



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

# ORDER M-771

Appeal M\_9500649

Township of McNab



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## NATURE OF THE APPEAL:

Under the Municipal Freedom of Information and Protection of Privacy Act (the Act), the appellant submitted a request to the Township of McNab (the Township). The request was for access to records relating to complaints about the appellant's property.

The Township located several responsive records and its initial decision was to deny access to them under the law enforcement exemption, which appears in section 8 of the Act.

The appellant filed an appeal of this decision. During mediation of the appeal, the Township decided to disclose the responsive records it had located, in their entirety. Accordingly, these records and the exemption claimed for them are no longer at issue.

The appellant is of the view that responsive records, in addition to those already disclosed, should exist. This is the only issue remaining to be decided in this appeal.

This office sent a Notice of Inquiry to the appellant and the Township. Only the Township submitted representations.

## DISCUSSION:

### REASONABLENESS OF SEARCH

Where a requester provides sufficient details about the records which he is seeking and the Township indicates that further records do not exist, it is my responsibility to ensure that the Township has made a reasonable search to identify any records which are responsive to the request. The Act does not require the Township to prove with absolute certainty that further records do not exist. However, in my view, in order to properly discharge its obligations under the Act, the Township must provide me with sufficient evidence to show that it has made a reasonable effort to identify and locate records responsive to the request.

Although an appellant will rarely be in a position to indicate precisely which records have not been identified in an institution's response to a request, the appellant must, nevertheless, provide a reasonable basis for concluding that such records may, in fact, exist.

The Township has submitted two affidavits explaining the search process it undertook to locate records relating to complaints about the appellant's property. Three records relating to one complaint were disclosed. With respect to a complaint about the appellant's septic system and/or untreated sewage, the Township indicates that, despite its search, no responsive records were located.

The appellant has not provided representations, nor in my view has he provided a reasonable basis for me to conclude that additional records exist. Moreover, I am satisfied that the Township's efforts to locate responsive records were reasonable in the circumstances.

**ORDER:**

This appeal is dismissed.

Original signed by: \_\_\_\_\_ May 14, 1996  
John Higgins  
Inquiry Officer