



**Information and Privacy  
Commissioner/Ontario**

**Commissaire à l'information  
et à la protection de la vie privée/Ontario**

# **ORDER M-124**

**Appeal M-9200223**

**Ottawa-Carleton Regional Transit Commission**



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# ORDER

The Ottawa-Carleton Regional Transit Commission (OC Transpo) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to (a) a complete copy of its records description and personal information banks directory, and (b) a complete copy of its record retention by-law schedule. Part (b) of the request was subsequently clarified as follows:

... please list the statutes, sections, subsections, etc. and any and all regulations that they [the record retention by-law schedules] are subject to. My intentions are to review these laws ... so I may understand the records OC Transpo has under its custody and control on employees. In addition, I also require to know your retention and disposal mandate on these employment records.

OC Transpo granted access to the records requested and responded to part (a) of the request by providing a copy of the Regional Municipality of Ottawa-Carleton By-law No. 276 of 1982 on records retention and its "List of Record Categories by Division". OC Transpo responded to part (b) of the request, as clarified, by sending the appellant a copy of The Employment Law Report, December 1989, Volume 10, Number 12, and subsequently, a copy of its corporate policy document entitled CP 1005, dated April 14, 1982.

The requester appealed OC Transpo's decision as he believes more records exist with respect to part (b) of his request, as clarified.

During mediation, the appellant indicated that he was not satisfied with the record entitled CP 1005 as he believes that a more current version of the policy exists. The basis for his belief stems from a letter he received from OC Transpo dated February 18, 1991. In this letter, the former Freedom of Information Co-ordinator stated that she would provide the appellant with a copy of the records retention policy "as soon as it is available" and that "... it is currently being revised to ensure that it complies with the new G.S.T. legislation introduced on 1 January 1991". The present Co-ordinator informed the Appeals Officer that CP 1005 had never been updated. She explained that the wrong word had been used by the previous Co-ordinator and that the policy document CP 1005 had not been "revised", but rather that it had only been "reviewed". The appellant is not satisfied with this explanation and wished to continue with the appeal.

Mediation of the appeal was not successful, and notice that an inquiry was being conducted was sent to the appellant and OC Transpo. Representations were received from both parties.

The sole issue in this appeal is whether OC Transpo has conducted a reasonable search to locate the records responsive to the request.

OC Transpo provided affidavits from the following personnel attesting to the steps taken to locate responsive records and to the extent of the search conducted: the previous and present Freedom of Information Co-ordinators; the Head, Administrative Services, Finance and Administration; and the

Assistant Superintendent of Operating Personnel in the Transportation Division.

With the exception of By-law No. 276, the affidavits state that OC Transpo does not have by-laws governing administrative matters and that an overall records retention schedule was never created. With respect to records retention relating to employment records, they indicate that OC Transpo uses the general Ontario guidelines printed in The Employment Law Report dated December 1989. Although not directly responsive to the request, a copy of this record was provided to the appellant by OC Transpo.

OC Transpo also provided the appellant with what it said was the only policy document in its custody and control which referred to records retention, namely, CP 1005. During mediation, access was granted to three records referred to in this policy document.

The appellant believes that a more current version of the policy document CP 1005 written in 1982 exists. The affidavits received attest that policy document CP 1005 was written in 1982, and although "reviewed" to ensure it complies with the new G.S.T. legislation, OC Transpo states that it was never revised.

I have carefully reviewed the representations of the parties. In my view, several thorough searches were conducted for the records sought by the appellant during the processing of the request and the appeal, and I am satisfied that the search conducted by OC Transpo was reasonable in the circumstances of this Appeal.

Original signed by: \_\_\_\_\_ April 26, 1993  
 Asfaw Seife  
 Inquiry Officer