 19 O.R. (3d) 197 (Div. Ct.).

² Order PO-2037, upheld on judicial review in *Ontario (Attorney General) v. Ontario (Information and Privacy Commissioner)*, [2003] O.J. No. 2182 (Div. Ct.), *Ontario (Workers' Compensation Board) v. Ontario (Assistant Information and Privacy Commissioner)* (1998), 41 O.R. (3d) 464 (C.A.).

³ Order PO-2040; *Ontario (Attorney General) v. Fineberg*.

⁴ Orders P-900, PO-2461.

single family dwelling on the affected person's property. The records were required to be provided by the property owners to the city in compliance with the *Building Code Act* and were treated by the city as confidential documents.

[23] The city only provided specific representations on the application of section 8(1)(e) to Record 1.n, the building plans for the affected persons' property. The city states that:

In MO-2074, the IPC summarized previous orders noting that

Although this provision is found in a section of the Act dealing specifically with law enforcement matters, its application is not restricted to law enforcement situations but can be extended to any building, vehicle or system which reasonably requires protection.

The IPC held in MO-2181 that unlike some buildings such as nuclear power plants or military installations, residential buildings by their nature "do not give rise to a reasonable basis for believing that endangerment could result from disclosure" and that there is no blanket exemption for residential building plans. However, the IPC has acknowledged that the circumstances surrounding the request and the relationship between the parties may be relevant to the consideration of whether section 8(1)(i) applies.

In the case of the building plan, it is unfortunate for the [affected persons] that by abiding by the law in providing documents required for the City to enforce the Building Code that the [affected persons'] residential security is put in any risk. As such, the City takes the position that in applying this exemption, said exemption was approached in a sensitive manner respectful of the animosity between the parties and with the understanding that the risk to the parties in this case is difficult to predict. It is not for the City to sit in judgment as to whether the affected [persons] have been wronged in this situation but the City feels an obligation not to exacerbate a bad situation by providing information about [their] residence which could be used to endanger the property or [them].

[24] The city states that after soliciting representations from the affected persons and other affected parties, it decided that partial access would be granted to the building records for the property with personal information removed. It also decided that building plans, which show drawings, plans and sketches for the purposes of obtaining a building permit (Record 1.n) would not be released under section 8(1)(i).

[25] The affected persons provided detailed confidential representations objecting to disclosure of the information that the city has claimed the application of section 8(1)(i).

Analysis/Findings

[26] Section 8(1)(i) only applies if disclosure of a record could reasonably be expected to endanger the security of a building or the security of a vehicle carrying items, or of a system or procedure established for the protection of items, for which protection is reasonably required. As the records all relate to a residential property, the only portion of this section that could apply is whether disclosure could reasonably be expected to endanger the security of a building.

[27] In its Index of Records, the city has claimed the application of section 8(1)(i) to Records 1.g, 1.l and 1.n.

[28] Record 1.g is a fax cover sheet sent by the affected persons to the city enclosing heat loss calculations for their property. This record was required to be filed by the affected persons with the city in order to obtain a building permit. Record 1.l is a hand-drawn sketch of the affected persons' property showing the location of buildings on the affected persons' property. Neither the city nor the affected persons provided direct representations on Records 1.g and 1.l.

[29] Based on my review of Records 1.g and 1.l, I find I do not have detailed and convincing evidence to establish a reasonable expectation of harm under section 8(1)(i). The fax cover sheet in Record 1.g contains only general information about enclosing the heat loss calculations document. The enclosure in that record describes the heat loss calculations in detail. I have not been provided with any evidence as to how these calculations could reasonably be expected to cause the harms set out in section 8(1)(i).

[30] The drawing in Record 1.l is a rough sketch of the property and only shows the buildings as rectangles with no details of the components of the buildings.

[31] I find that section 8(1)(i) does not apply to Records 1.g and 1.l. I will consider below the application of section 14(1) to these records.

[32] Record 1.n consists of four building plans for the property. Although the city states that requester's concerns about the use of the affected persons' property has a nexus with a neighbour's concerns about road construction which has evolved into a dispute with the city about enforcement of by-laws against other neighbours, I find that disclosure could not reasonably be expected to endanger the security of the affected persons' home.

[33] I find that the requester's alleged concerns about whether by-laws are being enforced or the city and the affected persons' concerns about the neighbourhood dispute about a road allowance, does not provide the requisite "detailed and convincing" evidence to establish a "reasonable expectation of harm" should the building plans be disclosed. I find that these concerns are, at most, speculation of possible harm.

[34] The city has cited the application of Orders MO-2074 and MO-2181. In Order MO-2181, Assistant Commissioner Brian Beamish stated that residential structures, by their very nature, do not establish a reasonable basis for believing that the harms set out in section 8(1)(i) will result from the disclosure of their building plans. In his view, the wording of section 8(1)(i) does not support a blanket application of this exemption to all building plans.

[35] In that order, the only evidence provided by the city relating to the residential building was the fact that the appellant chose not to view the building plans during the adjudication process and that the appellant had stated that the addition to the affected person's home violated his rights. Assistant Commissioner Beamish found that this failed to establish a reasonable basis for believing that endangerment could result from disclosure. He found that the circumstances in this case were very different from those in Order MO-2074.

[36] In making his finding, Assistant Commissioner Beamish considered Order MO-2074. I have also considered this order, which was also cited by the city. I find that the situation in Order MO-2074 is quite different than the case in this appeal. In Order MO-2474, there was 14 years of ongoing animosity between the affected persons and the appellant, including an action before the court for the appellant's alleged spreading of false and defamatory remarks and libellous documentation regarding the affected persons and their family. The appellant was charged with assaulting one of the affected persons' family members and there was a restraining order issued against the appellant. The judge who issued the restraining order found that the:

...appellant's behaviour is quite extraordinary, to the extent that one suspects that he would benefit from a visit to a psychiatrist. Certainly his actions towards the [affected persons'] family are sufficient to cause them extreme concern for their safety. It certainly would to any reasonable person if they had somebody like [the appellant] next door behaving in a manner in which he had admittedly on his own admission behaved.

[37] I have also considered Order MO-2986, where the building in question was a "multiuse facility combining residential, educational and outreach services targeted to vulnerable youth." These youth were described as coming from, or experiencing, various challenging circumstances, such as homelessness, addiction, victimization and mental health issues. In that order, Adjudicator Daphne Loukidelis accepted the

evidence before her that security, safety and stability are important considerations for the target population of this facility. She was also satisfied that a risk of harm to the emotional security of the building's residents by disclosure of information about where they reside is a relevant consideration, as is the concern with ensuring their physical security by not disclosing the details of the building's inner floor plans and systems.

[38] Adjudicator Loukidelis also accepted that disclosure of floor plans outlining where the bedrooms, closets and washrooms were located, given the vulnerable, at-risk population that inhabits the building in question, was rationally connected with its endangerment. Accordingly, given the clientele, and the services offered within the building to the affected party's clients, Adjudicator Loukidelis was satisfied by the evidence that the building at issue in Order MO-2986 was one that reasonably required protection. She determined that disclosure of many of the records, including building plans, could reasonably be expected to result in endangerment or serious compromise to the protection of the building for the purpose of section 8(1)(i).

[39] In this appeal, I have no evidence that the affected persons, who are the occupants of the building referenced in the building plans in Record 1.n, are vulnerable or at-risk, as was the case in Order MO-2986. Nor do I have evidence that the requester or anyone who may have an interest in obtaining a copy of the building plans, has exhibited extraordinary behaviour where their actions towards the affected persons are sufficient to cause them extreme concern for their safety, as was the case in Order MO-2074. In making this finding, I have taken into account the details of the road allowance neighbourhood dispute outlined by both the city and the affected persons in their representations.

[40] Accordingly, I find that disclosure of Record 1.n could not reasonably be expected to endanger the security of a building under section 8(1)(i), and this record is not exempt under that section. I will consider below the application of section 14(1) to this and the other records at issue in this appeal.

C. Do the records contain "personal information" as defined in section 2(1) and, if so, to whom does it relate?

[41] 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;

[42] 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.⁵

[43] Sections 2(2.1) and (2.2) also relate to the definition of personal information. These sections state:

(2.1) Personal information does not include the name, title, contact information or designation of an individual that identifies the individual in a business, professional or official capacity.

⁵ Order 11.

(2.2) For greater certainty, subsection (2.1) applies even if an individual carries out business, professional or official responsibilities from their dwelling and the contact information for the individual relates to that dwelling.

[44] 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.⁶

[45] 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.⁷

[46] To qualify as personal information, it must be reasonable to expect that an individual may be identified if the information is disclosed.⁸

[47] The requester has indicated that they are not interested in receiving access to the information withheld by the city as personal information, such as names and personal contact information. Accordingly, this information is not at issue in these appeals and will be severed from the records. Neither the city nor the affected persons provided representations as to whether the any specific records contained personal information.

Analysis/Findings

[48] In Order MO-2053, Senior Adjudicator John Higgins reviewed the jurisprudence on the issue of the distinction to be made between "personal information" and residential properties. He stated that:

Subsequent orders have further examined the distinction between information about residential properties and "personal information". Several orders have found that the name and address of an individual property owner together with either the appraised value or the purchase price paid for the property are personal information (Orders MO-1392 and PO-1786-I). Similarly, the names and addresses of individuals whose property taxes are in arrears were found to be personal information in Order M-800. The names and home addresses of individual property owners applying for building permits were also found to be personal information in Order M-138. In addition, Order M-176 and Investigation

⁶ Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F and PO-2225.

⁷ Orders P-1409, R-980015, PO-2225 and MO-2344.

⁸ Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).

Report I94-079-M found that information about individuals alleged to have committed infractions against property standards by-laws was personal information. In my view, the common thread in all these orders is that the information reveals something of a personal nature about an individual or individuals.

[49] In Order MO-2053, Senior Adjudicator Higgins went on to find that two fields of information titled "street no" and "street name" for locations of septic systems were information about the property and not "about" an identifiable individual.

[50] In Order PO-1847, Adjudicator Katherine Laird noted that, in the context of a discussion about correspondence concerning possible land use, "... where records are about a property, and not about an identifiable individual, the records may be disclosed, with appropriate severances, notwithstanding the possibility that the owners of the property may be identifiable through searches in land registration records and/or municipal assessment rolls."

[51] I will now consider whether the remaining information in the records is personal information.

[52] Record 1.a consists of a residential building permit and a permit application checklist. The building permit contains the assessment roll number. In Order MO-1627, the record at issue was a computer printout listing by roll number properties in tax arrears. Adjudicator Laurel Cropley determined that the assessment roll numbers of properties that were owned by individuals constituted the personal information of those individuals as they could identify the status of the owner's liability with respect to taxes on the record at issue in that appeal.

[53] However, the building permit in Record 1.a does not reveal any information about the property owners' tax status. I find that the assessment roll number in the building permit is information associated with the property and is not personal information.

[54] As the names and contact information are not at issue and will be severed, I find that the remaining information in the building permit in Record 1.a is not personal information of identifiable individuals, but information related to the property.

[55] The second document that comprises Record 1.a is the city's permit application checklist form. The only information completed on this form is the permit number and the date. This document does not contain any personal information.

[56] Record 1.b is the application for a building permit form. Once the names and personal contact information are severed from this document, the remaining information relates to a property and is not personal information. This information

consists of the lot and plan number, the estimated cost of the work, and a brief description of the proposed work to be done on the property.

[57] Record 1.c is a Property Assessment Notice for 2005 and contains the property's Assessment Roll Number. Once the names and personal contact information are removed from this record, the remaining information is not personal information of identifiable individuals but information related to the property that does not reveal the owner's liability for taxes.

[58] Record 1.d consists of five City of Sudbury forms. These forms consist of a Floor Area and Cost Estimation Sheet, three Permit Approval Forms and a Road and Drainage Comments form.

[59] The completed portions of the Floor Area and Cost Estimation Sheet form show the square footage, property dimensions, dwelling and structure value, building permit fee and contract price. This record does not contain any names or addresses. I find that this record does not contain personal information of identifiable individuals but is information related to a property.

[60] The three Permit Approval Forms and the Road and Drainage Comments form show the property dimensions and lot and plan number, as well as brief comments related to the property. Once the names and personal contact information are removed from these four forms, the remaining information is not personal information of identifiable individuals but information related to the property.

[61] Record 1.e is a letter to the affected persons from the city. This letter is about a property's sewage system. Once the homeowner's name and personal contact information is removed from this record, the remaining information is not personal information of identifiable individuals but information related to the property.

[62] Record 1.f is a City of Sudbury Declaration of Applicant for Building Permit form. The only information completed on the form, other than the homeowner's name and address, which are not at issue, is the lot and plan number, the municipality, the permit number and the date. This record is about the property as well, and the information at issue in this record is not personal information.

[63] Record 1.g is a fax cover sheet from the affected persons enclosing a report from a contractor about their home's HVAC system. This record contains the affected persons' personal opinions or views that do not relate to another individual and, therefore, comprises their personal information in accordance with paragraph (e) of the definition of personal information in section 2(1). I will consider below whether the mandatory personal privacy exemption in section 14(1) applies to Record 1.g.

[64] Record 1.h comprises City of Sudbury Inspection Notices containing the building inspectors' findings on inspection of a home. Other than one notation on the August 10, 2006 Inspection Notice, once the names and contact information is removed, these notices do not contain personal information. The one notation on the August 10, 2006 Notice contains the affected persons' personal opinions or views that do not relate to another individual. This comprises their personal information in accordance with paragraph (e) of the definition of personal information in section 2(1). I will consider below whether the mandatory personal privacy exemption in section 14(1) applies to the personal information in the August 10, 2006 inspection notice.

[65] Record 1.i is a Building Permit with some notes of the building inspectors on the building inspection. Once the homeowner's name and personal contact information are removed from this record, the remaining information is not personal information of identifiable individuals but information related to the property.

[66] Record 1.k is a map and does not contain any personal information.

[67] Record 1.l is hand-drawn sketch of a property showing the locations of buildings. This information is similar to the record at issue in Order MO-2969. In that order, Adjudicator Stella Ball stated that:

The records at issue in this appeal are a site plan (page 10) and diagram of the property (page 15), excluding the appellants' names, address and phone number that appear in these records.

Based on my review of the records, I find that the information that remains at issue does not qualify as the personal information of the appellants as that term is defined in section 2(1) of the *Act*. Rather, all of the information at issue pertains solely to the appellants' property. The site plan shows the layout of the appellants' property including the location of the existing and proposed dwellings and decks, the proposed lot coverage and total lot area, the property line, vegetation and rock formations. The diagram is a hand-drawn image of the property showing the location of the dwelling and septic bed, as well as certain distances between various points on the property

Previous orders of this office have consistently found that information relating solely to a property owned by an individual is not considered to qualify as the personal information of the individual.⁹ One of these orders, Order MO-2081, considered site plans that contained information similar to the information at issue in this appeal. In considering whether the site plans at issue in Order MO-2081 contained personal information,

⁹ Orders M-23, M-175, MO-2081, PO-2322, MO-2053 and MO-2792.

Adjudicator Catherine Corban noted that the drawings detailed "the particulars of the subject property including the existing and proposed structures" and found that these "drawings, plans and notations about proposed alterations or additions to a property in the context of a building permit application are not personal information." The same reasoning applies in this appeal.

Accordingly, I find that the information about the appellants' property contained in the site plan and drawing at issue does not qualify as "personal information" within the meaning of section 2(1) of the Act.

[68] I adopt this reasoning of Adjudicator Ball in Order MO-2969 and find that once the homeowner's name and personal contact information is removed from Record 1.l, the remaining information is not personal information of identifiable individuals but information related to the property.

[69] Record 1.m is an order form for roof trusses and a brochure describing the trusses. Once the homeowner's name and personal contact information is removed from this record, the remaining information is not personal information of identifiable individuals but information related to a property.

[70] Record 1.n are building plans and do not contain any personal information. The information in this record is about a property and not about identifiable individuals.

Conclusion

[71] The names and personal contact information of identifiable individuals in the records are not at issue in this appeal. Of the remaining information in the records, I have found that only Record 1.g and the comments on the August 10, 2006 Inspection Notice in Record 1.h contain personal information. I will now consider whether the personal privacy exemption in section 14(1) applies to this information.

[72] As the remaining information in the records is not personal information, the personal privacy exemption in section 14(1) cannot apply to it, and I will order this information disclosed.

D. Does the mandatory exemption at section 14(1) apply to the information at issue?

[73] 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.

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

[75] The section 14(1)(a) to (e) exceptions are relatively straightforward. Based on my review of the information at issue, I find that none of the exceptions in section 14(1)(a) to (e) apply.

[76] The section 14(1)(f) exception is more complex, and requires a consideration of additional parts of section 14. This 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.

[77] 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 privacy under section 14(1)(f).

[78] If any of paragraphs (a) to (c) of section 14(4) apply, disclosure is not an unjustified invasion of personal privacy and the information is not exempt under section 14. Section 14(4) does not apply to the information at issue.

[79] 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.¹⁰ Section 14(3) does not apply to the information at issue.

[80] If no section 14(3) presumption applies 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.¹¹ 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.¹²

¹⁰ *John Doe v. Ontario (Information and Privacy Commissioner)* (1993), 13 O.R. (3d) 767 (Div.Ct.).

¹¹ Order P-239.

¹² Orders PO-2267 and PO-2733.

[81] 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).¹³

[82] In the absence of representations favouring disclosure of the personal information at issue and based on my review of the records, I find that there are no factors favouring disclosure of the information in Record 1.g and the information at issue in Record 1.h, and that the mandatory personal privacy exemption in section 14(1) applies. Accordingly, I will order this information withheld.

ORDER:

1. I order the city to disclose all of the information in the records to the requester by **February 14, 2014** but not before **February 10, 2014**, except for the following information which is to be withheld:
 - The names and personal contact information
 - Record 1.g
 - The comments in the August 10, 2006 Inspection Notice in Record 1.h.

For ease of reference, I have provided the city with a copy of the records, highlighting the information to be withheld.

2. I reserve the right to require the city to provide me with a copy of the records as disclosed to the requester.

Original Signed By: _____
Diane Smith
Adjudicator

_____ January 10, 2014

¹³ Order P-99.