



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

# ORDER 177

Appeal 900178

Ministry of the Attorney General



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**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, as amended (the "Act") which gives a person who has made a request for access to a record under subsection 24(1) and to personal information under subsection 48(1) a right to appeal any decision of a head under the Act to the Commissioner.

On January 5, 1990, the undersigned was appointed Assistant Commissioner and received a delegation of the power to conduct inquiries and make Orders under the Act.

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

1. On February 8, 1990, a request for access to information was forwarded to the Ministry of the Attorney General (the "institution") by the Ministry of Government Services. This was done as a result of mediation efforts in an appeal by the requester of a decision of the Ministry of Government Services.

The requester was seeking "access to/copies of any material held by the Ministry, relating primarily but not limited to the North Pickering Project, regarding" himself as well as his wife, his mother, his father, his son and his two daughters.

2. On February 15, 1990, the institution wrote to the requester asking for further clarification of the records requested.
  
3. On March 10, 1990, the requester responded to the institution's letter with a four page letter providing additional details about the type of information being

requested. The majority of the requester's letter is quoted here to illustrate the scope of his request:

- (1) ...the complete record, as defined under sec. 2(1) para. (a), (c) of the Freedom of Information etc Act; as it relates to the North Pickering Project; together with any personal information as it relates to myself, and the individuals from whom I have forwarded the original releases.
  
- (2) The general nature of these records is as spelled out in the M.G.S. letter to you of February 1990 under MGS ref: File #100/89; Appeal 890360
  
- (3) The date range of the records is 2 March 1972 to date.
  
- (4) Correspondence with Roy McMurtry, or the AG of the day

This relates to all correspondence, or memos, between Roy McMurtry, or the A.G. of the day, and/or his deputy or staff, including, but not limited to:\_

- (a) Mr. Brock Grant
- (b) Mr. T.C. Marshall
- (c) Mr. Allen Leal
- (d) Mr. Tom Wickett (re: Lappin, Old Osgoode Hall on 29 Sept 1976)
- (e) Ms Janet Minor
- (f) Mr. Morris Manning

and the following:\_

- (i) Premier's Office, Ontario
- (ii) Ministry of the Solicitor General,  
[Ontario]
- (iii) Ministry of Treasury &  
Intergovernmental  
Affairs, [Ontario]
- (iv) Ministry of Housing, [Ontario]
- (v) Ministry of Government Services,  
[Ontario]
- (vi) Crown Attorney's Office, Regional  
Municipality of Durham
- (vii) Durham Regional Police Force, re: North  
Pickering Project.

These would include, but is not restricted to the following: \_

- (a) Memo from Brock Grant, commencing with: \_  
  
"By judgement of Mr. Justice Houlden given in the Divisional Court on Tuesday, September 10, 1974" ... and concluding with: "Should you have any questions concerning this entire matter, I would be pleased to discuss them with you at your convenience."
- (b) Letter dated 5 May 1978 from T.C. Marshall to John Sopinka, re: \_ Request of Det. Inspector William A. Smith, O.P.P.
- (c) Letter from John Sopinka dated 19 May 1978 re: Det. Inspector Wm. A. Smith, O.P.P.
- (d) List of questions by Insp. Wm. A. Smith, O.P.P. for land acquisitions Agents, North Pickering Project.
- (e) Police Report of Det. Insp. Wm. A. Smith, O.P.P., re: \_ Complaints of owners regarding land acquisition for North Pickering Project, dated 5 Mar 1975;
- (f) All documents regarding an: \_ Application for a writ of Attachment dated 16 Sept 1976.
- (g) All documents relating to the "Amplified and Amended Appraisal Reports", as ordered by the Court of Appeal



In reference to your clarified access request under the Freedom of Information and Protection of Privacy Act, received on March 15, 1990, the time limit for response is thirty (30) days. We wish to advise you that we have extended the time in this case for an additional one hundred days to July 25, 1990, in accordance with Section 27 of the Act.

The reason for the extension is the request necessitates a search through a large number of records, and that further consultations cannot reasonably be completed within the time limit necessary to comply with the request.

5. The requester appealed the head's decision by letter to this office which was received on April 24, 1990. Notice of the appeal was given by this office to the institution and the appellant.

6. Upon receipt of the appeal, the Appeals Officer assigned to this case spoke to the institution's Freedom of Information and Protection of Privacy Co\_ordinator in order to ascertain

whether the institution would consider giving its response to the appellant's request on a date earlier than that indicated in its letter to the appellant. The Appeals Officer did not receive a response to her query. Accordingly, the Appeals Officer formed the opinion that a mediated settlement of this appeal was not possible.

7. By letter dated May 11, 1990, notice that an inquiry was being conducted was sent to the institution, and representations were requested from the institution as to the reasons and factual basis for its decision to extend

the time to respond to the request. The appellant was also notified of the inquiry, and given the opportunity to comment on the issues raised by the appeal.

8. I have received representations from the institution, and have considered them in making my Order.

The sole issue for me to determine in this appeal is whether the extension of time claimed by the institution as necessary to respond to the request, is reasonable in the circumstances.

Subsection 27(1) of the Act states as follows:

A head may extend the time limit set out in section 26 for a period of time that is reasonable in the circumstances, where,

- (a) the request is for a large number of records or necessitates a search through a large number of records and meeting the time limit would unreasonably interfere with the operations of the institution; or
- (b) consultations that cannot reasonably be completed within the time limit are necessary to comply with the request.

I have received detailed representations from the institution regarding the circumstances which led to the head's decision to extend the time for a response to the request.

In its representations, the institution provided information as to the volume of the records at issue in this appeal, the search necessary to locate and identify the records, the consultations contemplated and the reasons why compliance with the 30 day time limit would have unreasonably interfered with the operations of the institution.

The institution states that the records are contained in 13 banker's boxes, which hold approximately 800 pages each. Therefore the records at issue in this appeal involve an estimated total of 9,600 pages. Locating the records necessitated a search through six branches of the institution.

The institution submits that the requested information is contained in "complex and contentious" documents which require review by experienced counsel with first\_hand knowledge of the contents. The task of identifying and reviewing the records has been assigned to the General Counsel for the institution. Counsel has been assisted in this task by other members of the institution's Freedom of Information office.

In regard to the issue of consultations, the institution submits that both internal and external consultations are necessary before it can respond to the request. Many of the records originated with other institutions, and there is a need to consult to ensure that confidential or privileged information is not wrongfully disclosed. The institution contemplates consultations with 14 external institutions and agencies.

The institution submits that it was unable to complete the tasks of locating, identifying and reviewing the record, consulting with other institutions and making a decision regarding access to the requested records within the statutory 30 day period because to do so would have interfered unreasonably with the operations of the institution. It argues that the operations of the Freedom of Information office would have been interfered with to the extent that the staff of the Freedom of Information



office would have been unable to meet the deadlines on other requests or mediate other appeals.

Further, the institution submits that had General Counsel devoted the time required to review the record and render a decision within the statutory 30 day period, he would have had to devote his entire time to this task. This would have resulted in interference with his other litigation commitments so that the provision of legal services to the Ontario Government would have been prejudiced, the rights of private counsel and litigants compromised and the judiciary "inconvenienced".

In reviewing the information which the institution has provided with respect to the factors which form the basis of its decision to extend the time for a response, I am of the view that its decision to extend the time for a response by 100 days is reasonable in the circumstances.

The institution has indicated in its representations that it will attempt to respond to the request on a date earlier than the extended deadline of July 25, 1990. Accordingly, despite my finding that the head's decision is reasonable, I am hopeful that the institution will find itself in a position to respond to the request on an earlier date.

In conclusion, I uphold the head's decision.

Original signed by: \_\_\_\_\_  
Tom A. Wright  
Assistant Commissioner

June 12, 1990  
Date