



Information and Privacy
Commissioner/Ontario

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

ORDER P-955

Appeal P-9500021

Ministry of Natural Resources, Northern Development and Mines



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NATURE OF THE APPEAL:

This is an appeal under the Freedom of Information and Protection of Privacy Act (the Act). The Ministry of Natural Resources, Northern Development and Mines (the Ministry) received a request for access to a copy of a survey and a work permit. In response to the request, the Ministry stated the requested work permit does not exist and denied access to the survey pursuant to the following exemption contained in the Act:

- information published or available - section 22(a).

The requester appealed the Ministry's decision regarding the survey stating that the specific survey requested was not, in fact, publicly available.

During the mediation of the appeal, it was determined that the survey which the Ministry had identified as being publicly available was not the survey which the appellant requested. The Ministry conducted further searches but the only other document which was located was a "hand-drawn sketch". This document is not at issue in this appeal as the Ministry has now disclosed it to the appellant. Accordingly, the sole issue to be determined in this appeal is whether the Ministry's search for the requested survey was adequate.

DISCUSSION:

The appellant has provided information in support of her position that the survey is in the custody of the Ministry. She states that she was shown a copy of the survey by a named individual, who is an employee of the Ministry, in the fall of 1994. She further explains that:

... the document appeared to be a blueprint/survey of the leased area done in 1989 with another old type document superimposed, showing the buildings, with circles with numbers typed running along my property line to the 312 foot area at which point it became a hand drawn line extending to my property limit.

The Ministry simply states that four searches were performed by three of its staff and that the requested record was not located. Included with the Ministry's representations are affidavits of the three employees who conducted the searches in which they refer to the fact that searches were undertaken but they do not give any indication of the nature and extent of the searches or which files were searched.

I find that I have not been provided with sufficient evidence to indicate that an adequate search was undertaken in the files described by the appellant for this specific record. The appellant has provided a very clear description of the record sought and its location. Based on the information provided to me in its representations, I am not satisfied that the Ministry has conducted a reasonable search to locate the requested survey.

ORDER:

1. I order the Ministry to conduct a search for the survey described previously. This search should

include, but not be limited to, any records or files pertaining to the appellant's property, the abutting properties and the crown land adjoining the appellant's property.

2. I order the Ministry to advise the appellant in writing of the results of the search referred to in Provision 1 within thirty (30) days of the date of this order.
3. In the event that the Ministry locates additional responsive records as a result of the search referred to in Provision 1, I order the Ministry to render a final decision on access to such records in accordance with the provisions of sections 26 and 29 of the Act, treating the date of this order as the date of the request, without recourse to a time extension under section 27.
4. I order the Ministry to provide me with a copy of the correspondence referred to in Provision 2, and if applicable, Provision 3, within thirty-five (35) days after the date of this order. This should be forwarded to my attention, c/o Information and Privacy Commissioner/Ontario, 80 Bloor Street West, Suite 1700, Toronto Ontario, M5S 2V1.

Original signed by: _____

Hale
Inquiry Officer

July 18, 1995 _____ Donald