



**Information and Privacy  
Commissioner/Ontario**

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

# **ORDER M-301**

**Appeal M-9300497**

**The Corporation of the County of Northumberland**



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# ORDER

On March 28, 1994, the undersigned was appointed Inquiry Officer and received a delegation of the power and duty to conduct inquiries and make orders under the provincial Freedom of Information and Protection of Privacy Act and the Municipal Freedom of Information and Protection of Privacy Act.

The Corporation of the County of Northumberland (the County) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to copies of records concerning a number of landfill sites. The County agreed to disclose the information and provided the requester with a fee estimate of \$3,400 based on records of approximately 5,000 pages. The requester appealed the fee estimate.

During mediation, the County provided the requester with copies of the records totalling 15,885 pages and provided an invoice in the amount of \$5,022. The appellant agreed to pay a reasonable fee for the records but maintained that the amount charged was not reasonable. Mediation was not successful and notice that an inquiry was being conducted to review the County's decision was sent to the appellant and the County. Representations were received from both parties.

The sole issue in this appeal is whether the fee charged was calculated in accordance with section 45(1) of the Act.

Sections 45(1) and 45(6) of the Act provide as follows:

- (1) If 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.
- (6) The costs provided in this section shall be paid and distributed in the manner prescribed by the regulations.

Section 6 of R.R.O. 1990, Reg. 823 states, in part:

The following are the fees that shall be charged for the purposes of subsection 45(1) of the Act:

1. For photocopies and computer printouts, 20 cents per page.  
...
3. For manually searching for a record after two hours have been spent searching, \$7.50 for each fifteen minutes spent by any person.
4. For preparing a record for disclosure, including severing a part of the record, \$7.50 for each fifteen minutes spent by any person.  
...

The invoice provided by the County in the amount of \$5,022 was set out as follows:

15,885 copies @ \$.20/copy	..	..	..	\$3,177
			<b>Hours</b>	
Named individual # 1	..		43.5	
# 2	..		14	
# 3	..		2	
# 4	..		2	
# 5	..		2	
			63.5	
Minus 2 hours	..	-2		
			61.5 @ \$30.00/hour	.. \$1,845
			<b>TOTAL</b>	<b><u>\$5,022</u></b>

In reviewing the County's fee, my responsibility under subsection 45(5) of the Act is to ensure that the amount is reasonable in the circumstances. In this regard, the burden of establishing the reasonableness of the fee rests with the County. In my view, the County discharges its burden by providing me with detailed information as to how the fee charged has been calculated, and by producing sufficient evidence to support its claim.

I will now examine each component of the invoice to determine the reasonableness of the fee.

**PHOTOCOPYING CHARGES:**

The County has charged \$3,177 for photocopies based on 15,885 copies at \$.20 per page. I am satisfied that this cost was calculated in accordance with section 45(1) of the Act.

**PREPARATION TIME/SEARCH TIME:**

The County has charged a total of 63.5 hours of search time and preparation time (less two hours of free search time) at a rate of \$7.50 per 15 minutes. This represents the total time spent by two clerical staff and three senior level staff. In its representations, the County does not indicate what portion of this time was taken to perform the search and what portion was for preparing the record.

With respect to search time, the County submits that the records requested span a period of ten years and that the nature of the request required the search to be done by various senior level employees. I accept the County's submission in this regard. However, it appears that most of the time charged for search time and preparation time represents time spent photocopying the records. The copy of the time sheets for individual 1 included with the County's representations indicate that the time was spent photocopying the records. Based on the County's representations that individual 1 was hired on a temporary basis, it is not reasonable to conclude that a temporary employee could be familiar enough with the records to be searching for them.

Twenty cents per page is the maximum amount that may be charged for photocopying and this includes the cost of an individual "feeding the machine" (Order P-490). I find that the maximum charge for photocopies has already been claimed and the County may not include the time spent actually photocopying the records within the calculation of preparation or search time. Accordingly, I find that only the time spent by individuals 2, 3, 4 and 5 as charged by the County is reasonable in the circumstances of this appeal.

With respect to preparing the records for disclosure, the County granted full access to the records requested and did not apply any exemptions. Therefore, the records did not need preparation in the way of severing. In its representations, the County states that the records were prepared by removing staples and paperclips, copying the relevant pages and then returning the pages to the books. In Order 4, former Commissioner Sidney B. Linden, in considering the issue of preparation charges, stated:

In my view, the time involved in making a decision as to the application of an exemption should not be included when calculating fees related to preparation of a record for disclosure. Nor is it proper to include time spent for such activities as packaging records for shipment, transporting records to the mailroom or arranging for courier service. In my view, "preparing the record for disclosure" ... should be read narrowly ...

I agree with this view and find that the type of preparation of the records performed in this case falls more

appropriately under photocopying charges, the maximum charge for which has already been claimed. The County has not provided any evidence on any other type of preparation which could warrant recovery of costs under the Act. In Order P-608 Inquiry Officer Donald Hale allowed preparation costs for removing records from cerlox bound volumes and for taping together large maps. There is no evidence that the records in this appeal require such special preparation. I find that the County has not substantiated its claim for preparation time and no charge is allowed.

In summary, I find that the fees chargeable in this appeal are as follows:

**Search time for:**

	<b>Hours</b>			
Named individual	# 2	..	14	
	# 3	..	2	
	# 4	..	2	
	# 5	..	2	
			20	
Minus 2 hours	..	-2		
<b>Total time allowed</b>			18	@ \$7.50/15 mins. .. \$540

**Photocopying Charges for:**

15,885 pages @ \$0.20/page	..	\$3,177
<b>Total charges allowed</b>	..	<u><b>\$3,717</b></u>

**ORDER:**

I allow the County to charge \$3,717 for search fees and photocopying costs.

Original signed by: \_\_\_\_\_  
Mumtaz Jiwan  
Inquiry Officer

\_\_\_\_\_ April 14, 1994