



Information and Privacy  
Commissioner/Ontario

Commissaire à l'information  
et à la protection de la vie privée/Ontario

# ORDER P-1489

Appeal P\_9700222

Ontario Human Rights Commission



80 Bloor Street West,  
Suite 1700,  
Toronto, Ontario  
M5S 2V1

80, rue Bloor ouest  
Bureau 1700  
Toronto (Ontario)  
M5S 2V1

416-326-3333  
1-800-387-0073  
Fax/Télé: 416-325-9195  
TTY: 416-325-7539  
<http://www.ipc.on.ca>

## **NATURE OF THE APPEAL:**

The Ontario Human Rights Commission (the OHRC) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for access to a copy of an organizational review of the OHRC's Toronto West Office. The review was undertaken by a consulting firm in 1990 and resulted in the preparation of a 37-page report. The OHRC located the requested document and denied access to it, claiming that pursuant to section 65(6) of the Act, the report was not subject to the Act.

The appellant appealed the OHRC's decision. This office provided a Notice of Inquiry to the appellant and the OHRC, soliciting their submissions with respect to the application of section 65(6) to the subject record. Representations were received from both parties.

## **DISCUSSION:**

Late in the inquiry stage of the appeal, the appellant contacted this office and advised that he had received a copy of the subject record through other means. He also forwarded a copy of the record by facsimile to demonstrate that the document which he has in his possession is, in fact, the same document as that which is at issue in this appeal. I note that the copy given to me by the appellant has no notations or marks of any kind to distinguish it from the copy provided by the OHRC to this office. The appellant indicates that he wishes to proceed with the appeal in order to obtain access to the document under the Act, rather than "through the back door".

In Order M-271, former Assistant Commissioner Irwin Glasberg dealt with a situation in which a requester had obtained a copy of the record which was the subject of an appeal from a source other than the institution. In that case, he proceeded with the appeal because one of the issues was the appellant's desire to request a correction of personal information under section 36 of the Municipal Freedom of Information and Protection of Privacy Act (the equivalent of section 47 of the Act). He indicated that, in this situation, the institution in question would have to acknowledge that it had custody of the record for which the correction was to be requested. Also, the parties in that case had been involved in an ongoing series of requests and the former Assistant Commissioner was of the view that his order might reduce the need for future appeals.

However, he also made the following comments of a more general nature about situations where an appellant already has the record at issue:

In the ordinary course of events, I would be extremely reluctant to apply the resources of the Commissioner's office to decide an appeal where the appellant is already in possession of the records at issue through legitimate means. In my view, such an exercise would serve no useful purpose. In addition, appeals of this nature consume the scarce resources of institutions and impede the ability of the Commissioner's office to deal with the files of other appellants.

I agree with these views and adopt them for the purposes of this appeal. In my view, some appeals may present circumstances (such as those referred to in Order M-271) which would

justify proceeding even where an appellant has obtained a copy of the record at issue. However, in the absence of factors such as those present in Order M-271, the fact that an appellant has, by legitimate means, obtained a copy of the record at issue would render the appeal moot as regards that record, because any determination regarding access would have no practical effect.

In this case, I find that there are no factors such as those present in Order M-271 to warrant the continuation of this appeal. Accordingly, I find that this appeal is moot and no useful purpose would be served by proceeding.

**ORDER:**

The appeal is dismissed.

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

\_\_\_\_\_ November 18, 1997