



**Information and Privacy  
Commissioner/Ontario**

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

# **ORDER M-496**

**Appeal M-9400719**

**Metropolitan Licensing Commission**



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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).

For many years, through various by-laws, the Municipality of Metropolitan Toronto has limited the number of taxi owners' licences issued in the municipality. As a result of these limits, the demand for such licences exceeds their supply, and the Metropolitan Licensing Commission (the Commission) maintains a waiting list of individuals wishing to receive grant of a licence. The criteria for eligibility to be placed on the waiting list are codified in a by-law.

A taxi owner, whose name was recently removed from the waiting list, received a record dated December 4, 1975, from the Commission which listed the names of the first 12 applicants on a Commission's approved list of taxicab fleet owners wishing to obtain additional taxicab owner licences. The owner noticed that the number sequence adjacent to the applicant names was not sequential, and requested access to the names which corresponded to the missing numbers. The Commission responded to the request by advising the requester that such a record does not exist.

The requester appealed this decision, and a Notice of Inquiry was provided to the appellant and the Commission. Representations were received from both parties.

## **DISCUSSION:**

### **REASONABLENESS OF SEARCH**

Where a requester provides sufficient details about the records which he or she is seeking and the Commission indicates that such a record does not exist, it is my responsibility to ensure that the Commission has made a reasonable search to identify any records which are responsive to the request. The Act does not require the Commission 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 Commission 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 appellant contends that a reasonable search was not conducted by the Commission for records responsive to his request. He submits that he has been provided with other records which contain information about him regarding taxi cab licensing, that the Commission is responsible for maintaining and monitoring the taxi cab owner's list and that he has obtained other records from the Commission which substantially pre-date the record sought in this matter.

The Commission states that the conditions for eligibility for the list were amended on February 24, 1976 by Municipality of Metropolitan Toronto by-law 46-76. When these amendments were made, the composition of the list changed, the list was reformatted and positions on the list were adjusted. The revised list, established in 1976, has been amended since then, most recently in 1994. The Commission indicates that while there is no record of the list requested by the appellant being destroyed, the list requested by the appellant no longer exists in its original form within the Commission's records. The Commission submits that some of the data which made up the list is still available, however, it is incomplete. The retention schedules

for the owners lists show that the Commission is only required to maintain lists until superseded by a revised list.

The Commission's representations consist of an affidavit sworn by the Commission's General Manager. She details the searches conducted of the Commission's files, including minutes books, issuing files, dead files, cab owner index cards, computer main frame, shareholder index cards, company shareholder files, and the files of Senior Managers and other senior staff members. In addition, she describes the positions and experience of the individuals who either conducted or assisted with the searches, as well as the time period during which the searches were performed. The Commission points out that these searches were not only carried out in respect of this appeal but in relation to previous requests and has provided me with extensive supporting documentation relevant to its position in this matter.

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

**ORDER:**

I uphold the decision of the Commission.

Original signed by: \_\_\_\_\_

Holly Big Canoe  
Inquiry Officer

\_\_\_\_\_ March 24, 1995