



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

ORDER P-1325

Appeal P_9600375

Ministry of Municipal Affairs and Housing



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NATURE OF THE APPEAL:

The appellant is a Metropolitan Toronto Housing Authority (MTHA) tenant. She submitted a request under the Freedom of Information and Protection of Privacy Act (the Act) to the Ministry of Municipal Affairs and Housing (the Ministry) for copies of all records concerning her application for subsidized housing, including the processing of her application and her placement.

The Ministry located records responsive to the request and granted partial access to them. The appellant appealed the Ministry's decision on the basis that further records responsive to the request exist. In her letter of appeal, the appellant indicated that records pertaining to interviews, telephone conversations and correspondence going back to November, 1994 should exist. She identified specific individuals with whom she had contact, or who were involved in processing her application, and detailed her reasons for believing that more records should exist.

At the same time, the appellant communicated this information to the Ministry. As a result, the Ministry conducted another search for responsive records. Additional records were located and these were sent to the appellant.

This office provided a Notice of Inquiry to the appellant and the Ministry. The Ministry provided representations in response to this Notice, which include an affidavit sworn by the Executive Assistant to the Executive Chair and General Manager of the MTHA (the executive assistant).

DISCUSSION:

REASONABLENESS OF SEARCH

Where a requester provides sufficient details about the record which he or she is seeking and the Ministry indicates that such a record does not exist, it is my responsibility to ensure that the Ministry has made a reasonable search to identify any records which are responsive to the request. The Act does not require the Ministry to prove with absolute certainty that the requested record does not exist. However, in my view, in order to properly discharge its obligations under the Act, the Ministry must provide me with sufficient evidence to show that it has made a reasonable effort to identify and locate records responsive to the request.

In her letter of appeal, the appellant made specific reference to her caseworker (and alleged that another caseworker had been assigned to her file). She believes that more records should exist which explain why there was a delay in offering her a placement. She also refers to an interview she had with her caseworker's supervisor. The appellant indicates that she communicated by way of correspondence with the General Manager of MTHA and has, on several occasions, spoken with her staff. Finally, the appellant states that she has communicated with an Inquiry Officer at the Ministry who is currently looking into certain complaints she has made regarding her tenancy.

In her affidavit, the executive assistant indicates that she is responsible for all access requests made to the MTHA. She states that she co-ordinated the search for records responsive to this request, and outlines the steps taken in this regard.

The executive assistant indicates that in order to ensure an accurate file record, MTHA maintains only one file for each tenant. She states that as work is required to be done on that file, it is physically transferred, in its entirety, to the appropriate staff member.

The appellant's tenancy file is located at the MTHA's field office responsible for the premises at which the appellant resides. The executive assistant indicates that she contacted the branch office and requested that the complete file be provided to her (with any information which might be subject to exclusion highlighted). After this was done, the severed records were released to the appellant. The executive assistant states that the MTHA does not hold any other files relating to the appellant.

The executive assistant does not explain how or why further records were located following clarification by the appellant. However, I note that with one exception, the records which were disclosed to the appellant following the second search all postdate the date of the appellant's request. One page predates the date of request by only a few days. These records pertain to the appellant's contact with the General Manager and her staff and the Inquiry Officer.

Having considered the Ministry's representations, the affidavit of the executive assistant and all of the circumstances in this appeal, I am satisfied that the Ministry's search for records responsive to the appellant's request was reasonable.

ORDER:

I find that the search for records was reasonable and I dismiss the appeal.

Original signed by: _____
Laurel Cropley
Inquiry Officer

January 3, 1997