



**Information and Privacy
Commissioner/Ontario**

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

ORDER M-399

Appeals M-9400279 and M-9400280

Municipality of Metropolitan Toronto



80 Bloor Street West,
Suite 1700,
Toronto, Ontario
M5S 2V1

80, rue Bloor ouest
Bureau 1700
Toronto (Ontario)
M5S 2V1

416-326-3333
1-800-387-0073
Fax/Télééc: 416-325-9195
TTY: 416-325-7539
<http://www.ipc.on.ca>

NATURE OF THE APPEAL:

These are appeals under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The Municipality of Metropolitan Toronto (the Municipality) received a request for all of the requester's personal information located in the Treasury and Corporate Personnel departments of the Municipality.

The Municipality responded to the request by issuing two separate decision letters from the Treasury Department and the Corporate Personnel Department. In its decisions, the Municipality granted partial access to a total of 85 pages from the Treasury Department and 60 pages from the Corporate Personnel Department. Access was denied to those parts of the records that contained personal information of other individuals. The appellant appealed both decisions, on the basis that more responsive records should exist.

Appeal Numbers M-9400279 and M-9400280 were assigned to the appeals. Because the institution, the appellant and the issue are the same, this order will dispose of both appeals.

During mediation, another search was conducted by the Municipality which resulted in additional records being disclosed to the appellant.

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

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

DISCUSSION:

REASONABLENESS OF SEARCH

Where a requester provides sufficient details about the records to which she is seeking access and the Municipality indicates that the records do not exist, it is my responsibility to ensure that the Municipality has made a reasonable search to identify the records which are responsive to the request. While the Act does not require the Municipality to prove to the degree of absolute certainty that such records do not exist, the search which the Municipality undertakes must be conducted by knowledgeable staff in locations where the records in question might reasonably be located.

Appeal Number M-9400279

The Municipality's representations include the sworn affidavit of the Freedom of Information and Privacy Co-ordinator for the Corporate Personnel Department (the Personnel Co-ordinator). This individual was personally involved in searching for the records. The Personnel Co-ordinator describes the steps taken by the Municipality to identify the records responsive to the request. A search of the Corporate Personnel Department located the appellant's Corporate Personnel file. This file consisted of 60 pages, all of which were disclosed to the appellant.

The Personnel Co-ordinator states that at a meeting with the appellant, she apprised the appellant of other files which could potentially contain an employee's personal information. Based on this list, the appellant identified certain additional records to which she sought access, including her medical file and confirmation of her attendance at a Xerox course. A search was then conducted in the Administration Division, Labour Relations Division and Human Rights and Employment Equity Program of the Corporate Personnel Department. As a result, an additional 67 documents were located, reviewed and disclosed to the appellant.

With respect to access to the appellant's medical file, the affidavit states that employee medicals during the relevant period were processed by the Department of Public Health, City of Toronto. The medical files were subsequently retained by the City of Toronto. The appellant has been advised of this practice and provided with the name, telephone number and address of the contact person at the City of Toronto.

In the affidavit, the Personnel Co-ordinator describes the steps taken to locate the record confirming the appellant's attendance at a Xerox course. The Personnel Co-ordinator states that the search for a course confirmation record included a keyword search of the Corporate Personnel database for both Corporate Training and Organization Development records and Technology and Skills Training Unit records. No such record was found.

Appeal Number M-9400280

The Municipality's representations included the sworn affidavit of the Freedom of Information and Privacy Co-ordinator for the Treasury Department (the Treasury Co-ordinator). This individual was personally involved in searching for the records. The Treasury Co-ordinator describes the steps taken by the Municipality to identify the records responsive to the request.

The Treasury Co-ordinator states that she also met with the appellant and as a result, a second search was undertaken for supervisory notes/appraisals/performance evaluations written by the appellant's supervisor and a confirmation of registration for an out-of-house word processing training course which the appellant had attended in approximately 1980.

The Treasury Co-ordinator states that she again contacted the appellant's supervisor who verified that he did not have any such records. The affidavit states that it is not the practice of the department's management staff to retain notes, appraisals or evaluations relating to employee job performance. Information of this nature is placed directly on the employee's department file.

With respect to the course attendance, the Treasury Co-ordinator states that such a course was offered to employees in 1983 as part of a purchase service agreement for the equipment. There were no charges associated with the training and consequently, no billing transactions exist. The Co-ordinator points out that an attendance record previously disclosed to the appellant shows she was absent for four days in April, 1983 in order to attend a word processing course, but does not provide any further detail.

In her representations, the appellant submits that there should be a file describing her present work duties and responsibilities in the department, as well as a description of the changes to her job during her years of employment with the department. The Municipality submits that no such record exists.

The appellant also describes a memo signed by her when she was performing alternate reception duties, indicating that she should not open the door to a named individual. The Municipality submits that if such a record exists, it does not contain the personal information of the appellant and is therefore not responsive to her request.

I have carefully reviewed the representations of the parties and the affidavits of the Municipality. I am satisfied that the Municipality has taken all reasonable steps to locate the records responsive to the appellant's request.

ORDER:

I uphold the decision of the Municipality.

Original signed by: _____
Mumtaz Jiwan
Inquiry Officer

_____ October 7, 1994