

Ministry of Government
and Consumer Services

Ministère des Services gouvernementaux
et des Services aux consommateurs



Corporate Resources
Management Branch

Direction de la gestion des ressources
générales

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February 1, 2018

Dr. Karen Somerville
Canadians for Properly Built Homes
P.O. Box 11032
Station 'H'
3659 Richmond Road
Ottawa, ON
K2H 7T8

Sent via e-mail: info@canadiansforproperlybuilt homes.com

Dr. Somerville:

**Re: MGCS 141-17 – Home Warranty Working Group
Notice of Decision**

This letter concerns your request for access to records held by the Ministry of Government and Consumer Services (MGCS) under the *Freedom of Information and Protection of Privacy Act* (FIPPA). We received your request on September 12, 2017, and the requested deposit of \$122.00 on October 17, 2017.

Your access request was for the following records:

In June 2017 and July 2017, the Ministry of Government and Consumer Services (MGCS) convened weekly meetings of the “New Home Warranty Program Renewal Working Group”. We are requesting the agenda for each meeting, meeting notes of all MGCS staff who attended these meetings, e.g., that show who was present in the meeting room (e.g., core group members as well as any other attendees, invited guests, etc.), and their notes of what was said in those meetings.

A search has been conducted by MGCS and responsive records have been identified. Having reviewed your request and the responsive records, we write to advise that the records are fully exempt under section 12, 19, and 21 (Cabinet records, Solicitor-client privilege, and Personal Information, respectively) of FIPPA.

The 'New Home Warranty Program Renewal Working Group' was established to provide feedback on specific legislative reforms required to implement the government's plan for the New Home Warranty Program renewal. The input provided in these sessions will continue to be considered during the regulatory development phase of this initiative.

We have enclosed the exemptions for your convenience.

Kindly indicate where we should send the deposit refund cheque of \$122.00.

If you disagree with our decision, you may request a review by the IPC within thirty (30) days of the date of this letter with a cheque or money order, payable to the Minister of Finance in the amount of \$25.00 to: Registrar, Information & Privacy Commissioner, at 2 Bloor Street East, Suite 1400, Toronto, ON, M4W 1A8; Tel (416) 326-3333 or toll free 1-800-387-0073.

If you have any question or concerns, please contact our office at the address or telephone number in the letterhead, or email us at: MGCS.FreedomOfInformation@ontario.ca.

Sincerely,



Amanda Doobay-Kydd
Manager, Information Management & Access
Ministry of Government & Consumer Services

Cabinet records

12 (1) A head shall refuse to disclose a record where the disclosure would reveal the substance of deliberations of the Executive Council or its committees, including,

- (a) an agenda, minute or other record of the deliberations or decisions of the Executive Council or its committees;
- (b) a record containing policy options or recommendations submitted, or prepared for submission, to the Executive Council or its committees;
- (c) a record that does not contain policy options or recommendations referred to in clause (b) and that does contain background explanations or analyses of problems submitted, or prepared for submission, to the Executive Council or its committees for their consideration in making decisions, before those decisions are made and implemented;
- (d) a record used for or reflecting consultation among ministers of the Crown on matters relating to the making of government decisions or the formulation of government policy;
- (e) a record prepared to brief a minister of the Crown in relation to matters that are before or are proposed to be brought before the Executive Council or its committees, or are the subject of consultations among ministers relating to government decisions or the formulation of government policy; and
- (f) draft legislation or regulations. R.S.O. 1990, c. F.31, s. 12 (1).

Exception

(2) Despite subsection (1), a head shall not refuse under subsection (1) to disclose a record where,

- (a) the record is more than twenty years old; or
- (b) the Executive Council for which, or in respect of which, the record has been prepared consents to access being given. R.S.O. 1990, c. F.31, s. 12 (2).

Solicitor-client privilege

19 A head may refuse to disclose a record,

- (a) that is subject to solicitor-client privilege;
- (b) that was prepared by or for Crown counsel for use in giving legal advice or in contemplation of or for use in litigation; or
- (c) that was prepared by or for counsel employed or retained by an educational institution or a hospital for use in giving legal advice or in contemplation of or for use in litigation. 2005, c. 28, Sched. F, s. 4; 2010, c. 25, s. 24 (8).

Personal privacy

21 (1) A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,

- (a) upon the prior written request or consent of the individual, if the record is one to which the individual is entitled to have access;
- (b) in compelling circumstances affecting the health or safety of an individual, if upon disclosure notification thereof is mailed to the last known address of the individual to whom the information relates;
- (c) personal information collected and maintained specifically for the purpose of creating a record available to the general public;
- (d) under an Act of Ontario or Canada that expressly authorizes the disclosure;
- (e) for a research purpose if,
 - (i) the disclosure is consistent with the conditions or reasonable expectations of disclosure under which the personal information was provided, collected or obtained,
 - (ii) the research purpose for which the disclosure is to be made cannot be reasonably accomplished unless the information is provided in individually identifiable form, and
 - (iii) the person who is to receive the record has agreed to comply with the conditions relating to security and confidentiality prescribed by the regulations; or
- (f) if the disclosure does not constitute an unjustified invasion of personal privacy. R.S.O. 1990, c. F.31, s. 21 (1).

Criteria re invasion of privacy

(2) A head, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, shall consider all the relevant circumstances, including whether,

- (a) the disclosure is desirable for the purpose of subjecting the activities of the Government of Ontario and its agencies to public scrutiny;
- (b) access to the personal information may promote public health and safety;
- (c) access to the personal information will promote informed choice in the purchase of goods and services;
- (d) the personal information is relevant to a fair determination of rights affecting the person who made the request;
- (e) the individual to whom the information relates will be exposed unfairly to pecuniary or other harm;
- (f) the personal information is highly sensitive;
- (g) the personal information is unlikely to be accurate or reliable;
- (h) the personal information has been supplied by the individual to whom the information relates in confidence; and
- (i) the disclosure may unfairly damage the reputation of any person referred to in the record. R.S.O. 1990, c. F.31, s. 21 (2).

Presumed invasion of privacy

(3) A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy where the personal information,

- (a) relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation;

- (b) was compiled and is identifiable as part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation;
- (c) relates to eligibility for social service or welfare benefits or to the determination of benefit levels;
- (d) relates to employment or educational history;
- (e) was obtained on a tax return or gathered for the purpose of collecting a tax;
- (f) describes an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness;
- (g) consists of personal recommendations or evaluations, character references or personnel evaluations; or
- (h) indicates the individual's racial or ethnic origin, sexual orientation or religious or political beliefs or associations. R.S.O. 1990, c. F.31, s. 21 (3).

Limitation

(4) Despite subsection (3), a disclosure does not constitute an unjustified invasion of personal privacy if it,

- (a) discloses the classification, salary range and benefits, or employment responsibilities of an individual who is or was an officer or employee of an institution or a member of the staff of a minister;
- (b) discloses financial or other details of a contract for personal services between an individual and an institution;
- (c) discloses details of a licence or permit or a similar discretionary financial benefit conferred on an individual by an institution or a head under circumstances where,
 - (i) the individual represents 1 per cent or more of all persons and organizations in Ontario receiving a similar benefit, and
 - (ii) the value of the benefit to the individual represents 1 per cent or more of the total value of similar benefits provided to other persons and organizations in Ontario; or
- (d) discloses personal information about a deceased individual to the spouse or a close relative of the deceased individual, and the head is satisfied that, in the circumstances, the disclosure is desirable for compassionate reasons. R.S.O. 1990, c. F.31, s. 21 (4); 2006, c. 19, Sched. N, s. 1 (2).

Refusal to confirm or deny existence of record

(5) A head may refuse to confirm or deny the existence of a record if disclosure of the record would constitute an unjustified invasion of personal privacy. R.S.O. 1990, c. F.31, s. 21 (5).