

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-3340

Appeal MA12-564

City of Vaughan

July 29, 2016

**Summary:** The appellant made a request to the City of Vaughan (the city) under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for financial records relating to certain fundraisers. The city issued an access and fee decision and disclosed a number of records to the appellant, with some information redacted pursuant to the mandatory personal privacy exemption at section 14(1) of the *Act*. The appellant appealed the city's decision, objecting to the fees charged for her request, raising issues regarding the scope of her request and the reasonableness of the search conducted by the city, and objecting to the redactions made to the records that the city disclosed to her. In this order, the adjudicator upholds the city's fees in part, but orders that the fees for search and preparing the records for disclosure be reduced. She finds that the reverse sides of cheques are not included in the appellant's request for "cheques", and she upholds the reasonableness of the city's search. Finally, she upholds the city's redaction of individuals' credit/debit card information and home addresses under section 14(1), but orders the disclosure of portions of some records that do not contain personal information.

**Statutes Considered:** *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, sections 2 (definition of "personal information"), 14, 17 and 45.

**Orders Considered:** Orders MO-2530 and PO-3035.

### BACKGROUND:

[1] This appeal arises out of a request the appellant made to the City of Vaughan (the city) under the *Municipal Freedom of Information and Protection of Privacy Act*

(the *Act*) for financial records relating to certain fundraisers. The appellant has raised issues about the fees charged for her request, the scope of her request and the reasonableness of the search conducted by the city, and the redactions made to the records that the city disclosed to her.

[2] The appellant's request is one of three related requests that she made to the city for financial information about fundraisers.<sup>1</sup> The request that is the subject of this appeal was for the following information:

Please accept this letter as a freedom of information request filed under MFIPPA for copies of all expenses, and donation, including sponsorship revenue, ticket revenue and all other revenue for [particular named] fund raisers, for the years 2006, through to 2010.

With regards to expenses, please include invoices, and cheques, as well as the accounting log entries for each vendor.

As well, please provide authorizations for the money being spent, and/or issuing the cheque.

[3] The city issued an interim access and fee estimate decision containing the following fee estimate:

Search - 3398 min. @ \$7.50/15 minutes	\$1695.00
1092 cash receipts	
249 invoices	
249 cheques	
<u>109 journal entries</u>	
1699 documents @ 2 minutes each	
Photocopies - 1699 @ \$0.20/page	\$339.80
<b>TOTAL</b>	<b>\$2034.80</b>

[4] The appellant paid a deposit, and the city then conducted a search and located approximately 1,890 pages of responsive records, being records relating to fundraisers

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<sup>1</sup> The appeals relating to the other two requests are Appeals MA12-562 and MA12-563.

held in 2006 through 2010.<sup>2</sup> The city then issued a decision providing the appellant with partial access to the records, relying on the mandatory personal privacy exemption at section 14(1) of the *Act* to withhold some home address, telephone number, bank account and credit/debit card information contained in 83 pages of the records. The city's decision also set out the following fees:

Search - 35 hours @ \$7.50 /15 min.	\$1050.00
Preparation	
Scanning - 3 hrs 10 min @ \$7.50/15 min.	\$ 97.50
Severing – 2 hrs 46 min. @7.50/15 min	\$ 82.50
CD <sup>3</sup>	\$ 10.00
<b>SUB TOTAL</b>	\$1240.00
<b>DEPOSIT - October 15/12</b>	\$ 847.50
<b>BALANCE</b>	\$ 392.50

[5] The appellant paid the fee and received the records, but also appealed the city's decision to this office.

[6] During mediation, the appellant confirmed that she is appealing the following aspects of the city's decision: the fee, the scope of her request, the reasonableness of the city's searches, and the application of the exemption at section 14(1) to the withheld information.

***Fee***

[7] The appellant advised the mediator that although she paid the full fee and received the records, she believes the fee is too high. Specifically, she stated the search

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<sup>2</sup> From my review of the city's index of records and a spreadsheet of the payments it made to the foundation in question from the proceeds of the fundraisers, it appears that records relating to one of the fundraisers are responsive to the request that is the subject of this appeal, but were instead identified as responsive to another one of the appellant's requests (the request which is the subject of Appeal MA12-562). I have treated those records as responsive records for the purposes of the order in Appeal MA12-562. Since these records were not also identified as responsive records for the purposes of the request that is the subject of the present appeal, there has not been duplication of effort by the city.

<sup>3</sup> Following receipt of the fee estimate, the appellant asked that the records be provided to her on a CD, rather than as photocopies.

time is exceptionally long, and that the city's fee estimate of 2 minutes of search time for each record is excessive. She also stated that the scanning time is excessive and that she believes the time to sever the records is not supported as there are very few severances. In response, the city stated that the final fee was accurate as it was based on the actual time required to conduct the search, and that the amount charged for scanning reflects the actual time spent scanning the records.

### ***Scope of Request***

[8] The appellant advised the mediator that although the city provided her with copies of some cheques, it did not provide her with copies of the reverse sides of the cheques. In response, the city advised that the initial request did not include the reverse of the cheques, and that a new request would have to be made for this information.

[9] The appellant disagreed with the city's position and asked that the scope of her request be added to the issues on appeal.

### ***Reasonableness of Search***

[10] The appellant advised the mediator that she has a copy of the city's general ledger and that, in her view, it demonstrates that many additional records should exist.

[11] In addition, the appellant told the mediator that she is concerned that she has not received records that demonstrate which charities received money that was raised. In response, the city then forwarded to this office a copy of some of the records that were disclosed to the appellant. In the city's view, these records outline which charities received monies. The city's position is that no additional records exist.

### ***The application of the section 14(1) personal privacy exemption***

[12] The appellant advised that she is not seeking access to information that is clearly an affected party's personal information, such as personal email addresses, phone numbers or credit card information. The appellant advised, however, that she is not satisfied that all the information withheld by the city was appropriately withheld. She asked that the adjudicator review the information that was withheld. As a result, the applicability of section 14(1) to the withheld information is in issue.

[13] As no further mediation was possible, the appeal was moved to the adjudication stage of the appeals process, where an adjudicator conducts an inquiry.<sup>4</sup> I invited and received representations from the city, which were shared with the appellant. I then invited the appellant to submit representations, but she did not do so.

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<sup>4</sup> At the appellant's request, the appeal was placed on hold for a period of time between the conclusion of mediation and the referral of the appeal to adjudication.

[14] In this order, I uphold the city's fee, in part, but order it to reduce the search fee and the portion of the preparation fee related to severing records. I find that the reverse sides of cheques are not included in the scope of the appellant's request, and I uphold the reasonableness of the city's search for records. Finally, I uphold the city's application of section 14(1) to the withheld information, in part, but order the disclosure of information in two records that is not personal information.

## **RECORDS:**

[15] The information that the city withheld under section 14(1) is found in various receipts and invoices. Specifically, information was withheld from pages 1302, 1303, 1309, 1310, 1317, 1323, 1324, 1333, 1348, 1349, 1366, 1371, 1373, 1388, 1389, 1390, 1391, 1392, 1417, 1419, 1421, 1422, 1423, 1424, 1426, 1427, 1428, 1429, 1432, 1459, 1461, 1512, 1514, 1516, 1550, 1551, 1552, 1553, 1554, 1555, 1556, 1756, 1876, 2154, 2155, 2397, 2398, 2399, 2400, 2634, 2647, 2648, 2649, 2667, 2670, 2735, 2736, 2737, 2738, 2739, 2740, 2741, 2742, 2743, 2805, 2849, 2851, 2852, 3043, 3140, and 3153 of the records provided to the appellant. In this order, I refer to this information as the withheld information, the information at issue or the redacted information.

[16] As a preliminary matter, the city also redacted information from pages 1762, 1769, 1770, 1780, 2065, 2067, 2070, 2325, 2329, 2332, 2333 and 2334 that is not responsive to the appellant's request. In its representations, the city explained that these records, which are courier invoices, contain all the deliveries for the city within a given billing cycle, including deliveries to individuals who received material from the city for reasons unrelated to the fundraising events identified in the appellant's request. The appellant, not having filed representations, did not address the issue of whether this information is responsive to her request. On my review of the information, I am satisfied that it is not. As a result, this information is not at issue in this appeal, and I will not consider whether section 14(1) applies to it.

## **ISSUES:**

- A. Should the fee be upheld?
- B. What is the scope of the request? Are the reverse sides of cheques responsive to the request?
- C. Did the city conduct a reasonable search for records?
- D. Do the records contain "personal information" as defined in section 2(1) and, if so, to whom does it relate?
- E. Does the mandatory exemption at section 14(1) apply to the personal information at issue?

## **DISCUSSION:**

### **Issue A: Should the fee be upheld?**

[17] Section 45(1) requires an institution to charge fees for requests under the *Act*. That section reads:

A head shall require the person who makes a request for access to a record to pay fees in the amounts prescribed by the regulations for,

- (a) the costs of every hour of manual search required to locate a record;
- (b) the costs of preparing the record for disclosure;
- (c) computer and other costs incurred in locating, retrieving, processing and copying a record;
- (d) shipping costs; and
- (e) any other costs incurred in responding to a request for access to a record.

[18] More specific provisions regarding fees are found in sections 6, 6.1, 7 and 9 of Regulation 823. Those sections read:

6. The following are the fees that shall be charged for the purposes of subsection 45(1) of the *Act* for access to a record:

- 1. For photocopies and computer printouts, 20 cents per page.
- 2. For records provided on CD-ROMs, \$10 for each CD-ROM.
- 3. For manually searching a record, \$7.50 for each 15 minutes spent by any person.
- 4. For preparing a record for disclosure, including severing a part of the record, \$7.50 for each 15 minutes spent by any person.
- 5. For developing a computer program or other method of producing a record from machine readable record, \$15 for each 15 minutes spent by any person.
- 6. The costs, including computer costs, that the institution incurs in locating, retrieving, processing and copying the record if those costs are specified in an invoice that the institution has received.

7. (1) If a head gives a person an estimate of an amount payable under the Act and the estimate is \$100 or more, the head may require the person to pay a deposit equal to 50 per cent of the estimate before the head takes any further steps to respond to the request.

(2) A head shall refund any amount paid under subsection (1) that is subsequently waived.

9. If a person is required to pay a fee for access to a record, the head may require the person to do so before giving the person access to the record.

[19] Section 45 of the *Act* provides that an institution must advise the requester of the applicable fee where the fee is \$25 or less. Where the fee exceeds \$25, an institution must provide the requester with a fee estimate.

[20] Where the fee is \$100 or more, the fee estimate may be based on either the actual work done by the institution to respond to the request, or a review of a representative sample of the records and/or the advice of an individual who is familiar with the type and content of the records.<sup>5</sup>

[21] The purpose of a fee estimate is to give the requester sufficient information to make an informed decision on whether or not to pay the fee and pursue access.<sup>6</sup> The fee estimate also assists requesters to decide whether to narrow the scope of a request in order to reduce the fees.<sup>7</sup> In all cases, the institution must include a detailed breakdown of the fee, and a detailed statement as to how the fee was calculated.<sup>8</sup>

[22] In this case, the city issued a fee estimate, followed by a fee decision. The appellant appealed the actual fees charged by the city for its search, scanning and severing. The fee estimate is not under appeal. The total amount of the fees charged by the city in its fee decision was \$1,240.

### ***Search fee – Section 45(1)(a)***

[23] The city provided representations and two affidavits with respect to the city's search for records.

[24] The city submits that its Finance Department's records were searched by the Development Finance Supervisor and by Accounts Payable staff under the direction of the Accounts Payable Supervisor.

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<sup>5</sup> Order MO-1699.

<sup>6</sup> Orders P-81, MO-1367, MO-1479, MO-1614 and MO-1699.

<sup>7</sup> Order MO-1520-I.

<sup>8</sup> Orders P-81 and MO-1614.

[25] The city submitted affidavits sworn by the Development Finance Supervisor and the Accounts Payable Supervisor. The Development Finance Supervisor explains that in response to the appellant's access request, he prepared Detailed Transaction Listings for the fundraisers in question, and forwarded copies to the Supervisor of Accounts Payable to coordinate the search for documents listed in the Detailed Transaction Listings. Once the search was completed, the Supervisor of Accounts Payable provided the records to him, and he then reviewed and matched the entries in the Detailed Transaction Listings against the records to confirm that all listed records were provided and that the search was complete.

[26] In addition, the Development Finance Supervisor, along with other members of his staff, conducted a search for cash receipts, which were located in his office in files relating to the individual events.

[27] The affidavit sworn by the Accounts Payable Supervisor explains that upon receipt of the Detailed Transaction Listings, she coordinated a search for the invoices and journal entries contained in the listings. Using the city's records storage location software, the boxes containing the responsive records were located and ordered. The invoices and journal entries were pulled from the individual supplier files located within the boxes.

[28] The Accounts Payable Supervisor further explains that copies of cheques were located by the cheque numbers contained in the listings, and the cheques as appearing in the cheque imaging software were printed.

[29] Once the search for the documents listed in the Detailed Transaction Listings was completed, she forwarded the records to the Development Finance Supervisor.

[30] The city submits that the amount of time required to search and locate the majority of the records is dependent on the number of records contained in the supplier files.

[31] Although the appellant did not file representations, she took the position during mediation that the search time of 35 hours is excessive and cannot be supported.

[32] In the Notice of Inquiry that I sent to the city, I asked how the requested records are kept and maintained, what actions were necessary to locate the requested records, and what amount of time was involved in each action. Although the city has provided information about its search, its representations do not explain what time was involved in searching. The affidavits also do not set out the time involved in the search.

[33] The city submits that it believes that the search fees are reasonable and directly reflect the time spent by its Finance Department searching for the responsive records. It notes that the final fee is somewhat less than the estimate. However, as noted above, I have been provided with little detail as to what time was involved in the search (for example, how many boxes had to be searched), and no breakdown of the time



spent by its various staff on each component of the search.

[34] Furthermore, I note that one of the activities described in the affidavit of the Development Finance Supervisor is reviewing and matching the entries in the Detailed Transaction Listings against the records located by the Accounts Payable Supervisor, in order to confirm that all listed records were provided and that the search was complete. Previous orders of this office have found that a requester is not required to pay fees in respect of the administrative functions of an individual in charge of coordinating a search for records.<sup>9</sup> Given the number of records to be checked against the Detailed Transaction Listings, I find it reasonable to expect that two hours were spent on this function.

[35] Moreover, the requested records were all financial records located in the Finance Department. In my view, it is reasonable to expect that the city's record keeping is such that financial records relating to specified years and events should be relatively simple to locate. The request was for records dating from 2006 to 2010, which I consider to be of relatively recent origin. I agree with the finding by Commissioner Beamish in Order PO-3035 that financial records of relatively recent origin should be kept in a consistent and easily searchable manner. The responsive records in this case are records relating to expenses and donations for nine specific fundraising activities. In my view, records of this nature should be relatively straightforward to search. At the same time, I accept that searching for records from nine different events would require some time. I find that a reasonable amount of time to spend searching for the responsive records is 23 hours.

[36] Considering all of the above circumstances, I am reducing the allowable search time from a total of 35 hours to a total of 23 hours, amounting to a fee of \$690.

***Fee for preparation for disclosure - Section 45(1)(b)***

*Severing*

[37] The city has charged a severing fee of \$82.50, reflecting the 166 minutes it states that it took to sever the 83 pages of records to which partial disclosure was granted.<sup>10</sup>

[38] As noted above, section 45(1)(b) includes time for severing a record. Section 6 of Regulation 460 allows an institution to charge for preparing a record for disclosure, including severing a part of the record, at \$7.50 for each 15 minutes spent, or, put another way, \$30 per hour. This office has generally accepted that it takes two minutes to sever a page that requires multiple severances.

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<sup>9</sup> See Orders P-260 and PO-1943.

<sup>10</sup> This appears to be a minor mathematical error, as 166 minutes charged at \$7.50 per 15 minutes amounts to \$83, not \$82.50.

[39] However, for the most part, the records that the city severed in this case did not require multiple severances. The severed records consist mainly of receipts with the credit/debit card number and, in some cases, home addresses blacked out. Having reviewed the records and the severances made, I find that the severances were relatively simple and repetitive, and that one minute per page is a reasonable amount of time to allow for severing these pages. I therefore reduce the allowable time for severing records from 166 minutes to 83 minutes, for a total of \$41.50.

### *Scanning*

[40] The city charged \$97.50 for scanning, reflecting the 190 minutes it states that spent scanning the approximately 1,890 pages of records.

[41] In Order MO-2530, Adjudicator Laurel Cropley found that although Regulation 823 does not specifically refer to scanning paper records in order to provide the information on CD, scanning can be considered as an activity that falls under section 6(4) of Regulation 823 which sets out the fees "for preparing a record for disclosure", given that scanning is a necessary component of producing paper records in an electronic format. I agree with Adjudicator Cropley on this point and will allow a fee for scanning.

[42] The city explains that, in order to provide the records on a CD, a photocopy was made from the original as the originals are not of a standard size to allow for scanning. The appellant, however, was not charged for these copies. I accept that it took the city 190 minutes to prepare and scan the approximately 1,890 pages of records disclosed to the appellant. However, 190 minutes at \$7.50 per 15 minutes amounts to \$95. Accordingly, the scanning fee is to be reduced to \$95.

[43] The appellant did not object to the \$10 fee charged for the CD (separate and apart from the scanning time). The amount of \$10 is prescribed by section 6(2) of Regulation 823 and I uphold it.

### ***Conclusion***

[44] In summary, I reduce the fees for search and severing as follows:

- a. The fee for the city's search is reduced from \$1,050 to \$690.
- b. The fee for severing the records is reduced from \$82.50 to \$41.50.
- c. The fee for scanning the records is reduced from \$97.50 to \$95.

[45] As a result, the total fee is reduced from \$1,240 to \$836.50.

**Issue B: What is the scope of the request? Are the reverse sides of cheques responsive to the request?**

[46] Section 17 of the *Act* imposes certain obligations on requesters and institutions when submitting and responding to requests for access to records. This section states, in part:

- (1) A person seeking access to a record shall,
  - (a) make a request in writing to the institution that the person believes has custody or control of the record;
  - (b) provide sufficient detail to enable an experienced employee of the institution, upon a reasonable effort, to identify the record;

...
- (2) If the request does not sufficiently describe the record sought, the institution shall inform the applicant of the defect and shall offer assistance in reformulating the request so as to comply with subsection (1).

[47] To be considered responsive to the request, records must “reasonably relate” to the request. Institutions should adopt a liberal interpretation of a request, in order to best serve the purpose and spirit of the *Act*.<sup>11</sup> Generally, ambiguity in the request should be resolved in the requester’s favour.<sup>12</sup>

[48] The appellant took the position during mediation that the city should have included the backs of cheques in its search for cheques.

[49] The city submits that the appellant’s request was sufficiently detailed to identify responsive records. The records ultimately identified as responsive and provided to the appellant consisted of invoices from vendors, receipts issued to attendees and sponsors, cheques and printouts from the city’s accounting software of revenue and expenditures for the fundraisers in question.

[50] The city submits that the appellant’s request included the word “cheque” but did not specifically mention the reverse sides of the cheques. The city believes that a reasonable interpretation of a request for a “cheque” would not include the reverse side of the cheque.

[51] The city notes that subsequent to the issuing of the interim access decision and fee estimate, the appellant reviewed the records with the city’s Access & Privacy Officer to allow her to make a determination of what records she wished the city to provide. The city states that at no time during this meeting did the appellant raise the issue

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<sup>11</sup> Orders P-880 and PO-2661.

<sup>12</sup> Orders P-134 and P-880.

about the backs of cheques. The city submits that the appellant is experienced in freedom of information requests and that if she had intended to receive the backs of cheques, she would have stated so in her initial request or would have identified this as an issue during her review of the records.

[52] To resolve this issue, I begin with the wording of the appellant's request. The portion of the request addressing cheques states:

Please accept this letter as a freedom of information request ... for copies of all expenses ... for [particular named] fund raisers, for the years 2010 to 2012.

With regards to expenses, please include invoices, and cheques, as well as the accounting log entries for each vendor.

As well, please provide authorizations for the money being spent, and/or issuing the cheque.

[53] In my view, the wording of this request suggests that the appellant was interested in having information about the amounts of money the city expended and to whom the money was paid. In addition to cheques, the appellant asked for copies of invoices and accounting log entries. This indicates to me that the appellant was interested in evidence of the city's expenses in relation to the fundraisers in question, and to whom the expenses were paid. This type of information appears on the front of cheques. The backs of cheques, containing an endorsement and the name of the bank where the cheque was deposited, do not add information about the nature of the city's expenses. In my view, the word "cheque", read in the context of the appellant's request, means the cheque as it appeared when it was issued by the city. If the appellant wishes to have access to cheques as they appeared once deposited by the recipient, that, in my view, would have to be the subject of a separate access request.

[54] I find, therefore, that the reverse sides of the cheques were not included in the scope of the appellant's request.

**Issue C: Did the city conduct a reasonable search for records?**

[55] Where a requester claims that additional records exist beyond those identified by the institution, the issue to be decided is whether the institution has conducted a reasonable search for records as required by section 17.<sup>13</sup> Where an adjudicator is satisfied that the search carried out was reasonable in the circumstances, the institution's decision will be upheld. Otherwise, further searches may be ordered.

[56] The *Act* does not require the institution to prove with absolute certainty that

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<sup>13</sup> Orders P-85, P-221 and PO-1954-I.

further records do not exist. However, the institution must provide sufficient evidence to show that it has made a reasonable effort to identify and locate responsive records.<sup>14</sup> A reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request expends a reasonable effort to locate records which are reasonably related to the request.<sup>15</sup>

[57] A further search will be ordered if the institution does not provide sufficient evidence to demonstrate that it has made a reasonable effort to identify and locate all of the responsive records within its custody or control.<sup>16</sup>

[58] However, although a requester will rarely be in a position to indicate precisely which records the institution has not identified, the requester still must provide a reasonable basis for concluding that such records exist.<sup>17</sup>

[59] In this case, the appellant told the mediator that she believes that further records exist. She asserted that none of the records disclosed to her demonstrate which charities received funds from the proceeds of the fundraisers.

[60] The city's representations explain that, when the mediator advised it of the appellant's concern, the city voluntarily created a chart listing the fundraising events by year and the cheques that relate to the funds forwarded to charities. The city appended a copy of this chart and the cheques to its representations. I have reviewed the chart and the attached cheques. From my review of this material, it is evident that the records disclosed to the appellant include copies of cheques to the charities in question. In my view, this information clearly refutes the appellant's assertion that none of the records demonstrate which charities received funds from the proceeds of the fundraisers.

[61] The appellant also advised the mediator that she has a copy of the city's general ledger and that, based on her review of it, she has come to the conclusion that many records are missing from the disclosure the city provided to her. However, she did not provide details about what she feels is missing, and did not file representations during the adjudication stage of the appeal. Under the circumstances, I find that she has not provided a reasonable basis for concluding that further responsive records exist.

[62] I also find that the individuals who carried out the searches (the city's Development Finance Supervisor, Accounts Payable Supervisor and Accounts Payable staff) are employees who would be expected to be knowledgeable in the subject matter of the appellant's request. Further, from my review of the representations and affidavits setting out the steps taken to search for the records, I am satisfied that the city made a

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<sup>14</sup> Orders P-624 and PO-2559.

<sup>15</sup> Orders M-909, PO-2469 and PO-2592.

<sup>16</sup> Order MO-2185.

<sup>17</sup> Order MO-2246.

reasonable effort to identify and locate all of the responsive records.

[63] I uphold the city's search as reasonable.

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

[64] The city redacted some of the records disclosed to the appellant in reliance on the mandatory personal privacy exemption found at section 14(1) of the *Act*. In order for section 14(1) to apply, the records must contain the "personal information" of an individual or individuals other than the appellant.<sup>18</sup> "Personal information" is defined in section 2(1) of the *Act* 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

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<sup>18</sup> Where records contain the personal information of both the requester and another individual, the appropriate personal privacy exemption to consider is the discretionary personal privacy exemption at section 38(b) of the *Act*.

(h) the individual's name if 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;

[65] 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>19</sup>

[66] 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.

(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.

[67] 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.<sup>20</sup> However, 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.<sup>21</sup>

[68] To qualify as personal information, it must also be reasonable to expect that an individual may be identified if the information is disclosed.<sup>22</sup>

[69] The city submits that the information redacted pursuant to section 14(1) consists of the following:

1. Credit/debit card numbers and a telephone invoice of either employees or representatives of the city on receipts submitted for reimbursement;
2. Credit card numbers provided by individual event attendees to facilitate payment for the fundraising event;

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<sup>19</sup> Order 11.

<sup>20</sup> Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F and PO-2225.

<sup>21</sup> Orders P-1409, R-980015, PO-2225 and MO-2344.

<sup>22</sup> Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).

3. Addresses of event attendees and addresses of individuals contained on receipts submitted for payment or cheques for reimbursement.

[70] The city submits that although some of the credit card information relates to individuals who paid for events on behalf of companies, these individuals' personal credit/debit card numbers reveal something of a personal nature about the individuals.

[71] Having reviewed the redacted information, I find that, with two exceptions, it consists of personal information of identifiable individuals. The credit/debit card information is "recorded information about an identifiable individual". Although some of the transactions were conducted by employees or representatives of the city or companies, the information reveals something personal about those individuals – i.e. their personal credit or debit card numbers.

[72] The home addresses and telephone numbers of the event attendees and of individuals contained on receipts submitted for payment or cheques for reimbursement are also the personal information of the individuals under paragraph (d) of the definition.

[73] I find, however, that the information that was redacted from pages 2667 and 2670 is not personal information. In both cases, the city has redacted portions of the bank account number appearing on cheques issued by businesses. The bank accounts in question are not personal bank accounts. I find, therefore, that the bank account numbers are not information about an individual, and do not constitute personal information.

[74] I conclude that all of the withheld information in the records, with the exception of the redacted information on pages 2667 and 2670, constitutes the personal information of individuals other than the appellant.

[75] Since the redacted information on pages 2667 and 2670 is not personal information, the personal privacy exemption at section 14(1) cannot apply to it. The city has not claimed any other exemption for this information,<sup>23</sup> therefore I will order it to be disclosed to the appellant.

[76] I will now consider whether section 14(1) of the *Act* applies to the information that I have found to be personal information.

**Issue E: Does the mandatory personal privacy exemption at section 14(1) apply to the personal information at issue?**

[77] Where a requester seeks personal information of another individual, section 14(1) prohibits an institution from releasing this information unless one of the

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<sup>23</sup> See Orders MO-2262 and MO-2070 for a discussion of bank account information.



exceptions in paragraphs (a) to (f) of section 14(1) applies. The city submits, and I find, that none of the exceptions at sections 14(1)(a) to (e) apply in this case.

[78] The section 14(1)(f) exception, allowing disclosure if it would not be an unjustified invasion of personal privacy, requires a consideration of additional parts of section 14. Sections 14(2) and (3) set out factors and presumptions that are relevant to determining whether disclosure would or would not be an unjustified invasion of personal privacy. Also, section 14(4) lists situations that would not be an unjustified invasion of personal privacy. None of the situations listed in section 14(4) apply in this case.

[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.<sup>24</sup>

[80] Where no such presumption applies, and the exception in section 14(4) does not apply (as it does not here), section 14(2) lists various factors that may be relevant in determining whether disclosure of personal information would constitute an unjustified invasion of personal privacy.<sup>25</sup> In order to find that disclosure does not constitute an unjustified invasion of personal privacy, one or more factors and/or circumstances favouring disclosure in section 14(2) must be present. In the absence of such a finding, the exception in section 14(1)(f) is not established and the mandatory section 14(1) exemption applies.<sup>26</sup>

[81] Section 14(2) lists factors weighing both for and against disclosure. The factors weighing in favour of disclosure include those listed at section 14(2)(a) (disclosure is desirable for the purpose of subjecting the activities of the institution to public scrutiny); section 14(2)(b) (access to the personal information may promote public health and safety); section 14(2)(c) (access to the personal information will promote informed choice in the purchase of goods and services); and section 14(2)(d) (the personal information is relevant to a fair determination of rights affecting the person who made the request).

[82] The list of factors under section 14(2) is not exhaustive. The institution must also consider any circumstances that are relevant, even if they are not listed under section 14(2).<sup>27</sup>

[83] As the appellant did not file representations, I have not been presented with any

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<sup>24</sup> *John Doe v. Ontario (Information and Privacy Commissioner)* (1993), 13 O.R. (3d) 767 (Div.Ct.).

<sup>25</sup> Order P-239.

<sup>26</sup> Orders PO-2267 and PO-2733.

<sup>27</sup> Order P-99.

arguments in favour of disclosure based on the factors listed in section 14(2) or any other factors. Based on my review of the records, I find that there are no factors weighing in favour of disclosure of the redacted personal information. In particular, I have considered whether disclosure is desirable for the purpose of subjecting the city's activities to public scrutiny. However, neither the credit/debit card numbers nor the home addresses or telephone numbers of individuals would assist in shedding any light on the city's activities. The records disclosed to the appellant clearly set out the financial transactions in question, and disclosure of the redacted personal information would not shed any further light on those transactions. I find, therefore, that the exception in section 14(1)(f) is not established and the mandatory section 14(1) exemption applies to the personal information at issue.

[84] Given my conclusion, I do not need to consider the city's argument that the presumption at section 14(3)(f) applies to some of the personal information.<sup>28</sup>

[85] I conclude that all of the redacted personal information is exempt from disclosure pursuant to section 14(1) of the *Act*.

### **ORDER:**

1. I uphold the city's fee decision, in part, but order a reduction in the total fee from \$1,240 to \$836.50.
2. I uphold the city's search as reasonable, and find that the scope of the request did not include the reverse side of cheques.
3. I uphold the city's decision to withhold the information at issue, with the exception of pages 2667 and 2670, pursuant to section 14(1) of the *Act*.
4. I order the city to disclose the withheld information on pages 2667 and 2670 to the appellant, by sending a copy of it to her, by **August 29, 2016**.
5. In order to ensure compliance with provision 4 of this order, I reserve the right to require the city to provide this office with copies of the information disclosed to the appellant.

Original Signed by: \_\_\_\_\_

Gillian Shaw

July 29, 2016

<sup>28</sup> Section 14(3)(f) provides:

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

Adjudicator