

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER MO-4502

Appeal MA23-00297

City of Windsor

March 20, 2024

Summary: A media requester sought access to information related to the existence of and cost of a safe room at the City of Windsor's (the city) City Hall. The city issued a decision to the requester, refusing to confirm or deny the existence of records responsive to the request.

In this order, the adjudicator upholds the city's refusal to confirm or deny the existence of responsive records under section 8(3) and she dismisses the appeal.

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, sections 8(1)(e), 8(1)(i), and 8(3).

Orders Considered: Order PO-2762.

OVERVIEW:

[1] A media requester sought access to information related to the existence and cost of a specific safety feature at a city hall. Specifically, the City of Windsor (the city) received the following request under the *Municipal Freedom of Information and Protection of Privacy Act* (*MFIPPA* or the *Act*):

All information, including but not limited to cost, estimates, plans, drawings, documents, etc. about a safe room or panic room¹ at Windsor City Hall and/or in the Mayor's Office.

[2] The city issued a decision in which it refused to confirm or deny the existence of records responsive to the request relying on section 8(3) (refusal to confirm or deny the existence of a record) of the *Act*.

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

[4] As mediation did not resolve the appeal, the appeal was moved to the adjudication stage of the appeal process, where an adjudicator may conduct an inquiry. I decided to conduct an inquiry. I sought and received representations from the parties.

[5] In this order, I uphold the city's refusal to confirm or deny the existence of records under section 8(3) and I dismiss the appeal.

ISSUES:

- A. Can the city claim the application of the section 8 law enforcement exemption to records that are not related policing or proceedings as set out in the definition of "law enforcement" in section 2(1) of the *Act*?
- B. Does the discretionary exemption at section 8(3) (refusal to confirm or deny the existence of a record) apply to the records?

DISCUSSION:

Issue A: Can the city claim the application of section 8(3) to records that are not related policing or proceedings as set out in the definition of "law enforcement" in section 2(1) of the *Act*?

[6] The city states that to confirm the existence of the records being sought would confirm whether a specific form of a safety precaution exists, i.e. a safe room. It relies on section 8(3), which allows an institution to refuse to confirm or deny the existence of a record in some circumstances where an exemption in section 8(1) or section 8(2) applies to the record.²

[7] Section 8 contains several exemptions from a requester's right of access, mostly related to the context of law enforcement.

¹ A safe room or panic room is referred to collectively in this order as a safe room.

² The city relies on sections 8(1)(e), (i), and (l) to support its section 8(3) claim.

[8] The purpose of section 8 is to allow law enforcement agencies to withhold information in answering requests under the *Act* if it is necessary to do so in order for them to carry out their work and mandate. However, it is rare that disclosure of the mere existence of a record would prevent an ongoing investigation or intelligence-gathering activity from continuing.³

Representations

[9] The appellant seeks access to records about a safe room at City Hall or the mayor's office. The city explains that Windsor City Hall Campus (also referred herein as City Hall) is comprised of two buildings, one of which houses the mayor's office.

[10] The city submits that the provision of security at City Hall is "law enforcement" and that the term "law enforcement" has covered a variety of situations, including a municipality's investigation into a possible violation of a municipal by-law. Therefore, it submits that the term is not confined to the actions of police services and includes the actions of institutions other than police forces.

[11] The city states that law enforcement includes more than the investigation and prosecution of breaches of laws, including bylaws and includes ensuring the safety and security of persons. The city refers to section 1 of the *Police Services Act*, R.S.O. 1990, c. P.15, which declares that one of the principles for which police services in Ontario shall be provided is the need to ensure the safety and security of all persons and property in Ontario. It submits that this principle, applicable to policing services across Ontario, is not different from what the city attempts to do.

[12] The appellant refers to the definition of law enforcement in section 2(1) that states that:

"law enforcement" means,

(a) policing,

(b) investigations or inspections that lead or could lead to proceedings in a court or tribunal if a penalty or sanction could be imposed in those proceedings, or

(c) the conduct of proceedings referred to in clause (b).

[13] The appellant also refers to the cases cited in the Notice of Inquiry (the NOI) where "law enforcement" has been found to include other types of inspections and investigations and that neither the *Act* nor the NOI refer to a municipality for any purpose beyond an investigation.

³ Orders P-255 and PO-1656.

[14] The appellant submits that the Legislature's intention is to apply the law enforcement exemption to situations where a law has been broken or suspected to be broken, instead of applying to all institutions who have the power to investigate but are not claiming the exemption to protect an investigation. He states that if the Legislature meant to apply the law enforcement exemption to such a situation, it would have expressly stated so within section 8(1). He points out that a municipality is included in the definition of "institution" per section 2(1) and not in the definition of "law enforcement". The appellant states:

To interpret "law enforcement" to include the City of Windsor refusing disclosure outside of the event of an investigation would be to broaden the scope of the provision written by the legislature. The fact that in section 8(1)(e) the legislature specifically included "safety and security of persons" shows that the writers considered such a possibility but did not include these persons in the definition of law enforcement.

[15] The appellant further states that the city's reference to the *Police Services Act* is not entirely relevant as that legislation does not apply to the facts of this case, and even if it does, the *Police Services Act* is not paramount to *MFIPPA* as both are provincial statutes. And in the event of conflict between a specific provision dealing with a particular matter and a more general provision dealing with that same matter, the specific provision prevails. He states that *MFIPPA* specifically deals with the facts of this case, while the *Police Services Act* does not, therefore the narrower definition of "law enforcement" which does not include the municipality applies. He states:

In considering the ordinary meaning of the term "law enforcement", it is commonly understood in the context of activities and services related to investigation and preventing crimes. Examining the legislative purpose of *MFIPPA* using section 1(a) tells us that the purpose of the *Act* is to provide a right of access to information under the control of institutions in accordance with the principles that...(ii) necessary exemptions from the right of access should be limited and specific. The purpose of the exemptions created by section 8 is clear by its heading "law enforcement". Those exceptions are written with the purpose to protect investigations only.

Findings

[16] As indicated, the appellant argues that section 8(3) cannot apply to the records, if they exist, because they would not relate to law enforcement. He submits that the records do not concern policing or proceedings as set out in the definition of "law enforcement" in the *Act*, but concern the existence of a safe room in the Windsor City Hall.

[17] I do not agree with the appellant that the Legislature's intention is to apply the law enforcement exemption only to situations where a law has been broken or suspected

to be broken. In my view, section 8 applies to more than records that relate to policing or investigations or inspections that lead or could lead to proceedings as set out in the definition of "law enforcement" above.

[18] I agree with the city that the provision of security at City Hall comes within section 8 of the *Act*. Although section 8 is categorized as the law enforcement exemption, several paragraphs in section 8 do not mention the word law enforcement or apply to situations which are not related to the definition of law enforcement being policing or proceedings in a court or tribunal if a penalty or sanction could be imposed. These sections include sections 8(1)(e), (f), and (h) to (l), which read:

(e) endanger the life or physical safety of a law enforcement officer or any other person; [Emphasis added by me].

(f) deprive a person of the right to a fair trial or impartial adjudication;

(h) reveal a record which has been confiscated from a person by a peace officer in accordance with an Act or regulation;

(i) endanger the security of a building or the security of a vehicle carrying items, or of a system or procedure established for the protection of items, for which protection is reasonably required;

(j) facilitate the escape from custody of a person who is under lawful detention;

(k) jeopardize the security of a centre for lawful detention; or

(l) facilitate the commission of an unlawful act or hamper the control of crime.

[19] As well, the IPC has found that section 8 can apply to records that are not related to policing or investigations or inspections that lead or could lead to proceedings as set out in the definition of "law enforcement" above.

[20] For example, in Order PO-2762,⁴ the records related to proposed plans for a courthouse and detailed floor plans of existing courthouses. These detailed plans indicate layouts, exits, access points, parking facilities, security features, prisoner handling facilities and other sensitive particulars in respect to judicial courthouses.

[21] The Ministry of the Attorney General applied one of the same exemptions that the city relies on in this appeal, section 14(1)(e) of the *Freedom of Information and Protection of Privacy Act (FIPPA)*, the equivalent to section 8(1)(e) of *MFIPPA* (one of the sections relied upon by the city in this appeal), to these records. The adjudicator in that order was

⁴ See also Order PO-4491.

satisfied that the disclosure of certain portions of the records could reasonably be expected to endanger the life or safety of a law enforcement officer or some other person as contemplated by section 14(1)(e). [Emphasis added by me].

[22] In applying the section 14(1)(e) *FIPPA* exemption, the adjudicator accepted that disclosure of detailed courthouse floor plans that reveal details about the courthouse's secure areas or areas that are not generally accessible to the public, such as judges' chambers and staff offices, could reasonably be expected to:

- endanger the life or physical safety of law enforcement officers charged with the handling of prisoners and hinder their ability to ensure the security of the building for court personnel and the public, or
- facilitate the commission of breaches of security thereby endangering the life or physical safety of the individuals who use those areas.

[23] Similarly, regarding another section relied upon by the city in this appeal, the IPC has found that although the section 8(1)(i) exemption is found in a section of the *Act* that deals primarily with law enforcement matters, section 8 is not restricted to law enforcement situations and can cover any building, vehicle, system, or procedure that requires protection, even if those things are not connected to law enforcement.⁵

[24] I agree with and adopt the reasoning set out in the above-mentioned orders.

[25] Therefore, I find that section 8(3) can be claimed by the City of Windsor outside of the context of a law enforcement investigation because the exemption in section 8 does not only apply to situations that fall within the definition of "law enforcement" in section 2(1) of the *Act*. Accordingly, I find that the city is able to claim the application of section 8(3) to records that are not related policing or proceedings as set out in the definition of "law enforcement" in section 2(1) of the *Act*.

[26] I will now consider whether section 8(3) applies to any city records that may exist about a safe room at City Hall.

Issue B: Does the discretionary exemption at section 8(3) (refusal to confirm or deny the existence of a record) apply to the records?

[27] The appellant explains that he seeks records that disclose the existence of a safe room including how much it costs, when it was first discussed, when it was installed and why it was created.

[28] The city has applied section 8(3) to any responsive records that may exist and refuses to confirm or deny the existence of such records. To establish section 8(3), the

⁵ Orders P-900, PO-2461, and PO-4491.

city must show that:

1. the record (if it exists) would qualify for exemption under sections 8(1) or (2), and
2. disclosure of the fact that a record exists (or does not exist) would itself convey information that could reasonably be expected to compromise the effectiveness of an existing or reasonably contemplated law enforcement activity.⁶

[29] The city relies on the exemptions at sections 8(1)(e), (i), and (l) to support its section 8(3) claim. These sections read:

A head may refuse to disclose a record if the disclosure could reasonably be expected to,

(e) endanger the life or physical safety of a law enforcement officer or any other person;

(i) endanger the security of a building or the security of a vehicle carrying items, or of a system or procedure established for the protection of items, for which protection is reasonably required;

(l) facilitate the commission of an unlawful act or hamper the control of crime.

Representations

[30] The city submits that disclosure of the existence (or non-existence) of a safe room would impair the effectiveness of the safety plan that exists for the mayor (or for anyone else that might avail themselves of the use of such device), thus aiding anyone who might plan to assault the mayor or his physical office.

[31] Regarding section 8(1)(e), the city provided evidence of threats to the health and safety of the mayor. It submits that disclosure would publicize whether the safety plan included the room, thus aiding anyone who might plan to assault the mayor or his physical office.

[32] The city submits that it is irrelevant that the city has provided no evidence of any specific plans to attack the mayor's office and it would be unrealistic to expect that anyone with that predilection or plan would publicize it. It submits that it is enough that the mayor has been threatened with harm and that the release of any information that might weaken his defense to those threats also has the effect of endangering his life and physical safety.

[33] The city also relies on its representations made in support of the application of

⁶ Order PO-1656.

section 8(1)(e) for the application of sections 8(1)(i) and 8(1)(l).

[34] Regarding section 8(1)(i) specifically, it states that the nature of the records sought would reveal what safety features are, or are not, found in the building, therefore assisting anyone in formulating a plan who might carry out an attack on the building, or specifically, the mayor's office.

[35] The city provided an affidavit⁷ from its Service Director for Security and Special Activities, City Hall Campus (the director), who has been in charge of security at the City Hall campus for more than 20 years. He states that his duties include:

- assessing risks and developing risk and security plans at the City Hall campus and at other facilities owned by the city;
- overseeing security at public events taking place at City Hall and other city owned facilities;
- overseeing security at meetings of city council and its subcommittees; and,
- overseeing security for the mayor and city council when they attend events off site.

[36] The director submits that his duties often require him to liaise with the Windsor Police Service and the RCMP. He states that through his duties, he has become privy to threats that are made to the health and safety of the city's elected officials, including the mayor, and against the city's administration. He states that he is aware of specific threats made against the mayor and provided confidential representations on these threats to the mayor.

[37] The director states that he has been required to take steps to protect the health and safety of the elected officials and city administration and for obvious reasons, the city does not publicize what threats have been made against the mayor, the city councilors, or the city administrators. He also states that the city does not generally publicize security precautions that are taken or security plans. He states:

As a person responsible for preparing risk assessments and safety plans, I would not want those plans to be made public. The knowledge of whether a panic/safe room exists in the mayor's office or at City Hall would compromise the effectiveness of a safety plan. Anyone with a plan to attack the mayor's office would have a strategic advantage if they knew what security measures existed or did not exist within or near his office. the

⁷ Portions of this affidavit are confidential. Although I will consider these portions, I will not refer to these portions in this order.

safety of the mayor and anyone else in his office would be significantly compromised if that information was available.

[38] The appellant submits that none of the exemptions in section 8(1) relied upon by the city apply.

[39] The appellant submits that the city's representations only establish a subjective fear, not an objective fear, as there has been no disclosure of any police report filed or any footage released which displays an unexaggerated version of their fear to establish a reasonable expectation of harm.

[40] The appellant states that politicians are often the subject of animosity amongst the public, this can obviously lead to a subjective fear of harm against that politician and to establish a reasonable basis for believing that someone's life or physical safety could be endangered would require real evidence instead of hearsay. It is the appellant's view that in this instance, the city has also failed to provide sufficient evidence to establish a reasonable expectation of harm by confirming or denying the existence of a safe room within City Hall, in addition to other information sought by the appellant in relation to this.

[41] The appellant states that he is not seeking the precise location within City Hall of a safe room or asking how it works. He agrees that those details would reasonably be expected to jeopardize the safety of the mayor. He states that by simply disclosing the cost of such a safe room, that taxpayers would have paid for, what prompted its creation and any documents that discuss the safe room (without getting into its precise location or how it works) would not jeopardize the safety of any person or property.

[42] The appellant states that aside from saying the mayor has received threats, as do many politicians and public officials, the city has not demonstrated specifically how merely disclosing that a safe room exists would jeopardize the safety and security of the mayor. He points out that the city has not said how a potential attacker could be better positioned to cause harm by knowing a safe room exists. Without knowing the specific location or how it operates, publicly disclosing that fact will not jeopardize anyone's safety. He submits that some may even view the public disclosure of a safe room as a deterrent, the same way private homes put signs out front of their home to identify that it's being monitored 24/7.

[43] The appellant further states that the city has also failed to explain how the disclosure of a safe room would compromise the effectiveness of an existing or reasonably contemplated enforcement activity. Other than sharing that the mayor receives threats on a regular basis, the city has not said whether or not any of these threats have amounted to an ongoing law enforcement investigation.

[44] The appellant also notes that the city claims the disclosure of these records would "impair the effectiveness of the safety plan that exists for the mayor," however he is not

seeking access to a copy of the city's safety plan or how a possible safe room would fit into that safety plan.

Findings

[45] Section 8 contains several exemptions from a requester's right of access, mostly related to the context of law enforcement. Many of the exemptions listed in section 8 apply where a certain event or harm "could reasonably be expected to" result from disclosure of the record.

[46] The law enforcement exemption must be approached in a sensitive manner, because it is hard to predict future events in the law enforcement context, and so care must be taken not to harm ongoing law enforcement investigations.⁸

[47] However, the exemption does not apply just because a continuing law enforcement matter exists,⁹ and parties resisting disclosure of a record cannot simply assert that the harms under section 8 are obvious based on the record. They must provide detailed evidence about the risk of harm if the record is disclosed. While harm can sometimes be inferred from the records themselves and/or the surrounding circumstances, parties should not assume that the harms under section 8 are self-evident and can be proven simply by repeating the description of harms in the *Act*.¹⁰

[48] Parties resisting disclosure must show that the risk of harm is real and not just a possibility.¹¹ However, they do not have to prove that disclosure will in fact result in harm. How much and what kind of evidence is needed to establish the harm depends on the context of the request and the seriousness of the consequences of disclosing the information.¹²

[49] Section 8(3) reads:

A head may refuse to confirm or deny the existence of a record to which subsection (1) or (2) applies.

[50] As noted above, the city relies on sections 8(1)(e), (i), and (l) to support its section 8(3) claim.

[51] I will consider whether the claimed section 8(1) exemptions to determine whether a responsive record exists, it would qualify for exemption under these sections.

⁸ *Ontario (Attorney General) v. Fineberg* (1994), 19 O.R. (3d) 197 (Div. Ct.).

⁹ Order PO-2040 and *Ontario (Attorney General) v. Fineberg*, cited above.

¹⁰ Orders MO-2363 and PO-2435.

¹¹ *Merck Frosst Canada Ltd. v. Canada (Health)*, [2012] 1 S.C.R. 23.

¹² *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, 2014 SCC 31 (CanLII) at paras. 52-4; *Accenture Inc. v. Ontario (Information and Privacy Commissioner)*, 2016 ONSC 1616.

[52] If it qualifies, then I will consider whether disclosure of the fact that a record exists (or does not exist) would itself convey information that could reasonably be expected to compromise the effectiveness of an existing or reasonably contemplated law enforcement activity.

Would responsive records, if they exist, qualify for exemption under 8(1) or (2)?

[53] For section 8(1)(e) (endanger life or physical safety of a law enforcement officer or any other person) to apply, there must be a reasonable basis for concluding that disclosure of the information at issue could be expected to endanger someone's life or physical safety. A person's subjective fear, or their sincere belief that they could be harmed, is important, but is not enough on its own to establish this exemption.¹³

[54] The term "person" is not necessarily limited to a specific individual. It can include the members of an identifiable group or organization.¹⁴

[55] Given the threats against the mayor, as outlined in the city's representations,¹⁵ I agree with the city that if it is required to confirm that a safe room does not exist, that this disclosure would impair the effectiveness of the safety plan that exists for the mayor specifically. Disclosure would publicize whether the safety plan included a room that the mayor, or other City Hall officials, could use for safety in case of an attack against these officials at City Hall, thus aiding anyone who might plan to assault them.

[56] I find that the city has provided detailed evidence about the risk of harm if it is disclosed that there does not exist a safe room at City Hall. Such disclosure would put the mayor especially in danger, as reflected in the detailed city confidential representations about threats against him. I also find that other elected officials and city administration could be put at risk if it is known that a safe room does not exist, as certain of these individuals have been subject to threats or threatening behaviour.

[57] I find that the records (if they exist) about the existence of a safe room at City Hall are similar to those in Order PO-2762. In that order, as set out in more detail above, the adjudicator found that disclosure of detailed floor plans of secure areas of courthouses could reasonably be expected to endanger the life or physical safety of law enforcement officers and other individuals who use those areas.¹⁶

[58] In this order, the records (if they exist) that would reveal the existence or non-existence of a safe room at City Hall could reasonably be expected to hinder the ability of security services at City Hall to ensure the safety of the mayor and other City Hall officials, thereby endangering the life or physical safety of these persons section 8(1)(e)

¹³ Order PO-2003.

¹⁴ Order PO-1817-R.

¹⁵ Which included confidential representations with details about the actual threats.

¹⁶ See also Order PO-4491.

of *MFIPPA*.

[59] In making this finding, I have considered the appellant's position that the fear expressed in the city's representations is only a subjective fear and is not enough to establish the section 8(1)(e) exemption. I disagree, as I find that the city has established in its representations that there is an objective basis for this fear of endangerment to the mayor's or other City Hall officials' life or physical safety.

[60] Therefore, I find that the section 8(1)(e) exemption would apply to any responsive records if they exist, being records about a safe room at City Hall.

[61] As I have found that section 8(1)(e) applies in support of the city's section 8(3) claim, it is not necessary for me to also find whether sections 8(1)(i) or 8(1)(l) also apply. Nevertheless, I have considered whether these sections also apply.

[62] I have not been provided with sufficient evidence to determine whether the harm at section 8(1)(l) (facilitate commission of an unlawful act or hamper the control of crime) could reasonably be expected to apply, as the city did not provide separate representations on this exemption. However, I find that section 8(1)(i) (endanger security of a building, vehicle, system, or procedure) could reasonably be expected to apply to any records that might be responsive to the request, if they exist. The city provided representations specific to this exemption in addition to relying on those made in support of the application of section 8(1)(e).

[63] For section 8(1)(i) to apply, there must be a reasonable basis for concluding that disclosure of the information at issue could be expected to endanger the security of a building or the security of a vehicle carrying items, or of a system or procedure established for the protection of items, for which protection is reasonably required.

[64] Although this exemption is found in a section of the *Act* that deals primarily with law enforcement matters, it is not restricted to law enforcement situations. It can cover any building, vehicle, system, or procedure that requires protection, even if those things are not connected to law enforcement.¹⁷

[65] I find that section 8(1)(i) applies as there is a reasonable basis for concluding that disclosure of the information at issue could be expected to endanger the security of a building, City Hall, for which protection is reasonably required. I agree with the city that if it confirms that a safe room does not exist, then the lack of this safety feature could assist anyone in formulating a plan to attack City Hall, and specifically, the mayor's office. As noted above, the mayor has received specific credible threats to his safety.

¹⁷ Orders P-900 and PO-2461.

Would disclosure of the existence of responsive records convey information that would compromise the effectiveness of a law enforcement activity?

[66] For the reasons set out below, I find that the disclosure of the fact that responsive records exist or not exist would itself convey information that could reasonably be expected to compromise the effectiveness of an existing or reasonably contemplated law enforcement activity, thereby meeting the second part of the test for section 8(3) to apply.

[67] As set out above, I agree with the city that providing security services at City Hall to the mayor and other officials is a law enforcement activity, which activities are detailed in the affidavit of the city's Service Director for Security and Special Activities, City Hall Campus. The director outlined how he has been required to take steps to protect the health and safety of the city's elected officials and administration as a result of threats that have been made to the health and safety of these individuals.

[68] I also agree with the city that disclosure of the existence of responsive records would reveal whether there is a safe room at City Hall which would reasonably be expected to compromise the effectiveness of a safety plan. Anyone with a plan to attack the mayor's office would have a strategic advantage if they knew what security measures existed or did not exist within or near his office. The safety of the mayor in particular and anyone else in his office would be significantly compromised if that information was available.

[69] Therefore, I find that disclosure of the existence of records responsive to the request would itself convey information that could reasonably be expected to compromise the effectiveness of an existing or reasonably contemplated law enforcement activity, being the safety and security of the mayor and other City Hall officials at City Hall.

[70] Accordingly, I find that section 8(3) applies, and the city is allowed to refuse or deny the existence of records about a safe room at City Hall.

[71] In applying section 8(3), I find that the city exercised its discretion in a proper manner, keeping in mind the safety of individuals, including the mayor, at City Hall in arriving at its decision. It also did so with consideration of the actual threats of a serious nature made against the mayor.

[72] I disagree with the appellant that, in exercising its discretion, the city did not consider the purposes of the *Act* and the section 8(1) exemption, as well as whether disclosure would increase public confidence in the operation of the city.

[73] As discussed above, I find that city considered the purpose of the law enforcement exemption. As noted above, the law enforcement exemption must be approached in a sensitive manner, because it is hard to predict future events in the law enforcement context.

[74] I also accept that the city considered whether to disclose the information at issue, and in doing so it considered the public interest in disclosure. The director, who is the person responsible for preparing risk assessments and safety plans at City Hall, states in his affidavit that he would not want security plans, if they exist, to be made public, as this would compromise its effectiveness.

[75] Accordingly, I conclude that the city exercised its discretion appropriately in relying on section 8(3) to refuse to confirm or deny the existence of records responsive to the appellant's request about a safe room at City Hall. Therefore, I uphold the city's refusal to confirm or deny the existence of records under section 8(3) and I dismiss the appeal.¹⁸

ORDER:

I uphold the city's decision and I dismiss the appeal.

Original signed by: _____
Diane Smith
Adjudicator

_____ March 20, 2024

¹⁸ I acknowledge that the appellant has raised the application of the public interest override in section 16, however, this section does not apply to override the application of the section 8 exemption. In addition, as I have found that section 8(3) applies, it is not necessary for me to consider the application of section 13 (danger to safety or health) or the city's submissions on raising this discretionary exemption late, and I decline to do so.