

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER MO-3379

Appeal MA15-40

Lakefront Utility Services Inc.

November 22, 2016

Summary: The Lakefront Utility Services Inc. (LUSI) received a multi-part request for access to information pertaining to a Casing Pipe under Highway 401 at a specified location. After mediation, the only remaining issue was the appellant's request for access to information in the Minutes of a Meeting dated June 23, 2014. Relying on Section 11 of the *Act* (economic and other interests) LUSI denied access to the record. In the course of adjudication, LUSI changed its position and decided to disclose to the appellant the portion of the minutes that related to the Casing Pipe. The appellant sought additional information. This order finds that other portions of the minutes are not responsive to the request but orders that LUSI disclose additional information to the appellant.

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, s. 17.

BACKGROUND:

[1] The Lakefront Utility Services Inc. (LUSI) received a multi-part request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act* or *MFIPPA*) for access to information pertaining to a Casing Pipe under Highway 401 at a specified location.

[2] The request moved through the intake and mediation phase of the appeals process. At the close of mediation, the only remaining issue was the appellant's request for access to the Minutes of a Meeting dated June 23, 2014 "where it was agreed to

propose a charge to [named company] for the casing pipe of \$509,000.00, with conditions, ...". LUSI relied on section 11 (economic and other interests) of the *Act* to deny access to this record.

[3] Mediation did not fully resolve the appeal and it was moved to the adjudication stage of the appeals process where an adjudicator conducts an inquiry under the *Act*.

[4] I commenced my inquiry by sending the LUSI a Notice of Inquiry setting out the facts and issues in the appeal. The LUSI provided representations in response to the Notice of Inquiry. In its representations, the LUSI advised that as negotiations were at an end pertaining to the pipe casing the LUSI was prepared to disclose to the appellant the portion of the minutes that was responsive to the request. The LUSI advised that the "[o]ther portions of the minutes relate to the operations and future plans of the LUSI organization" which it believed were not pertinent to the appellant's request. The LUSI also took the position that portions of its representations should be withheld due to confidentiality concerns.

[5] The LUSI then issued a supplementary decision letter releasing a severed version of the Minutes of a meeting dated June 23, 2014. The appellant was not satisfied with the decision and as set out in his correspondence to this office he "clearly expected to at least be advised of what members were present". In light of the position taken by the appellant, I added scope of the request/responsiveness of the record as an issue in the appeal.

[6] I then sent a Notice of Inquiry to the appellant along with the LUSI's non-confidential representations. The appellant provided responding representations. In his representations he objected to the withholding of the names of the individuals who were present at the meeting and in addition asked that access be granted to a complete un-severed copy of the minutes.

[7] I then sent a copy of the appellant's representations to the LUSI for reply. The LUSI advised that it had nothing further to add.

RECORD:

[8] Minutes of a Meeting dated June 23, 2014.

SCOPE OF THE REQUEST/RESPONSIVENESS OF THE RECORD

[9] 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).

[10] Institutions should adopt a liberal interpretation of a request, in order to best serve the purpose and spirit of the *Act*. Generally, ambiguity in the request should be resolved in the requester's favour.¹

[11] To be considered responsive to the request, records must "reasonably relate" to the request.²

[12] As set out above, the LUSI decided to disclose a severed copy of the minutes to the appellant. The LUSI did withhold other portions of the minutes taking the position that "[o]ther portions of the minutes relate to the operations and future plans of the LUSI organization" which it believed were not pertinent to the appellant's request.

[13] The appellant disagreed. In his representations, he objected to the withholding of the names of the individuals who were present at the meeting and in addition asked that access be granted to a complete un-severed copy of the minutes.

[14] I have reviewed the minutes of the June 23, 2014 meeting. I agree with the LUSI that the other portions of the minutes are not responsive to the request. Those other portions deal with matters unrelated to a Casing Pipe under Highway 401 at a specified location. I do not agree however, that the names of the attendees or other administrative information relating to the meeting as set out in points 1 and 2 of the minutes should be severed. In my view that information puts the portion relating to the Casing Pipe in context and is also responsive to the request.

[15] As the LUSI has withdrawn its reliance on section 11 of the *Act*, and I find that the names on the minutes appear in a professional rather than personal capacity³

¹ Orders P-134 and P-880.

² Orders P-880 and PO-2661.

³ See section 2(2.1) of the *Act* which provides that "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. In that regard, I also find that disclosing the names of the attendees would not reveal something of a personal nature about those individuals.

because the LUSI has already disclosed the responsive portion of the minutes to the appellant, I will also order that the LUSI disclose to the appellant the names of the individuals who were present at the meeting that day as well as the administrative information relating to the meeting as set out in points 1 and 2 of the minutes. This information appears on the first page of the record.

ORDER:

1. I order the LUSI to disclose to the appellant the names of the individuals who were present at the meeting that day as well as the administrative information relating to the meeting as set out in points 1 and 2 of the Minutes of a Meeting dated June 23, 2016, which appears on the first page of the record by sending it to the appellant by **December 13, 2016**.
2. In order to ensure compliance with paragraph 1 of this order, I reserve the right to require the LUSI to send me a copy of the page of the record that I have ordered to be disclosed to the appellant.

Original Signed by: _____
Steven Faughnan
Adjudicator

_____ November 22, 2016