

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-4400

Appeal MA21-00655

City of Toronto

June 22, 2023

**Summary:** The City of Toronto (the city) buildings department received a request for access to records relating to a specified residential address. The city notified an affected party who objected to the disclosure of the records alleging that they contained their personal information. The city decided to disclose the records, which were building permits and associated building plans, and the affected party appealed.

In this order, the adjudicator finds that the building permits and plans do not contain personal information and cannot be exempt from disclosure under section 14(1) (personal privacy) of the *Act*. The adjudicator dismisses the appeal and upholds the city's decision to disclose the records in full.

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

**Orders Considered:** Order P-23.

### OVERVIEW:

[1] The City of Toronto (the city) received a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for building and construction records pertaining to a specified residential address.

[2] The city identified three responsive records consisting of building permits and plans and notified an individual whom it had identified as a party whose interests could

be affected by disclosure (the affected party), pursuant to section 21(1) of the *Act*.

[3] The city invited the affected party to comment on disclosure. The affected party did not make any representations and the city decided to grant the requester full access to the responsive records.

[4] The affected party, now the appellant, appealed the city's decision to the Information and Privacy Commissioner of Ontario (the IPC). A mediator was appointed to explore possible resolution.

[5] During mediation, the appellant advised that they were appealing the city's decision because the responsive records contain their personal information. The requester confirmed that they wish to pursue access to the records and the city advised that it maintains its decision to grant full access.

[6] As a mediated resolution was not achieved, the appeal was moved to the adjudication stage of the appeal process, where an adjudicator may conduct an inquiry. The sole issue in the appeal is the application of the mandatory personal privacy exemption in section 14(1) of the *Act* to the responsive records.

[7] I am the adjudicator assigned to this appeal and I decided to conduct an inquiry. I began my inquiry by inviting the appellant, as the party opposed to disclosure, to submit representations addressing the issues set out in a Notice of Inquiry. The appellant set out their representations in a short confidential email. I then invited the original requester and the city to submit representations addressing the issues and facts set out in a Notice of Inquiry and to respond to the appellant. I provided the original requester and the city with a summary of the appellant's position. The city and the original requester provided representations.

[8] In this order, I find that the records at issue do not contain personal information. As a result of this finding, the mandatory personal privacy exemption in section 14(1) cannot apply to the records. I uphold the city's decision and dismiss the appeal.

## **RECORDS:**

[9] The records at issue consist of three building permits with associated building plans for the specified residential address, totalling 11 pages (3 pages of building permits and 8 pages of building plans).

## **DISCUSSION:**

[10] The appellant objects to the city's decision to disclose the responsive records on the basis that they contain their personal information. The sole issue in this appeal is therefore whether the mandatory personal privacy exemption in section 14(1) of the *Act*

applies to the records.

[11] This exemption can only apply to personal information and I must therefore first decide whether the records contain "personal information" as defined in the *Act* and, if so, to whom it belongs.

[12] For the reasons that follow, I find that the records do not contain "personal information" so that the personal privacy exemption cannot apply.

[13] Section 2(1) of the *Act* defines "personal information" as "recorded information about an identifiable individual." 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. Section 2(1) gives a list of examples of personal information:

- a. information relating to the race, national or ethnic origin, colour, religion, age, 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 except if they relate to another individual,
- g. the views or opinions of another individual about the individual, and
- h. the individual's name where 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.

[14] This 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>

[15] To qualify as personal information, it must be reasonable to expect that an

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<sup>1</sup> Order 11.

individual may be identified if the information is disclosed.<sup>2</sup>

[16] Generally, information about an individual in their professional, official or business capacity is not considered to be “about” the individual.<sup>3</sup>

### **Parties’ representations**

[17] During mediation, the appellant objected to the disclosure of the responsive records on the basis that they contained their personal information. I began my inquiry by sending the appellant a Notice of Inquiry that set out the definition of “personal information” from section 2(1) of the *Act* and the list of examples cited above. With reference to the definition and examples in the *Act*, I invited the appellant to explain whether the records contained personal information.

[18] As I have noted, the appellant made submissions in a confidential email. The appellant does not provide representations addressing the type of information in the records. In summary, the appellant’s position is that they object to the disclosure of the information due to safety concerns.

[19] In its representations, the city provided some background to the requester’s request for access to the responsive records. The city explained that the requester made an original request for the same records in 2018, at that time the appellant consented to the release of the records and the city decided to grant full access. The city states that the requester failed to collect the records within two years of its decision to grant access and was required to file another request under the *Act*. When the new request was filed, the request giving rise to this appeal, the appellant objected to disclosure.

[20] It is the city’s position that the records do not contain personal information as defined in section 2(1) of the *Act*. The city cites Order P-23 in support of its submission that there is a distinction between personal information and information relating to residential properties. The city relies upon the adjudicator’s finding that information in a building plan was information *about* a property not *about* an identifiable individual.

[21] The city relies on previous IPC orders<sup>4</sup> in which adjudicators have found that building plans are about a property and not about an identifiable individual unless they contain the property owner’s name and telephone number. The city states that the records at issue in this appeal do not contain such information, which it would have withheld.

[22] The city submits that the building plans reveal only information about the

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<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> Orders P-257, P-427, P-1412 and PO-2225.

<sup>4</sup> Orders MO-2081, MO-2695, MO-2792, MO-3066, MO-3125 and MO-4108.

property concerned and do not reveal any information “about” the individual owners of the property.

[23] The requester provided representations in which they set out their reasons for not collecting the records when the city previously granted full access in response to their original request in 2018 and explains their reason for making the renewed request. The requester’s submissions do not address the type of information in the records.

### **Analysis and findings**

[24] For the reasons that follow, I find that the records do not contain personal information.

[25] From my review of the records, I note that the building plans and permits do reveal the property address and I have considered whether the property address is personal information of identifiable individuals.

[26] Previous orders of the IPC have held that in certain circumstances, it is reasonable to expect that an individual may be identified from a disclosed address.<sup>5</sup> An address can be linked with an owner, resident or tenant through searches in reverse directories, and municipal property assessment rolls. Accordingly, I find that the property owners are identifiable from the property address in the records at issue in this appeal.

[27] However, I agree with the city’s submission that there is a distinction between information *about* an identifiable individual, which may be personal information and information *about* a property. Previous orders of the IPC have held that information about a property does not qualify as personal information as defined in section 2(1) of the *Act* if it does not reveal information about an identifiable individual.<sup>6</sup> This was the approach taken by the adjudicator in Order P-23, which is relied upon by the city, and I agree with it and adopt it in this appeal.

[28] The records at issue in this appeal consist of building permits and building plans associated with those permits. From my review of the records, I am satisfied that they contain information that is predominantly about the property specified in the request and that the information is not about an individual. Accordingly, I find that the records do not contain information “about” the property owners.

[29] The appellant has objected to the disclosure of the records on the basis that they contain the appellant’s personal information and because of safety concerns. The appellant’s concerns are a factor that would be considered in determining whether the personal privacy exemption applies to withhold their personal information. However, as

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<sup>5</sup> PO-2322, PO-2265 and MO-2019.

<sup>6</sup> Orders P-23, M-175, MO-2053, MO-2081, PO-2322, MO-2695, MO-2792, MO-2994, MO-3066, MO-3125 and MO-3321.

I have found that the records do not contain personal information, the mandatory personal privacy exemption in section 14(1) of the *Act* cannot apply to them.

[30] Accordingly, I uphold the city's decision and dismiss the appeal.

**ORDER:**

1. I dismiss this appeal and uphold the city's decision to grant access to the responsive records.
2. By **July 28, 2023** but not before **July 24, 2023**, I order the city to disclose the responsive records to the requester.
3. I reserve the right to require the city to provide me with a copy of the records disclosed in compliance with order provision 2.

Original signed by: \_\_\_\_\_  
Katherine Ball  
Adjudicator

\_\_\_\_\_ June 22, 2023