



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

ORDER P-409

Appeal P-9200293

Stadium Corporation of Ontario Limited



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ORDER

BACKGROUND:

The Stadium Corporation of Ontario Limited (SkyDome) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for access to certain agreements and related records referred to in a November 14, 1991 announcement made by SkyDome.

SkyDome advised the requester that an estimated fee of \$360 was being charged for manual search time required to process the request, and asked the requester to pay a deposit of \$180 before the request would be processed. The requester appealed SkyDome's decision regarding the fee estimate, and also asked for any fee to be waived.

Mediation was not possible, and notice that an inquiry was being conducted to review SkyDome's decision was sent to the appellant and SkyDome. Written representations were received from SkyDome.

ISSUES:

The issues arising in this appeal are:

- A. Whether the amount of the estimated fee was calculated in accordance with section 57(1)(a) of the Act.
- B. Whether SkyDome's decision not to waive the fee was in accordance with section 57(4) of the Act.

SUBMISSIONS/CONCLUSIONS:

ISSUE A: Whether the amount of the estimated fee was calculated in accordance with section 57(1)(a) of the Act.

Section 57(1)(a) 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 search charge for every hour of manual search required in excess of two hours to locate a record;

The only statement made by SkyDome in its representations relating to the fee estimate is the following:

Our fee estimate of \$360.00 was comprised as follows:

an amount of \$360.00 was for time spent manually searching for the Record in addition to two hours at a rate of \$7.50 for each additional fifteen minutes spent.

In my view, the evidence provided by SkyDome in support of its fee estimate is not sufficient to substantiate its claim. SkyDome's representations contain no explanation regarding where the search was held, the volume of the records or other factors which would enable me to determine if the fee is in accordance with the provisions of section 57(1)(a). Therefore, I find that the amount of the estimated fee does not comply with the requirements of section 57(1)(a) of the Act, and SkyDome is precluded from charging any fee for processing the appellant's request.

Because any records which may be released to the appellant in response to his request will not be subject to a fee, it is not necessary for me to consider Issue B.

ORDER:

1. I do not uphold the head's decision to charge a fee for processing the appellant's request. I order SkyDome to provide a proper decision letter in response to the appellant's original request 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 the decision letter sent to the appellant within 20 days of the date of this order. This 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: _____

February 10, 1993

Tom Mitchinson
Assistant Commissioner