



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

ORDER P-1287

Appeals P-9600338, P-9600353 and P-9600354

Ministry of Agriculture, Food and Rural Affairs



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NATURE OF THE APPEALS:

The appellant sent three letters to the Ministry of Agriculture, Food and Rural Affairs (the Ministry), which contained requests made under the Freedom of Information and Protection of Privacy Act (the Act) for 55 categories of records. While the first letter was dated June 1, 1996, application fees for the requests were not received by the Ministry until July 2, 1996. The other two letters were received by the Ministry on July 8 and July 17, 1996. The requests relate to the requester's meat plant business and various issues associated with meat inspections before and during the 1996 Ontario Public Service Employees Union (OPSEU) strike.

The Ministry responded by extending the time for issuing its decision letters for the requests contained in the three letters by an additional 120, 114, and 105 days respectively, to November 29, 1996, for the following reasons:

Extensions are necessary because your requests are very closely interrelated, are for large numbers of records, and require searching through large volumes of records. Given the size and complexity of these interrelated requests, and constraints on available resources, meeting the 30 day response period would unreasonably interfere with the operations of the ministry. Also, consultations with persons outside the Ministry will also be necessary for a considerable number of requests, and these consultations cannot be completed within the 30 day time limit.

The requester appealed the decision of the Ministry to extend the statutory 30-day time limit on September 5, 1996. Mediation was not successful and notice that an inquiry was being conducted to review the decision of the Ministry was sent to the Ministry and the appellant on October 1, 1996. Representations were received from the Ministry only.

DISCUSSION:

The sole issue in these appeals is whether the extension of time claimed by the Ministry, under sections 27(1)(a) and (b), to respond to the requests, is reasonable in the circumstances.

Sections 27(1)(a) and (b) of the Act provide:

A head may extend the time limit set out in section 26 for a period of time that is reasonable in the circumstances, where,

- (a) the request is for a large number of records or necessitates a search through a large number of records and meeting the time limit would unreasonably interfere with the operations of the institution;
- (b) consultations with a person outside the institution are necessary to comply with the request and cannot reasonably be completed within the time limit.

SEARCH THROUGH A LARGE NUMBER OF RECORDS

The Ministry submits that the requester was seeking 55 items that required searches through a large volume of records held in 4 different cities and at least 10 office sites. The Ministry indicates that some of the requested items are very broad, covering a period of over two years, and others are very detailed, requiring a search through files to identify whether a specific record exists that will respond to the request.

In Order 28 former Commissioner Sidney B. Linden stated:

... in invoking section 27, the head must address him or herself to whether **any particular request** involves a large number of records or consultations that cannot reasonably be completed within the 30 day time limit. I do not believe that section 27 lends itself to the interpretation that, where the response to a number of separate requests by the same individual, which collectively involve a large number of records or necessitate consultation, section 27 is properly triggered.

In my view, section 27 can only be properly triggered by the head upon considering whether **any particular request** involves a search through a large number of records that cannot reasonably be completed within the 30 day time limit.

The Ministry submits that despite the fact that the requests were originally logged as 55 separate requests, the items requested relate to three major subject areas:

- Ministry records concerning the appellant's meat business;
- records relating to the situation respecting meat inspection services during the OPSEU strike and the positions of the Ministry, Management Board of Cabinet and the Ontario Labour Relations Board regarding essential services; and
- use of section 15 of the Meat Inspection Act during the OPSEU strike.

The Ministry submits that the 55 request items are interrelated, in some cases repetitive, and those that relate to the main subjects are interspersed or overlap in the three letters. The Ministry states that it may have been more appropriate to treat the letters as one, two or three detailed, itemized requests.

Having reviewed the appellant's letters, it is clear to me that some of the listed items overlap. For example, the first listed item is "any Ministry files concerning [the appellant's company]". A significant number of subsequent items identify particular records which would certainly fall within the scope of the first item. However, the Ministry has not convinced me that any one of these related items or all of them taken together necessitate a search through a large number of records.

For example, I recognize that some of the records created during the strike are not part of the Ministry's normal filing system. However, I note that the Ministry has indicated that the inspection records created during the strike are filed separately **by date**. The appellant has

provided the dates his plant was inspected during the strike, and retrieval of these records should be a fairly straightforward exercise.

It also appears that a number of other items are readily identifiable and easily retrieved. Two of the items requested in the first letter are forms used or designed for use during a strike, and three of the items in the second letter are Ministry guidelines, policies and procedures, training material or training guidelines.

Additionally, I note that despite the length of time which has elapsed since the letters were sent by the appellant, the Ministry has not made any attempt to clarify the requests with the appellant, ask for additional details which would facilitate a search, or ask the appellant to prioritize any of the items he is seeking.

I have carefully reviewed the representations of the parties and I am not satisfied that the requests will necessitate a search through a large number of records such that meeting the time limit would unreasonably interfere with the operations of the Ministry. Accordingly, I am not satisfied that the time extensions invoked by the Ministry under section 27(1)(a) are reasonable in the circumstances of these appeals.

CONSULTATIONS OUTSIDE THE INSTITUTION

The Ministry submits that consultations outside the Ministry are required for a number of the requests, but it does not specify which or even how many items it is referring to. The Ministry simply states that many of the items requested deal with strike-related matters and solicitor-client matters that require consultation with Management Board and the Ministry of the Attorney General. The Ministry claims it is not possible to complete these consultations before November 29 because of time lost during the Ministry's relocation to new premises.

The Ministry has not provided me with any information about what stage the consultations are at, or how exactly the Ministry's relocation impacted on its ability to complete these consultations. I think it is fair to assume that consultations outside the Ministry would likely be required in the course of deciding whether access would be granted to certain items requested by the appellant, but clearly not for all of the items. As well, the Ministry has not provided sufficient information to satisfy me that it requires another month, in addition to the three months beyond the statutory 30-day time limit it has already had, in order to complete these consultations. Accordingly, I am not satisfied that the time extensions invoked by the Ministry under section 27(1)(b) are reasonable in the circumstances of these appeals.

ORDER:

1. I order the Ministry to provide a decision letter to the appellant regarding access to the records in accordance with the Act by **November 19, 1996**.
2. In order to verify compliance with this order, I order the Ministry to provide me with a copy of its decision letter on access referred to in Provision 1 by **November 25, 1996**. The notice should be sent to my attention, c/o Information and Privacy Commissioner/Ontario, 80 Bloor Street West, Suite 1700, Toronto, Ontario, M5S 2V1.

Original signed by: _____
Holly Big Canoe
Inquiry Officer

_____ November 4, 1996