



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

# **ORDER P-1159**

**Appeal P-9500735**

**Ministry of Natural Resources**



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## **NATURE OF THE APPEAL:**

The Ministry of Natural Resources (the Ministry) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for access to Form PSL-2 dated 1962 pertaining to a specified cottage lot in the Township of the Lake of Bays. The Ministry denied access to the record on the basis that it did not exist. The Ministry also indicated that other records relating to this property had been disclosed to the requester in response to an earlier request and that there were no other records in the file. The requester appealed the denial of access.

During mediation, the Ministry indicated that the records disclosed to the appellant previously had been of a more general nature. The record sought in the subject request is a Patent Inspection Report, completed by a Ministry official prior to the issuance of a patent for the cottage property.

The sole issue in this appeal is whether the search conducted by the Ministry for records responsive to the request was reasonable in the circumstances.

A Notice of Inquiry was sent by this office to the appellant and the Ministry. Representations were received from both parties.

## **REASONABLENESS OF SEARCH**

Where a requester provides sufficient details about the records which he or she is seeking and the Ministry indicates that no records exist, it is my responsibility to ensure that the Ministry has made a reasonable search to identify any records which are responsive to the request. The Act does not require the Ministry to provide with absolute certainty that the record requested does not exist. However, in my view, in order to properly discharge its obligations under the Act, the Ministry must provide me with sufficient evidence to show that it has made a reasonable effort to identify and locate responsive records.

The appellant maintains that the record should exist since it is referred to in another document. In this regard, he has included a copy of an abstract page of a tax assessment summary for the subject property which refers to the record as follows: "see remarks on patent inspection". The "patent inspection" is the record sought by the appellant. The appellant also explains why he is seeking access to the record.

The Ministry indicates that the request was clear and clarification was not necessary. With its representations, the Ministry has included an affidavit sworn by an Area Technician (the technician) in the Bracebridge Area office who was directly involved in searching for the record.

The technician states that two requests were received. The first request, received in September, 1994, sought access to records pertaining to certain specified cottage lots, including the subject lot. At this time, the technician contacted the Crown Land Registry in Toronto to determine if they had the original files in archives. She was advised that microfilm copies were on file in the Bracebridge office. The Crown Land Registry also transferred the patent files for the lots to the Bracebridge Area office for review. These files were searched together with all hard copy files in the office.

The microfiched files (over 20 years old) were also searched. In response to this first request and as a result of the above searches, the Ministry disclosed Patent Report and Letters Patent Authorization or Cancellation Authority forms, Patent Inspection Reports (Form PSL-1962) for some of the lots and a work permit for the subject lot to the appellant. The technician states that the Form PSL-1962 was not located for all the lots specified. Specifically, the forms for the subject lot and two other specified lots were not located.

The technician states that the second request being the subject request was received on or around October 17, 1995. The technician points out that the Bracebridge Area office and the Crown Land Registry are the only offices that would normally maintain this type of record. A search was conducted of all the microfiched files. The technician states that the record requested was not found. The technician further states that the only other records in the files are those that have been previously disclosed to the appellant.

I have considered the representations of the parties and I am satisfied that the search conducted by the Ministry for records responsive to the appellant's request was reasonable in the circumstances.

**ORDER:**

This appeal is dismissed.

Original signed by: \_\_\_\_\_  
Mumtaz Jiwan  
Inquiry Officer

\_\_\_\_\_ April 2, 1996