

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**DIVISIONAL COURT**  
**JENNINGS, SWINTON and DURNO JJ.**

**B E T W E E N:** )  
)  
PUBLIC GUARDIAN AND TRUSTEE ) *William Manuel*, for the Applicant,  
) Public Guardian and Trustee  
Applicant )  
)  
- and - )  
)  
)  
)  
INFORMATION AND PRIVACY ) *William S. Challis*, for the Respondent,  
COMMISSIONER, and MONDEX ) Information and Privacy Commissioner  
CORPORATION )  
) *David A.S. Mills*, for the Respondent,  
Respondents ) Mondex Corporation  
)  
)  
)  
) **Heard at Toronto:** June 16, 2011

**JENNINGS J.** (Orally)

[1] At issue in this application for judicial review is the reasonableness of Order PO-2807 of the Information and Privacy Commissioner dated July 24, 2009. The Adjudicator who made the decision ordered disclosure of certain information about a deceased person who died intestate and about possible near relatives of the deceased.

[2] The Adjudicator reasonably concluded that the disputed information, other than the applicant's file number, was responsive to the request for "heirship information and other documents."

[3] The Adjudicator applied the correct test under s. 21(1)(f) of the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31 ("the Act") and gave detailed reasons for her conclusion that disclosure would not result in an unjustified invasion of privacy. She concluded that some information was exempt because of s. 21(3). She then weighed a number of listed and unlisted factors in determining whether disclosure of other personal information would be an unjustified invasion of privacy, as she was required to do under s. 21(2) of the Act.

[4] She came to a reasonable conclusion that the possible application of the *Personal Information and Protection of Privacy Act*, S.C. 2000, c. 5 to the requester was not a relevant factor weighing against disclosure, for the reasons she gave: namely, the potential application of that Act is for the federal Privacy Commissioner to decide. Alternatively, if that Act applies, it favours disclosure because it would limit the ways in which the requester could deal with the disclosed information.

[5] We are satisfied that the Adjudicator considered the objections made by the applicant, both in its capacity as a public institution and as the personal representative of the deceased (submitted pursuant to the authority in s. 66(a) of the Act). The lack of consent to disclosure by the applicant, in its capacity as personal representative, was not determinative of the issue of disclosure.

[6] The Adjudicator ultimately concluded that there were possible benefits of disclosure to those who might be heirs, for the reasons she set out, and there was a diminished privacy interest after death that favoured disclosure of the deceased's place and date of burial.

[7] The applicant, in effect, seeks to have this Court overturn the decision because the requester has a commercial purpose in seeking the information. It is not our role to reweigh the relevant factors considered by the Adjudicator. The Act does not require that the privacy interest in personal information be given greater weight because the requester has a commercial interest.

[8] The fact that the Adjudicator did not refer to the accuracy and reliability factor in s. 21(2)(g) when considering Record 7 does not render the decision unreasonable. The excluded information was names of possible relatives, information that she had found was not excluded under s. 21(2)(g) when she was considering Record 5.

[9] The decision fell within a range of possible, acceptable outcomes, given the facts and the law. Therefore, the application for judicial review is dismissed.

JENNINGS J.  
SWINTON J.  
DURNO J.

**Date of Reasons for Judgment: June 16, 2011**

**Date of Release: June 17, 2011**

COURT FILE NO.: 396/09  
DATE: 20110616

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B E T W E E N:

PUBLIC GUARDIAN AND TRUSTEE

Applicant

- and -

INFORMATION AND PRIVACY COMMISSIONER,  
and MONDEX CORPORATION

Respondents

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ORAL REASONS FOR JUDGMENT

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**JENNINGS J.**

**Date of Reasons for Judgment: June 16, 2011**  
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