

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-3925

Appeal MA19-00261

Town of Wasaga Beach

May 7, 2020

**Summary:** The Town of Wasaga Beach (the town) received a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for access to records relating to a specified address. The town issued a decision granting partial access to the responsive records with severances under the mandatory personal privacy exemption at section 14(1) of the *Act*. The requester, now the appellant, appealed the town's decision to this office. In this order, the adjudicator finds that the mandatory personal privacy exemption at section 14(1) does not apply to the withheld information, because it does not fit within the definition of "personal information" under section 2(1) of the *Act*, and orders the town to disclose the withheld information to the appellant.

**Statutes Considered:** The *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, section 2(1).

**Orders Considered:** Order MO-2916.

### OVERVIEW:

[1] The Town of Wasaga Beach (the town) received a request pursuant to the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for:

Any and all copies of building/development, regrading applications and/or permits pertaining to [a specified address] since the year 2000 or as far back in history as possible. As well as [another specified address].

Any and all copies of lot grading application and permits as well as culvert permit or application copies for lot on corner (North-East) of [two specified streets], storage yard for [a named organization].

[2] The town issued a decision denying access to the records it identified as responsive to the request, pursuant to the mandatory exemption in section 14(1) (personal privacy) of the *Act*.

[3] The requester, now the appellant, appealed the town's decision.

[4] At the outset of mediation, the town issued a revised decision granting partial access to records responsive to the first part of the appellant's request. Access to the withheld information was denied pursuant to section 14(1) of the *Act*. With respect to the second part of the appellant's request, the town indicated that "a search has been conducted and no responsive records were located."

[5] During mediation, the appellant advised that she wanted to pursue access to the inspector's comments in a partially severed inspection report that is responsive to the first part of the request, but was satisfied with the town's answer to the second part of her request.

[6] As a mediated resolution was not possible, the appeal was transferred to the adjudication stage, where an adjudicator may conduct an inquiry under the *Act*. I commenced an inquiry, and sought and received representations from the town. I asked the town to review Order MO-2916, when considering its representations on how the withheld information fits within the definition of "personal information" in section 2(1) of the *Act*.

[7] I decided that this appeal could be resolved by order without seeking representations from the appellant.

[8] In this order, I find that the mandatory personal privacy exemption at section 14(1) does not apply to the withheld information, because it does not fit within the definition of "personal information" in section 2(1) of the *Act*. I order the town to disclose the withheld information to the appellant.

## **RECORDS:**

[9] The information remaining at issue in this appeal is the severed content of a one- page property inspection report.

## **ISSUES:**

- A. Does the record contain "personal information" as defined in section 2(1) and, if so, to whom does it relate?

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

## **DISCUSSION:**

### **A. Does the record contain “personal information” as defined in section 2(1) and, if so, to whom does it relate?**

[10] 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;

[11] 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>1</sup> To qualify as personal information, it must be reasonable to expect that an individual may be identified if the information is disclosed.<sup>2</sup>

[12] In its representations, the town concedes that the withheld information does not constitute personal information as defined by section 2(1) of the *Act*.

### ***Analysis and findings***

[13] From my review of the record, I find that the withheld information does not constitute personal information as that term is defined in section 2(1) of the *Act*.

[14] The withheld information relates to the location of water lines and septic facilities to a specified property, and I must decide whether it qualifies as “personal information” as that term is defined by section 2(1) of the *Act*, or is instead about the property. If the information is about the property, it cannot qualify as “personal information” under section 2(1) of the *Act* unless it reveals something of a personal nature about an individual.

[15] Senior Adjudicator Frank DeVries considered a very similar situation in Order MO-2916 (the order I sent to the town), and found that information relating to the construction of a garage did not constitute personal information, because it related solely to the property, and was not about the appellant, who was the property owner opposing disclosure in that appeal. In making that finding, he relied on Order 23, where former Commissioner Sidney B. Linden distinguished between “personal information” and information concerning residential properties.

[16] Adjudicator DeVries noted that “[t]he former Commissioner considered the introductory wording of section 2(1) of the *Act* which defines “personal information” as “... any recorded information about an identifiable individual” and concluded that the information in that appeal, a plan, was information about a property and not an identifiable individual”. Adjudicator DeVries also noted in his decision that several orders have similarly found that certain building permit information did not constitute “personal information” under section 2(1) of the *Act*.<sup>3</sup> I agree with the reasoning in Order MO-2916, and adopt it in the current appeal.

[17] As mentioned above, the withheld information relates to the location of water lines and septic facilities to a specified property. I find that the withheld information is solely about the specified property, not about any identifiable individual. Further, I find

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<sup>1</sup> Order 11.

<sup>2</sup> Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).

<sup>3</sup> Order MO-2081, MO-2695, Privacy Complaint No. MC-050025-1.

that disclosure of this information would not reveal anything of a personal nature about an individual. Therefore, I find that the withheld information does not constitute personal information as that term is defined in section 2(1) of the *Act*.

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

[18] In its representations, the town concedes that the mandatory personal privacy exemption at section 14(1) of the *Act* does not apply to the withheld information. Despite this concession, the town still argues that the “pecuniary or other harm” factor at section 14(2)(e) of the *Act* applies, and that the information at issue should be withheld.

[19] Information cannot be withheld under the *Act* unless an exemption applies. As the mandatory personal privacy exemption at section 14(1) can only apply to personal information, and I have found that the withheld information does not qualify as “personal information” under the *Act*, the mandatory personal privacy exemption at section 14(1) cannot apply to the withheld information.

[20] Since I have found that the mandatory personal privacy exemption cannot apply, and no other mandatory exemptions apply to the information at issue, I order the town to disclose the withheld information to the appellant.

**ORDER:**

1. I order the town to disclose the withheld information to the appellant by **June 12, 2020**, but not before **June 7, 2020**.
2. In order to verify compliance with order provision 1, I reserve the right to require the town to provide me with a copy of the record disclosed to the appellant.
3. The timeline noted in order provision 1 may be extended if the town is unable to comply in light of the current COVID-19 situation. I remain seized of the appeal to address any such requests.

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

Anna Truong  
Adjudicator

\_\_\_\_\_ May 7, 2020