

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER MO-4410

Appeal MA22-00396

City of Toronto

July 13, 2023

Summary: The City of Toronto (the city) received a request for access to records relating to a specified residential address. The city notified two affected parties, who objected to the disclosure of the records alleging that they contained their personal information. The city decided to disclose the records, which are building permit notes and associated building plans, and one of the affected parties appealed. In this order, the adjudicator finds that the building permit notes 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 to the requester.

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: Orders P-23 and MO-4400.

OVERVIEW:

[1] This order resolves the issues raised as a result of an appeal of an access decision made by the City of Toronto (the city) under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for building permit notes and building plans relating to a specified property.

[2] The city located records responsive to the request. Following notification of two individuals whose interests may be affected by the disclosure of the records (the

affected parties), the city issued a decision to the requester, granting access to the records in full. One of the affected parties, now the appellant, appealed the city's decision to the Information and Privacy Commissioner of Ontario (the IPC).¹

[3] During the mediation of the appeal, the appellant advised the mediator that they objected to the disclosure of all of the information in the records on the basis that it is an invasion of their personal privacy. The requester confirmed they are still pursuing the records responsive to their request. The city advised the mediator that it was maintaining its decision to grant the requester full access to the records.

[4] The appeal then moved to the adjudication stage of the appeals process, where an adjudicator may conduct an inquiry. I provided the city, initially, with the opportunity to provide representations. The city advised that it would not be providing representations, but may do so in response to the appellant's representations. I then sought representations from the appellant, who advised the IPC that they would not be submitting representations. Lastly, I sought and received representations from the requester.

[5] For the reasons that follow, I find that the information in the records does not qualify as the appellant's personal information and, therefore, cannot be exempt from disclosure under section 14(1). I dismiss the appeal and uphold the city's decision to disclose the records in their entirety to the requester.

RECORDS:

[6] The records consist of 18 pages of building permit notes and 4 pages of building plans.

DISCUSSION:

[7] The appellant objects to the city's decision to disclose the responsive records on the basis that their disclosure would amount to an invasion of their privacy. 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.

[8] 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 relates.

[9] For the reasons set out below, I find that the records do not contain "personal information" so that the personal privacy exemption cannot apply.

¹ The appeal was filed on behalf of the appellant and the second affected party.

[10] 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

[11] Information is "about" the 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

[12] In addition, 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

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

"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,

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.).

(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.

Representations, analysis and findings

[14] As previously stated, neither the appellant nor the city submitted representations. The requester's position is that the records do not contain any personal information.

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

[16] Previous IPC orders have held that in certain circumstances, it is reasonable to expect that an individual may be identified from a disclosed address.⁵ An address can be linked with an owner, resident or tenant through searches in reverse directories, and municipal property assessment rolls.

[17] However, past IPC orders have also found that that there is a distinction between information *about* an identifiable individual, which may be personal information and information *about* a property. These orders 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.⁶ This was the approach taken by the adjudicator in Order P-23 and most recently by Adjudicator Katherine Ball in Order MO-4400. I agree with the approach taken in these orders and adopt it in this appeal.

[18] The records at issue in this appeal consist of building permit notes and associated building plans. 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" any individuals, including the property owners.

[19] As 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.

[20] Accordingly, I uphold the city's decision to disclose the records to the requester,

⁵ PO-2322, PO-2265 and MO-2019.

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

and dismiss the appeal.

ORDER:

I uphold the city's decision to grant access to the responsive records and I dismiss the appeal.

Original Signed by: _____
Cathy Hamilton
Adjudicator

_____ July 13, 2023