



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

INVESTIGATION REPORT

INVESTIGATION I94-040M

A SEPARATE SCHOOL BOARD

October 20, 1994



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INTRODUCTION

Background of the Complaint

This investigation was initiated as a result of a complaint concerning a separate school board (the Board).

The complainant is a Roman Catholic who supports the public school system. She received a letter from the Board advising her that under the Education Act, she was entitled to direct the education portion of her property tax to the Board. Enclosed with the letter was a form which the complainant could sign if she wished to support the separate rather than the public school system.

The complainant believed that the Board had taken copies of assessment records at "City Hall" in order to use the personal information they contained to solicit tax support from Roman Catholics who did not support the Board. She objected specifically to the Board's use of her personal information for what she believed was for the purpose of soliciting tax dollars from her and for questioning her decision to support the public school system. She believed that the Board's use of her personal information was not in compliance with the Municipal Freedom of Information and Protection of Privacy Act (the Act).

Under section 14 of the Assessment Act, the assessment commissioner for each assessment region is required to prepare an assessment roll that includes such information as the name and surname of any person liable to assessment (i.e. a ratepayer); his/her religion, if Roman Catholic; and whether he or she is a public or separate school supporter. Under section 16 of the Assessment Act, the assessment commissioner is required to prepare a list indicating the school support of each ratepayer in each municipality in the assessment region and to deliver it to each school board in the municipality. It was information about the complainant from such a list (the school list) that Board used when it wrote to her.

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? If yes,
- (B) Was the Board's use of the personal information in compliance with section 31 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?

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

"personal information" is 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,
...
- (d) the address, telephone number, fingerprints or blood type of the individual,
...
- (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 school list contained the complainant's name, address, gender, and religion. It included the information that she was a supporter of the public school system and other details about her.

In our view, this information satisfied the requirements of paragraphs (a), (d), 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: Was the Board's use of the personal information in compliance with section 31 of the Act?

Under the Act, personal information in the custody or control of an institution cannot be used except in the specific circumstances outlined in section 31. The Board submitted that the complainant's personal information was used in accordance with sections 31(a) and (b) of the Act.

Section 31(a) states that an institution shall not use personal information in its custody or under its control "except if the person to whom the information relates has identified that information in particular and has consented to its use."

It was the Board's view that there existed an implicit consent for the use of religious information in the manner in which the Board had used it. The Board stated that the public had authorized the legislature to require ratepayers to provide such information for inclusion in the assessment roll. The Board further stated that since there was no purpose for the collection of the information (included on the school list) other than for use by school boards, this "type of use has been consented by the electorate of Ontario."

It is our view, however, that section 31(a) of the Act did not apply to the circumstances of this case, since it could not be said that with respect to the personal information used by the Board, the complainant had identified it "in particular" and had consented to its use.

The Board submitted that section 31(b) of the Act was also applicable. Section 31(b) states that an institution shall not use personal information in its custody or under its control "except for the purpose for which it was obtained or compiled or for a consistent purpose."

The Board submitted that the underlying principle of the assessment system is to allow both the public and separate school systems to compete for support from Roman Catholic ratepayers. It was the Board's view that Roman Catholic ratepayers have the right to form separate school boards under section 80 of the Education Act. Further, Section 106 of the Education Act provides that every person who pays rates as a separate school supporter is exempt from public payment of taxes for public school purposes.

Section 80 of the Education Act states in part:

A public meeting of persons desiring to establish a separate school zone may be convened by,

- (a) not fewer than five heads of families, being Roman Catholics and being householders or freeholders resident within a municipality...

Section 106 of the Education Act states in part:

- (1) Every person paying rates in a separate school zone on property that the person occupies as owner or tenant or on unoccupied property that the person owns, who personally or by his or her agent, on or before the 30th day of September in any year, gives to the clerk of the municipality notice in writing that the person is a Roman Catholic and wishes to be a separate school supporter, is exempt from the payment of all rates imposed on such property in the separate school zone for public school purposes ...

The Board stated that the ratepayer information is collected by the assessment commissioner and then passed on to the school boards via the school lists, to enable boards to advise Roman Catholics of their options (ie., that they could give their support to either the public or separate school system). The Board referred to section 16 of the Assessment Act.

Section 16 of the Assessment Act states in part:

- (1) The assessment commissioner shall, in each year, prepare a list showing the school support of every inhabitant who is entitled to direct taxes for school support purposes for each municipality or locality in the commissioner's assessment region and shall deliver the list to the secretary of each school board in the municipality or the locality on or before the 30th day of September of each year.

...

(3) Any person may apply to the assessment commissioner to have that person's name included or altered in the assessment roll as a separate school supporter, if the person is a Roman Catholic, or a public school supporter and the assessment commissioner may make the addition or alteration.

...

(5) At the request of the secretary of the school board, the assessment commissioner may deliver the list referred to in subsection (1) in a format that will facilitate the use of mechanical or electronic means in the printing, reproduction or **other use** of the list. (emphasis added)

It was the Board's view that since the Assessment Act specifically provided for the Board to have and to use the information contained in the school list, the Board had the right and responsibility to use this information to advise Roman Catholics of their right to direct their funds to the separate school system, if they so wished.

The Board stated that the information on the school list "is not used for any other purpose... information respecting religion has been used only for the purpose for which it was obtained, the ascertainment of potential supporters..." It was the Board's view that it was not soliciting support "per se". "Ratepayers cannot be assumed to be familiar with their rights under the Education Act and the Assessment Act. What we do is to use the information .. to inform Catholic ratepayers of their rights..."

The Board also advised that in its current form letter, a paragraph has been added which clarifies that the issue of separate school support is a voluntary undertaking. Ratepayers are told that if they choose not to change their support to the separate system, to disregard the attached forms.

We have considered both the Board's representations and the relevant legislation. It is our view that in this case, the Board had obtained the complainant's personal information on the school list for the purpose of ascertaining if the information that the complainant was a supporter of the public school system was correct and to advise her that she had the option of directing her taxes to the separate school system. The Board then used this personal information for the very same purpose. It is, therefore, our view that the Board's use of the complainant's personal information was in compliance with section 31(b) of the Act, for the same purpose for which it had been obtained.

Conclusion: The Board's use of the personal information was in compliance with section 31 of the Act.

SUMMARY OF CONCLUSIONS

- The information in question was "personal information" as defined in section 2(1) of the Act.
- The Board's use of the personal information was in compliance with section 31 of the Act.

Original Signed by:
Susan Anthistle
Compliance Review Officer

October 20, 1994
Date
