



**Information and Privacy
Commissioner/Ontario**

**Commissaire à l'information
et à la protection de la vie privée/Ontario**

ORDER M-1

Appeal M-910122

City of Toronto



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/Télé: 416-325-9195
TTY: 416-325-7539
<http://www.ipc.on.ca>

O R D E R

On January 29, 1991, a request was received by the City of Toronto (the "institution") under the Municipal Freedom of Information and Protection of Privacy Act, 1989 (the "Act"). The requester sought access to general records of the City of Toronto concerning its role in the acquisition of land for the Cottingham Tennis Club from CN Rail and its leasing of this land to the Club; in particular, the land purchase agreement, the lease, correspondence prior and subsequent to the signing of the lease, and details of costs incurred by the City as landlord.

On February 27, 1991, the institution responded to the request in the following manner:

The third parties are being given an opportunity to make representations concerning disclosure of the record. A decision on whether the record will be disclosed will be made by March 29, 1991 in accordance with section 21 of the Act.

On March 27, 1991, the institution wrote to the appellant stating:

It has recently become apparent that there are considerably more records in connection with this matter than we originally realized, held by three different departments. In order to search through this large number of records ... I am extending the time limit for our decision on access with respect to these records to May 30, under section 20(1) of the Act. Further material may have to be sent to third parties for their representations.

On April 25, 1991, the requester appealed the decision of the institution to extend the statutory 30 day time limit to respond to a request for an additional 60 days. This 30 day limit is contained in section 19 of the Act. Subsection 39(1) of the Act gives a person who

has made a request for access to a record a right to appeal any decision of a head of an institution to the Information and Privacy Commissioner. Notice of the appeal was given to the institution and to the appellant.

The Appeals Officer was not able to effect a mediated settlement of the appeal.

On May 13, 1991, notice was sent to the institution stating that an inquiry was being conducted to review the head's decision to extend the time for responding to the request. Representations were requested from the institution as to the reasons and the 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.

Representations were received from the institution and the appellant and I 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 20(1) of the Act states as follows:

A head may extend the time limit set out in section 19 for a period of time that is reasonable in the circumstances, if,

- (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 with a person outside the institution are necessary to comply with the request and cannot reasonably be completed within the time limit.

Having carefully considered the representations of the institution and the appellant and in the circumstances of this appeal, it is my view that the head's decision to extend the time for responding to the appellant's request for 60 days was not reasonable. The institution has not provided me with sufficient information to persuade me that the number of records and the need for consultation justify the length of the extension claimed. In essence, the effect of a 60 day time extension would be to provide the institution with some 120 days in which to search through approximately three boxes of records.

In its representations, the institution appears to suggest that the fact that it was required to send notices to third parties justifies, in part, the time extension. Section 21 of the Act provides for notice to third parties in certain circumstances, but, in my view, the procedures for sending such notices are not relevant to the issue of time extension and are a separate consideration for the institution.

As indicated, it is my view that the 60 day time extension was not reasonable. However, I note that this was the institution's first request under the Act which required third party notices to be sent and approval of various departments sought. The institution has indicated that its procedures for dealing with this type of request have been refined and improved.

Taking into account all of the circumstances, I am not prepared to impose an earlier deadline for the institution to make a decision than it has already indicated to the appellant. However, having found that the extension of the time for responding to the appellant's request for 60 days is not reasonable, I make the following order:

1. I order the institution to provide the appellant with its decision concerning disclosure of the records no later than May 30, 1991.

2. I further order the institution to notify me in writing that it has given notice of its decision to the appellant within five (5) days of having done so. The said notice should be forwarded to my attention, c/o Information and Privacy Commissioner/Ontario, 80 Bloor Street West, Suite 1700, Toronto, Ontario, M5S 2V1.

Original signed by:
Tom A. Wright
Commissioner

May 28, 1991
Date