



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

# **ORDER M-951**

**Appeal M\_9700063**

**Regional Municipality of Halton**



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## **NATURE OF THE APPEAL:**

In July 1996, the Regional Municipality of Halton (Halton) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The request was for access to a list of real estate appraisal assignments for which independent appraisers were retained by Halton since January 1, 1994. Halton responded by advising the requester that such a list does not exist but that it could be prepared in an estimated time of 13 hours, for a fee of \$390. Some time in the fall of 1996, the requester verbally narrowed the scope of his request to include only the fees paid by Halton for the appraisal of seven named properties. After conducting a search of seven property files, Halton responded by providing the requester with some responsive information, at no charge.

In February 1997, the requester made a similar request for a list of all of the appraisal assignments for which a named appraisal firm had been asked to provide a quote, along with the amount of the quote. In addition, the requester also requested the names of other firms which had bid for the same work. Halton responded by advising the requester that a list of firms providing appraisal services to it does not exist. Halton again advised the requester that it could create a list containing the requested information and provided a fee estimate, based on the time which it actually expended in responding to the earlier request. The fee estimate indicated that Halton would require 26 hours, for a fee of \$780, to locate the requested information.

The requester, now the appellant, appealed Halton's decision on the basis that the amount of the fee estimate was unreasonable. A Notice of Inquiry was provided to the appellant and to Halton. Representations were received from both parties.

## **DISCUSSION:**

### **FEE ESTIMATE**

The charging of fees is authorized by section 45(1) of the Act, which states:

A head shall require the person who makes a request for access to a record to pay fees in amounts prescribed by the regulations for,

- (a) the costs of every hour of manual search required to locate a record;
- (b) the costs of preparing the record for disclosure;
- (c) computer and other costs incurred in locating, retrieving, processing and copying a record;
- (d) shipping costs; and

- (e) any other costs incurred in responding to a request for access to a record.

In reviewing the amount of Halton's fee estimate, my responsibility under section 45(5) of the Act is to ensure that the amount estimated by Halton is reasonable in the circumstances. In this regard, the burden of establishing the reasonableness of the estimate rests with Halton. 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 appellant argues that Halton advised him in August 1996 that it would take 13 hours to locate the information responsive to the July 1996 request, which encompassed much more than the information sought in the present request. He submits, accordingly, that it is unreasonable to expect that Halton would require 26 hours to locate information in response to a more narrowed request.

Halton submits that the search required for the information which is responsive to the narrowed request is identical to that which would have been required for the July 1996 request. Halton indicates that in February 1997, its Freedom of Information and Privacy Protection Co-ordinator, in consultation with program staff in the Realty Services Section of its Asset Management Department, determined that there were 71 property files. It states that each of these files would have to be searched in order to locate the information which would be responsive to either the request which is the subject of the present appeal or the July 1996 request.

As noted above, the time estimated to conduct this search is 26 hours. Halton submits that the fee estimate of 26 hours is based on its actual experience in expending 2.5 hours to search seven property files in response to the appellant's narrowed request in the fall of 1996.

Halton also advises that the fee estimate includes only the time spent conducting the search, and does not include any time spent preparing the record for disclosure or any charge for photocopying.

While I recognize that the position taken by the appellant is compelling, the original fee estimate provided by Halton was not based on any actual experience in searching its property files for the requested information. The fee estimate of \$780 is based on the experience gained by Halton when it undertook a search of seven property files following the narrowing of the July 1996 request by the appellant. In my view, based on the submissions before me with respect to the results of the earlier search of seven property files, a fee estimate of 26 hours to review 71 such files is reasonable.

## **ORDER:**

I uphold Halton's decision.

Original signed by: \_\_\_\_\_  
Donald Hale  
Inquiry Officer

\_\_\_\_\_ June 17, 1997