



**Information and Privacy  
Commissioner/Ontario**

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

# **ORDER M-359**

**Appeal M-9400219**

**Northwestern Health Unit**



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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 information from the Northwestern Health Unit (the Health Unit) concerning a named individual's knowledge of the requester's sewage system prior to August 27, 1991. The Health Unit responded to this request by stating that it has no documentation concerning the appellant's sewage system for the specified time frame.

A Notice of Inquiry was provided to the parties to the appeal and representations were received from both parties.

The sole issue in this appeal is whether the Health Unit conducted a reasonable search for responsive records.

## **DISCUSSION:**

### **REASONABLENESS OF SEARCH**

In my view, the Act does not require the Health Unit to prove with absolute certainty that the requested records do not exist. However, in order to properly discharge its obligations under the Act, the Health Unit must provide me with sufficient evidence to show that it has made a reasonable effort to identify and locate records responsive to the request.

The representations of the Health Unit include the sworn affidavit of the Land Control Officer who conducted the search for the relevant records. His affidavit indicates that he was assisted in his search by a clerk.

The Land Control Officer states that the appellant's file is located in a filing cabinet containing files on all services covered by the Health Unit's former Inspection Department. The appellant's file is stored alphabetically among files relating to similar sewage services. All of these files were searched for responsive records, as were all of the "sewage" correspondence files.

In addition, the former inspection department has four boxes in remote storage. These boxes were searched three times for relevant records.

The Land Control Officer indicates that it is possible that some documents which were previously in existence no longer exist. The Health Unit took over the sewage program from the Ministry of the Environment and Energy in 1975. In searching the files, no other sewage system correspondence from the mid 1970's was found. The policies of the Health Unit allow non-financial documents to be destroyed after three years. This includes sewage files. Therefore, it is possible that some of the documents are no longer in existence.

I have carefully reviewed the representations of the parties, and the affidavit of the Health Unit, and I am satisfied that the Health Unit has taken all reasonable steps to locate any records responsive to the appellant's request.

**ORDER:**

I uphold the decision of the Health Unit.

Original signed by: \_\_\_\_\_  
John Higgins  
Inquiry Officer

\_\_\_\_\_  
July 22, 1994