



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

# **ORDER MO-1195**

**Appeal MA-990022-1**

**City of Hamilton**



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## **NATURE OF THE APPEAL:**

In December, 1997, the appellant, who is a member of the media, submitted a request to the City of Hamilton (the City) under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The request was for access to records relating to the Hamilton Fire Department fire prevention activities at a specified address, including any references to the business located at that address and/or two named individuals. The appellant later clarified that the time frame for the request was from January 1, 1997 to the time of the request.

The City provided the appellant with a fee estimate pursuant to section 45(3) of the Act. The appellant appealed this decision. This resulted in Order MO-1169 in which the Adjudicator reduced the fee that the City is entitled to charge the appellant. The City received payment of the reduced fee from the appellant on December 23, 1998.

On January 15, 1999, the City extended the time for responding to the request until February 1, 1999. The City's letter informed the appellant that the records which respond to the request are voluminous and the extension of time was necessary in order to properly process the request.

On January 28, 1999, the City wrote to the appellant advising him that the time required to properly respond to his request had been underestimated. The City further extended the time for responding to the request to March 17, 1999. The appellant appealed this decision.

In both its January 15, 1999 and January 28, 1999 letters, the City relied on section 20(1)(a) of the Act to extend the time to respond to the request.

Notice that an inquiry was being conducted to review the decision of the City was sent to the appellant and the City. Representations were received from both parties.

## **DISCUSSION:**

The sole issue for me to determine in this appeal is whether the extension of time claimed by the City as necessary to respond to the appellant's request was made in accordance with section 20(1)(a) of the Act.

Section 20(1)(a) of the Act states:

A head may extend the time limit set out in section 19 for a period of time that is reasonable in the circumstances, if,

the request is for a large number of records or necessitates a search through a large number of records and meeting the time limit would unreasonably interfere with the operations of the institution;

In his representations, the appellant expresses frustration at the length of time that has passed since he submitted his request. He points out that even if the records are voluminous, the matter should have progressed in a more timely manner.

[IPC Order MO-1195/March 15, 1999]

In its representations, the City addresses both the large number of records which must be reviewed and the impact processing the request has had and will have on the City's resources.

The City submits that its search has yielded 22 files consisting of 4100 documents that are responsive to the request. In order to conduct a complete and comprehensive review of these records, the City states that additional staff resources have been allocated to complete the processing of the request. The City further submits that more than 35% of the Freedom of Information office's workday is being dedicated to processing this request, to the detriment of other outstanding Freedom of Information requests and appeals.

According to the City, this does not take into account time spent by staff of its Legal Services Division who are assigned to assist in the decision making process.

The City states that, in addition to the above, it must conduct a particularly careful review of the records because of current litigation directly related to the file contents.

The City has also provided a detailed breakdown of how it had reached its extension expiry date of March 17, 1999, including the number of hours dedicated to review, sever, copy and assemble the files. The representations provide the City's calculations for why a time extension was necessary from February 1, 1999 (the expiry date for the first extension) to March 17, 1999.

The issue, however, is not solely whether the City's extension of time to respond to the request for the time period from February 1, 1999 to March 17, 1999 is reasonable. As mentioned above, this is the second time extension applied by the City. The City, in its representations, has not provided an explanation for the total time required for both extensions. In particular, the City has not explained why it also needed the time mentioned in the first extension to February 1, 1999.

The City has not provided me with an explanation for the total time needed for both extensions. Accordingly, I am not satisfied that the time extensions invoked by the City under section 20(1)(a) are reasonable in the circumstances of this appeal.

Even though the City has not satisfied me that the time extension is reasonable, the expiry date for the most recent extension is in the very near future and I have been assured by the City that an access decision will be issued on that date. Unfortunately, the relatively short time between the filing of the appeal and the issuance of this order has left me with no choice but to require the City to issue an access decision on the expiry date.

## **ORDER:**

1. I order the City to provide a decision letter to the appellant regarding access to the records in accordance with the Act by **March 17, 1999**.

2. In order to verify compliance with this order, I order the City to provide me with a copy of its decision letter on access referred to in Provision 1 by **March 24, 1999**. The notice should be sent to my attention, c/o Information and Privacy Commissioner/Ontario, 80 Bloor Street West, Suite 1700, Toronto, Ontario, M5S 2V1.

Original signed by: \_\_\_\_\_  
Alex Kulynych  
Acting Adjudicator

\_\_\_\_\_ March 15, 1999