



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

ORDER M-870

Appeal M_9600292

City of Mississauga



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NATURE OF THE APPEAL:

The City of Mississauga (the City) received a total of eight requests under the Municipal Freedom of Information and Protection of Privacy Act (the Act) from one individual. Seven of the requests sought access to specific records, as well as their location and the individual responsible for them. The eighth request was for access to records which pertain to the City's Active and Inactive Indexing Record System (ARIS/IRIS) with respect to a specified property and a management program, as well as the manuals used by City staff for training on the system.

The City denied access to the requested records, claiming that section 25 of the Act only required that it maintain a list of general classes or types of records and to make that limited list available to the public. It referred the appellant to its Classes of Records Directory and advised him of its availability and cost. The requester, now the appellant, appealed the City's decision.

During the mediation of the appeal, it was agreed by the parties that the only issue to be addressed would be the appellant's right of access to records which may include the location within the ARIS/IRIS indexing system of files containing documents relating to the specified property and the management program. It was also agreed that the appeals regarding the denial of access in the other seven requests would be held in abeyance pending this decision.

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

DISCUSSION:

HAS THE CITY MET ITS OBLIGATIONS TO THE APPELLANT UNDER SECTIONS 4 AND 19 OF THE ACT?

Because the requests which form the subject of this appeal were submitted to the City prior to the amendments to the Act which were contained in the Savings and Restructuring Act (Bill 26), I must determine whether the City met its obligations to the appellant under sections 4 and 19 of the Act as they existed at the time of the requests. Section 4(1) of the Act stated:

Every person has a right of access to a record or a part of a record in the custody or under the control of an institution unless the record or part of a record falls within one of the exemptions under sections 6 to 15.

Upon receipt of a request made under section 4, an institution is required, under section 19, to give written notice to the person who made the request as to whether or not access to the record or part of it will be given.

In this case, the appellant made requests under section 4 of the Act for access to certain specified records. It was then the City's responsibility, in my view, to conduct a search of its record

holdings to determine if a record or records responsive to the requests existed. The City is then obligated, under section 19, to give written notice to the appellant as to whether or not access to the identified records will be granted.

Upon receipt of the appellant's request, the City advised him that access to the responsive records was denied because it is not obliged to provide him access to its records management systems. The City's decision letter to the appellant did not, however, make reference to any specific exemption under sections 6 to 15 upon which it was relying to deny access. Rather, the City took the position that because it makes available to the public a Classes of Records Directory, it has met its obligations under section 25 of the Act, and, therefore, under sections 4 and 19.

In my view, this determination does not, however, address the question of access to the records sought in the specific request which is currently before me. The Classes of Records Directory is not the record sought by the appellant. In my view, the City has not in this case provided the appellant with a decision letter which is in accordance with its obligations under section 19.

In its representations, the City included a copy of its generic listing of all of the files which are indexed on its ARIS/IRIS system. These files are indexed by both a primary (alpha) and a secondary (numeric) designation. It explains that each City Department classifies its files in the same manner so that any records relating to a particular subject, from any source within the City government, are indexed in the system by subject rather than by Department. The City advises that this system was created to rationalize the City's record-keeping system and to facilitate the easy retrieval of records requested by the public under the Act.

On Page 40 of his submissions, the appellant states that he is "not interested in the entire ARIS/IRIS system index only that which addresses my repeated request to a general access to [the files containing records relating to the specific subjects described above]". Accordingly, I find that the complete ARIS/IRIS system index is not responsive to the appellant's request.

In its submissions, the City also provided a one-page listing dated September 29, 1995 of all of its ARIS/IRIS file holdings (but not their contents) which relate solely to the subject matter of the appellant's request. In my view, this document is the record which is responsive to the appellant's request, as opposed to the Classes of Records Directory which was identified by the City in its decision letter or the complete ARIS/IRIS system index.

The decision letter provided to the appellant in this request does not address the question of access to the one-page record dated September 29, 1995, which I have identified as responsive to the request. I will, therefore, order the City to provide the appellant with a decision regarding access to this document.

It should be noted that the appellant has filed a large number of requests with the City which have resulted in many appeals being taken to this office. Based on my review of just some of these requests, I find them to be confusing and, at times, contradictory. For this reason, I can appreciate that the City has often had a difficult time addressing the requests to the satisfaction of the appellant. In my view, this could have been a factor which caused the City to misconstrue the appellant's request.

ORDER:

1. I order the City to provide the appellant with a decision letter on the issue of access to the one-page record dated September 29, 1995 in accordance with section 19 of the Act using the date of this order as the date of the request.
2. I order the City to provide me with a copy of the decision letter referred to in Provision 1 by **January 9, 1997**. This should be sent to my attention c/o Information and Privacy Commissioner/Ontario, Suite 1700, 80 Bloor Street West, Toronto, Ontario M5S 2V1.

Original signed by: _____

Donald Hale
Inquiry Officer

_____ December 5, 1996