



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

# **ORDER MO-1210**

**Appeal MA-980289-1**

**Township of Canton-East Ferris**



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## **NATURE OF THE APPEAL:**

The appellant submitted a request to the Township of Canton-East Ferris (the Township) under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The request was for copies of the Township Clerk Treasurer's expenses for 1997, including:

. . . any and all receipts that he has submitted for himself or for others. It is to include any or all business breakfasts, lunches, dinners, snacks or social drinks that he has submitted to the council for payment. It will also include monthly mileage expenses while on township business. This request will also include expenses that he has signed for on behalf of the township or himself.

The appellant also asked that the Township “release [him] from the cost of this freedom of information request” based on that fact that he was making the request “in the interest of the public” and based on his personal circumstances. The Township replied to the request by stating that the information was “available” but that it needed a further explanation as to why the request was in the public interest. In reply, the appellant provided the Township with further information. The Township then advised the appellant that the fees under the Act would “not be waived”, and that his “letter” would not be replied to because it was “frivolous and vexatious”. Finally, the Township directed the appellant to the Township’s Administrator for “an estimate of costs”. The appellant appealed the Township’s decision to this office, taking the position that the Township’s decision did not comply with the requirements of the Act, and Appeal Number MA-980224-1 was opened.

The Township later issued a revised decision letter as follows:

- the requested information will be disclosed, except for any personal information in the records which will be withheld pursuant to the personal privacy exemption at section 14 of the Act;
- it is estimated that it will require 10 hours to locate the records and prepare them for disclosure, with an estimated cost of \$300;
- the fees for copying the records will be \$0.20 per page, but the total fees for copying have not been estimated;
- a deposit of \$150 is required before the request will be processed further; and
- the information will be released upon payment of the deposit and the balance of the fees.

The revised decision was signed by the Reeve and stated that he was responsible for the decision.

The appellant appealed the revised decision, stating that the fees were “unreasonable for [an] accountant who has the records right in front of him.” The appellant further stated that he has “limited resources” and

that he requested the information “in the public interest”. Upon receipt of this appeal, this office opened Appeal Number MA-980289-1.

The appellant later clarified that he was not seeking a fee waiver under section 45(4) of the Act, but was appealing the amount of the fee. The appellant also indicated that he was not appealing the Township’s decision to sever personal information from the records under section 14 of the Act. Finally, the appellant took the position that the Township’s Clerk Treasurer may be in a conflict of interest situation as a result of his involvement with this and his earlier appeal (Appeal Number MA-980224-1, referred to above).

The appellant provided no information in support of his conflict of interest allegation, apart from a simple reference to the Clerk Treasurer’s “involvement” with this appeal and his earlier appeal. Further, the Township’s decision subject to appeal in this case was signed by another individual, the Reeve, on behalf of the Township. In the circumstances, I determined that the appellant had not provided sufficient information to establish a prima facie case of conflict of interest. After providing the appellant with a further opportunity to make submissions on this matter, I decided not to proceed with my inquiry on the conflict of interest issue.

I provided a Notice of Inquiry setting out the issues in this appeal to the appellant and the Township. I received representations from both parties.

## **DISCUSSION:**

### **FEES**

Sections 45(1) and (6) of the Act read:

- (1) A head shall require the person who makes a request for access to a record to pay fees in the 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.

- (6) The fees provided in this section shall be paid and distributed in the manner and at the times prescribed in the regulations.

Section 6 of Ontario Regulation 823 reads:

The following are the fees that shall be charged for the purposes of subsection 45(1) of the Act for access to a record:

1. For photocopies and computer printouts, 20 cents per page.
2. For floppy disks, \$10 for each disk.
3. For manually searching a record, \$7.50 for each 15 minutes spent by any person.
4. For preparing a record for disclosure, including severing a part of the record, \$7.50 for each 15 minutes spent by any person.
5. For developing a computer program or other method of producing a record from a machine readable record, \$15 for each 15 minutes spent by any person.
6. The costs, including computer costs, that the institution incurs in locating, retrieving, processing and copying the record if those costs are specified in an invoice that the institution has received.

The Township states that the records at issue consist of some 5000 to 6000 invoices. The Township submits that it estimates it will take seven hours to search through the invoices, and three hours to sever any personal information from the records. Thus, the Township has estimated the cost of preparing the record for disclosure under section 45(1)(b) and paragraph 4, section 6 of the Regulation at \$300 (10 hours multiplied by \$30 per hour). The Township has also indicated that it will ultimately charge \$0.20 per page for photocopies under section 45(1)(c) and paragraph 1, section 6 of the Regulation, but that it cannot provide an estimate of this cost since it does not know at this time how many records among the 5000 to 6000 invoices will be responsive to the request.

The appellant submissions can be summarized as follows:

- the Township should be able to more accurately estimate the number of invoices for 1997, given that they would be familiar with these records and given the small size of the Township's offices and staff;

- the Township's filing system is such that the time estimate of 10 hours is excessive;
- the Township should not be permitted to charge for one photocopy for each invoice, since several may be able to be copied onto one page.

The fact that the Township has not more accurately estimated the number of responsive invoices is not a sufficient reason for me to vary or not uphold the Township's fee estimate. The Township has provided a credible explanation as to why a very large number of invoices need to be reviewed in order to find responsive records, and I see no reason to doubt the accuracy of their estimate.

Further, I see no reason to doubt the Township's explanation as to why the invoices must be searched one at a time, and that a less labour intensive method is not available to it.

Finally I agree with the appellant that the Township should not be permitted to charge for one photocopy for each invoice since, based on the Township's submissions, it is likely that at least two if not more invoices may be able to be copied onto one page.

Since the Township's fee estimate did not include a copying component, there is no reason to vary the estimate on this basis.

In my Order PO-1662, Re: Ontario Human Rights Commission, with respect to copying charges under the equivalent to section 45(1)(c) in the Freedom of Information and Protection of Privacy Act, I stated:

. . . It is important to note . . . that where records are being severed, [the copying] charge may only be levied for photocopies which are actually given to the appellant, and not for copies required as part of the severing process which are not ultimately given to the appellant. In other words, if a page has to be copied twice to facilitate severing, the Commission may only charge for the copy of that page which is given to the appellant (Order M-556).

The Township should take this principle into account when conducting any severances and providing a final fee decision.

In addition, if the appellant chooses to pay the requested deposit and the actual preparation time varies from the estimate, the Township will be obliged to adjust its fee accordingly. The parties should also note that the Township's final fee decision, and its decision on severances, may be the subject of an appeal to this office.

**ORDER:**

I uphold the Township's fee estimate.

Original signed by: \_\_\_\_\_

\_\_\_\_\_ April 29, 1999

David Goodis  
Adjudicator