

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER PO-3984

Appeal PA18-00546

Ministry of Transportation

August 19, 2019

Summary: The Ministry of Transportation (the ministry) received a request under the *Freedom of Information and Protection of Privacy Act* (the *Act*) for the correction, under section 47(2)(a) of the *Act*, of the appellant's address information appearing in a specified portion of his driver's licence address history. The ministry denied the request, but offered to attach a statement of disagreement in the appellant's file, under section 47(2)(b) of the *Act*. The appellant appealed the ministry's decision, and exercised his right under section 47(2)(b) to file a statement of disagreement. In this order, the adjudicator upholds the ministry's decision.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31 sections 2(1) (definition of "personal information"), and 47(2)(a) and (b); *Highway Traffic Act*, R.S.O. 1990, c. H.8, section 9(2) and Ontario Regulation 340/94, section 33(1).

Order Considered: Order MO-2526.

OVERVIEW:

[1] The Ministry of Transportation (the ministry) received a request under the *Freedom of Information and Protection of Privacy Act* (the *Act*) for the correction of the requester's address information appearing in his driver's license history, as follows:

The critical piece of personal information requiring correction is my principal address between May 2009 and April 2015. The address erroneously recorded on my Ontario Driver's Licence during this period was a post office box: [Address 1]...

My correct principal address should be aligned with my OHIP address history as follows:

.....

2009-05-01 to 2015-04-30, [Address 4]

.....

Enclosed herein is a copy of my [specified documents] that should be sufficient proof of residency during the disputed period to allow for the correction. Please correct the file and issue a revised address history document accordingly.

[2] The ministry issued a decision denying the correction request. It said that its records show that the requester changed his address to Address 1 on a specified date, on which a condition was removed from his driver's licence. The ministry's decision letter stated that the application that the requester signed clearly stated that Address 1 was his residential address, not his mailing address. A copy was enclosed for the requester's reference. The ministry stated that it does not have any other documentation or record for the time period specified in the request for correction to show that the requester had informed the ministry of an address change to Address 4, so the ministry was unable to change its records. The ministry also advised the requester that he is entitled to require that a statement of disagreement be attached to the records.

[3] The requester, now the appellant, appealed the ministry's decision to this office.

[4] During mediation, the mediator had discussions with both the ministry and the appellant. The ministry agreed to send a letter to the appellant explaining its position. The appellant submitted a statement of disagreement to the ministry on a specified date. The ministry attached the statement, but stated that doing so does not mean that the ministry would be changing the information in question (so his address history would remain the same). The appellant maintained his position that the address history should be corrected.

[5] Since mediation could not resolve the dispute, the file was referred to adjudication, where a written inquiry is conducted.

[6] I began an inquiry under the *Act* by sending a Notice of Inquiry, setting out the facts and issues on appeal, to the ministry. I sought and received written representations in response. I shared the ministry's representations with the appellant to assist the appellant in providing representations in reply to the Notice of Inquiry and the ministry. Despite several attempts by this office to contact the appellant for his representations, the appellant did not respond.

[7] For the reasons that follow, I uphold the ministry's decision.

RECORD:

[8] The record is the appellant's driver's licence address history.

DISCUSSION:

Should the ministry correct personal information under section 47(2)?

[9] The only issue in this appeal is whether the ministry should correct the appellant's personal information under section 47(2) in the record.

General principles

[10] Section 47(1) gives an individual a general right of access to his or her own personal information held by an institution.

[11] Section 47(2) gives the individual a right to ask the institution to correct the individual's personal information. If the institution denies the correction request, the individual may require the institution to attach a statement of disagreement to the information. Sections 47(2)(a) and (b) state:

Every individual who is given access under subsection (1) to personal information is entitled to,

- (a) request correction of the personal information where the individual believes there is an error or omission therein;
- (b) require that a statement of disagreement be attached to the information reflecting any correction that was requested but not made;

[12] This office has previously established that in order for an institution to grant a request for correction, the following three requirements must be met:

1. the information at issue must be personal and private information; and
2. the information must be inexact, incomplete or ambiguous; and

3. the correction cannot be a substitution of opinion.¹

[13] In each case, the appropriate method for correcting personal information should be determined by taking into account the nature of the record, the method indicated by the requester, if any, and the most practical and reasonable method in the circumstances.²

Part 1: the information is personal information

[14] The right of correction may apply only to personal information of the appellant. The term "personal information" is defined in section 2(1), and includes an individual's address³ and their name if it appears with other personal information or if the disclosure of the name would reveal other personal information about the individual.⁴

[15] It is undisputed that the correction request concerns the appellant's address history, which qualifies as "personal information" under the *Act*.⁵ Therefore, part 1 of the test is met.

Part 2: the information must be inexact, incomplete or ambiguous

[16] Section 47(2)(a) gives the institution discretion to accept or reject a correction request.⁶ Even if the information is "inexact, incomplete or ambiguous", this office may uphold the institution's exercise of discretion if it is reasonable in the circumstances.⁷ Therefore, as the ministry submits, this office has found that in some situations, it is not necessary to make a conclusive determination about whether the information is "inexact, incomplete, or ambiguous."⁸ This is such a case, as I will explain below.

[17] The ministry submits that the circumstances in this appeal are similar to those in Order MO-2526, and I agree.

[18] In Order MO-2526, the appellant requested a change of information that she had provided the institution in a sworn statement, which she had signed and intended the city to rely on in processing her application, years earlier. The adjudicator in Order MO-2526 found that the request was not for a correction of inaccurate information, but of information that was not true, a lie. In those circumstances, it was not necessary to make a conclusive determination about whether information is "inexact, incomplete or

¹ Orders 186 and P-382.

² Orders P-448, MO-2250, and PO-2549.

³ The definition of "personal information" at section 2(1) of the *Act*, paragraph (d).

⁴ *Ibid*, paragraph (h).

⁵ *Ibid*, paragraphs (d) and (h).

⁶ Order PO-2079.

⁷ Order PO-2258.

⁸ Order MO-2526.

ambiguous” because of the nature of the record itself and the impact of allowing the requested correction. The adjudicator found that a statement of disagreement was a sufficient response to a dispute where the appellant was “essentially seeking to significantly revise a sworn statement made by her in [a specified year] and witnessed by a commissioner of oaths.”

[19] Although the ministry does not submit that the appellant knowingly supplied it with false information (and I am not making any such finding in this order), the ministry persuasively argues that I should follow the approach taken in MO-2526. The ministry submits, and I find, that in this appeal, the appellant is also the source of the information about the accuracy and currency of his address history. The information he provided the ministry was also signed by him, and he also certified that it was correct, as the appellant in Order MO-2526 had. The ministry submits, and I find, that the appellant is requesting that the ministry now change information that he himself did not feel the need to change seven years ago, and for reasons (alignment with his OHIP address history) that have no connection to the ministry’s reasons for requiring accurate address history.

[20] It is well-established that an institution and an appellant may disagree about the purpose for which an institution keeps a record.⁹ The ministry submits that it had a difference in opinion with the appellant over whether part 2 of the test had been met, in light of the purposes for which the ministry keeps address information and the circumstances of its collection from the appellant. Without representations from the appellant, it is not possible to determine what the appellant’s position is about this. However, it is not necessary to do so because the reason that an institution makes or keeps a record is an important factor when deciding whether the appropriate response is a correction or attaching a statement of disagreement,¹⁰ and in this case, the ministry has satisfied me that this factor deserves significant weight here.

[21] The ministry explained why it requires an accurate address history. As a condition of holding a driver’s licence, the appellant was required by a regulation of the *Highway Traffic Act* (the *HTA*) to provide a current address history to the ministry within six days of a change of address.¹¹ The ministry explains, and I accept, that in the course of carrying out its mandate to regulate drivers and vehicles, the ministry requires accurate, current address information of drivers and vehicle owners, and that this regulatory mandate involves many notification functions that rely on updated

⁹ *Public Government for Private People: The Report of the Commission on Freedom of Information and Individual Privacy* (the Williams Commission Report).

¹⁰ *Ibid* and Order MO-2526.

¹¹ Section 33(1) of Ontario Regulation 340/94 under the *Highway Traffic Act* (HTA), R.S.O. 1990, c. H.8. The ministry also notes that vehicle owners and plate holders have a similar requirement under section 9(2) of the *HTA* itself.

address information for their effectiveness. The ministry notes that the words "latest address" occur 21 times in the *HTA*, that "latest current address" and "most recent address" occur twice, and "latest known address" occurs once. I accept that the repetition of this language in the *HTA* underscores the relationship between the ministry's mandate and its reason for recording that personal information (residential addresses).

[22] The ministry argues, and I find, that by agreeing to the appellant's request, the ministry would, in effect, be performing a task that he himself is required to perform by law, but in a timely manner.

[23] Furthermore, the ministry submits, and I find, that the reason for the appellant's request (alignment with his OHIP address history) is entirely unrelated and irrelevant to the purpose of the ministry's above-noted requirement for the information itself (to have an accurate and current address history under the *HTA*).

[24] In addition, the ministry argues, and I accept (without evidence to the contrary), that if the ministry's records for the relevant period of time were inaccurate, it was within the appellant's power and duty to inform the ministry of that during the period of time when that legally mattered (the time during which he lived at that address).

[25] For these reasons, I find that it is not necessary to decide whether the information is inexact, incomplete, or ambiguous. In this case, the request is for a change of information that the appellant provided to the ministry, certifying that it was true, but was not true. In these circumstances, even if the information is "inexact, incomplete, or ambiguous," I find that the ministry reasonably exercised its discretion in refusing to make the correction. In keeping with this office's approach to such circumstances, the ministry's filing of the appellant's statement of disagreement is a sufficient response to his request.

[26] Given my findings, it is not necessary to discuss part 3 of the test for section 47(2)(a). Accordingly, I uphold the ministry's decision not to make the correction requested.

ORDER:

I uphold the ministry's decision and dismiss this appeal.

Original Signed by: _____
Marian Sami
Adjudicator

August 19, 2019 _____