



**Information and Privacy
Commissioner/Ontario**

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

ORDER M-349

Appeal M-9400163

Town of Ancaster



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NATURE OF THE APPEAL:

This is an appeal under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The appellant requested a copy of the resumé of a named employee (the employee) from the Town of Ancaster (the Town). Although it initially refused to disclose the resumé to the appellant, the Town subsequently did so.

However, upon receiving the resumé, the appellant asserted that he had not been provided with a true copy of the resumé of the employee but, in fact, had been provided with an amended or altered copy that differed from the original.

The Town's position was that it **had** provided the appellant with a **true** copy of the original resumé and that no further records responsive to the appellant's request existed. The appellant appealed this decision of the Town.

Notice that an inquiry was being conducted to review the decision of the Town was sent to the Town, the appellant and the employee. Representations were received from the Town only.

The sole issue in this appeal is whether the Town has conducted a reasonable search for the record which is responsive to the appellant's request.

REASONABLENESS OF SEARCH

The Act does not require the Town to prove with absolute certainty that the requested record does not exist. However, in my view, in order to properly discharge its obligations under the Act, the Town must provide me with sufficient evidence which shows that it has made a **reasonable** effort to identify and locate records responsive to the request (Order M-275).

The representations of the Town include the sworn affidavit of the employee whose resumé was disclosed to the appellant. That employee affirms that the copy of the record provided to the appellant is a **true** copy of his resumé and that he has never submitted any other resumé to the Town.

The representations also include an affidavit sworn by the Executive Secretary to the Mayor and the Chief Administrative Officer of the Town. This individual retrieved the original resumé from the employee's personnel file in response to the appellant's original request. The affidavit indicates that all of the Town's personnel records are kept in one location and that it is the practice of the Town to date-stamp all covering letters which accompany resúmes forwarded to the Town.

In response to the original request, the affiant states that she located the requested resumé in the employee's personnel file and that still attached to it was the covering letter that accompanied it. She further states that the date stamp on the covering letter predated the employee's employment with the Town and that to the best of her knowledge, the copy of the resumé provided to the appellant is the **only** resumé of the employee in the possession of the Town.

In the third affidavit submitted as part of the Town's representations, the Town's Freedom of Information and Privacy Co-ordinator also affirms that to the best of her knowledge, the only resumé of the employee in the Town's possession is the one which was provided to the appellant.

In the circumstances of this appeal, the Town has provided evidence from the only potential creator of such a record that only one such record exists and that it was the one which **was** disclosed to the appellant. Accordingly, I am satisfied that the Town has undertaken a reasonable search to locate the record responsive to the appellant's request.

ORDER:

I uphold the decision of the Town.

Original signed by: _____
Anita Fineberg
Inquiry Officer

July 12, 1994