Information and Privacy Commissioner,
Ontario, Canada

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

ORDER MO-4428

Appeal MA22-00058

Corporation of the Township of Muskoka Lakes

August 24, 2023

Summary: The Township of Muskoka Lakes (the township) received a multi-part request under the *Act* for access to records relating to a specified property. The township located responsive records and granted partial access to the records, relying on the discretionary exemption at section 38(b) (personal privacy) to withhold certain information. During mediation, the appellant raised the issue of the reasonableness of the township's search for responsive records. In this order, the adjudicator finds that the withheld information is exempt under section 38(b). She also finds that the township's search was reasonable.

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended sections 2(1) (definition of "personal information"), 14(1)(c), 14(1)(d), 17 and 38(b).

Orders Considered: Orders MO-1366, PO-1736, MO-2058, MO-2145, MO-2975-I, MO-4193, MO-3589 and MO-4378.

OVERVIEW:

[1] The Corporation of the Township of Muskoka Lakes (the township) received a request, under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) as follows:

> All records that relate to 1) our property (specified address), 2) owners/ person(s), 3) structures, 4) buildings, 5) chattels, 6) vehicles, and/or 7) domestic animals between March 1, 2021 to date.
>
> …

[2] The township issued a decision letter to the requester with responsive records attached. Its decision letter did not state which exemptions it was relying on to withhold information. Subsequently, the township issued a revised index of records, which indicated that it was relying on the mandatory personal privacy exemption at section 14(1).

[3] The requester, now the appellant, appealed the township's decision to the Office of the Information and Privacy Commissioner of Ontario (IPC).

[4] During mediation, the appellant advised that he is pursuing access to the withheld information in record 28.[1] He also raised the issue of reasonable search as he believes additional records exist.

[5] The mediator advised the township that the discretionary exemption at section 38(b) (discretion to refuse a requester's own information) may apply in conjunction with section 14(1). The township agreed that section 38(b) applies to the withheld information in record 28. As a result, this exemption was added as an issue on appeal.

[6] As further mediation was not possible, this appeal was transferred to the adjudication stage of the appeal process, where I decided to conduct an inquiry under the *Act*. I invited and received representations from the parties.[2]

[7] For the reasons that follow, I find that the withheld information is exempt under section 38(b). I also find that the township conducted a reasonable search for records.

RECORDS:

The record at issue consists of record 28, a 2-page email chain.

ISSUES:

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

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[1] He also advised that he was pursuing information withheld under section 8(1)(f). Subsequently, the township issued a revised decision disclosing the information withheld under section 8(1)(f) as the proceeding had since completed.

[2] The parties' representations were shared in accordance with the confidentiality criteria in the IPC's *Practice Direction 7* and section 7.07 of the IPC's *Code of Procedure*.

B. Does the discretionary exemption at section 38(b) apply to the withheld information?

C. Did the township exercise its discretion under section 38(b)? If so, should the IPC uphold the exercise of discretion?

D. Did the township conduct a reasonable search for records?

DISCUSSION:

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

[8] In order to decide whether section 38(b) applies, I must first decide whether the record contains "personal information," and if so, to whom this personal information relates.

[9] Section 2(1) of the *Act* defines "personal information" as "recorded information about an identifiable individual." Recorded information is information recorded in any format, including paper and electronic records.[3]

[10] Information is "about" the individual when it refers to them in their personal capacity, meaning that it reveals something of a personal nature about them. Generally, information about an individual in their professional, official, or business capacity is not considered to be "about" the individual if it does not reveal something of a personal nature about them.[4]

[11] 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.[5]

[12] Section 2(1) of the *Act* gives a list of examples of personal information. All of the examples that are relevant to this appeal are set out below:

> "personal information" means recorded information about an identifiable individual, including,
>
> > (e) the personal opinions or views of the individual except if they relate to another individual,

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[3] The definition of "records" in section 2(1) includes paper records, electronic records, digital photographs, videos and maps. The record before me is a paper record located by searching a police database.

[4] Orders P-1409, R-980015, PO-2225 and MO-2344.

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

> (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.

[13] 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."[6]

[14] It is important to know whose personal information is in the records. If the records contain the requester's own personal information, their access rights are greater than if it does not.[7] Also, if the records contain the personal information of other individuals, one of the personal privacy exemptions might apply.[8]

[15] The township submits that the email chain contains information that satisfies the definition of "personal information" in that it includes personal opinions and views and it is correspondence that is explicitly of a private or confidential nature.

[16] The appellant submits that as he can identify who the affected party is from the quote at paragraph 9 of the email chain. As such, he submits that disclosing the information at issue would not reveal the already revealed identity of the affected party.

[17] I note that the appellant has been granted access to most of the information in the email chain and the remaining withheld information contains information that would qualify as the personal information of the appellant and the affected party within the meaning of that term as defined in section 2(1) of the *Act*. I also note that the appellant's personal information cannot be severed as it is inextricably intertwined with the affected party's personal information.

[18] As I have found that the withheld information in the email chain contains the personal information of the appellant along with an affected party, I will consider the appellant's access to this information under Part II of the *Act*.

Issue B: Does the discretionary exemption at section 38(b) apply to the withheld information?

[19] Although the appellant takes issue with the township's reliance on the discretionary personal privacy exemption at section 38(b), I will be considering the application of section 38(b) because the record contains information relating to the appellant.

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[6] Order 11.

[7] Under sections 47(1) and 49 of the *Act,* a requester has a right of access to their own personal information, and any exemptions from that right are discretionary, meaning that the institution can still choose to disclose the information even if the exemption applies.

[8] See sections 21(1) and 49(b).

[20] Section 36(1) of the *Act* gives individuals a general right of access to their own personal information held by an institution. Section 38 provides a number of exemptions from this right.

[21] Under section 38(b), where a record contains personal information of both the requester and another individual, and disclosure of the information would be an "unjustified invasion" of the other individual's personal privacy, the institution may refuse to disclose that information to the requester. Since the section 38(b) exemption is discretionary, the institution may also decide to disclose the information to the requester.

[22] Sections 14(1) to (4) provide guidance in determining whether disclosure would be an unjustified invasion of personal privacy. If the information fits within any of the exceptions in sections 14(1)(a) to (e), disclosure is not an unjustified invasion of personal privacy and the information is not exempt under section 38(b).

[23] Sections 14(2) and (3) also help in determining whether disclosure would or would not be an unjustified invasion of personal privacy under section 38(b). Also, section 14(4) lists situations that would not be an unjustified invasion of personal privacy. If any of paragraphs (a) to (d) of section 14(4) apply, disclosure is not an unjustified invasion of personal privacy and the information is not exempt under section 38(b).

[24] In determining whether the disclosure of the personal information in the record would be an unjustified invasion of personal privacy under section 38(b), this office will consider, and weigh, the factors and presumptions in sections 14(2) and (3) and balance the interests of the parties.[9]

Analysis and findings

[25] If any of the five exceptions covered in sections 14(1)(a) to (f) applies, the township must disclose the withheld information. The appellant argues that the exception in sections 14(1)(c) and (d) apply.

The section 14(1)(c) exception

[26] Section 14(1)(c) reads:

> A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,
>
> > Personal information collected and maintained specifically for the purpose of creating a record available to the general public[.]

[9] Order MO-2954.

[27] The appellant also argues that section 27 applies, which relates to section 14(1)(c). It reads:

> This Part does not apply to personal information that is maintained for the purpose of creating a record that is available to the general public.

[28] The IPC has examined the application of section 14(1)(c) of the *Act* and the equivalent section 21(1)(c) of the provincial *Act* on a number of occasions. In Order PO-1736, former Assistant Commissioner Goodis stated:

> In previous orders this office has stated that in order to satisfy the requirements of section 21(1)(c), the information must have been collected and maintained specifically for the purpose of creating a record available to the general public (for example, Order P-318). Section 21(1)(c) has been found to be applicable where, for example, a person files a form with an institution as required by a statute, and where that statute provides any member of the public with an express right of access to the form (Order P-318, regarding a Form 1 under the *Corporations Information Act*). On the other hand, this office has found that where information in a record may be available to the public from a source other than the institution receiving the request, and the requested information is not maintained specifically for the purpose of creating a record available to the general public, section 21(1)(c) does not apply.

[29] I agree with and adopt the above approach taken by former Assistant Commissioner Goodis.

[30] Section 27 is found in Part II of the *Act* and the sections within this part impose limits on the collection, retention, use, disclosure and disposal of personal information by institutions. While the appellant suggests that section 27 of the *Act* relates to section 14(1)(c), I find that it does not.

[31] In my view, the evidence before me does not demonstrate that the email chain was collected and maintained specifically for the purpose of creating a record available to the general public. Rather, it is an email chain between the affected party and the township staff and the Committee of Adjustment (COA) staff. Even if I were persuaded that the email chain was not intended to be confidential, more evidence would be required before I could conclude that the email was collected with an intention of creating a record available to the general public as required under section 14(1)(c).

The section 14(1)(d) exception

[32] The appellant also argues that the exception in section 14(1)(d) applies. It reads:

> A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,

> under an Act of Ontario or Canada that expressly authorizes the disclosure[.]

[33] Previous IPC orders have held that in order for section 14(1)(d) to apply, there must be either

- a specific authorization in another act of Ontario or Canada that allows for the disclosure of the type of personal information at issue, or
- a general reference in the other act to the possibility of disclosure together with a specific reference in a regulation to the type of personal information at issue.[10]

[34] The appellant argues that section 1.01 of the *Planning Act*[11] expressly authorizes the disclosure of the information at issue and, as a result, section 14(1)(d) applies. He argues that public feedback to planning proposals is considered to public record. The appellant refers to Schedules C to E of his representations as examples of emails where neighbours provided their views on the minor variance applications and hearings. More importantly, he argues that these emails were considered to be public record under the *Planning Act* by the township as they were forwarded to the COA.

[35] Section 1.01 of the *Planning Act* states:

> Information and material that is required to provide to a municipality or approval authority under this Act shall be made available to the public.

[36] As stated above, section 14(1)(d) requires that a statute "expressly authorizes" the disclosure. In other words, specific types of personal information must be expressly described in the statute and the disclosure of that type of information must clearly be authorized. As well, there must be a reasonable basis for concluding that the information at issue is included in the type of information whose disclosure is authorized.

[37] Section 1.01 of the *Planning Act*, referenced by the appellant, does not meet these criteria. It does not refer to personal information, even generically. Even if it did, I would not be satisfied that the affected party's name and their opinions (which do not relate to the public hearing, the application, committee member conduct nor the public process) is information that is required to be provided to a municipality or approval authority under the *Planning Act*.

[38] As well, I have reviewed Schedules C to E of the appellant's representations. The appellant argues that these are examples of neighbours expressing their views on the minor variance applications and are considered to be part of the public record. The withheld information differs from these examples as they do not relate to the minor

[10] Orders M-292, MO-2030, PO-2641 and MO-2344.
[11] R.S.O. 1990, c. P.13.

variance applications itself. I have also reviewed Schedule F of the appellant's representations, which contain email chains written by an unidentified writer to the township staff and COA staff.[12] These email chains differ from the withheld information as the former relates to issues about the minor variance applications while the latter does not. I am unable to provide further details without disclosing the withheld information.

[39] In sum, the exception in section 14(1)(d) does not apply.

Factors and presumptions

[40] I will now turn to discuss whether any of the factors or presumptions under sections 14(2) and (3) apply.

[41] The township states that the factors at sections 14(2)(e) and (h), which weighs against disclosure, apply to the withheld information. On the other hand, the appellant states that the factor at section 14(2)(d), which weighs in favour of disclosure, applies.

[42] Sections 14(2)(d), (e), and (h) read:

> (2) A head, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, shall consider all the relevant circumstances, including whether,
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> > (d) the personal information is relevant to a fair determination of rights affecting the person who made the request;
> >
> > (e) the individual to whom the information relates will be exposed unfairly to pecuniary or other harm;
> >
> > …
> >
> > (h) the personal information has been supplied by the individual to whom the information relates in confidence.

[43] Although the township raised the factor at section 14(2)(e), it did not provide any further submissions on how this factor applies to the withheld information.

[44] The appellant argues that if the township is going to rely on section 14(2)(e) it needs to explain in detail what harm and specifically what unfair harm would befall the affected party. He argues that the township has failed to do so in its representations.

[45] For section 14(2)(e) to apply, the evidence must demonstrate that the damage or harm with disclosure that is envisioned by the clause be present or foreseeable, and

[12] These email chains were disclosed to the appellant due to his access requests but I note that the author's name has been severed.

that this damage or harm would be "unfair" to the individual involved.

[46] In Order MO-2318, former Commissioner Beamish provided guidance on "unfair harm" as contemplated by section 14(2)(e). He stated:

> Turning to the factor at section 14(2)(e), this office has held that although the disclosure of personal information may be uncomfortable for those involved in an already acrimonious matter, this does not mean that harm would result within the meaning of this section, or that any resulting harm would be unfair [Order PO-2230]. However, it has also been held that the unfair harm contemplated by section 14(2)(e) is foreseeable where disclosure of personal information is likely to expose individuals to unwanted contact with the requester [Order M-1147], or where such disclosure could expose the individuals concerned to repercussions as a result of their involvement in an investigation by the institution [Order PO-1659].

[47] I agree and adopt the analysis set out by former Commissioner Beamish in this appeal. Due to the lack of evidence before me, I do not find that the unfair harm contemplated by section 14(2)(e) is foreseeable. Therefore, I find that the factor at section 14(2)(e) does not apply.

[48] The township also raised the factor at section 14(2)(h) but did not provide any further submissions on how this factor applies to the withheld information.

[49] In order for the factor at section 14(2)(h) to apply, both the individual supplying the information and the recipient must have an expectation that the information will be treated confidentially, and that expectation must be reasonable in the circumstances. Thus, section 14(2)(h) requires an objective assessment of the reasonableness of any confidentiality expectation.[13]

[50] In the circumstances, I find that the withheld information was supplied by the affected party in confidence, which is clearly seen by the affected party's statement that this email chain not be placed in the public record. I also find that the township had a reasonable expectation of treating the withheld information confidentially as the withheld information is highly sensitive. Therefore, I find that the factor in section 14(2)(h), which weighs against disclosure, applies.

[51] The appellant argues that the factor at section 14(2)(d) applies. He states that he is in the process of evaluating legal action against two named individuals for harassment.[14] As such, he is looking for all records that are in any way related to him (and his partner) or his property made by the named individuals in order to prepare for the proceeding.

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[13] Order PO-1670.

[14] He *cites Caplan v. Atas*, 2021 ONSC 670, which deals with online harassment and defamation.

[52] The IPC has found that for section 14(2)(d) to apply, the appellant must establish that:

1. the right in question is a legal right which is drawn from the concepts of common law or statute law, as opposed to a non-legal right based solely on moral or ethical grounds; and

2. the right is related to a proceeding which is either existing or contemplated, not one which has already been completed; and

3. the personal information to which the appellant seeks access has some bearing on or is significant to the determination of the right in question; and

4. the personal information is required in order to prepare for the proceeding or to ensure an impartial hearing.[15]

[53] In order for section 14(2)(d) to apply, all four parts must be established. I am not persuaded by the appellant's representations that section 14(2)(d) applies to the withheld information in this appeal. The appellant has not provided sufficient evidence to establish the application of this factor, outside of stating that he is in the process of evaluating legal action for harassment. Moreover, I do not find that the withheld information has some bearing on or is significant to the determination of his rights to receive damages for harassment. Therefore, as the appellant has not persuaded me that the four-part test of section 14(2)(d) has been met, I find that section 14(2)(d) does not apply.

[54] However, as an unlisted factor, I will consider that the appellant wants the withheld information to possibly pursue a legal case. I give this factor some weight.

[55] Having reviewed the withheld information and considering the factors (listed and unlisted) and presumptions in sections 14(2) and (3), I find that disclosure of the withheld information would be an unjustified invasion of the affected party's personal privacy. Although I found that there was an unlisted factor favouring disclosure, I give the factor favouring non-disclosure in section 14(2)(h) more weight. Accordingly, I find that the withheld information is exempt under section 38(b) subject to my finding on the township's exercise of discretion below.

Issue C: Did the township exercise its discretion under section 38(b)? If so, should I uphold the exercise of discretion?

[56] The section 38(b) exemption is discretionary (the institution "may" refuse to disclose), meaning that the institution can decide to disclose information even if the

[15] Order PO-1764; see also Order P-312, upheld on judicial record in *Ontario (Minister of Government Services) v. Ontario (Information and Privacy Commissioner)* (February 11, 1994), Toronto Doc. 839329 (Ont. Div. Ct.).

information qualifies for exemption. An institution must exercise its discretion. On appeal, I may determine whether the institution failed to do so.

[57] In addition, the IPC may find that the institution erred in exercising its discretion where, for example,

- it does so in bad faith or for an improper purpose;
- it takes into account irrelevant considerations; or
- it fails to take into account relevant considerations.

[58] In either case, the IPC may send the matter back to the institution for an exercise of discretion based on proper considerations.[16] The IPC cannot, however, substitute its own discretion for that of the institution.[17]

[59] The township submits that it properly exercised its discretion to withhold the personal information under section 38(b). It submits that it did not withhold the information at issue in bad faith or for an improper purpose. The township also submits that it did not withhold the information based on irrelevant considerations but appropriately considered all relevant considerations. It further submits that it weighed the following considerations:

- that information should be available to the public;
- individuals should have a right of access to their own personal information;
- exemptions should be limited and specified;
- the privacy of individuals should be protected;
- the relationship between the requester and the affected party; and
- the nature of the information and the extent to which it is significant/sensitive to the requester or the affected party.

[60] The appellant's representations did not address this issue.

[61] After considering the township's representations and the circumstances of this appeal, I find that the township did not err in its exercise of discretion with respect to its decision to deny access to the withheld information under section 38(b) of the *Act*. I note that the township took into account the above noted considerations. I am satisfied that the township took into account relevant considerations, and did not act in bad faith or for an improper purpose. Accordingly, I find that the township exercised its discretion

[16] Order MO-1573.
[17] Section 43(2).

in an appropriate manner in this appeal, and I uphold it.

Issue D: Did the township conduct a reasonable search for records?

[62] The appellant claims that additional records should exist in the township's record holdings relating to an Integrity Commissioner's report or investigation and correspondence between an affected party or their representative and township staff, including its lawyer.

[63] Where a requester claims additional records exist beyond those identified by the institution, the issue to be decided is whether the institution has conducted a reasonable search for records as required by section 17.[18]

[64] If I am satisfied the search carried out was reasonable in the circumstances, I will uphold the institution's decision. If I am not satisfied, I may order further searches.

[65] The *Act* does not require the institution to prove with absolute certainty that further records do not exist. However, the institution must provide sufficient evidence to show it has made a reasonable effort to identify and locate responsive records.[19] A reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request expends a reasonable effort to locate records which are reasonably related (responsive) to the request.[20]

[66] Although a requester will rarely be in a position to indicate precisely which records the institution has not identified, the requester still must provide a reasonable basis for concluding such records exist.[21]

Parties' representations

[67] I have reviewed all of the township's representations and the appellant's representations, and below I summarize the portions of their representations relevant to the issue of section 17.

[68] The township submits that it conducted a reasonable search for responsive records. In support of its position, the township submitted an affidavit sworn by its manager of corporate services/deputy clerk. In the affidavit, the affiant describes the individuals involved in the search, where they searched, and the results of their search.

[69] The township also submits that records held by its Integrity Commissioner are not in its custody or control. It explains that the appellant believes the Integrity Commissioner may have responsive records to his request. However, the township

[18] Orders P-85, P-221 and PO-1954-I.
[19] Orders P-624 and PO-2559.
[20] Orders M-909, PO-2469 and PO-2592.
[21] Order MO-2246.

submits that subsection 223.5(1) of the *Municipal Act, 2001*[22] requires its Integrity Commissioner to preserve secrecy with respect to all matters that come to their knowledge in their course of their duties. It also submits that subsection 223.5(3) of the *Municipal Act, 2001*, expressly provides that this secrecy prevails over the *Act*.

[70] The appellant submits that further responsive records exist. He submits that the unsevered portion of the email chain indicates that the affected party believes that it is likely the appellant will apply for further variances which supports his belief that the affected party will continue to pursue baseless enforcement and other actions against him and his partner. The appellant also submits that the email chain attached as Schedule R to his representations indicate that an unidentified individual requested a copy of the township's *Code of Conduct*.

[71] He also submits that he is looking for statements by a named individual about him and his partner, their property and/or their file. He believes these statements are highly likely to be false/misleading. The appellant believes the statements were made to township's Integrity Commissioner.

[72] The appellant further submits that communications between named individuals and their solicitors and the township's solicitors are likely to exist after September 9, 2020.

Analysis and findings

[73] For the following reasons, I find that the township conducted a reasonable search for responsive records to the appellant's request.

[74] The township has described the individuals involved in the search, where it searched, and the results of its search. In my view, the township's search was logical and comprehensive. As noted above, a reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request expends a reasonable effort to locate records which are reasonably related to the request.[23] I am satisfied that the township has provided sufficient evidence to establish this.

[75] I have reviewed the appellant's representations, and I am not persuaded that he has established a reasonable basis for concluding that further records exist. As noted above, although a requester will rarely be in a position to indicate precisely which records the institution has not identified, the requester still must provide a reasonable basis for concluding such records exist.[24] The appellant refers to the email chains, attached as Schedule L, O, and R to his representations, to demonstrate that a named individual was likely to have further communications with the township or the township's Integrity Commissioner but which records were not found.

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[22] S.O. 2001, c. 25.
[23] Orders M-909, PO-2469 and PO-2592.
[24] Order MO-2246.

[76] I have reviewed these email chains and do not find that they suggest that further records exist. I note that, in the email chain attached as Schedule L, the township's director of planning stated that if the unidentified writer has any further issues or questions to raise then their lawyer should correspond directly with the township's lawyer. It does not suggest that further communications regarding the sauna would need to take place between legal counsels as stated by the appellant. I also note that, in the email chain attached as Schedule O, the township's director of planning stated that he had copied building staff who can assist the unidentified writer further if they have any questions regarding the permit in question. In the same email, the township's director of planning also states that he understood planning staff has assisted the unidentified writer with inquiries related to the ongoing minor variance process. This email chain does not suggest that further records exist as the unidentified writer may not have had any further questions for building staff.

[77] Moreover, in this case, the appellant argues that records exist within the record holdings of the township's Integrity Commissioner. In Order MO-2975-I, former Assistant Commissioner Liang said the following about records held by an Integrity Commissioner:

> This office has not treated section 53(1) (or its provincial equivalent) as a jurisdiction-limiting provision, but simply as a direction that the *Act* is not the controlling statute for protecting the confidentiality of information that falls within the scope of the confidentiality provision in the other statue.[25] Regardless, the effect of section 53(1), combined with section 161 of COTA, is clear here: any records responsive to the request that are in the hands of the Commissioner cannot be disclosed in response to a request under the Act. Such records, if they exist, were clearly gathered or created in the course of her duties under COTA, and there is no suggestion or evidence that they fall under one of the exceptions to the duty of confidentiality.[26]

[78] I agree with and adopt the above approach taken by former Assistant Commissioner Liang.

[79] As such, I do not find that the township was required to ask its Integrity Commissioner to search for responsive records.

[80] Accordingly, I find that the township has conducted a reasonable search.

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[25] Orders PO-2029, PO-2083 and PO-2411-I.

[26] I also note that previous orders which have addressed similar provisions in COTA have confirmed that the confidentiality provisions in COTA also apply to information in the hands of other city staff about the Integrity Commissioner's investigation that was compiled by the staff member as a consequence of being instructed or asked to provide information to the Commissioner: see Orders MO-2843 and MO-2439 (reconsidered on other grounds in MO-2629-R).

ORDER:

I uphold the township's application of the personal privacy exemption at section 38(b) and its search.

Original Signed by: August 24, 2023

Lan An
Adjudicator