

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER MO-3711

Appeal MA17-122

Town of South Bruce Peninsula

December 19, 2018

Summary: The Town of South Bruce Peninsula received a request under the *Municipal Freedom of Information and Protection of Privacy Act* for access to copies of emails the requester had received from the town in response to an earlier request, but which had been sent from the “private email accounts” of the mayor and three councillors. The town denied access to the responsive emails in part, citing the mandatory personal privacy exemption in section 14(1) and the discretionary closed meeting exemption in section 6(1)(b). The requester appealed the town’s access decision to this office. During mediation, the appellant challenged the reasonableness of its search for responsive records.

In this order, the adjudicator finds that the information at issue is exempt under sections 14(1) and 6(1)(b). She also upholds the town’s search for responsive records as reasonable.

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, section 2(1) (definition of “personal information”), sections 14(1), 6(1)(b), 17.

OVERVIEW:

[1] The Town of South Bruce Peninsula (the town) received a request under the *Municipal Freedom of Information and Protection of Privacy Act* (*MFIPPA* or the *Act*) for access to copies of emails the requester had received from the town in response to an earlier request (the original request) for emails from the former Manager of Financial Services/Treasurer’s town email account.

[2] In response to the original request, the town disclosed responsive emails to the requester, less the information withheld under the exemptions in sections 11 (economic and other interests) and 14(1) (personal privacy).

[3] The request in this appeal states:

I received your letter and copies of emails [under cover letter] dated October 11, 2016. Thank you for same and copies are attached for your reference. At this time, I am requesting copies of these same emails but from the private email accounts as follows:

[Named mayor and three councillors and personal email addresses]...

[4] The town issued a decision granting partial access to the same emails it had previously disclosed to the requester, citing sections 6(1)(b) (closed meeting), 11 and 14(1) to withhold the same portions of the records that it had previously withheld.

[5] In its decision letter, the town stated that one councillor and the mayor had provided responsive emails, the second councillor had not located any responsive emails and the third councillor had not provided any emails or indicate if he had any responsive records. It further advised that this councillor advised that his email account is private and that the requester should contact him directly to obtain access.

[6] The requester (now the appellant) appealed the town's decision.

[7] During the mediation stage of the appeal, the appellant indicated that he believes additional records should exist. Therefore, the issue of the reasonableness of the town's search for responsive records is an issue in this appeal. As mediation was not successful, the appellant requested that this file proceed to the adjudication stage where an adjudicator conducts an inquiry. At the adjudication stage, representations were sought, received and exchanged between the parties regarding the search issue and the town's exemption claims under sections 6(1)(b), 11 and 14(1) of the *Act*.¹

[8] As the town identified that the appellant's personal information may be contained in some of the records, I added the possible application of the discretionary personal privacy exemption in section 38(b) to the issues in this appeal. The town withdrew its reliance on section 14(1) for paragraphs 4, 25, 34, and 50 of the records.

[9] In this order, I find that the information at issue is exempt under sections 14(1) and 6(1)(b). I also uphold the town's search for responsive records as reasonable.

¹ In accordance with section 7 of the IPC's *Code of Procedure and Practice Direction 7*. The town provided both confidential and non-confidential representations. In this order, I refer to the town's non-confidential representations only, although I have considered its representations in their entirety.

RECORDS:

[10] The records consist of the severed portions of 12 pages of emails, which the town has divided into 54 paragraphs for the purposes of identification.

ISSUES:

- A. Do the records contain "personal information" as defined in section 2(1) and, if so, to whom does it relate?
- B. Does the mandatory personal privacy exemption at section 14(1) apply to the personal information at issue?
- C. Does the discretionary closed meeting exemption at section 6(1)(b) apply to the records?
- D. Did the town exercise its discretion under section 6(1)(b)? If so, should this office uphold the exercise of discretion?
- E. Did the town conduct a reasonable search for records?

DISCUSSION:

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

[11] The town claims that paragraphs 11 to 14, 16, 42, and 43 contain the personal information of identifiable individuals other than the appellant.

[12] 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 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;

[13] 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.²

[14] 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.

[15] 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.³

[16] Even if information relates to an individual in a professional, official or business

² Order 11.

³ Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F and PO-2225.

capacity, it may still qualify as personal information if the information reveals something of a personal nature about the individual.⁴

[17] To qualify as personal information, it must be reasonable to expect that an individual may be identified if the information is disclosed.⁵

[18] The town states that the information at issue relates to the councillors in the records in their personal capacity and that it qualifies as their personal information.

[19] The appellant did not address this issue in his representations.

Analysis/Findings

[20] Based on my review of the emails at issue, I find that they do not contain the appellant's personal information.

[21] As noted above, the town claims that paragraphs 11 to 14, 16, 42, and 43 contain the personal information of identifiable individuals other than the appellant. I note that there is information in paragraphs 39 to 41 that duplicates information in paragraphs 13, 14 and 16.

[22] I disagree with the town that paragraphs 11 to 13, 40, 42, and 43 contain the personal information of identifiable individuals. I find that the information in these paragraphs does not qualify as personal information because it fits within the exception for business information in section 2(2.1) of the *Act*. Since this information is not "personal information," the personal privacy exemptions at section 14(1) or 38(b) cannot apply to this information. Instead, I will consider whether the exemption at section 6(1)(b) applies to this information, below.

[23] I agree with the town, and I find, that the remaining paragraphs at issue, paragraphs 14, 16, 39 and 41, contain the personal information of identifiable individuals other than the appellant in accordance with paragraphs (e) and (g) of the definition of personal information in section 2(1). In particular, they contain the personal opinions or views of the individuals listed therein concerning personal matters about these same individuals; this information is unrelated to the subject matter of the records, which concerns the town's disposition and potential acquisition of property.

[24] As the emails that include paragraphs 14, 16, 39 and 41 of the records do not contain the appellant's personal information, section 38(b) cannot apply. I will consider whether the mandatory personal privacy exemption at section 14(1) applies to these emails.

⁴ Orders P-1409, R-980015, PO-2225 and MO-2344.

⁵ Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).

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

[25] 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.

[26] The section 14(1)(a) to (e) exceptions are relatively straightforward. The section 14(1)(f) exception, allowing disclosure if it would not be an unjustified invasion of personal privacy, is more complex, and requires a consideration of additional parts of section 14.

[27] If the information fits within any of paragraphs (a) to (e) of section 14(1) or paragraphs (a) to (c) of section 14(4), it is not exempt from disclosure. In this appeal, these paragraphs do not apply.

[28] Under section 14(1)(f), if disclosure would not be an unjustified invasion of personal privacy, it is not exempt from disclosure.

[29] Sections 14(2) and (3) help in determining whether disclosure would or would not be an unjustified invasion of privacy. Also, section 14(4) lists situations that would not be an unjustified invasion of personal privacy.

[30] 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.⁶

[31] Once a presumed unjustified invasion of personal privacy is established under section 14(3), it cannot be rebutted by one or more factors or circumstances under section 14(2).⁷

[32] If no section 14(3) presumption applies and no exceptions in section 14(4) 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.⁸ 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.⁹

⁶ *John Doe v. Ontario (Information and Privacy Commissioner)* (1993), 13 O.R. (3d) 767 (Div.Ct.).

⁷ *John Doe*, cited above.

⁸ Order P-239.

⁹ Orders PO-2267 and PO-2733.

[33] 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).¹⁰

[34] In its non-confidential representations, the town states that the information in question was supplied to it in confidence.

[35] The appellant did not address this issue.

Analysis/Findings

[36] The town relies on the factor that favours privacy protection in section 14(2)(h), which reads:

A head, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, shall consider all the relevant circumstances, including whether,

the personal information has been supplied by the individual to whom the information relates in confidence.

[37] This factor applies if both the individual supplying the information and the recipient had an expectation that the information would be treated confidentially, and that expectation is reasonable in the circumstances. Thus, section 14(2)(h) requires an objective assessment of the reasonableness of any confidentiality expectation.

[38] Based on my review of the records and the town's confidential representations, I find that the personal information at issue in the records has been supplied by the individuals to whom the information relates in confidence as contemplated by section 14(2)(h).

[39] Since no section 14(3) presumption against disclosure applies in this appeal, and given my finding that the factor in section 14(2)(h) weighs against disclosure, one or more factors and/or circumstances favouring disclosure in section 14(2) would have to apply in order for me to find that disclosure does not constitute an unjustified invasion of personal privacy. Based on my review of the records and the evidence, I conclude that none of the factors favouring disclosure in sections 14(2)(a) to (d) are present, and I find that the personal information in the records at paragraphs 14, 16, 39 and 41 is exempt under section 14(1).

[40] I will now consider whether the discretionary closed meeting exemption in section 6(1)(b) applies to exempt the remaining information at issue in the records.

¹⁰ Order P-99.

Issue C: Does the discretionary closed meeting exemption at section 6(1)(b) apply to the records?

[41] Section 6(1)(b) reads:

A head may refuse to disclose a record,

that reveals the substance of deliberations of a meeting of a council, board, commission or other body or a committee of one of them if a statute authorizes holding that meeting in the absence of the public.

[42] For this exemption to apply, the institution must establish that

1. a council, board, commission or other body, or a committee of one of them, held a meeting
2. a statute authorizes the holding of the meeting in the absence of the public, and
3. disclosure of the record would reveal the actual substance of the deliberations of the meeting¹¹

[43] Previous orders have found that:

- “deliberations” refer to discussions conducted with a view towards making a decision;¹² and
- “substance” generally means more than just the subject of the meeting.¹³

[44] Section 6(1)(b) is not intended to protect records merely because they refer to matters discussed at a closed meeting. For example, it has been found not to apply to the names of individuals attending meetings, and the dates, times and locations of meetings.¹⁴

[45] The first and second parts of the test for exemption under section 6(1)(b) require the institution to establish that a meeting was held by the institution and that it was properly held *in camera*.¹⁵

[46] In determining whether there was statutory authority to hold a meeting *in camera* under part two of the test, was the purpose of the meeting to deal with the

¹¹ Orders M-64, M-102 and MO-1248.

¹² Order M-184.

¹³ Orders M-703 and MO-1344.

¹⁴ Order MO-1344.

¹⁵ Order M-102.

specific subject matter described in the statute authorizing the holding of a closed meeting?¹⁶

[47] With respect to the third requirement set out above, the wording of the provision and previous decisions of this office make it clear that in order to qualify for exemption under section 6(1)(b), there must be more than merely the authority to hold a meeting in the absence of the public. Section 6(1)(b) of the *Act* specifically requires that disclosure of the record would reveal the actual substance of deliberations which took place at the institution's closed meeting, not merely the subject of the deliberations.¹⁷

Representations

[48] The town states the information in the records relates to discussions respecting the sale of an asset and the exchange of lands owned by residents, all of which would become part of the town. It states that there were public meetings in this regard, but the town did not proceed with this transaction.

[49] The town states that council held closed session meetings and council adopted the following resolution:

R-288-2015

It was Moved by [name], Seconded by [name] and Carried

That the Council of the Town of South Bruce Peninsula be authorized to proceed into "Closed Session" on April 28, 2015 in order to address a matter pertaining to:

- A proposed or pending acquisition or disposition of land by the municipality or local board (Airport).

This meeting was held in the absence of the public, was properly authorized and facilitated discussion with regard to the disposition and potential acquisition of property. This was properly advertised by way of posting the agenda. By disclosing the email between council members, the substance of the town's closed session deliberations would be disclosed to the public - council has not waived privilege to discuss their closed session deliberations in a public forum.

[50] The appellant did not address this issue in his representations.

¹⁶ *St. Catharines (City) v. IPCO*, 2011 ONSC 2346 (Div. Ct.).

¹⁷ Orders MO-1344, MO-2389 and MO-2499-I.

Analysis/Findings

[51] I find that the town's council held a closed meeting on April 28, 2015. This finding is supported by the wording of the resolution of the town's council reproduced above. This satisfies part 1 of the test for exemption under section 6(1)(b).

[52] The subject matter of the records concerns a proposed or pending acquisition of land by the town. I am satisfied that a statute authorized the holding of this meeting in the absence of the public for the purpose of part 2 of the test under section 6(1)(b). Specifically, section 239(2)(c) of the *Municipal Act, 2001*¹⁸ provides that:

A meeting or part of a meeting may be closed to the public if the subject matter being considered is,

a proposed or pending acquisition or disposition of land by the municipality or local board.

[53] Finally, respecting part 3 of the test under section 6(1)(b), I find that disclosure of the remaining information at issue in the records would reveal the actual substance of the deliberations of this closed meeting of the town's council about the town's disposition and potential acquisition of property, not merely the subject of the deliberations. Therefore, I find that section 6(1)(b) applies to the remaining information at issue in the records.

[54] In making this finding, I have considered whether the exception to section 6(1)(b) in section 6(2)(b) applies. This section reads:

Despite subsection (1), a head shall not refuse under subsection (1) to disclose a record if,

in the case of a record under clause (1)(b), the subject matter of the deliberations has been considered in a meeting open to the public.

[55] Based on my review of the records and the town's representations, I find that the subject matter of the deliberations in question has not been considered in a meeting that was open to the public. Therefore, section 6(2)(b) does not apply.

[56] Accordingly, subject to my review of the town's exercise of discretion, the remaining information at issue in the records is exempt under section 6(1)(b).

¹⁸ *Municipal Act, 2001*, S.O. 2001, c. 25.

Issue D: Did the town exercise its discretion under section 6(1)(b)? If so, should this office uphold the exercise of discretion?

[57] The section 6(1)(b) exemption is discretionary and permits an institution to disclose information, despite the fact that it could withhold it. An institution must exercise its discretion. On appeal, the Commissioner may determine whether the institution failed to do so.

[58] In addition, the Commissioner may find that the institution erred in exercising its discretion where, for example,

- it does so in bad faith or for an improper purpose
- it takes into account irrelevant considerations
- it fails to take into account relevant considerations.

[59] In either case this office may send the matter back to the institution for an exercise of discretion based on proper considerations.¹⁹ This office may not, however, substitute its own discretion for that of the institution.²⁰

[60] Relevant considerations may include those listed below. However, not all those listed will necessarily be relevant, and additional unlisted considerations may be relevant:²¹

- the purposes of the *Act*, including the principles that
 - information should be available to the public
 - individuals should have a right of access to their own personal information
 - exemptions from the right of access should be limited and specific
 - the privacy of individuals should be protected
- the wording of the exemption and the interests it seeks to protect
- whether the requester is seeking his or her own personal information
- whether the requester has a sympathetic or compelling need to receive the information
- whether the requester is an individual or an organization

¹⁹ Order MO-1573.

²⁰ Section 43(2).

²¹ Orders P-344 and MO-1573.

- the relationship between the requester and any affected persons
- whether disclosure will increase public confidence in the operation of the institution
- the nature of the information and the extent to which it is significant and/or sensitive to the institution, the requester or any affected person
- the age of the information
- the historic practice of the institution with respect to similar information.

[61] The town states that it took into consideration all relevant factors and decided that portions of the emails could be released while others should be redacted. It states that the town has consistently released the same information from the records while continuing to protect its position on the issue and the personal information in the records.

[62] The appellant is concerned that the town took into account his previous relationship with the town, and therefore, did not exercise its discretion properly.

[63] In reply, the town states that:

All requests for information are treated in the same manner, regardless of the identity of the requester. ...There is no bias nor prejudice being exercised and any references are in support of the position of the town in its redaction of records.

Analysis/Findings

[64] Based on my review of the records and the parties' representations, I find that the town exercised its discretion in a proper manner under section 6(1)(b), taking into account relevant considerations. I am also satisfied that in exercising its discretion the town did not take into account irrelevant considerations. Although the town mentioned the appellant's relationship with it, I accept that his name was mentioned in the context of his knowledge about the subject matter of the records.

[65] Accordingly, I find that the information in the records that I have not found exempt by reason of the mandatory exemption in section 14(1), is exempt under the discretionary exemption in section 6(1)(b).

[66] Given that I have found all of the information at issue in the records exempt under sections 14(1) and 6(1)(b), it is not necessary for me to consider whether it is also exempt under section 11.

Issue E Did the town conduct a reasonable search for records?

[67] 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 17.²² If I am satisfied that the search carried out was reasonable in the circumstances, I will uphold the institution's decision. If I am not satisfied, I may order further searches.

[68] The *Act* does not require the institution to prove with absolute certainty that 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.²³ To be responsive, a record must be "reasonably related" to the request.²⁴

[69] 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.²⁵

[70] 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.²⁶

[71] 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.²⁷

[72] A requester's lack of diligence in pursuing a request by not responding to requests from the institution for clarification may result in a finding that all steps taken by the institution to respond to the request were reasonable.²⁸

Representations

[73] The town states that in seeking clarification from the appellant, the appellant responded by stating that he wanted copies of the exact same documents as were provided previously, but from the personal email accounts of the individuals listed in the request. The town maintains that the appellant has already been provided with all of the responsive records since what was being sought were the exact documents previously provided by it to the appellant in response to the original request.

²² Orders P-85, P-221 and PO-1954-I.

²³ Orders P-624 and PO-2559.

²⁴ Order PO-2554.

²⁵ Orders M-909, PO-2469 and PO-2592.

²⁶ Order MO-2185.

²⁷ Order MO-2246.

²⁸ Order MO-2213.

[74] The town states that in seeking the information from the mayor and the named councillors, it requested that they search their own email personal email accounts for copies of the responsive emails. With the exception of one councillor, they did so. The town states that this one councillor, who is no longer a councillor, indicated that he would not comply and that the appellant (who knows this former councillor) should contact him directly. The town states that it advised the appellant to contact this former councillor to get copies of any responsive emails from him directly.

[75] In response, the appellant states that the town should have had full access to the named councillors' personal accounts in order for it to conduct its own search of these personal accounts. He submits that since the personal email addresses of the councillors are posted on the town's website, their personal email accounts should be searchable by the town.

[76] The appellant further states that as the town only has paper copies of its emails, any blind copy recipients would not show up on the paper copy.

[77] The appellant submits that he should have received copies of emails and correspondence circulated amongst the mayor, the council and the town's staff.

[78] In reply, the town re-states the wording of the original request,²⁹ which was for:

Conversation between two or more members of council in an email - topic unknown. The email would be found in the former Manager of Financial Services/Treasurer [name's] town email account. This is the only location where a search is being requested or is to be conducted. Once one email which meets the above criteria is found, no further search is required.

[79] The town states that it sent a copy of the request at issue in this appeal, which was for copies of the same emails located in response to the original request located in the personal email accounts of the mayor and three councillors,³⁰ to the mayor and the named councillors. The town submits that it gave clear direction to these recipients regarding the documentation which was being sought, even providing the copy of the documentation that had been provided by the appellant.

[80] In response to this request, the town received copies of the responsive emails from the mayor and one councillor and provided these emails to the appellant. The town states that it did not expect to receive any responsive records from the former councillor or the other named councillor because they did not participate in the email

²⁹ The request preceding the request in this appeal.

³⁰ The request at issue in this appeal reads:

I received your letter and copies of emails dated October 11, 2016. Thank you for same and copies are attached for your reference. At this time I am requesting copies of these same emails but from the private email accounts as follows: mayor [and three named councillors].

conversation identified in the original request and they were not included in the emails attached to the appellant's request in this appeal.

[81] The town points out that the request did not seek blind copies, as what was being sought was conversations. It states that a mere blind copy of someone in an email does not equal a conversation and, further, that it is not possible to print the email address contained in the blind copy line of an email. The town states that it performed a test of this by blind copying a staff member and then forwarding the blind copied email by blind copy to another staff member, who responded. The town advises that the blind copied email address did not show in the email, even though the email itself does create a record. Regardless, the town submits that the record search ought to be assessed by the scope of the request at issue, which is the provision of the exact emails provided to the appellant by the town.

[82] The town disagrees with the appellant's submission that the mayor and the councillor's personal email accounts should be publicly available since their email addresses are posted on the town's website. The town states:

A request for access to certain documents which may be contained in a private email account could be considered a municipal document and any search and potential release would be handled in accordance with the provisions contained in the *Municipal Freedom of Information and Protection of Privacy Act...*

Town business is conducted outside of a closed session of council. Some conduct of business results from direction given in a closed session of council. This does not mean that because email accounts are used to conduct the business from a closed session, that the email would therefore be public information...

[83] The appellant did not provide sur-reply representations in response.

Analysis/Findings

[84] The original request, which is not before me, sought copies of emails that contained a conversation between two or more members of council. The appellant had asked the town to search for these emails in the former Manager of Financial Services/Treasurer's town email account. In response, the appellant received copies of the responsive emails, less the severed information, which were provided to him by the town with a cover letter dated October 11, 2016.

[85] The request that is before me in this appeal sought copies of the same information, except that the appellant wanted to receive the copies of these emails that would be located within the personal email accounts of the mayor and three councillors. Two councillors and the mayor searched for these emails in their personal email accounts and provided the responsive emails they had to the town. The town disclosed

these emails to the appellant, except for the portions it severed pursuant to the claimed exemptions that I upheld, above. The appellant was invited to contact the one councillor who no longer works at the town, to seek the emails directly from him. The appellant has not indicated whether he has contacted this former councillor.

[86] The appellant requested paper copies of the responsive emails in this request. The appellant would like to know who was blind copied on the emails. The town provided evidence that I accept, indicating that it is unable to print copies of responsive emails showing any recipient who was blind copied. The copies of the email provided by the town do not indicate that anyone was blind copied on them nor does the evidence support a finding that anyone was blind copied on the responsive emails.

[87] I also agree with the town that even if someone was blind copied on any of the responsive emails, it appears that these individuals did not participate in the email conversations, given that no responsive emails from individuals who were not directly copied were identified as responsive to the appellant's initial request. In any event, based on the plain wording of this request, it seems clear that it did not specifically refer to blind copied recipient information.

[88] I have considered the wording of the request at issue in this appeal, and I note that the appellant has received two sets of the same responsive emails: one set from the town's email account and another set from the mayor and a councillor. The appellant has not identified any additional responsive emails that may exist and, as stated above, the appellant was required to provide a reasonable basis for concluding that additional responsive records exist. In the circumstances, I find that the appellant has not provided a reasonable basis for me to conclude that additional responsive records exist.

[89] Accordingly, I find that the town has conducted a reasonable search for responsive records, and I uphold it.

ORDER:

I uphold the town's decision to withhold information from the records under sections 6(1)(b) and 14(1) and the reasonableness of its search, and I dismiss the appeal.

Original Signed by: _____
Diane Smith
Adjudicator

December 19, 2018 _____