



**Information and Privacy
Commissioner/Ontario**

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

ORDER M-248

Appeal M-9300188

City of Toronto



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ORDER

The City of Toronto (the City) received a request pursuant to the Municipal Freedom of Information and Protection of Privacy Act (the Act) relating to its' Cityhome agency for:

... a **detailed** audited statement of your offices expenses related to facsimile (cost of toll charges and fax paper). [emphasis added]

The City clarified with the requester that the request was for audited statements of fax expenses incurred by Cityhome.

The City failed to issue a decision with respect to access within the statutory 30 day period, and was deemed to have refused access to the records pursuant to section 22(4) of the Act. The City subsequently issued a decision that specific records responsive to the request do not exist and provided the requester with a copy of Cityhome's Annual Report which included its' audited Financial Statements and Auditor's Report for the year 1991. Having issued a decision, the deemed refusal by the City is no longer an issue in this appeal. The requester appealed the decision of the City to the Commissioner's office.

Mediation of the appeal was not successful and notice that an inquiry was being conducted to review the City's decision was sent to the City and the appellant. Representations were received only from the City.

The sole issue to be decided in this appeal is whether the City's search for responsive records was in accordance with the provisions of section 17 of the Act.

Section 17(1) of the Act states that:

A person seeking access to a record shall make a request for access in writing to the institution that the person believes has custody or control of the record and shall provide sufficient detail to enable an experienced employee of the institution, upon a reasonable effort, to identify the record.

Where a requester provides sufficient detail about the records which he or she is seeking and an institution indicates that 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 provide 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 City has provided an affidavit from the Manager of the Administrative Services Section of the Department of Housing and Cityhome, an individual with knowledge of the type of records being requested and where they may be located, who outlines the steps taken to locate records responsive to the request.

I have carefully reviewed the City's representations, and I am satisfied that the City has taken all reasonable steps to locate any records which are responsive to the appellant's request. Accordingly, I find that the search conducted by the City was reasonable in the circumstances of this appeal.

ORDER:

I uphold the decision of the City.

Original signed by: _____
Donald Hale
Inquiry Officer

_____ January 17, 1994