



Information and Privacy
Commissioner/Ontario
Commissaire à l'information
et à la protection de la vie privée/Ontario

ORDER M-566

Appeal M-9400487

Credit Valley Conservation Authority



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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 Credit Valley Conservation Authority (the Authority) received two requests for records relating to a particular woodlot under the management of the Authority. The Authority responded to the two requests in one decision letter and stated that no records existed in relation to the first request and that certain records (to which access was granted) did exist in relation to the second request. The requester appealed the decision of the Authority on the basis that other records should exist.

A Notice of Inquiry was provided to the Authority and the appellant. Representations were received only from the Authority.

DISCUSSION:

REASONABLENESS OF SEARCH

Where a requester provides sufficient details about the records which he or she is seeking and the Authority indicates that such a record does not exist, it is my responsibility to ensure that the Authority has made a reasonable search to identify any records which are responsive to the request. The Act does not require the Authority 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 Authority must provide me with sufficient evidence to show that they have made a **reasonable** effort to identify and locate records responsive to the request.

In approaching reasonableness of search issues in appeals, the Commissioner's office has recognized that an appellant is rarely in a position to **know** that records do, in fact, exist. An appellant is therefore asked to provide his or her reasons for believing that a record should exist. At the same time, the institution is asked to provide details of the search which it has conducted. Upon consideration of the information provided by the parties, a conclusion will be made as to whether or not the search was reasonable in the circumstances of the appeal.

The Authority has provided a summary of the steps taken to search for records responsive to the appellant's requests, which included meetings with staff members, computer searches and a review of the Authority's central file index. The appellant has not submitted representations.

In the circumstances of this appeal, I am satisfied that the Authority has taken all reasonable steps to locate the records responsive to the appellant's requests.

ORDER:

I uphold the decision of the Authority.

Original signed by: _____
Holly Big Canoe

July 14, 1995

Inquiry Officer