



**Information and Privacy
Commissioner/Ontario**

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

ORDER P-1285

Appeal P-9600226

Ministry of Finance



80 Bloor Street West,
Suite 1700,
Toronto, Ontario
M5S 2V1

80, rue Bloor ouest
Bureau 1700
Toronto (Ontario)
M5S 2V1

416-326-3333
1-800-387-0073
Fax/Télééc: 416-325-9195
TTY: 416-325-7539
<http://www.ipc.on.ca>

NATURE OF THE APPEAL:

In September 1995, the Ministry of Finance (the Ministry) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for access to certain records maintained by the Ontario Insurance Commission regarding a named trust company. Following clarification with the requester, the Ministry determined that records responsive to the request resided with the Ministry's Loans and Trust Corporations Branch. In a new request submitted in April 1996, the requester narrowed the scope of his request to include only the following records relating to the trust company for the period July 1, 1987 to August 12, 1994:

- inspection reports
- risk-based analyses
- examination findings and audits
- reports of non-performing loans
- internal memoranda and correspondence

Because the original request predated the enactment of the amendments to the Act included in the Savings and Restructuring Act (Bill 26), the Ministry responded by providing the requester with an interim access decision and interim fee estimate in accordance with the procedures mandated by this office in Order 81. In its decision letter, the Ministry advised the appellant that certain exemptions contained in the Act may apply to the responsive records.

The fee estimate was for \$5130, representing the 173 hours (at \$30 per hour) which the Ministry claims it will require to search for the responsive records and prepare them for disclosure. Any photocopying charges are not included in the estimate. The Ministry deducted two hours of free search time for a total of 171 chargeable hours and proceeded with the appeal under the pre-Bill 26 legislative provisions and jurisprudence relating to fee estimates.

The requester, now the appellant, appealed the Ministry's fee estimate. A Notice of Inquiry was provided to the Ministry and the appellant. Representations were received only from the Ministry and included an affidavit from the Manager of Financial and Business Standards for the Ministry's Loan and Trust Corporations Branch who prepared the fee estimate.

In order to ascertain the nature of the records sought and the work which would be required to locate and prepare the responsive records for disclosure, I attended personally at the Ministry's offices and met with the Ministry's Manager and the Freedom of Information and Protection of Privacy Co-ordinator.

DISCUSSION:

FEE ESTIMATE

In reviewing the Ministry's fee estimate, my responsibility under section 57(5) of the Act is to ensure that the amount estimated by the Ministry is reasonable in the circumstances. In this regard, the burden of establishing the reasonableness of the estimate rests with the Ministry. In my view, it 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.

The Ministry submits that the responsive records are contained in 14.5 linear feet of filed documents. The Ministry further indicates that it would require 173 hours to first identify the responsive records within the files and then perform the necessary severing to remove any information which may fall within one of the exemptions in the Act. The Ministry indicates that the records are located in two separate locations within its record-keeping system and consist of very detailed and complex information relating to the regulation of the trust company. Many of the records contain the personal information of individuals to whom mortgage loans had been advanced by the trust company and would require time-consuming severing to delete the personal information.

In his letter of appeal, the appellant disputes the amount of time necessary to locate and sever the documents held by the Ministry pertaining to the trust company.

As noted above, I have attended at the Ministry's offices and have reviewed the types of files in which the responsive records reside. They are of a complex nature and, based on my review of a sample of the files, are likely to contain a great deal of information which may be subject to one of the exemptions. As a result, much time will be required to sever out this information. In addition, the request is by its very nature quite broad in its scope and encompasses a large number of records accumulated over a long period of time.

Following my review of the records and based on the information provided to me by the Ministry, I am satisfied that the fee estimate provided to the appellant is reasonable in the circumstances. Accordingly, I uphold the Ministry's fee estimate of \$5130 for search and preparation time.

ORDER:

I uphold the Ministry's fee estimate of \$5130.

Original signed by: _____
Donald Hale
Inquiry Officer

_____ October 29, 1996