



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

ORDER M-76

Appeal M-910244

City of Peterborough



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ORDER

On November 6, 1992, I issued Interim Order M-59 in respect of this appeal. This order constitutes my final order, and addresses all matters which were unresolved at the time of the issuance of Interim Order M-59.

The appellant originally requested access to a copy of the entire correspondence and inspection files and any other correspondence in possession of the City of Peterborough (the "City") regarding a named address, including the dates and times that a named Fire Prevention Officer inspected and visited the address. The City disclosed fourteen responsive records to the appellant. The appellant was not satisfied with this response, and appealed the City's decision, claiming that additional responsive records should exist.

After receiving notification of the appeal, the City issued a second decision letter to the appellant, providing access to eight additional records, but denying access to other responsive records. During mediation, the scope of the appeal was narrowed to only one of these records. However, the appellant also maintained that some records had not been disclosed, and that other records, such as Fire Prevention Officers' notes and diary entries, should have been identified as being responsive to his request. The City's position was that the Fire Prevention Officers' notes and diary entries did exist, but that they were neither responsive to the appellant's request, nor in the City's custody and/or control. The City also maintained that the other additional records identified by the appellant did not exist.

In Interim Order M-59, I ordered the head to disclose the one record at issue to the appellant (Provision 1), and to provide the appellant with a proper decision letter regarding access to the notes and diary entries of the Fire Prevention Officers, and any other responsive records identified by the City which cover the period of the original request (Provision 3). I further ordered the City to provide me with an affidavit attesting to the records which were released to the appellant during the course of responding to his request and appeal, and the nature of the searches conducted to determine whether additional responsive records exist (Provision 4).

The City provided the appellant with access to the record which I had ordered disclosed. The City also issued its decision with respect to 53 pages of notes and diary entries of the Fire Prevention Officers, disclosing all parts of these records which were responsive to the request. In my view, Provisions 1 and 3 of Interim Order M-59 have been complied with.

Therefore, the only remaining issue relates to whether or not the City's search for additional records which would be responsive to the appellant's request was reasonable in the circumstances. Additional representations were received from the appellant and the institution on this issue.

In his representations, the appellant outlines his reasons for believing that additional records exist. The appellant believes that inspection reports and note book entries of fire department staff for March and April 1991 exist, because, according to the appellant, several inspections took place during this time period. In addition, the appellant believes that a notice of violation and a letter dated March 1, 1991 by a named individual exist, together with several "slanderous" character references. The City claims that these records do not exist.

As part of its representations, the City submitted a sworn affidavit by the employee who conducted the searches for additional responsive records. The affidavit outlines the scope of the various searches, which included a manual search of all relevant files at the Fire Department offices and various consultations with City employees who would be familiar with the matter.

Having carefully reviewed the representations of both parties, in my view, the City has taken all reasonable steps to locate additional records that would respond to the appellant's request, and I find that the search conducted by the City was reasonable, in the circumstances of this appeal.

Original signed by: _____
Tom Mitchinson
Assistant Commissioner

January 7, 1993