



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

ORDER P-383

Appeal P-920178

Ministry of Natural Resources



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ORDER

On October 1, 1992, the undersigned was appointed Inquiry Officer and received a delegation of the power and duty to conduct inquiries and make orders under the provincial Freedom of Information and Protection of Privacy Act and the Municipal Freedom of Information and Protection of Privacy Act.

The Ministry of Natural Resources (the Ministry) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for access to two files concerning the history and details of disposition of Lot 4, Concession 3, Township of Hugel, Nipissing District. The Ministry granted access to the requested records.

The requester examined the records and found in them references to other records which were not located in the file. Believing that these records exist, the requester appealed the Ministry's decision.

Mediation of the appeal was not successful, and notice that an inquiry was being conducted to review the Ministry's decision was sent to the appellant and the Ministry. Written representations were received from both parties.

The sole issue in this appeal is whether the Ministry's search for the requested records was reasonable in the circumstances.

The appellant believes that the Ministry has custody or control of additional records responsive to his request. The records the appellant believes are missing are:

- Application of [a named individual], referred to in letter dated June 18, 1946
- Response to letter dated August 2, 1941
- Telegram in response to telegram dated August 9, 1941
- Letter of June 21, 1946, referred to in letter dated July 4, 1946
- Letter of August 8, 1946, referred to in letter dated August 28, 1946
- Letter of September 24, 1947, referred to in letter dated October 9, 1947
- Letter of September 12, 1947 and sketch, referred to in letter dated November 28, 1947

The appellant submits that the records he is seeking access to may be contained in a file pertaining to a different lot number, and has provided documents which he believes point to the existence of the additional records.

The Ministry does not dispute the fact that additional responsive records may have existed. However, based on its search, the Ministry's position is that it has no such records in its custody or control. In addition to its representations, the Ministry provided two affidavits which outline the steps taken by the Co-ordinator in the Ministry's Land Registry office and a Senior Lands Technician in the Ministry's North Bay district office to locate any responsive records. The searchers conducted a manual search of "Crown Land Registry - Office of Surveyor General" and the current and "dead" files in the Ministry's North Bay District Office, and spoke to various Ministry employees who would be familiar with this matter.

In respect of one of the records identified by the appellant the Ministry submits that:

In the course of his search, [the Co-ordinator of the Land Registry office] was able to locate an application dated June 18, 1941 which was signed by [the named individual] and another. The year of the document found and that request[ed] differ. However, the date "June 18" is common to both documents and both documents are applications. Accordingly, it is possible that the document found is the one which [the appellant] has requested. As the document was located in the file which [the appellant] has already reviewed, the Ministry is prepared to again allow [the appellant] access to the document.

I have carefully reviewed the representations of both parties and the documentary evidence submitted by the appellant. I am satisfied that the search conducted by the Ministry was reasonable in the circumstances.

Original signed by: _____
Holly Big Canoe
Inquiry Officer

_____ December 16, 1992