



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

ORDER P-234

Appeal P-910194

Ministry of Intergovernmental Affairs



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O R D E R

On April 10, 1991, one letter containing 15 separate requests was received by the Ministry of Intergovernmental Affairs (the "institution") under the Freedom of Information and Protection of Privacy Act, 1987 (the "Act"). The requester sought access to background papers, memoranda, notes, correspondence and policy papers on a number of topics, including: Quebec, Meech Lake, the Senate, Israel, the PLO, South Africa, the ANC, Germany, the recession, and the GST.

On April 29, 1991, the institution responded to the requests in the following manner:

... the response time for your request has been extended for 60 days. Your request was received in this office on April 10, 1991 and therefore the extension is to June 9, 1991.

The reason for the extension is due to the amount of time involved in searching the large number of records related to fifteen (15) requests, and meeting the original time limit would unreasonably interfere with the operations of the Ministry.

On May 9, 1991, the requester appealed the decision of the institution to extend the statutory 30 day time limit for an additional 60 days. This 30 day time limit is contained in section 26 of the Act. Subsection 50(1) of the Act gives a person who has made a request for access to general records under subsection 24(1) 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.

As there was a discrepancy between the purported time extension of 60 days and the date established as the end of the time extension, the Appeals Officer contacted the institution's Freedom of Information and Privacy Co-ordinator to clarify the length of the time extension. By arriving at the date of June 9, 1991, the extension amounted to a period of only 40 days, since a time extension is considered to be any additional time beyond the statutory 30 day limit.

The circumstances were such that it was not possible to effect a mediated settlement of the appeal.

On May 24, 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 requests. 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 requests to June 9, 1991. The appellant was also notified of the inquiry and given the opportunity to comment on the issues raised by the appeal.

On June 6, 1991, the institution wrote to the appellant stating:

... the response time for your request has been extended for an **additional 60 days**. ... this additional extension will go from June 10, 1991 to August 8, 1991.

The reason for the additional extension is again due to the amount of time involved in searching the large number of records related to fifteen (15) requests, severing the documents involved and preparing them for

response to you, without severely affecting the day to day operations of the Ministry.

Both parties were provided with an additional opportunity to make representations. The institution made representations and indicated that its representations were to be in respect of both time extensions. The appellant chose to rely on the submissions he made in his letter of appeal.

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 each of the 15 separate requests is reasonable in the circumstances. Although there were two separate time extensions, I have decided that it would be most practical to direct my consideration to the reasonableness of the total time extension, that being 100 days to August 8, 1991.

Subsection 27(1)(a) of the Act provides that:

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;

Having carefully considered all of the information provided to me by 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 each of the appellant's 15 requests by 100 days to August 8, 1991, is reasonable.

I am satisfied that each of the 15 separate requests involves a large number of records and necessitates a search through a large number of records. I am satisfied that, in these circumstances, meeting the time limit set out in section 26 would unreasonably interfere with the operations of the institution.

In its representations, the institution appears to suggest that it will likely be required to send notices to third parties. Section 28 of the Act provides for notice to third parties in certain circumstances but the procedures for sending such notices are not relevant to the issue of time extension and are a separate consideration for the institution. Should any section 28 notices be sent, the institution must follow the appropriate procedures as set out in the Act.

POSTSCRIPT

As indicated, it is my view that a time extension of 100 days is reasonable. However, I am concerned with the institution's use of two separate time extensions. Generally speaking, it is my view that an institution, when assessing the time and resources it will need to properly respond to a request, must decide within the initial 30 day time limit for responding to the request, the length of any time extension it will need. Although I have concerns about the use of two separate time extensions, I have accepted that the 100 day time extension was

reasonable and, in the particular circumstances of this appeal,
I have decided to make allowances.

Original signed by:
Tom A. Wright
Commissioner

June 20, 1991
Date