



Information and Privacy
Commissioner/Ontario

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

ORDER M-239

Appeal M-9300171

The Corporation of the Township of Maidstone



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ORDER

The Corporation of the Township of Maidstone (the Township) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to the cash register receipts for 16 specified purchases charged to the Township Visa account used by the Reeve. The request described the location and amount of each purchase. The requester specified that the request was only for the cash register receipts, and not for copies of the charge slips or statements, as the requester already had copies of these items.

The Township responded to the request by stating that it is not Township policy for the Reeve to submit cash register receipts for expenses paid on the Visa card. However, the Township did grant the requester access to copies of two of the cash register receipts which it did locate. In addition, the Reeve reviewed the Visa receipts and provided the requester with a brief explanation for 14 of the 16 items. The requester appealed the decision of the Township.

Mediation was not successful and notice that an inquiry was being conducted to review the Township's decision was sent to the Township and the appellant. Representations were received from both parties.

In its representations, the Township submitted that the cash register receipts had never been in the possession of the Township. A supplementary Notice of Inquiry was sent to the parties to request representations on this issue. Supplementary representations were received from the appellant and the Township.

The sole issue in this appeal is whether the Township's search for responsive records was reasonable in the circumstances.

In her first set of representations, the appellant outlines why it is her belief that additional records should exist. She indicates that the fact that the Township located two cash register receipts suggests that more should exist. The appellant has also provided a copy of a letter to the editor of the local newspaper, apparently written by the Reeve, in which the author of the letter states "All receipts are kept on file in the municipal offices". In addition, the appellant maintains that she has not been provided with a copy of the policy referred to by the Township regarding the Reeve's use of the Visa card and the requirement that only the Visa slips, not other receipts, are to be provided to the Township by the Reeve. The appellant reiterates these points in her supplementary representations.

As part of its initial representations, the Township provided the Commissioner's office with affidavits sworn by two of the Township staff. One affidavit is sworn by the Assistant Treasurer of the Township, and summarizes the types of records which are maintained by the Township, the searches conducted to attempt to identify any additional records responsive to the request, and the results of those searches. Specifically, the affidavit indicates that the searches of the Township's Accounts Payable files for the relevant years produced the two cash register receipts provided to the appellant, and no additional records.

The second affidavit is sworn by the Acting Clerk for the Township. In this affidavit, the Acting Clerk summarizes the steps taken to respond to the request by the appellant, and the searches conducted by the

Assistant Treasurer. In addition, the Acting Clerk states that "The documentation being sought by the Appellant herein has not ever been in the possession of the [Township]".

As part of its supplementary representations, the Township submitted an affidavit sworn by the Reeve. The Reeve states as follows: "To the best of my knowledge, I have never been in possession of any cash register receipts or other receipts which pertain to the Visa slips ...". The Reeve also states that he retains and provides to the Township the Visa slips corresponding to the various credit card purchases made.

Where a requester provides sufficient details 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 any 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 an institution undertakes must be conducted by knowledgeable staff in locations where the records in question might reasonably be found.

Having carefully reviewed the representations and the affidavits provided, I am satisfied that the Township has taken all reasonable steps to locate any additional records responsive to the appellant's request, and that the search conducted by the Township was reasonable in the circumstances of this appeal.

POSTSCRIPT:

I would like to emphasize that there was no information before me indicating whether or not the Reeve is obliged to provide copies of the cash register receipts to the Township. While the appellant maintains that the Reeve's letter to the editor suggests that is the case, the letter merely states that "... all **receipts** are kept on file in the municipal office". I cannot ascertain from this comment whether the reference is to the credit card receipts, the cash register receipts or both. This appears to be a matter which the Township could clarify for the appellant.

Original signed by: _____
Anita Fineberg
Inquiry Officer

_____ December 9, 1993