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Ruling may force police to list grow houses

Every police force in Ontario may soon be required to release the addresses of current and former marijuana grow operations.

This follows a Feb. 17 ruling by Ontario's Assistant Information and Privacy Commissioner, Brian Beamish.

The ruling followed a request by an unnamed member of the media to the York Regional Police Services Board for records identifying the locations of houses used for marijuana grow operations or illegal chemical labs over the last four years.

In response to the initial request, police denied access to the records under exemptions in the Municipal Freedom of Information and Protection of Privacy Act. The exemptions cited by police allow them to deny access to records if the information would interfere with a law enforcement matter and would invade the personal privacy of the individuals involved.

After the information was denied, the requester appealed the decision and confirmed the details were sought for the years 2002 through 2005, and included the date, address, occurrence number, charges, plants seized, money seized and "children yes/no."

In his ruling on the appeal, the assistant commissioner noted the onus was on police to provide specific examples of cases where surveillance and collection of evidence would be endangered by release of the information. No such examples were provided.

In addition, Beamish noted that the London, Ont., police service posts a list of grow-op street addresses on its website. He concluded since no evidence was presented that this disclosure interfered with the ability of the London police to conduct investigations or proceedings, no such interference has been experienced.

He also ruled that disclosure of the street addresses would not pose a real and substantial risk that would deprive an individual of the right to a fair trial.

Deciding whether or not disclosure would interfere with the privacy rights of the homeowner was a more difficult task. Ultimately, the commissioner weighed the circumstances favouring disclosure against those favouring protecting individual privacy and found the balance tipped in favour of disclosure.

His finding on this issue "rests primarily on the desirability of promoting both public health and safety and public scrutiny of the police activities in relation to illegal grow operations."

Ultimately Beamish ordered release of all the information requested except for whether or not any children were present at any grow operation location.

He also noted disclosure of grow-op locations "rouses strong public interest or attention" and outweighs the purpose of the personal privacy exemption. It was appropriate to consider consumer protection, he wrote.

His reasoning was that disclosure would allow members of the public to learn about the potential hazards posed by owning a house formerly used for an illegal grow operation.

"Wider availability of information about houses used for this purpose may assist prospective homeowners in choosing not to purchase such a home," he wrote.

"Similarly, individuals may be faced with having already bought a house that appears to be worth one amount, but is actually worth considerably less due to the modifications made to the house as a consequence of it being used for the purpose of an illegal grow operation."

Most importantly, he concluded that "access to this information may promote informed choice in one of the most significant purchases a member of the public can make: their home."

Following this landmark decision by the privacy commissioner, every police force in Ontario may eventually have to release details of grow-op locations. Those lists will find their way onto the walls of every real estate agent and every mortgage lender in the province.

When the information becomes public, real estate agents will be required to disclose the agricultural history of urban houses, and mortgage lenders may severely restrict their willingness to lend on former grow houses.

The odds of buying a former grow operation have been estimated at 100 to 1. For that one person, the risks are serious.

An unsuspecting buyer of a former grow-op may encounter toxic mould, a compromised electrical system and weakened foundations as a result of the illegal activities. Repair costs can be in the tens of thousands of dollars for each house.

Homebuyers cannot be too careful. If you're buying a house or a condominium, make sure that the offer contains a warranty that it has never been a grow-op. And contact the local police to see if the address is on their grow-op list.

The decision of the privacy commissioner is on the web at <http://www.ipc.on.ca/docs/mo-2019.pdf> or [click here](#).

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