

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER MO-4394

Appeal MA21-00622

Rideau Valley Conservation Authority

June 16, 2023

Summary: The Rideau Valley Conservation Authority (RVCA) received a request under the *Act* for information about a complaint made about the appellant's property. RVCA denied access to the responsive record, an email with attachments, relying on the personal privacy exemptions in sections 14(1) or 38(b). The appellant does not seek access to information that could identify the complainant.

In this order, the adjudicator finds that the record can be severed in a way that will disclose only information about the complaint that does not contain any personal information of an identifiable individual. The information about the complaint without any personal information is, therefore, not exempt under the personal privacy exemptions. Accordingly, she orders these portions of the record only to be disclosed to the appellant.

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, sections 2(1) (definition of personal information), 14(1), and 38(b).

OVERVIEW:

[1] This order concerns whether the information in a complaint regarding a property consists of personal information, and therefore, whether this information is exempt from disclosure under either of the personal privacy exemptions.

[2] Under the *Conservation Authorities Act*,¹ the Rideau Valley Conservation Authority (RVCA) is responsible for furthering the conservation, restoration, development, and management of natural resources in the watershed. RVCA is also responsible for protecting people and property from natural hazards like flooding and erosion.

[3] RVCA received a request under the *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA or the Act)* for the following records, covering the time period of June 12, 2021 to July 12, 2021:

...a copy of complaints or any act of non-compliance against our property at [specified address].

[4] The appellant subsequently amended their request and clarified that they were seeking the responsive records from June 2020 to July 2021. RVCA then issued a decision withholding a single record in full pursuant to the mandatory personal privacy exemption in section 14(1) of the *Act*.

[5] The appellant appealed RVCA's decision to the Office of the Information and Privacy Commissioner of Ontario (the IPC) and a mediator was assigned to attempt a resolution of this appeal.

[6] Although this was narrowed further during the inquiry, during mediation, the appellant advised the mediator that they were seeking access only to: the name of the complainant(s); the date/time(s) of the complaint(s); and the total number of complaints. The appellant confirmed that they were not seeking the addresses, emails or phone numbers of the complainant(s).

[7] The mediator raised the application of the discretionary personal privacy exemption in section 38(b) of the *Act* with RVCA, as the record appeared to contain information about the appellant. RVCA agreed to add the discretionary personal privacy exemption at section 38(b) of the *Act* to the scope of the appeal.

[8] As no further mediation was possible, this appeal proceeded to adjudication, where an adjudicator may conduct an inquiry. I decided to conduct an inquiry and I sought RVCA's and the complainant's representations initially, which I provided to the appellant, less the confidential portions of the complainant's representations. The appellant provided representations in response.

[9] As I will explain below, during the inquiry, the appellant narrowed the scope of the information that they seek only from the record to explain what the complaint was about, not information about the complainant.

[10] In this order, I find that the information that the appellant seeks access to from

¹ *Conservation Authorities Act*, R.S.O. 1990, c. C.27.

the record could not reasonably be expected to identify any individual and, as such is not personal information within the meaning of the *Act*. Therefore, this information cannot be exempt under either of the personal privacy exemptions at section 14(1) or 38(b) and I order it to be disclosed to the appellant.

RECORD:

[11] The sole record at issue is an email with attachments, which has been withheld in full under sections 14(1) or 38(b).

DISCUSSION:

Does the record contain “personal information” as defined in section 2(1) and, if so, whose personal information is it?

[12] Because the RVCA claims that the record is exempt under either of sections 14(1) or 38(b), the personal privacy exemptions in the *Act*, I must first decide whether the record contains “personal information,” and if so, to whom the personal information relates.

[13] Section 2(1) of the *Act* defines “personal information” as “recorded information about an identifiable individual.” “Recorded information” is information recorded in any format, such as paper records, electronic records, digital photographs, videos, or maps.²

[14] Information is “about” an individual when it refers to them in their personal capacity, which means that it reveals something of a personal nature about the individual. Generally, information about an individual in their professional, official or business capacity is not considered to be “about” the individual.³

[15] Information is about an “identifiable individual” if it is reasonable to expect that an individual can be identified from the information either by itself or if combined with other information.⁴

[16] Section 2(1) of the *Act* gives a list of examples of personal information:

“personal information” means recorded information about an identifiable individual, including,

² See the definition of “record” in section 2(1).

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

⁴ Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).

(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.

[17] The list of examples of personal information under section 2(1) is not a complete list. This means that other kinds of information could also be "personal information."⁵

Representations

[18] RVCA states that the record, an email with attachments, is from a personal email address and that it reveals the identity of the individuals involved (the complainant). RVCA submits that the record contains personal opinions or views within the meaning of paragraph (e) of the definition of personal information in section 2(1) of the *Act*.

[19] The complainant states that record identifies them as it includes their name and other information that could identify them. They submit that even if their name is redacted from the record they still could be identified by means of the other information in the record. They rely on paragraph (h) of the definition of personal information in

⁵ Order 11.

section 2(1) of the *Act*.

[20] The complainant also relies on paragraph (f) of the definition of personal information in section 2(1) of the *Act*, as they submit that the record is correspondence sent to RVCA by them that is implicitly or explicitly of a private or confidential nature, as evidenced by the information in the record provided by them.

[21] The complainant refers to past IPC decisions⁶ in support of their submission that complaints to law enforcement bodies have been found to be personal information of the complainant, including complaints to conservation authorities such as the RVCA.

[22] In response, the appellant states that they are not requesting any personal information about the complainant from the record, but are seeking details of the complaint that does not identify the complainant. Specifically, the appellant asks that I:

...redact any personal information about the third party [the complainant] from the email or emails that would identify the third party and kindly send to me.

[23] The appellant reiterates this several times in their representations, including when they state:

...I do not believe I am asking for any personal information that would identify an individual...

[I am] not asking for personal information that would identify an individual.

Findings

[24] Based on my review of the record, which is an email with attachments, I agree that disclosure of the entire record would reveal identifiable information about the complainant and, therefore, contains the complainant's personal information. This is because the record contains the complainant's name, address, phone number, email address, and other information that could identify them.

[25] However, the appellant is not interested in receiving access to the information that could identify the complainant in the record, including their name (which the appellant originally wanted access to). The appellant only seeks access to the information about the complaint that would not identify the complainant.

[26] I therefore considered whether the record could be severed such that it could be disclosed without revealing personal information. An institution has a duty to disclose as

⁶ The appellant relies on Orders MO-1435-I, MO-2814, MO-2928, and MO-3303.

much of a record as can reasonably be severed without disclosing exempt information.⁷

[27] I find that the record can be severed in a way that discloses only the information that the appellant seeks from the record about the details of the complaint that does not identify the complainant. I also find that this information could not reasonably be expected to identify the complainant, either by itself or if combined with other information, and, therefore, is not recorded information about an identifiable individual. This information is not the personal information of either the complainant or the appellant and neither of the personal privacy exemptions in sections 14(1) or 38(b), therefore, can apply.

[28] As noted above, "personal information" in section 2(1) means recorded information about an identifiable individual. Because the record can be severed so that only the information that the appellant seeks is disclosed, this information cannot be exempt from disclosure under either of the personal privacy exemptions at section 14(1) or 38(b).

[29] As no other discretionary exemptions have been claimed for this information and no mandatory exemptions apply, I will order the information in the record that can be severed and which does not consist of personal information to be disclosed to the appellant. I will provide RVCA with a highlighted copy of the record identifying the information in the record that should be disclosed to the appellant.

ORDER:

1. I order RVCA to disclose to the appellant the information in the record that can be severed and which does not consist of personal information by **July 21, 2023** but not before **July 16, 2023**. For ease of reference, I am providing RVCA with this order with a copy of the record highlighting the information in the record that should be disclosed to the appellant.
2. I uphold RVCA's decision to deny access to the remainder of the record.

Original signed by: _____
Diane Smith
Adjudicator

_____ June 16, 2023

⁷ Section 10(2).