



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

ORDER P-570

Appeal P-9300058

Ministry of Finance



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ORDER

The requester, in his capacity as Executor of the estate of a named individual, filed a request with the Ministry of Finance (the Ministry) under the Freedom of Information and Protection of Privacy Act (the Act) for access to all records relating to Provincial Land Tax Files on lands described as: Mining Claim L9931 (Land Titles Parcels 7600 and 8458, Centre Section Temiskaming, Township of Gauthier) and Mining Claim L9932 (Land Titles Parcel 2934 Centre Section Temiskaming, Township of Lebel). The Ministry was unable to locate any responsive records.

Access was also requested to all records in the custody or under the control of the Ministry concerning personal and business taxes, Succession Duty Tax and related matters pertaining to the estate of the deceased individual for which the requester is the Executor. The Ministry located one responsive record in its Succession Duty records and disclosed it to the requester.

The requester appealed the Ministry's decision on the basis of his belief that additional records should exist.

Mediation was not successful, and notice that an inquiry was being conducted to review the Ministry's decision was sent to the Ministry and the appellant. 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.

Where a requester provides sufficient detail about the records which he or she is seeking and an institution indicates that additional records do not exist, it is my responsibility to ensure that the institution has made a reasonable search to identify the records which are responsive to the request. While the Act does not require that an institution prove to the degree of absolute certainty that such records do not exist, the search which the institution undertakes must be conducted by knowledgeable staff in locations where the records in question might reasonably be found.

In its representations, the Ministry has provided a letter from an individual with knowledge of the type of records being requested. This individual performed the searches to locate records responsive to this request. The letter and the representations of the Ministry specifically describe the steps taken to locate responsive records and refer to various records retention schedules which govern records of the type requested. Searches of the historical microfiche and computer records relating to Provincial Land Tax were undertaken under the name of the deceased individual and through the property assessment roll numbers. No records relating to either were located. A search of the card index relating to the payment of Succession Duty Tax by the estate of the deceased individual led to one record being located, which was made available to the

requester. The closed file referred to in the index card was destroyed, pursuant to the records retention schedule, in 1984.

Having carefully reviewed the representations of all the parties, including the letter submitted by the person who conducted the search, I am satisfied that the Ministry has made every effort to locate any records responsive to the appellant's request, and that the search conducted by the Ministry was reasonable in the circumstances of this appeal.

ORDER:

I uphold the decision of the Ministry.

Original signed by: _____
Donald Hale
Inquiry Officer

_____ November 2, 1993