



**Information and Privacy
Commissioner/Ontario**

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

INVESTIGATION REPORT

INVESTIGATION I94-085P

MINISTRY OF HOUSING



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INTRODUCTION

Background of the Complaint

This investigation was initiated as a result of a complaint concerning the Metropolitan Toronto Housing Authority (the MTHA) of the Ministry of Housing (the Ministry).

The complainant stated that she was a tenant in a MTHA building and that she was having a problem obtaining a parking sticker for her car. She had been told that she had to provide her driver's licence, proof of vehicle ownership, and proof of car insurance to obtain a sticker.

The Ministry acknowledged that the MTHA's request for a driver's licence and car insurance was not necessary, and that they would not be requested in future. However, it was still necessary to provide proof of vehicle ownership in order to obtain a sticker. The complainant believed that providing proof of residency and the car's plate number should be sufficient. She was concerned that the MTHA's practice of collecting proof of vehicle ownership was contrary to the provisions of the Freedom of Information and Protection of Privacy Act (the Act).

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 by section 2(1) of the Act? If yes,
- (B) Was the MTHA's collection of this personal information in compliance with section 38(2) of the Act?

RESULTS OF THE INVESTIGATION

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

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

"personal information" means recorded information about an identifiable individual, including,

- (h) the individual's name where 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 information in question was proof of vehicle ownership such as a motor vehicle registration and would include such details as the name of the individual and that he or she was the owner of a particular vehicle.

It is our view that this information met the requirements of paragraph (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 MTHA's collection of this personal information in compliance with section 38(2) of the Act?

Under the Act, an institution cannot collect personal information except in compliance with section 38(2) of the Act which states:

No person shall collect personal information on behalf of an institution unless the collection is expressly authorized by statute, used for the purposes of law enforcement or **necessary to the proper administration of a lawfully authorized activity**. (emphasis added)

The Ministry stated that the MTHA's collection was in accordance with the MTHA Parking Management Program (the Program) which "works under the authority of the Municipal By-laws". In this particular case, the MTHA was relying on the Corporation of Scarborough By-Law Number 24165. This By-Law prohibited the parking or leaving of motor vehicles on private property without the consent of the owner or occupant of the property and on property owned or occupied by the Corporation of the City of Scarborough or any local board without the consent of the Corporation or local board. Under the By-law, an "occupant" is "the tenant of the real property...whose consent under the by-law extends only to the control of the land of which such occupant is a tenant and any parking spaces allotted to such occupant under a lease or tenancy agreement;"

The Ministry advised us that the Program was created to provide residents and staff the best parking facilities possible. MTHA Security Staff had been trained and certified as Municipal Law Enforcement Officers (MLEOs). As MLEOs, they were authorized to enforce MTHA parking regulations by tagging and towing of vehicles, pursuant to By-Law 24165.

We agree with the Ministry that administering the Program which included parking control was a lawfully authorized activity. However, the Ministry must also demonstrate that the collection of the personal information in question was **necessary** to the proper administration of this lawfully authorized activity.

The Ministry informed us that MTHA residents did not pay for parking. The Ministry submitted that the MTHA lease clearly stated that a tenant had "no right to use the parking facilities". MTHA parking space was limited. Certain rules and regulations had been set up "to provide residents with parking space on a first come, first served basis".

The Ministry submitted that in order to qualify for a parking sticker, both proof of residency and personal ownership of a vehicle was required. The "structure" of the program requiring tenants to show a personal need for a parking space for their vehicle had been chosen "at the request of the community in order to prevent non-residents from parking their vehicle on MTHA property". The Ministry further stated that this "decision resulted in the establishment of a sticker system where stickers would only be given to those tenants who own a vehicle, and only for those vehicles".

The Ministry stated that, therefore, given the requirement under the Program for both residency and personal ownership, the only document that could be requested to provide proof of this was the motor vehicle registration and that the collection of this information was "fundamental to the proper administration of the program".

It is our view that since the Program required proof of both residency and personal ownership of a vehicle, it was necessary for the MTHA to collect motor vehicle registration information. Therefore, the MTHA's collection was necessary to the proper administration of a lawfully authorized activity, i.e., the management of the Program, in compliance with section 38(2) of the Act.

Conclusion: The MTHA's collection of proof of vehicle ownership was in compliance with section 38(2) of the Act.

Other Matters

During the course of this investigation, we noted that proper notice for the collection of personal information for parking stickers had not been given to tenants as required by section 39(2) of the Act. This section states:

Where personal information is collected on behalf of an institution, the head shall, unless notice is waived by the responsible minister, inform the individual to whom the information relates of,

- (a) the legal authority for the collection;
- (b) the principal purpose or purposes for which the personal information is intended to be used; and
- (c) the title, business address and business telephone number of a public official who can answer the individual's questions about the collection.

We were advised by the Ministry that the MTHA had been informed that its form for collecting personal information must comply with the notice provisions of section 39(2) of the Act. We understand, however, that the form has not yet been amended.

Conclusion: The MTHA's form for collecting personal information was not in compliance with section 39(2) of the Act

SUMMARY OF CONCLUSIONS

- o The information in question was personal information as defined in section 2(1) of the Act.
- o The MTHA's collection of proof of ownership was in compliance with section 38(2) of the Act.
- o The MTHA's form for collecting personal information was not in compliance with section 39(2) of the Act.

RECOMMENDATIONS

We recommend to the Ministry that the MTHA provide notice for its collection of personal information on its form as required by section 39(2) of the Act.

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 recommendations.

Ann Cavoukian, Ph.D.
Assistant Commissioner

Date
