



Information and Privacy
Commissioner/Ontario

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

INVESTIGATION REPORT

INVESTIGATION I93-002P

The Ministry of The Environment And Energy

July 20, 1993



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INTRODUCTION

Background of the Complaint

This investigation was initiated as a result of a complaint concerning the Ministry of the Environment, now the Ministry of the Environment and Energy (the Ministry).

The complainant was concerned that the Ministry had disclosed his personal information without his consent, contrary to the Freedom of Information and Protection of Privacy Act (the Act). More specifically, he was concerned that the Ministry had disclosed facts about his subdivision in Amabel Township to a lawyer in Calgary. According to the complainant, a Planning Evaluator of the Ministry's Approval and Planning Unit had disclosed his personal information in four letters. These letters were:

- (1) Dated October 18, 1990, addressed to a named individual at the Owen Sound District Office regarding "storm drainage and site disturbance concerns".
- (2) Dated December 5, 1990, addressed to the complainant, regarding "drainage works".
- (3) Dated January 31, 1991, addressed to a named individual at the Bruce/Grey/Owen Sound Health Unit, regarding "surface water drainage proposal".
- (4) Dated March 14, 1991, addressed to a named individual at the Plans Administration Branch, Ministry of Municipal Affairs, regarding "review of storm water management plan".

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 Act?
- (B) If the answer to the above question is "yes", was the personal information disclosed in accordance with section 42 of the Act?

RESULTS OF THE INVESTIGATION

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

Under section 2(1) of the Act "personal information" means "recorded information about an identifiable individual."

There is a clear differentiation between individuals who are acting in a **personal** capacity and individuals who are acting **on behalf of** an incorporated body. The Information and Privacy

Commissioner has held in Orders 80, 113 and P-257 that the name of an individual, when acting on behalf of an incorporated body, is corporate information -- not personal information.

The Ministry's Freedom of Information and Protection of Privacy Co-ordinator (the Co-ordinator) provided our office with copies of the letters at issue, but would not confirm or deny that these records had been disclosed. According to the Ministry, the complainant's name was not "personal information" as it is defined in the Act because the subdivision application records the registered owner as "Chiefs' Park Limited", with the complainant as the President. According to the Co-ordinator, correspondence was received from the complainant on Chiefs' Park Limited letterhead indicating that the complainant was representing that company. The Ministry also acknowledged that it mentioned the complainant's name and address in one of the letters. This particular letter did not refer to the complainant in his corporate capacity. Further, the letters dated January 31, 1991, and March 14, 1991, referred to the complainant and not Chiefs' Park Limited as the owner of the subdivision.

Legal Counsel for the complainant submitted that since the complainant is one and the same person as his corporation Chiefs' Park Limited, all of the information contained in the letters in question was personal to the complainant. Legal Counsel also submitted that Orders 80 and 113 were only authority for the fact that if someone had asked for the name of the President of Chiefs' Parks Limited, the complainant's name could be disclosed. Counsel further submitted that Order P-257 did not apply to this investigation, and that in his view, the term "person" in the Act should include "corporation", making reference to the Interpretation Act.

The use of the term "individual" in the Act makes it clear that the protection provided with respect to the privacy of personal information relates only to natural persons. Had the legislature intended an "identifiable individual" to include a corporation, it could and would have used the appropriate language to make this clear. The types of information enumerated under section 2(1) of the Act as "personal information" when read in entirety, lend further support to the conclusion that "personal information" relates only to natural persons.

There may be cases where the information about a business may be so closely connected to information about an individual that the information may qualify as being "personal" for purposes of the Act. We acknowledge that in the correspondence in question, the complainant was identified personally rather than in his corporate capacity, and that the corporation was owned by the complainant. However, these letters contained information relating to the subdivision owned by Chiefs' Park Limited, and the correspondence had been written on corporate letterhead, indicating that the complainant was representing the company.

After carefully considering these facts, it is our view that the information contained in the letters at issue did not constitute the complainant's "personal information". These letters contained information relating to the subdivision owned by Chiefs' Park Limited. Accordingly, Part III of the Act did not apply in the circumstances of this complaint.

Conclusion: The information in question was not "personal information" as defined by section 2(1) of the Act.

As we did not find the information to be personal information under the Act, issue B was not addressed.

SUMMARY OF CONCLUSIONS

- The information in question was not "personal information" as defined by section 2(1) of the Act.

RECOMMENDATION

We are concerned that the Ministry's correspondence erroneously referred to the complainant (instead of the corporation) as the owner of the subdivision. Therefore, we recommend that the Ministry review its practices and take the necessary precautions to ensure that such errors do not occur in future.

Within six months of receiving this report, the Ministry should provide the Office of the Information and Privacy Commissioner with proof of compliance with the above recommendation.

Original signd by: _____
Ann Cavoukian, Ph.D.
Assistant Commissioner

July 20, 1993

Date