



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

## **ORDER M-728**

Appeals M\_9600017, M\_9600018 and M\_9600019

The Corporation of the Township of Huron



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## NATURE OF THE APPEAL:

The Township of Huron (the Township) received three requests pursuant to the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to records relating to payments made for the creation and maintenance of certain drains within the Township. The Township responded by providing the requester with a fee estimate of \$240 and asked for a deposit of 50% of that amount, as provided by R.R.O. 1990, Regulation 823, which was in force at that time.

The requester appealed the Township's fee estimate. A Notice of Inquiry was provided to the appellant and the Township. Representations were received from both parties.

The sole issue which I will address in this order is whether the fees charged by the Township were calculated in accordance with the Act and the Regulation.

## DISCUSSION:

### **FEES**

The dispute in these appeals relates to the calculation of chargeable search time. The Township submits that it is entitled to charge the appellant for eight hours of search time. The appellant argues that the Township should be able to locate the requested information in less time than that estimated.

At the time of the appellant's requests, the relevant statutory and regulatory provisions of the Act read as follows:

#### **Section 45(1)(a)**

If no provision is made for a charge or fee under any other Act, a head shall require the person who makes a request for access to a record to pay,

a search charge for every hour of manual search required in excess of two hours to locate a record;

#### **R.R.O. 1990, Regulation 823, section 6**

The following are the fees that shall be charged for the purposes of section 45(1) of the Act:

3. For manually searching for a record after two hours have been spent searching, \$7.50 for each fifteen minutes spent by any person.

In reviewing the Township's fee estimate, my responsibility under section 45(5) of the Act is to ensure that the amount estimated by the Township is reasonable in the circumstances. In this regard, the burden of establishing the reasonableness of the estimate rests with the Township who discharges this burden by providing me with detailed information as to how the fee estimate has been calculated, and by producing sufficient evidence to support its claim.

I have reviewed the submissions of the Township regarding the nature and extent of the search which will be required to locate the information requested by the appellant. I find that, due to the complexity and number of requests, the Township's estimate of eight hours search time is reasonable. However, based on the wording of section 45(1)(a), the appellant is entitled to two hours of free search time. The allowable fee for chargeable search time must, therefore, be reduced by two hours.

I find that the Township has provided sufficient evidence to establish that an estimated fee of \$180 for six hours of chargeable search time was calculated in accordance with the Act and the Regulation. In addition, the Regulation provides that fees of \$0.20 per page may be charged for photocopies and this fee may also be charged to the appellant. Finally, the Township may require a deposit of 50% before proceeding further with the request.

**ORDER:**

I uphold the decision of the Township to charge a fee in the amount of \$180 plus \$0.20 per page for photocopies.

Original signed by: \_\_\_\_\_  
Donald Hale  
Inquiry Officer

\_\_\_\_\_ March 12, 1996