



Information and Privacy
Commissioner/Ontario
Commissaire à l'information
et à la protection de la vie privée/Ontario

INVESTIGATION REPORT

INVESTIGATION I92-074M

A Regional Municipality

June 15, 1993



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INTRODUCTION

Background of the Complaint

This investigation was initiated as a result of a complaint brought to our attention by the complainant's legal counsel (Counsel), concerning the social services department of a regional municipality (the Municipality).

In 1992, the complainant was successful in a rent review application to the Ministry of Housing. As a result, an order was made for the complainant's landlord to pay the rent rebate directly to the complainant. The complainant was receiving welfare benefits at the time, and the Municipality was in the process of determining the portion of the rent rebate due to it under the General Welfare Assistance Act.

The landlord paid the rent rebate to the Municipality, instead of to the complainant. As a result, the complainant, through her Counsel, initiated legal action against the landlord. The action resulted in a judgement that the landlord was to pay the monies directly to the complainant.

The complaint centres on the Municipality's disclosure of two letters dated August 13 and August 20, 1993, addressed to the complainant, by copying the complainant's landlord and his agent. The subject of the letters concerned the amount of rent rebate that the complainant would have to repay to the Municipality.

Counsel contends that in addition: a) the Municipality disclosed details of the complainant's entitlement to the rent rebate to an Alderman, and b) that the Municipality's Income Maintenance Supervisor, author of the two letters at issue, telephoned Counsel, on behalf of the landlord, in connection with a judgement against the landlord.

Counsel maintains that the question of entitlement is a matter between the complainant and the Municipality; not a subject for disclosure to third parties. Counsel states that such an invasion of privacy is commonly experienced by social assistance recipients such as the complainant.

Issues Arising from the investigation

The following issues were identified as arising from the investigation:

- (A) Was the information in question "personal information" as defined in section 2(1) of the Municipal Freedom of Information and Protection of Privacy Act (the Act).
- (B) Did the Municipality disclose the personal information to the landlord and his agent in accordance with section 32 of the Act?
- (C) Did the Municipality disclose personal information to an Alderman?

RESULTS OF THE INVESTIGATION

Issue A: Was the information in question "personal information" as defined in section 2(1) of the Act?

Section 2(1) of the Act states, in part:

- (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, (emphasis added)
- (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;

The two letters to the complainant which were copied to the landlord and his agent indicated the portion of the rent rebate to be repayed to the Municipality by the complainant.

It is our view that this information met the requirements of paragraphs (b) and (h) of the definition of personal information in section 2(1) of the Act.

Conclusion: The information in question was personal information as defined in section 2(1) of the Act.

Issue B: Did the Municipality disclose the personal information to the landlord and his agent in accordance with section 32 of the Act?

The Municipality's Position

The Municipality maintained that copies of the letters at issue were not mailed to the landlord and his agent, and that only the letter dated August 20, 1993, had contained the cc's to the landlord and his agent. According to the Municipality, the complainant met with the Supervisor who gave her a letter detailing the portion of the rebate that was reimbursable to the Region. However, they did not specify which letter. According to the Municipality, the complainant indicated she wanted this information conveyed to her landlord and landlord's agent in order to keep the transaction simple, so that the landlord could pay both herself and the Municipality the amounts owing them. The Supervisor included the cc's on the letter so that the complainant had the option of delivering the letters herself.

However, when we called the Supervisor, he informed us that he himself had added the cc's to the August 13 letter.

Counsel's Position

Counsel provided us with copies of the two letters. Both contained cc's to the landlord and the agent, but on the August 13 letter, the cc's were in a different type from the main text. This would appear to confirm the Supervisor's statement above.

Counsel advised that instead of complying with the Rent Rebate Order, the landlord attended the offices of the Municipality and urged them to accept the rent rebate as he did not want to pay the complainant directly. The Municipality accepted the payment.

Counsel stated that the usual method for recovering overpayments is to permit the welfare recipient to receive payment from a third party and then deduct any overpayment incrementally from the recipient's future benefits. We were advised that for the Municipality to accept a payment from a third party, is most unusual. As the landlord had not strictly complied with the Order to pay the rent rebate to the complainant, she commenced garnishment proceedings against the landlord to have his bank account seized.

Counsel maintained that the August 13 letter was mailed to the complainant, and that the letter indicated it was copied to the landlord and his agent. The complainant told him that she had not requested the information be conveyed to her landlord. Counsel explained that there was no reason why the landlord would need the information in these letters, since the amount owing to the complainant was clearly stated on the Rent Review Order, and was to be paid directly to the complainant. At the time the August 13 letter was received by the complainant, she was not even aware of her landlord's involvement with the Municipality, and thus could not have consented to the disclosure of the letter to the landlord.

Counsel suggested that the complainant felt she had to deliver the letter in order to receive her portion of the rent rebate. To substantiate this claim, Counsel provided us with documentation to show that the complainant had received the rebate the day after she delivered the letter.

The complainant told Counsel that she personally delivered the August 20 letter to the landlord, because she believed that the August 13 letter had already been disclosed to the landlord and his agent, and because she was told her portion of the rent rebate would be processed faster if she delivered the letter herself.

We contacted the landlord concerning these letters. He responded that he could not remember whether or not he had received them.

Conclusion: We were unable to determine whether the Municipality had disclosed the Complainant's personal information to the landlord and his agent.

Issue C: Did the Municipality disclose personal information to the Alderman?

The Municipality maintained that there had been no disclosure of any personal information relating to the complainant's case. They confirmed that the Alderman had called the Manager of Income Maintenance to discuss the complainant's entitlement to the rebate, and the Municipality's legal entitlement to recover a portion of it. The Municipality stated that the Alderman had been well aware of the details concerning the complainant, before contacting them. However, the information they provided the Alderman was generic rather than specific, based on the statutory rights and general practices of the Municipality: the complainant's personal information was said not to have been disclosed.

The Alderman confirmed that she had called the Municipality on the matter of the complainant's entitlement to the rent rebate. She called in response to concerns raised by the landlord's daughter. We were unable to determine from the Alderman whether specific details of the complainant's case had been disclosed to her by the Municipality. The Alderman confirmed that she had been familiar with the complainant's case before calling the Municipality.

While counsel believed that the complainant's personal information had been disclosed to the Alderman by the Municipality, we found no evidence to confirm whether or not such disclosure had occurred.

Conclusion: We were unable to determine whether the Municipality had disclosed personal information to an Alderman.

OTHER MATTERS

Counsel was of the opinion that the Income Maintenance Supervisor appeared to be assisting the landlord in a tenancy matter between the complainant and her landlord, by appealing to Counsel for clarification of a garnishment against the landlord, so as to advise the landlord.

Our concern here is with the possible **use** of personal information in the Supervisor's possession. The Municipality advised that the Supervisor's reason for contacting Counsel was to convey information pertinent to the complainant's case, and of benefit to Counsel and to his client: that the Municipality was returning all monies paid to them by the landlord, so that the landlord could then immediately re-issue payment correctly to the complainant.

Counsel's response was that monies did not have to be returned by the Municipality to the landlord as a condition precedent of the complainant receiving her monies from the court. Also, the landlord did not have to re-issue payment to the complainant since the court had already seized the monies from the landlord's bank account.

Absent sufficient evidence, we were unable to make any findings regarding the subject of the conversation between the Counsel and the Supervisor.

We make no recommendations in this report. While we were unable to conclude that the Municipality had disclosed the complainant's personal information, we were nonetheless concerned with the degree of involvement between the Municipality, the landlord, and his agent, in a matter involving the complainant's personal information.

The Municipality has advised that they are discussing a new internal procedure whereby any letters requested by social assistance recipients, containing personal information such as details of entitlement, will in future be addressed, "To Whom it May Concern". The information may then be disclosed at the recipient's discretion, without involving the Municipality.

We do, however, wish to remind the Municipality that due care should be exercised at all times to ensure the protection of personal privacy, when considering disclosures of personal information to third parties.

SUMMARY OF CONCLUSIONS

- The information in question was personal information as defined in section 2(1) of the Act.
- We were unable to determine whether the Municipality had disclosed the Complainant's personal information to the landlord and his agent.
- We were unable to determine whether the Municipality had disclosed the complainant's personal information to an Alderman.

Original signed by: _____

Ann Cavoukian, Ph.D.
Assistant Commissioner

June 15, 1993 _____

Date