

Affidavit and Other Evidence

INTRODUCTION

1. In an Appeal, evidence is often provided to satisfy particular factual or legal requirements or to provide background information. Where an exemption is claimed, evidence may be necessary to satisfy the criteria for the application of the exemption. For example: in a written Inquiry at Adjudication, affidavit evidence may be desirable because, unlike other statements made to the Adjudicator, affidavit evidence is given under oath.

GENERAL

2. An affidavit is a written statement made under oath. Affidavits are a common method of providing evidence. An affidavit must be sworn or affirmed before a person who is qualified as a commissioner for administering oaths or affirmations in the Province of Ontario.

USE OF AFFIDAVIT EVIDENCE

3. The IPC may request an affidavit to assist in its determination of factual issues in an Appeal.
4. At Mediation or for an Appeal utilizing expedited processes, where the IPC staff member believes that an affidavit may help to resolve or settle the Appeal, the Mediator or Case Lead may request that a Party provide an affidavit to the IPC. In such a case, the Mediator or Case Lead will seek the consent of the Party to provide a copy of

the affidavit to another Party or Parties involved in the Appeal. If the Party consents to sharing the affidavit, the Mediator or Case Lead will provide a copy to the other Party or Parties.

5. Where the IPC requests an affidavit at Adjudication, the Notice of Inquiry will specify the relevant issues in the Appeal and the types of information that should be included.
6. If a factual issue may be contentious, at any part of the appeal process, Parties should consider providing their evidence concerning that issue to the IPC in affidavit form.

FURTHER GUIDELINES

7. An affidavit must contain information about the person swearing the affidavit, including the individual's name and an explanation of how they have knowledge of the evidence being presented in the affidavit (often satisfied by a description of the individual's qualifications and/or job responsibilities). The affidavit must also specify the municipality and county or region where the person swearing the affidavit resides.
8. Affidavit evidence should be detailed enough to allow the IPC and/or the other Party or Parties receiving it to fully understand its contents, and should, wherever possible, be confined to facts within the personal knowledge of the person swearing the affidavit.
9. Parties shall ensure that all affidavits provided in connection with an Appeal are truthful, complete, and accurate.
10. It is an offence under the Acts for anyone to willfully make a false statement to, mislead, or attempt to mislead the Commissioner in the performance of their functions.

SAMPLE AFFIDAVIT

INFORMATION AND PRIVACY COMMISSIONER/ONTARIO

IN THE MATTER OF Appeal Number (insert appeal number) under the *Freedom of Information and Protection of Privacy Act* (or the *Municipal Freedom of Information and Protection of Privacy Act*)

AFFIDAVIT OF (name of person swearing the affidavit)

I, (name of person swearing the affidavit), of the (municipality of residence) in the (county or region of residence) make oath and say (or affirm):

1. I am (description of individual, including job title and employer where relevant). Because of (insert reasons), I have personal knowledge of the facts as set out in this affidavit.

2. [This section should the relevant facts, using single numbered paragraphs. Provide names and job titles where relevant.]

3. This affidavit is made for the purpose of supporting (or appealing) (name of institution)'s decision (describe decision) and for no other purpose.

Sworn (or Affirmed) before me at the)
(municipality where affidavit sworn) in)
the (county or region where affidavit)
sworn), on (date affidavit sworn))

(signature of person swearing affidavit)

Commissioner for Taking Affidavits
(name of person taking the affidavit)