

Context Relevant to Risk of Harm Analysis under FIPPA, says Divisional Court

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In *Trustees of the Bricklayers and Stonemasons Union Local 2 v Information and Privacy Commissioner of Ontario and Canadian Bricklayers and Allied Craft Unions Members v Information and Privacy Commissioner of Ontario*, 2016 ONSC 3821 (CanLII), trustees of multi-employer pension plans of construction unions applied to the Divisional Court for judicial review to set aside an order of the Information and Privacy Commissioner of Ontario (“IPC”), mandating that certain confidential information of the applicants was to be disclosed to a representative of a rival union. In setting aside the IPC’s decision, the Court held that the applicants need not show that harm had actually occurred, but that the context of the disclosure request – a rival union making the request during “raiding season” (see below) – was enough to demonstrate a reasonable risk of harm. The Court’s reasoning implies that government bodies should pay attention to the context in which access to information requests are made when undertaking a risk of harm analysis.

To read the full article, visit the OBA website [here](#).