TORONTO

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City Clerk

City Clerk's Office

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June 27, 2008

To: Members, Government Management Committee

Opinion Regarding Council Member "Read Only" Access to the Integrated Business Management System (IBMS)

At its meeting on April 17, 2008, the Government Management Committee considered the following material:

- **report (April 8, 2008) with attachment from the City Solicitor regarding Council Member "Read Only" Access to the Integrated Business Management System (IBMS); and**

- **report (April 3, 2008) from the City Clerk.**

The Government Management Committee, among other things, requested the City Clerk to provide members of the Government Management Committee with the actual minutes of Council that delegated the function of "Head" under the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA) to the City Clerk.

Please find attached a summary showing the designated Head and Delegates in the former municipalities, and copies of extracts of the relevant minutes of meetings of the pre-amalgamated municipalities regarding the delegation of powers of the Head under MFIPPA.

Appendix A – Borough of East York
Appendix B – City of Etobicoke
Appendix C – Metropolitan Toronto
Appendix D – City of North YorkAppendix E – City of Toronto
Appendix F – City of Scarborough
Appendix G – City of York

The complete minutes of the pre-amalgamated municipalities regarding the delegation of powers of the Head under MFIPPA may be viewed at the City Clerk's Office, 10h Floor, West Tower, 100 Queen Street West, Toronto, Ontario.

City Clerk

Yvonne Davies/tk
GM16.01
c. Councillor Howard Moscoe
City Solicitor
City Clerk

Municipal Freedom of Information and Protection of Privacy Act
Designated Head and Delegates in the former municipalities

Municipality	Designated Head	Authorization	Delegated to
East York	Mayor	By-law 132-90 December 11, 1990	Clerk
Etobicoke	Clerk Council Council	By-law 1990-157 July 23, 1990 By-law 1991-14 January 21, 1991 By-law 1997-194 October 6, 1997	 Commissioner of Administrative Services and alternatively Director of Clerk's Division
Metropolitan Toronto	Council	By-law 89-90 July 4, 1990	Clerk
North York	Council	Executive Committee Report No. 28, Clause 4 Adopted by Council by Resolution No. 90-63 December 12, 1990	Department Heads
Scarborough	Council	Administrative Committee, Report No. 4, adopted by Council February 18, 1991 Administrative Committee, Report No. 22, adopted by Council September 4, 1991	Solicitor Consultative and Research Services City Solicitor
Toronto	Executive Committee	By-law 52-91 January 15, 1991 By-law 1994-0718 October 11, 1991	Clerk Clerk
York	Council	By-law 2073-90 December 11, 1990	Clerk

APPENDIX 'A'

- 2065 -

"A"

BOROUGH OF EAST YORK

REPORT NO. 16 OF THE HEALTH, SAFETY, PUBLIC RELATIONS & PROPERTY COMMITTEE

For consideration by the Council of the Borough of East York on November 19, 1990.

The Health, Safety, Public Relations & Property Committee met at 10:30 a.m. on Monday, November 12, 1990.

Present: Mr. M. Prue, Chairman,
Mr. J. Jean-Marie,
Mr. S.T. Mastoras and Mayor D.J. Johnson.

Borough Solicitors, Commissioner of Works, Borough Clerk and Deputy Borough Clerk.

The following matters were dealt with:

1.

MUNICIPAL FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT REQUIREMENTS

The Health, Safety, Public Relations & Property Committee recommends approval of the recommendations contained in the following report of the Borough Clerk, dated November 8, 1990.

Report of the Borough Clerk, dated November 8, 1990:

"Recommendations:

"1. That the attached draft by-law designating Mayor David J. Johnson as the head of the Corporation of the Borough of East York for the purposes of the Municipal Freedom of Information and Protection of Privacy Act be submitted to Council for passage.

"2. That all powers and duties under the Municipal Freedom of Information and Protection of Privacy Act be delegated to the Borough Clerk.

"3. That the Borough Records Coordinator fill the role of Freedom of Information and Privacy Coordinator responsible for the daily administration of the Act's requirements.

Bill No. 4

THE CORPORATION OF THE
BOROUGH OF EAST YORK

BY-LAW NO. 130-90

To Designate a Head of the Municipal
Corporation for the purposes of the Municipal
Freedom of Information and Protection of Privacy Act, 1989.

WHEREAS under Section 3, subsection 1 of the Municipal Freedom of Information and Protection of Privacy Act, 1989, S.O. 1989, Chapter 63, the Council of a Municipal Corporation may by by-law designate, from among its members an individual or a committee of the council to act as head of the municipal corporation for the purposes of the Act;

AND, WHEREAS the Council deems it necessary and expedient to designate a head for the purposes of the Act;

THEREFORE, the Council of The Corporation of the Borough of East York HEREBY ENACTS as follows:

1. That the Mayor of the Borough of East York be designated as head for the purposes of the Municipal Freedom of Information and Protection of Privacy Act, 1989.

2. That this by-law come into force and effect on January 1, 1991.

FIRST AND SECOND READINGS: December 3, 1990

Clerk Mayor

THIRD AND FINAL READING: December 3, 1990

Clerk Mayor

CERTIFIED A TRUE COPY

Clerk, Borough of East York
Dated this 11 day of Dec. 1990

ADOPTED IN FULL
Dec 3/1990
Date
Chairman
Committee of the Whole

PASSED December 3 1990

THE CORPORATION OF THE
BOROUGH OF EAST YORK

BY-LAW NO. 132-90

To Designate a Head of the Municipal Corporation for the purposes of the Municipal Freedom of Information and Protection of Privacy Act, 1989.

"B"

The Corporation of the City of Etobicoke

BY-LAW Number 1990-157

A BY-LAW TO DESIGNATE A HEAD OF THE MUNICIPAL CORPORATION FOR THE PURPOSES OF THE MUNICIPAL FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT, 1989.

WHEREAS, under Section 3, subsection 1 of the Municipal Freedom of Information and Protection of Privacy Act, 1989, S.O. 1989, Chapter 63, the council of a municipal corporation may by by-law designate from among its members an individual or a committee of the council to act as head of the municipal corporation for the purposes of the Act;

AND, WHEREAS the council deems it necessary and expedient to designate a head for the purposes of the Act;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF ETOBICOKE ENACTS AS FOLLOWS:

1. That the Clerk, for the City of Etobicoke be designated as head for the purposes of the Municipal Freedom of Information and Protection of Privacy Act, 1989.

2. That this by-law come into force and effect on the date it is passed.

ENACTED AND PASSED THIS 23RD DAY OF JULY, 1990.

BRUCE SINCLAIR — MAYOR

CATHIE L. BEST — DEPUTY CLERK

The Corporation of the City of Etobicoke

BY—LAW Number 1997-194

A BY-LAW TO DELEGATE THE POWERS AND DUTIES OF "HEAD" OF THE MUNICIPAL CORPORATION FOR THE PURPOSES OF THE MUNICIPAL FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT, TO THE COMMISSIONER OF ADMINISTRATIVE SERVICES AND CLERK-TREASURER OF THE CITY OF ETOBICOKE

WHEREAS By-Law Number 1991-14 establishes Council as "Head" of the Municipal Corporation for the purposes of the Municipal Freedom of Information and Protection of Privacy Act;

WHEREAS under Section 49, subsection 1 of the Municipal Freedom of Information and Protection of Privacy Act, 1989, R.S.O. 1990, Chapter 56, the head may in writing delegate a power or duty granted or vested in the head to an officer or officers of the institution;

AND WHEREAS the Council deems it necessary and expedient to delegate all of the administrative powers and duties of the head for the purposes of the Act;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF ETOBICOKE ENACTS AS FOLLOWS:

1. **THAT** the administrative powers and duties of the head for the purposes of the Municipal Freedom of Information and Protection of Privacy Act be delegated to the Commissioner of Administrative Services and Clerk-Treasurer and alternatively delegated to the Director of the Clerk's Division.

2. **THAT** the Director of the Clerk's Division be named as the alternate to act in place of the Commissioner of Administrative Services and be delegated the administrative powers and duties of the head for the purposes of the Municipal Freedom of Information and Protection of Privacy Act.

3. **THAT** this By-law shall take effect upon the date of its passing.

ENACTED AND PASSED THIS 6TH DAY OF OCTOBER, 1997.

DOUGLAS C. HOLYDAY — MAYOR

BRENDA GLOVER — CLERK

Clause No. 28
Attachment No. 8
2 Pages

Etobicoke
Clerk's Department Report

TO: Chairman and Members of Administration Committee
MEETING DATE: December 17, 1990

FROM: Cathie L. Best,
Deputy City Clerk

SUBJECT: **Bill 49: Municipal Freedom of Information and Protection of Privacy Act, 1989**

DEC 17 3 30 PM
RECEIVED

Recommendation:

That the Administration Committee recommend to Council that the following recommendations of the Heads of Department Committee be approved:

1. That the Procedural Guidelines for the Municipal Freedom of Information and Protection of Privacy Act, 1989, be adopted by Council as the City of Etobicoke's Procedural Guidelines to address requests submitted under the Freedom of Information legislation.

2. That upon Council approval of these procedures, the Clerk's Department schedule information seminars with members of Council, Department Heads, Departmental Liaison Officers and any other members of staff to review procedures.

3. That the Department Heads ensure that all procedures required under the legislation have been addressed in their respective Departments prior to January 1, 1991, including the requirement for all forms requesting personal information to be amended to reflect the requirements of the legislation.

And further:

4. That By-law No. 1990-157 be repealed recognizing that the by-law as constituted is ultra vires and that Council retain the designation of Head of the Municipal Corporation for the purposes of the Municipal Freedom of Information and Protection of Privacy Act, 1989, and that the powers and duties of the Head be delegated to the City Clerk for the purposes of administering the legislation.

Background:

Council, on June 11, 1990, adopted the following recommendation of the Administration Committee in response to the review of a report submitted by the Deputy City Clerk regarding the above:

That Council delegate the responsibilities of "Head" of the access procedures under Bill 49 to the City Clerk;

That procedures for the processing of all requests under Bill 49 be formulated for implementation on January 1, 1991.

As a result of the latter recommendation, a sub-committee of department representatives was struck to formulate operating procedures to address Bill 49. In addition, all department record co-ordinators were instructed to review their department's records to ensure that a complete inventory of records was established.

At the conclusion of the sub-committee's review, the attached * report of the Deputy City Clerk introducing Procedural Guidelines was presented to the Heads of Department Committee on November 27, 1990. The Committee subsequently ratified the recommendations contained in this report at its meeting on December 11, 1990. ** (Attachment 8a)

Comments:

In addition to adopting the proposed Procedural Guidelines, the Administration Committee should be aware that By-law No. 1990-157 is ultra vires and will be repealed.

In June, Council adopted a recommendation to delegate the responsibilities of "Head" of the Municipal Corporation for the purposes of the legislation to the City Clerk and subsequently passed By-law No. 1990-157, which designated the City Clerk as Head. Upon further review of the Act, we found that while the powers and duties of the Head may be delegated to an officer of the institution, the designation of "Head" can only be Council, a Committee of Council or an individual Councillor. Therefore, while the Clerk may still be delegated the powers and duties of Head, Council must determine whether it wishes to retain the responsibilities and actual designation of "Head" or designate same to a Committee or individual Councillor. At present By-Law No. 1990-157 is ultra vires and Council under the legislation is considered "Head" and is ultimately responsible for all aspects of the legislation. It is suggested that Council maintain this designation.

Respectfully submitted.

Cathie L. Best
Deputy City Clerk
CLB/mp
attachment

Report prepared: December 11, 1990

Clause No. 28
Attachment No. 8a
55 Pages

Etobicoke
Clerk's Department Report

TO: Department Heads

MEETING DATE: November 27, 1990

FROM: Cathie L. Best
Deputy City Clerk

SUBJECT: Municipal Freedom of Information and Protection of Individual Privacy Act

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Recommendation:

1. That the attached document be approved and recommended to Council for adoption as the City of Etobicoke's Procedural Guidelines to address requests submitted under the Freedom of Information legislation.

2. That upon Council approval of these procedures, the Clerk's Department schedule information seminars with members of Council, Department Heads, Departmental Liason Officers and any other members of staff to review procedures.

3. That Department Heads ensure that all procedures required under the legislation have been addressed in their respective Departments prior to January 1, 1991, including the requirement for all forms requesting personal information to be amended to reflect the requirements of the legislation.

Background:

In July, 1990, the Department Heads Committee established a sub-committee consisting of departmental representatives to review the Municipal Freedom of Information and Protection of Privacy legislation and formulate operating procedures to address the legislation. At that time all Department Heads were to confirm their record co-ordinators and instruct the co-ordinators to review departmental records in preparation of the Freedom of Information Act, which comes into effect January 1, 1991.

Comments:

The sub-committee has met on several occassions to review the implications of the legislation and how best to accomodate same. The attached document represents the results of the sub-committee's discussions and addresses all concerns identified at this time.

Mrs. Vicki Tytaneck, Records Officer, will be in attendance at the Department Heads meeting of November 27th, to briefly review the procedures set out in the attached document. Any questions or concerns will be addressed at that time.

Cathie L. Best
Deputy City Clerk

attach.

[redacted]

C

Authority: Management Committee Report No. 22(20), July 4, 1990.
Intended for first presentation to Council: July 4, 1990.
Adopted by Council: July 4, 1990.

THE MUNICIPALITY OF METROPOLITAN TORONTO

BY-LAW No. 89-90.

To delegate certain powers and duties under the Municipal Freedom of Information and Privacy Act, 1989.

WHEREAS the Metropolitan Council is the "head", as defined in the Municipal Freedom of Information and Protection of Privacy Act (the "Act"), of the "institution", as defined in the Act, known as the Municipality of Metropolitan Toronto; and

WHEREAS section 49 of the Act provides that "A head may in writing delegate a power or duty granted or vested in the head to an officer or officers of the institution or another institution subject to such limitations, restrictions, conditions and requirements as the head may set out in the delegation"; and

WHEREAS it is desirable to delegate certain powers and duties vested in the head under the Act to officials of the Metropolitan Corporation;

NOW THEREFORE, the Council of The Municipality of Metropolitan Toronto HEREBY ENACTS as follows:

1. Pursuant to section 49 of the Act, the Metropolitan Council hereby delegates to each official named in Column 2 of Schedule "A" hereto the powers and duties vested in the head by sections 4(2), 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 19, 20, 21, 22, 23(2), 29(2), 30(2), 35, 36, 37, 38, 41(4) and (6), 45 and 50 of the Act with respect to any personal information or records under their control in the department set out opposite in Column 1 of the said Schedule subject to the following limitations, restrictions, conditions and requirements:

   i) before disclosing a record under section 12 of the Act, the official shall consult with the Metropolitan Solicitor, and

   ii) before refusing to disclose personal information under section 38(d) of the Act, the official shall consult with a qualified medical practitioner.

2. The Metropolitan Council hereby delegates to the Metropolitan Clerk the powers and duties set out in sections 17, 18, 25, 26, and 34 of the Act.

3. Each official named in Column 2 of Schedule "A" shall provide to the Metropolitan Clerk accurate and complete information in such official's area of responsibility sufficient to permit the Metropolitan Clerk to fulfil his or her duties under section 25, 26 and 34 of the Act.

4. Words and expressions in this by-law have the same meaning as the same words and expressions used in the Act.

5. This By-law shall come into force on the 1st day of January, 1991.

ENACTED AND PASSED this 4th day of July, A.D. 1990.

ALAN TONKS,
Chairman.

DANIEL CROMBIE,
Metropolitan Clerk.

(Corporate Seal)

Authority: Management Committee Report
No. 21(14), July 3, 1991.
Intended for first presentation to Council: July
3, 1991.
Adopted by Council: July 3, 1991.

**THE MUNICIPALITY
OF METROPOLITAN TORONTO**

BY-LAW No. 80-91.

**To amend By-law No. 89-90 respecting the
delegation of certain powers and duties under the
Municipal Freedom of Information and Protection of Privacy Act, 1989.**

The Council of The Municipality of Metropolitan Toronto HEREBY ENACTS as follows:

1. Schedule "A" to By-law No. 89-90 is amended by striking out the following words in Column 2 of the said Schedule:

Metropolitan Chairman;
Executive Director of Economic Development,

which appear opposite the number 1 in Column 1 and inserting in lieu thereof the following words:

Metropolitan Chairman;
Executive Director of Economic Development;
Executive Director, Chairman's Office.

ENACTED AND PASSED this 3rd day of July, A.D. 1991.

ALAN TONKS,
Chairman.

DANIEL CROMBIE,
Metropolitan Clerk.

(Corporate Seal)

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MUNICIPAL FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT.

The Management Committee recommends the adoption of the following joint report (May 24, 1990) from the Chairman of the Records Retention Committee, the Metropolitan Toronto Clerk, and the Metropolitan Solicitor, subject to Recommendation No. (6) being amended by deleting the words "subject to the making of the regulation in Recommendation No. (5) above":

Recommendations:

It is recommended that:

(1) Council approve the central co-ordination model outlined in this report for the implementation of the Municipal Freedom of Information and Protection of Privacy Act, 1989;

(2) Department Heads and other named officials be delegated the duties and powers of the "head" under the Act with respect to the records created by and in the control of their respective departments;

(3) the Metropolitan Toronto Clerk be delegated the Corporate responsibilities respecting all departments and agencies within the definition of the Metropolitan institution, as defined in the Act, covering the Metropolitan Corporation and its agencies;

(4) authority be granted to introduce a Bill in Council in the form of a draft by-law attached as Appendix "A" to this report;

(5) the Lieutenant Governor in Council be requested to make a regulation under the Act designating the Board of Governors of Exhibition Place as an institution for the purposes of the Act;

(6) subject to the making of the regulation in Recommendation No. (5) above, the Board of Governors of Exhibition Place be requested to delegate:

(a) to the Chief General Manager of Exhibition Place, and such other officials as it deems appropriate, the powers and duties delegated by the Metropolitan Council to Department Heads and other officials incorporating at least the same conditions; and

(b) to the Metropolitan Toronto Clerk the same powers and duties as delegated by the Metropolitan Council to that official under Recommendation No. (3) above; and

with respect to Exhibition Place records;

(7) the Metropolitan Toronto Clerk be instructed to provide for public inspection and copying, records in his possession and control described in Section 18 of the Municipality of Metropolitan Toronto Act and, otherwise, in accordance with the Municipal Freedom of Information and Protection of Privacy Act, 1989; and

(8) the appropriate Metropolitan Officials be authorized to take the necessary action to give effect hereto.

(d) disclosure of information which would harm the economic interests of the institution or another institution (S.11);

(e) records subject to solicitor-client privilege (S.13);

(f) disclosure of information that could reasonably be expected to seriously threaten the health and safety of an individual (S.13); and

(g) information that the head reasonably believes will be published within 90 days of the request for access (S.15).

Even in circumstances where there is a duty to deny disclosure (i.e. mandatory exemption), there is an overriding obligation to disclose where the record reveals a grave environmental, health or safety hazard to the public (S.5) or a compelling public interest in the disclosure of the record clearly outweighs the purpose of the exemption (S.16).

2.2. Privacy.

Generally, personal information may not be disclosed, except to the individual who is the subject thereof, if disclosure "constitutes an unjustified invasion of personal privacy." The Act prescribes a number of factors to be considered in applying this test, lists circumstances where personal information may be disclosed, and where an unjustified invasion of privacy will be presumed.

Moreover, "personal information" as defined in the Act is subject to restriction on

(1) when it may be collected (S.28(2));
(2) how it may be collected (S.29(1));
(3) the time it is retained (S.30(1)); and
(4) its use (S.31) and disclosure (S.14 and S.32).

In addition, an individual has not only the right to have access to records containing personal information of which he or she is the subject, but also has the right to request correction of the record or to have a statement of disagreement attached to the record.

3. Head of the Institution:

The power and duties under the Act are to be exercised by the "head" of the institution which is defined as the municipal council or the committee or individual designated to act as head by the Council from among its members (S.3).

In the absence of such designation, the Metropolitan Council is the "head" of the institution of Metropolitan Toronto which includes the Metropolitan Licensing Commission, the O'Keefe Centre, the Metropolitan Toronto Zoo, the Metropolitan Toronto Housing Company Limited, the Metropolitan Toronto Housing Development Corporation, the Guild, the Sinking Fund Committee, the Metropolitan Toronto Pension Plan and the Metropolitan Toronto Police Benefit Fund. The Board of Commissioners of Police, the Toronto Transit Commission and the Metropolitan Toronto Library Board are separate institutions and the members appointed to those Boards are the respective "heads" of those institutions.

"D"

EXTRACT OF CLAUSE 4 OF
EXECUTIVE COMMITTEE REPORT NO. 28
DATED DECEMBER 4, 1990
ADOPTED BY COUNCIL ON DECEMBER 12, 1990
BY RESOLUTION NO. 90-63

4. **MUNICIPAL FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT, 1989** **(219)**

Your Committee had before it the following joint report (November 28, 1990) from the City Clerk and the City Solicitor:

"Attached please find a Report on the Municipal Freedom of Information and Protection of Privacy Act for the Committee's consideration.

It is rather difficult to adequately cover the subject matter in a Report of this nature. The Act is quite complex. We have attempted to simplify it as much as possible. Nevertheless, by necessity, parts of the attached Report are rather "technical" in nature.

Accordingly, we would propose that we conduct a brief informational workshop for Members of Council in Committee Rooms Nos. 3A and 3B, commencing at 11:00 a.m. on December 12, 1990. Lunch will be served. In addition, since the Report is primarily for informational purposes, we have included an Index for easy reference both now and after January 1, 1991."

A copy of the joint Report (November 27, 1990) from the City Clerk and the City Solicitor as referred to above is attached hereto as SCHEDULE "B" for the information of Members of Council.

Having considered the information contained in the foregoing reports your Committee RECOMMENDS the following:

(a) **the proposal referred to in the joint report (November 28, 1990) from the City Clerk and the City Solicitor to hold an Informational Workshop be approved and they be authorized to do all things necessary to give effect thereto;**

(b) **recommendations 1 to 11 inclusive as contained in the joint report (November 27, 1990) from the City Clerk and the City Solicitor be adopted;**

(c) **the Draft Fee By-Law referred to in recommendation 4, be enacted by Council;**

(d) **the appropriate City Officials be authorized to do all things necessary to give effect thereto.**

Director of Records and Freedom of Information (who has already established a strong working relationship with Provincial Officials), will bring any difficulties with the Act to the attention of Provincial staff on an ongoing basis.

13. **COUNCILLORS' RECORDS**

The Provincial statute contains a specific exemption for records of Cabinet Ministers. There is no such specific exemption in the Act for Councillors' records. In fact, the Act is noticeably silent in this regard. Provincial Officials have been able to shed very little additional light on this matter.

It would seem that records communicated to a committee, or to an officer or employee of the institution become the institution's records and are subject to disclosure. Thus, Councillors' records that are subject to disclosure would include all matters discussed at Council that are included in the agendas, minutes and reports. On the other hand, it would seem that all other records are the property of the individual Councillor and would not be subject to disclosure under the Act.

For instance, a letter from a ratepayer to a Councillor would remain the Councillor's own record, and not the institution's, until communicated to Council, a Committee, or a Department Head or other employee of the City. It would then become the institution's record, and subject to disclosure.

We will undoubtedly have to await further clarification from the Commissioner in this regard.

ADMINISTRATION OF THE ACT

14. **HEAD OF AN INSTITUTION**

The head of an institution is responsible for decisions made under the Act on behalf of the institution and for overseeing the administration of the Act within the institution.

Subsection 3(1) of the Act states "The members of the Council of a municipal corporation may by by-law designate from among themselves an individual or a committee of the Council to act as head of the municipal corporation for the purposes of this Act." Subsection 3(3) stipulates that if no person or committee is so designated, the Council is the head.

It should be noted that the head is the head for all boards, commissions, corporations or other bodies where all of their members or officers are chosen by or under the authority of the Municipal Council. In the case of North York, this would include approximately 32 Committees and Boards, including the North York Parking Authority and the North York Performing Arts Centre.

The head would expressly not be the head of the North York Public Library Board, the North York Board of Health, North York Hydro, or the school boards in North York, all of which are separate institutions for the purposes of the Act.

In theory, the head is responsible for a large number of activities under a very complex piece of legislation. In practice, most if not all of these activities could, and in our submission should, be delegated to City staff. We would recommend that until the full ramifications of the Act are known, the head remain as Council since the various Departments, boards and commissions are ultimately responsible to Council.

Appendix "D"

MUNICIPAL FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT, 1989

DELEGATIONS OF AUTHORITY

The Council of the Corporation of the City of North York hereby delegates the following powers and duties under the Municipal Freedom of Information and Protection of Privacy Act, 1989 to the positions indicated below:

Column A: To the Head
Column B: To the Department Heads
Column C: To the Director of Records & Freedom of Information
Column D: To the Exemptions Committee - Clerk, Solicitor, & the affected Department Head (or their designates)

X: Prime Responsibility
Y: Consultative Responsibility (if necessary)
Z: Final Decision (if necessary)

Power or duty / Officer:	A	B	C	D
Severing records (s.4(2)		X	Y	Z
Disclosing records: grave environmental health, or safety hazard (s.5)		X	Y	Z
Deciding if exemptions apply:				
- draft by-laws, private bills, closed meetings (s.6)		X	Y	Z
- advice or recommendations (s.7)		X	Y	Z
- law enforcement (s.8)		X	Y	Z
- relations with governments (s.9)		X	Y	Z
- third party information (s.10)		X	Y	Z
- economic and other interests (s.11)		X	Y	Z
- solicitor-client privilege (s.12)		X	Y	Z
- danger to health or safety (s.13)		X	Y	Z
- personal privacy (s.14)		X	Y	Z
- information available or soon to be published (s.15)		X	Y	Z
- individual's access to own personal information (S. 38)		X	Y	Z
Determining compelling public interest (s.16)		X	Y	Z
Ensuring accuracy of personal information (s.30(2))		X	Y	Z
Disposal of personal information (s.30(4))		X	Y	Z
Personal information banks (s.35)		X	Y	Z
Access to personal information (s.37(3))		X	Y	Z

[redacted]

	A	B	C	D
Representing institution on appeal (s.41)		X	Y	Z
Requiring examination of record on site (s.41(6))		X	Y	Z
Waiving fees under the Act		X	Y	Z
Forms control		X	Y	Z
Notice of collection of personal information (s.29(2))		X	Y	Z
Assisting requester to clarify a request (s.17(2))		X	Y	
Locating requested records		X		
Fees for information traditionally released		X		
Forwarding and transferring requests (s.18)			X	
Issuing Notices:				
- forwarding or transferring requests (s.18(2),(3))			X	
- regarding access to records (s.19,21,22)			X	
- time extensions (s.20)			X	
- to affected parties (s.21)			X	
Decisions concerning manner of third party representations (s.21(6))			X	
Making record descriptions available (s.25,34)			X	
Preparing annual report (s.26)			X	
Freedom of Information procedures		Y	X	
Establishing policies		Y	X	

DATED at NORTH YORK this day of , A.D., 199 .

"E"

Comments: It therefore appears reasonable, in order to keep the level of pecuniary assistance benefits in line with the benefits under the Workers' Compensation Act, for a change to be made in the By-law providing for pecuniary assistance (By-law No. 305-67, as amended) to increase the monthly amount payable to a widow (from $855.35 to $896.40) and to dependent children under 16 years of age (from $238.85 to $250.31) effective January 1, 1991, with a further increase to dependent children on the death of the widow (from $266.89 to $279.70). Funds in the amount of $20,540.00 have been provided in the 1991 At-Large Budget, Account No. 722-117.

Draft By-Law

No. A By-law

To further amend By-law No. 305-67 respecting the Fire Department.

Whereas the Council of the Corporation of the City of Toronto by adopting Clause of City of Toronto Executive Committee Report No. at its meeting held on , approved an increase in the pecuniary assistance payable to certain widows and dependent children of a certain class of deceased fire fighters;

Therefore the Council of th Corporation of the City of Toronto enacts as follows:

1) Section 16 of By-law No. 305-67, as amended, being "A By-law Relating to the Fire Department", is further amended by repealing paragraphs (a) and (b) thereof, and substituting therefor, the following:

"(a) to the widow who is in receipt of pecuniary aid under By-law No. 21675 or a widow's pension under Section XXIIIA of By-law No. 10649, as amended, until her death the sum of:

(i) $896.40 monthly effective January 1, 1991;

"(b) to each child under or until attaining the age of sixteen years, the sum of:

(i) $250.31 per month effective January 1, 1991, such sum to be increased to $279.70 per month in the event of the death of widow."

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FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY IMPLEMENTATION BY-LAW - MFIPPA

The Executive Committee recommends the adoption of the report (November 26, 1990) from the City Solicitor:

Origin: City Solicitor (c06exec90049:197)

Recommendation: That Council adopt the draft by-law appended to this report to implement the Municipal Freedom of Information and Protection of Privacy Act, 1989 in the City of Toronto as of January 1st, 1991.

Comments: On November 16, 1989, Council adopted Clause 32 of Executive Committee Report No. 40. That Clause described the Freedom of Information and Protection of Privacy system that was to be implemented in the City. The City Solicitor was asked to introduce bills necessary to implement the system. The Municipal Freedom of Information and Protection of Privacy Act, 1989 (MFIPPA) will come into force on January 1, 1991. Therefore it is prudent to ensure that the City's implementation by-law is in place in the near future.

As requested, the draft by-law appended hereto designates the Executive Committee as head of the City of Toronto for purposes of MFIPPA. Because of the requirements of Act, the Executive Committee will have to meet in

closed session. Councillors must be aware of the need for secrecy and must ensure that MFIPPA matters are not disclosed by individual councillors.

Because of strict time limits in MFIPPA the Executive Committee will have to meet on an ad hoc basis to respond to requests in extraordinary circumstances. Therefore, the Committee shall meet as requested by the City Clerk.

In the normal course of business, the City Clerk will carry out the operations of the City's Freedom of Information and Protection of Privacy System. Therefore the By-law delegates the powers of the head to the City Clerk. It does so by combining authority under MFIPPA with that of s. 104 of the Municipal Act.

The City Clerk will be responsible for ensuring the administration of the Act in the City. As indicated in Clause 32 of Executive Committee Report No. 40, Nov. 16, 1989, requests for information under the Act will be made to the City Clerk who will then ask for the record and advice from the relevant Department. Only in the event of dispute between the City Clerk and that Department as to disclosure will the Executive Committee be called upon to decide. In the day to day operations of the system the City Clerk will ensure or deny access as is deemed appropriate.

Similarly when a request is made for correction of personal information the City Clerk will seek the record and advice from the pertinent Department Head. Again only in the event of a dispute between the Clerk and that Department Head will the Executive Committee be called upon to decide an appropriate course of action.

The By-law outlines a series of functions that the City Clerk will perform in order to fulfill the duties required by MFIPPA. These functions include: assessing requests, monitoring and preparing responses to requests, overseeing requests, preparing directories of information, providing training by civic officials in MFIPPA matters, providing advice on the collection and retention of personal information, collecting fees, and preparing the annual report for the Privacy Commissioner.

In closing, the By-law provides a framework in which the City can respond to the requirements of MFIPPA which itself is a second level access system which allows people to try to obtain information which they have been refused in their ordinary and day to day contacts with City Departments.

Draft By-Law

To Implement a Freedom of Information System for the City of Toronto pursuant to the Municipal Freedom of Information and Protection of Privacy Act.

(Passed , 1991.)

Whereas subsection 3(1) of the Municipal Freedom of Information and Protection of Privacy Act, 1989, allows Council to designate a committee as head of the institution for purposes of the Act; and,

Whereas section 104 of the Municipal Act permits Council to regulate the procedure of its Committees; and

Whereas subsection 49(1) of the Municipal Freedom of Information and Protection of Privacy Act, 1989, allows the head to delegate powers or duties vested in the head to an officer or officers of the institution; and,

Whereas Council, at its meeting of November 16, 1989, adopted Clause 32 of Executive Committee Report No. 40;

The Corporation of the City of Toronto hereby enacts as follows:

1. Title

This By-law may be cited as the Freedom of Information and Protection of Privacy Implementation By-law.

No. 1994-0718. A BY-LAW

To repeal and reenact By-law No. 52-91 respecting a Freedom of Information System under the Municipal Freedom of Information and Protection of Privacy Act to reflect proposed Municipal Code Chapter 59, Information, Access To.

(Passed October 11, 1994.)

WHEREAS:

(a) under subsection 3(1) of the Municipal Freedom of Information and Protection of Privacy Act Council may by by-law designate a committee of Council as head of the institution for the purposes of that Act;

(b) under section 102 of the Municipal Act Council may pass by-laws to regulate the procedure of its committee and;

(c) under subsection 49(1) of the Municipal Freedom of Information and Protection of Privacy Act the head may delegate powers or duties vested in the head to an officer or officers of the institution;

AND WHEREAS Council at its meeting held on January 17 and 18, 1994 adopted Clause 6 of Executive Committee Report No. 3 and authorized the introduction in Council of bills to repeal and reenact in the format of proposed Municipal Code Chapter 59 By-law No. 52-91, being "A By-law To Implement a Freedom of Information System for the City of Toronto pursuant to the Municipal Freedom of Information and Protection of Privacy Act.";

THEREFORE the Council of The Corporation of the City of Toronto enacts as follows:

1. As used in this by-law, the following terms shall have the meanings indicated:

ACT -- The Municipal Freedom of Information and Protection of Privacy Act.

2. This by-law may be cited as the "Freedom of Information and Protection of Privacy Implementation By-law."

3. The Executive Committee is designated as the head of the City for purposes of the Act.

4. Subject to Subsections A and B, the powers and duties of the Executive Committee under the Act are delegated to the City Clerk, who shall ensure the response to requests for information and protection of privacy in accordance with the Act.

A. Where the City Clerk and a department which has created information disagree on the appropriateness of the collection or release of the information, the Executive Committee shall make the final decision for the City as to whether or not the information is to be continued to be collected and if the record of the information is to be destroyed or whether or not the record of the information requested is to be released.

B. Where the City Clerk and a department which has collected information disagree on the appropriateness of the collection or disclosure of the information, the Executive Committee shall make the final decision for the City as to whether or not the information is to be collected or whether or not the record of the information requested is to be released.

5. A. In order to ensure the timely response to requests required by the Act, the Executive Committee shall meet on an ad hoc basis as requested by the City Clerk, and the provisions in Chapter 28, Council Procedures, with respect to scheduling and notice of meetings do not apply to meetings held under this section.

"F"

SCHEDULE "D" TO REPORT NO. 4 OF THE ADMINISTRATIVE COMMITTEE (Ref. Clause 5)

Schedule "C"

THE CORPORATION OF THE

CITY OF SCARBOROUGH

BY-LAW NUMBER _____

being a by-law to delegate certain powers and duties vested in the Council of the Corporation of the City of Scarborough under the Municipal Freedom of Information and Protection of Privacy Act, 1989.

WHEREAS The Council of the Corporation of the City of Scarborough is the "Head" pursuant to the provisions of The Municipal Freedom of Information and Protection of Privacy Act, 1989, S.O. 1989 Chapter 63 (The "Act").

AND WHEREAS it is deemed expedient to delegate certain powers and duties granted or vested in the Head to an officer of the Corporation of the City of Scarborough;

AND WHEREAS by By-Law No. _____ the position of Solicitor Consultative and Research Services, General Legal Services Division, Law Department was designated an officer of The Corporation of the City of Scarborough for the purposes of the Act.

THEREFORE THE COUNCIL OF THE CITY OF SCARBOROUGH ENACTS AS FOLLOWS:

1. All powers and duties granted or vested in the Members of Council of the Corporation of the City of Scarborough by virtue of the Act (save and except for the duty to disclose records relating to grave environmental health or safety hazards under Section 5 of the Act), are hereby delegated to the Solicitor, Consultative & Research Services, General Legal Services Division of the Law Department of the

SCHEDULE "D" TO REPORT NO. 4 OF THE ADMINISTRATIVE COMMITTEE (Ref. Clause 5)

Corporation of the City of Scarborough.

FIRST, SECOND & THIRD READINGS, _____1991.

_____
Mayor

_____
Clerk

SCHEDULE "D" TO REPORT NO. 4 OF THE ADMINISTRATIVE COMMITTEE (Ref. Clause 5)

CITY OF SCARBOROUGH

F.O.I. ACTION PLAN

1. Council acts as Head.
2. Council delegates responsibilities and duties (except section 5) to Solicitor Consultative and Research Services.
3. City's policy of "open access to information" whenever legally possible is reaffirmed.
4. City's traditional access procedures are reviewed and amended.
5. Departmental practices of collection, disclosure and use of personal information are reviewed and amended.
6. Departments disclose to individuals, authority, purpose and intended use of personal information.
7. Staff training.
8. Formal F.O.I. request prcedures are developed.
9. Inventory and index of the City's forms and information is prepared.

[redacted]

APPROVED AS TO FORM

DEC 6 1990

SOLICITOR FOR CITY OF YORK

"G"

THE CORPORATION OF THE CITY OF YORK

Bill 6/91.

A BY-LAW

Number 2073-90.

TO DELEGATE the powers and duties of the head under the Municipal Freedom of Information and Protection of Privacy Act, 1989 to the City Clerk.

WHEREAS Council has decided not to designate an individual member or committee of Council to act as head pursuant to section 3 of the Municipal Freedom of Information and Protection of Privacy Act, 1989;

AND WHEREAS subsection 3(3) of the said Act provides that if no person is designated as head under section 3, the head is Council;

AND WHEREAS subsection 49(1) of the Act provides that the head may delegate a power or duty granted or vested in the head to an officer or officers of the corporation, subject to such limitations, restrictions, conditions and requirements as the head may set out in the delegation;

AND WHEREAS Council has decided to delegate its powers and duties as head under the Act to the City Clerk;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF YORK ENACTS AS FOLLOWS:

- 1 -

THAT all powers and duties of Council as head under the Municipal Freedom of Information and Protection of Privacy Act, 1989 be delegated to the City Clerk.

- 2 -

THIS By-law shall come into force and effect on the 1st day of January, 1991.

ENACTED and PASSED this 11th day December, 1990.

MAYOR.

CLERK.

PASSED December 11 19 90

A BY-LAW

No. 2073-90

To

TO DELEGATE the powers and duties of the head under the Municipal Freedom of Information and Protection of Privacy Act, 1989 to the City Clerk.

INTRODUCED BY

Alderman P. Owen