



**Information and Privacy
Commissioner/Ontario**
**Commissaire à l'information
et à la protection de la vie privée/Ontario**

ORDER 7

Appeal 880011

Ministry of Treasury and Economics



80 Bloor Street West,
Suite 1700,
Toronto, Ontario
M5S 2V1

80, rue Bloor ouest
Bureau 1700
Toronto (Ontario)
M5S 2V1

416-326-3333
1-800-387-0073
Fax/Télééc: 416-325-9195
TTY: 416-325-7539
<http://www.ipc.on.ca>

O R D E R

This appeal was received pursuant to subsection 50(1) of the Freedom of Information and Protection of Privacy Act, 1987 which gives a person who has made a request for access to a record under subsection 24(1) a right to appeal to the Commissioner any decision of a head under the Act. Further, subsection 57(4) allows a person who is required to pay a fee under subsection 57(1) to ask the Commissioner to review the head's decision to charge a fee or the amount of the fee.

The facts of this case and the procedures employed in making this order are as follows:

1. On November 20, 1987, the Ministry of Treasury and Economics (the "institution") received a request for access to:

"a) reports, assessments of Stelco _ Red Lake Mine tax break _ briefings on this and public, political reaction to the Minister (1985 _ 1987).

- b) The 1986 and 1987 Catalogue of statistical files.

- c) any assessment/reports prepared reacting to or reviewing the last three provincial auditor reports after each release.

- d) a report in 1986/1987 by Coopers and Lybrand on the Exploracom Computer Project."

The requester asked to examine the records in Ottawa and to have fees waived. Although the request predated the proclamation of the Act, it was processed as a formal request under the Freedom of Information and Protection of Privacy Act, 1987.

2. By letter dated February 8, 1988, the Freedom of Information Co_ordinator for the institution, advised the appellant that:

- a) His request for reports and assessments of the Stelco _ Red Lake Mine tax break as well as briefings on the tax break, had been located and that if he would like copies of the documents

sent to him by mail, the estimated fee for the record

was \$57.30 (consisting of \$12.00 for 30 minutes of search time, at \$6.00 per quarter hour, \$30.00 for reproduction of 150 pages at 20 cents per page, \$12.00 for 30 minutes of preparation time at \$6.00 per quarter hour, and shipping costs of \$3.30).

- b) His request for the catalogue of the statistical files for the years 1986 and 1987 could not be filled because the last issue was published in 1981. However, if he wished to receive the 1981 issue, the fee would be \$47.00 consisting of \$44.20 for photocopying 221 pages and a shipping cost of \$2.80. He was also advised that if he wanted a sample retrieval of "SNAP" the institution could provide that at a cost of \$2.47 (consisting of \$2.00 photocopying charges and 47 cents shipping cost).

- c) The request for the assessment/reports prepared reacting to or reviewing the provincial auditor's annual reports to the legislature for the years

1984_85, 1985_86 and 1986_87 were located and if he wished to get copies of the documents sent to him, the estimated fee would be \$23.50 (consisting of \$10.00 reproduction fees for 50 pages at 20 cents per page, \$12.00 for 30 minutes of preparation time at \$6.00 per quarter hour and shipping costs of \$1.50).

- d) His request for a copy of the 1986_87 Coopers and Lybrand Report on Exploracom was transferred to the Ministry of Industry, Trade and Technology on December 16, 1987.

The letter concluded by advising the appellant that the original record could not be released for viewing in Ottawa and that the institution would require payment of the various fees before releasing the records. The letter stated that whenever the estimate exceeded the actual costs, the difference would be refunded to the appellant. To date the institution has not received payment from the appellant.

3. On February 16, 1988, the appellant sent a letter to the Information and Privacy Commissioner appealing the decision to charge a fee and the amount of the fee as well as the decision not to make the record available for examination in Ottawa. The appellant indicated that his appeal was a "follow_up" to his previous appeal (file no. 880005 involving the same institution) and that all of the points of appeal he raised in the earlier file would apply to this appeal.
4. By letter dated March 31, 1988, I sent a notice to the appellant and the institution stating that I was conducting an inquiry into this matter to review the decision of the head of the institution and requesting that written representations be made to me prior to April 29, 1988. I received written submissions from both parties.

The issues raised by this appeal are identical to those raised by Appeal No. 880005 and the parties are the same. These issues are:

- a) Whether the head's decision to deny an opportunity to examine the record in Ottawa was in accordance with the Act;

- b) Whether the amount of the fees charged in this case was in accordance with the Act.

- c) Whether the head's decision not to waive fees was in accordance with the Act.

The representations received by both parties in respect of this appeal are identical to those received in respect of Appeal Number 880005. There are no significant factual differences between the two appeals.

In view of the above, the disposition of the issues raised by this appeal is the same as those in Appeal Number 880005; and for the reasons given in my Order regarding that appeal, the institution is ordered to produce the records listed as numbers 2(a), 2(b) and 2(c) on pages 2 and 3 of this order for viewing by the appellant in Ottawa within 20 days of the date of this order. The head's refusal to waive the fees and the decision to charge fees are upheld.

Original signed by: _____
Sidney B. Linden
Commissioner

July 18, 1988
Date