



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

ORDER P-430

Appeals P-9200303 and P-9200304

Stadium Corporation of Ontario Limited



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ORDER

BACKGROUND:

The Stadium Corporation of Ontario Limited (SkyDome) received two requests under the Freedom of Information and Protection of Privacy Act (the Act) for access to: (1) 1990 and 1991 statistics on accidents/fatalities at Skydome and any attributable reasons (Appeal P-9200303); and for any warnings/penalties assessed in 1990 and 1991 for violations regarding fire safety, the Building Code, building construction and/or occupational safety (Appeal P-9200304). The requester asked for a fee waiver with respect to both requests.

SkyDome responded by providing the requester with the following fee estimate:

	Appeal P-9200303	Appeal P-9200304
Manual search to locate record in excess of 2 hours (\$7.50/15 minutes)	\$240.00	\$120.00
Costs of preparing record for disclosure (\$7.50/15 minutes)	\$ 30.00	\$ 45.00
Photocopy costs (20c/page)	\$ 12.00	\$ 14.00
Shipping costs	\$ 20.00	\$ 20.00

SkyDome did not make a substantive decision on access to the responsive records, but did ask the requester to pay a deposit equal to 50% of the estimated fees before the requests would be processed. Skydome also did not address the issue of fee waiver in either decision.

The requester appealed SkyDome's decisions regarding search and preparation time. In the case of Appeal P-9200303, the requester stated that he had received similar records before without having to pay a fee. The requester did not appeal the issue of fee waiver.

Mediation was not possible, and notice that an inquiry was being conducted to review both decisions of SkyDome was sent to the appellant and SkyDome. No representations were received from either party.

The sole issue arising in these appeals is whether the amount of the estimated fees in both appeals was calculated in accordance with section 57(1) of the Act.

Section 57(1) of the Act reads as follows:

Where no provision is made for a charge or fee under any other Act, a head shall require the person who makes a request for access to a record to pay,

- (a) a search charge for every hour of manual search required in excess of two hours to locate a record;
- (b) the costs of preparing the record for disclosure;
- (c) computer and other costs incurred in locating, retrieving, processing and copying a record; and
- (d) shipping costs.

SkyDome has provided no evidence to substantiate its fee estimate in either appeal. It has not justified the search time of ten hours in Appeal P-9200303 and six hours in Appeal P-9200304, or explained where the searches were conducted or how extensive they were. SkyDome also has not indicated what factors were considered in determining the preparation charges.

Therefore, I find that the amount of the estimated fee in both appeals does not comply with the requirements of section 57(1) of the Act, and SkyDome is precluded from charging any fee for searching and preparing the records in processing the appellant's two requests.

ORDER:

1. I do not uphold SkyDome's decision to charge a fee for the search and preparation costs of processing the appellant's two requests. I order SkyDome to issue proper decision letters in response to both of the appellant's original requests within 15 days of the date of this order.
2. In order to verify compliance with this order, I order SkyDome to provide me with a copy of each decision letter sent to the appellant within 20 days of the date of this order. These notices 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 Mitchinson
Assistant Commissioner

_____ March 9, 1993

