



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

ORDER M-858

Appeal M_9600206

Municipality of the Townships of Sherwood, Jones and Burns



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NATURE OF THE APPEAL:

The Municipality of the Townships of Sherwood, Jones and Burns (the Townships) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to “a complete run-down of all Revenues and Expenditures” of the Townships’ Recreation Committee for the year ending December 31, 1995. Following clarification with the requester, the Townships responded by providing a fee estimate and advised him that some of the requested information may be exempt from disclosure under the privacy protection provisions of the Act.

The fee estimate was for \$1650, based on a cost of \$30 per hour for “retrieving, compiling and filing away” the requested information, as well as a charge of \$100 per hour for a “meeting which would be attended by both Clerks and Reeves”. The requester, now the appellant, appealed the amount of the Townships’ fee estimate.

A Notice of Inquiry was provided to the appellant and the Townships. Submissions were received from both parties. A Supplementary Notice of Inquiry was subsequently forwarded to the parties, as well as the Management Board Secretariat, soliciting their representations on the impact of recent amendments to the Act on an institution’s obligations when issuing fee estimates. Additional submissions were received from the Townships and the appellant. Management Board Secretariat advised that they would not be making any representations.

Following the receipt of the Notice of Inquiry, the appellant narrowed the focus of his request to include only:

1. All cheques payable to each arena employee for 1995.
2. Number of hours of each employee and their hourly rate.
3. All cheques payable to Administration.
4. All cheques payable to summer program employees.
5. All cheques and invoices relating to the bar expense.

DISCUSSION:

FEE ESTIMATE

In reviewing the Townships’ fee estimate, my responsibility under section 45(5) of the Act is to ensure that the amount estimated by the Townships is reasonable in the circumstances. In this regard, the burden of establishing the reasonableness of the estimate rests with the Townships. In my view, they discharge 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.

In response to the clarified request, the Townships submit that the responsive records are contained in three-quarters of a four-drawer, legal-size filing cabinet. The Townships indicate that it would be necessary to sever approximately 50% of the information contained in the responsive records because this information is subject to the personal information exemptions in the Act. In addition, the Townships submit that Committee minutes for 1995, and perhaps 1994, would have to be searched, along with payroll records and computer printout information.

The Townships indicate that the time required to search for the responsive records included in various vouchers, bank statements, inventory files, function and bingo reports and prepare them for disclosure is 42 hours. The fee required for the retrieval and preparation of these records is, accordingly, \$1260. Further, the Townships indicate that an additional two hours would be required to prepare and compile a list including rates of pay (\$60). Finally, the Townships submit that 256 pages of responsive records would need to be photocopied at a rate of \$0.20 per page, for a total of \$51.20. The total fee estimate provided by the Townships is \$1371.20.

The appellant argues that, in light of the small number of individuals employed by the Townships' Recreation Committee, the amount of the fee is far too high. In his view, a search for responsive records could be accomplished in a much shorter period of time. The appellant has also requested a fee waiver in his representations. As this request was not made to the Townships and was not the subject of the appeal, I find that I have no jurisdiction to address it at this time.

In my view, the number of hours required by the Townships to process this request appears to be rather high, particularly bearing in mind the small number of persons employed by its Recreation Committee. However, I also appreciate that it will be a time-consuming exercise to sever the personal information from the cheques, payroll records and invoices which comprise the majority of the records at issue in this appeal.

I note that the Townships estimate that 256 pages of documents represent all of the responsive records. I find that it is unreasonable to require 42 hours to locate and sever the personal information from this relatively small number of pages. As the exercises of locating and preparing records are distinct, the fee estimate should describe separately the work involved for each of these steps.

Many previous orders of the Commissioner's office have upheld a fee estimate of two minutes per page for the exercise of preparing the records for disclosure. I am prepared to allow only this amount for this portion of the fee estimate. Therefore, the allowable fee for this work is calculated as follows:

- 512 minutes (8.5 hours) x \$30 per hour = \$255

Similarly, I find that the Townships' estimate of the time required to search for the responsive records through three-quarters of a four-drawer, legal-size filing cabinet is unreasonable. I have not been provided with sufficient evidence to allow me to uphold the kind of extraordinary allowance of time submitted by the Townships. In my view, the Townships' search should take no more than six hours, for a fee of \$180. I have arrived at this amount of time based on my

understanding of the nature of the records requested and the filing system used by the Townships' Recreation Committee.

I am prepared to allow the Townships' estimate of \$51.20 for the cost of photocopying as this amount was calculated in accordance with the provisions of section 6 of Regulation 823, R.R.O. 1990. I am not prepared to allow the Townships' estimate fee of \$60 for the two hours required to prepare and compile a list including rates of pay. The Townships are not obliged to create a record to provide information to the appellant which is responsive to his request. The Act contains no provision for the payment of a fee should an institution decide to do so.

Accordingly, I find that a reasonable fee for the processing of this request may be calculated as follows:

- for search time - 6 hours x \$30 per hour = \$180
- for preparation time - 8.5 hours x \$30 per hour = \$255
- for photocopying - 256 pages @ \$0.20 per page = \$51.20

for a total of \$486.20.

ORDER:

A fee estimate of \$486.20 is reasonable in the circumstances of this appeal.

Original signed by: _____
Donald Hale
Inquiry Officer

November 6, 1996