



**Information and Privacy
Commissioner/Ontario**

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

ORDER M-403

Appeal M-9400282

Municipality of Metropolitan Toronto



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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 has requested copies of records from the Municipality of Metropolitan Toronto (the Municipality) relating to the number of Workers' Compensation Board (WCB) claims, filed during a specified time frame, in which the use of video display terminals (VDTs) was a factor in the claim.

The Municipality provided a fee estimate of \$120, which represents \$60 for one hour of computer processing time and \$60 for two hours of manual search time (in addition to the initial two hours of search time for which no fee is allowable). The Municipality also advised the appellant that photocopying charges would be applied at \$0.20 per page once the number of pages was known. In addition, severances would be made to the records pursuant to section 14(1). The Municipality indicated that the appellant would be apprised of the costs of severing the record at a later date.

The appellant requested a fee waiver for the full amount of the fees. The Municipality agreed to waive any costs relating to severing and photocopying the record. In appealing the Municipality's decision the appellant originally objected to the amount of the fees and the decision to deny a fee waiver of the full amount of the fees.

Following mediation, however, the sole issue remaining is whether the Municipality's decision not to waive the fees in full was proper in the circumstances of this appeal.

A Notice of Inquiry was provided to the Municipality and the appellant. Representations were received from both parties.

DISCUSSION:

The appellant indicates that his request for a fee waiver is based on section 45(4)(c) of the Act, which states:

A head shall waive the payment of all or any part of an amount required to be paid under this Act if, in the head's opinion, it is fair and equitable to do so after considering,

whether dissemination of the record will benefit public health or safety;

It has been established in previous orders that the person requesting a fee waiver has the responsibility to provide adequate evidence to support a claim for a fee waiver.

In Order P-474, Assistant Commissioner Irwin Glasberg identified the following four factors as relevant in determining whether dissemination of a record will benefit public health or safety under section 57(4)(c) of the Freedom of Information and Protection of Privacy Act, which is identical to section 45(4)(c) of the Act:

1. Whether the subject matter of the record is a matter of public rather than private interest;

2. Whether the subject matter of the record relates directly to a public health or safety issue;
3. Whether the dissemination of the record would yield a public benefit by a) disclosing a public health or safety concern or b) contributing meaningfully to the development of understanding of an important public health or safety issue;
4. The probability that the requester will disseminate the contents of the record.

In his representations, the appellant provides extensive background information on VDTs in the workplace and the health concerns that have been generated as a result of their use. He states that knowledge of the actual number of workers who are harmed sufficiently to file a WCB claim would provide evidence of the danger of their use. He indicates further that as a member of C.U.P.E. he would be in a position to disseminate the information through the union membership and executive.

The Municipality acknowledges that the subject matter of this request has been of public interest for many years and that there have been numerous studies devoted to the subject. It submits, therefore, that dissemination of the record at issue would not yield a public benefit in that it would not add anything sufficiently new or significant to the debate.

I have carefully reviewed the representations of the parties. I accept that the use of VDTs in the workplace itself is an issue of public concern. I find, however, that the appellant has not provided sufficient evidence to demonstrate that the dissemination of the records at issue would yield a public benefit by disclosing a public health or safety concern or that it would contribute meaningfully to the development of understanding of an important public health or safety issue.

ORDER:

I uphold the decision of the Municipality not to waive the fees.

Original signed by: _____
Laurel Cropley
Inquiry Officer

_____ October 17, 1994