



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

ORDER P-558

Appeal P-9300238

Ministry of Environment and Energy



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 Ministry of Environment and Energy (the Ministry) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for access to a copy of the Crown brief and the exhibits used by the Investigations and Enforcement Branch of the Ministry in a court action involving the requester. The requester also sought access to the sworn statement of one of the witnesses involved in the action. The Ministry forwarded this second part of the request to the Ministry of the Attorney General pursuant to section 25 of the Act.

With respect to the first part of the request, the Ministry issued a decision granting the requester access in full to the Crown brief and providing him with a fee estimate pursuant to section 57(1) of the Act. The fee estimate was calculated as follows:

photocopying 56 pages @ \$0.20 per page	\$	11.20
one large plan	\$	12.00
one large property abstract	\$	12.00
19 pictures (approximate cost)	\$	25.00
preparing the record for disclosure-		
1.25 hours @ \$30.00 per hour	\$	37.50
delivery	\$	5.00
		<hr/>
TOTAL	\$	102.70

The requester appealed.

During mediation of the appeal, the appellant advised that he was no longer seeking access to the pictures. Accordingly, this \$25.00 charge is no longer at issue in this appeal.

Further mediation was not possible and notice that an inquiry was being conducted to review the decision of the Ministry was sent to the Ministry and the appellant. Representations were received from the Ministry only.

The sole issue in this appeal is whether the amount of the estimated fee was calculated in accordance with section 57(1) of the Act which 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) a search charge for every hour of manual search required in excess of two hours to locate a record;

- (b) the costs of preparing the record for disclosure;
- (c) computer and other costs incurred in locating, retrieving, processing and copying a record; and
- (d) shipping costs.

Section 6 of R.R.O. 1990, Reg.460, as amended, made under the Act states, in part:

The following are the fees that shall be charged for the purposes of section 57(1) of the Act:

1. For photocopies and computer printouts, 20 cents per page.
- ...
4. For preparing a record for disclosure, including severing a part of the record, \$7.50 for each fifteen minutes spent by any person.

In reviewing the Ministry's fee estimate, my responsibility under section 57(1) of the Act is to ensure that the amount estimated by the Ministry is reasonable in the circumstances. In this regard, the burden of establishing the reasonableness of the estimate rests with the Ministry. In my view, the Ministry discharges the burden by providing me with detailed information as to how the fee estimate was calculated, and by providing sufficient evidence to support its claim.

In its representations, the Ministry indicated that the charge for preparing the records for disclosure was no longer at issue as this cost was associated with the pictures to which the appellant no longer seeks access.

The Ministry also provided a revised estimate relating to the photocopying charges. It indicated that the Crown brief actually contained 54 pages and 22 pages of exhibits, which had been requested by the appellant. At \$0.20 per page, the revised total photocopying charge is \$15.20. This charge includes fees for the "large plan" and the "large property abstract" for which photocopying charges of \$12.00 each had initially been levied.

The Ministry has also provided me with representations as to the calculation of the fee estimate with respect to the shipping charges.

Based on the evidence provided by the Ministry, I am of the view that the \$15.20 fee for photocopying and the \$5.00 fee for shipping charges comply with section 57(1) of the Act. The Ministry has confirmed in its representations that, upon payment of the total fee of \$20.20, the appellant will be granted access in full to the record at issue.

ORDER:

I uphold the Ministry's decision to charge a fee in the amount of \$20.20.

Original signed by: _____
Anita Fineberg
Inquiry Officer

_____ October 20, 1993