



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

# **ORDER M-177**

**Appeal M-9300133**

**Municipality of Metropolitan Toronto**



80 Bloor Street West,  
Suite 1700,  
Toronto, Ontario  
M5S 2V1

80, rue Bloor ouest  
Bureau 1700  
Toronto (Ontario)  
M5S 2V1

416-326-3333  
1-800-387-0073  
Fax/Télé: 416-325-9195  
TTY: 416-325-7539  
<http://www.ipc.on.ca>

# ORDER

The Municipality of Metropolitan Toronto (the Municipality) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to a list of ambulance calls received in east Toronto between 12 noon and 3 p.m. on February 14, 1993. The Municipality decided to grant access to the responsive records and issued a fee estimate of \$107.50. The requester appealed, stating that payment of the fee would cause him financial hardship.

During mediation of the appeal, the appellant provided the Municipality with information about his financial status and requested the Municipality to waive the fee under section 45(4) of the Act. The Municipality reduced the fee estimate from \$107.50 to \$76.50. The appellant continued the appeal stating that payment of the reduced fee would still cause him financial hardship. The appellant did not dispute the calculation of the fee estimate.

Notice that an inquiry was being conducted was sent to the appellant and the Municipality. Representations were received from both parties.

The sole issue in this appeal is whether the Municipality's decision not to waive the fee was proper in the circumstances of this appeal.

Section 45(4)(b) of the Act reads:

A head shall waive the payment of all or any part of an amount required to be paid under this Act where, in the head's opinion, it is fair and equitable to do so after considering,

whether the payment will cause a financial hardship for the person requesting the record;

It has been established in previous orders that the person requesting a fee waiver has the responsibility to support the claim for waiver (Orders 4, 10, 111 and M-166).

In interpreting the opening paragraph of section 57(4) of the provincial Freedom of Information and Protection of Privacy Act, which is similar to section 45(4) of the Act, Assistant Commissioner Irwin Glasberg has stated that the phrase "in the head's opinion" means that the head of an institution has a duty to determine whether it is fair and equitable in a particular case to waive a fee and held that the Commissioner has a statutory authority to review the correctness of that decision (Order P-474). I agree with Assistant Commissioner Glasberg's view and adopt it for the purposes of this appeal.

The Municipality states that it has considered the appellant's financial circumstances and has accordingly reduced the fee. It states that "in reducing the fee, the institution has taken a position which is reasonable and equitable in the circumstances". The Municipality indicates that its position reflects the balancing of its obligation to provide access to information with its responsibility to manage public funds wisely. In addition,

the Municipality states that in refusing to waive the remainder of the fee, it has taken into account that the actual cost of processing the request exceeds the amount in its initial fee estimate.

The appellant submits that payment of the fee would cause financial hardship for him and has provided certain documents to support his claim. Having reviewed the information in these documents, I am not convinced that payment of \$76.50 would cause a financial hardship for the appellant. I believe that the Municipality has endeavoured to accommodate the appellant's situation by reducing the fee substantially, and after considering the representations of the Municipality, I am satisfied that its decision not to grant a total fee waiver is fair and equitable in the circumstances of this appeal.

**ORDER:**

I uphold the Municipality's decision not to waive the fee.

Original signed by: \_\_\_\_\_  
Asfaw Seife  
Inquiry Officer

\_\_\_\_\_  
August 19, 1993