



**Information and Privacy
Commissioner/Ontario**

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

ORDER MO-1495

Appeal MA-010065-2

Municipality of Marmora and Lake



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BACKGROUND:

The Village of Marmora, the Village of Deloro, and the Township of Marmora and Lake (the Township) amalgamated on January 1, 2001 to form the Municipality of Marmora and Lake (the Municipality). Prior to amalgamation, the Township and the two villages kept separate financial records with the exception of records for a jointly used waste site that was the responsibility of the Township.

The appellant made a request to the Municipality under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for financial information relating to the Municipality's waste site. She requested the information be provided in "a computer print (sic) over a year within each subaccount and vendor ID". The Municipality denied the request on the basis that a "detailed computer printout" did not exist and that the record may contain personal information of other identifiable individuals.

Based on the inadequacy of the Municipality's decision letter, the appellant filed appeal MA-010065-1. Prior to the Municipality issuing a revised decision letter, the appellant narrowed her request to include the revenue received at the Municipality's waste site in 1999 and 2000, and the names of the companies that purchased goods from the waste site in those years.

In response to this request, the Municipality issued a decision letter denying access to the records, but proposing to remove the names of individuals from the record and then providing the record for an estimated fee of \$600. The estimate was based on 20 hours of search time at \$30 per hour and included the cost of preparing the records for disclosure and photocopying. With the issuance of this decision letter, Appeal MA-010065-1 was closed.

NATURE OF THE APPEAL:

The appellant appealed the Municipality's fee estimate to this office.

During mediation, the appellant again narrowed her request to include the revenue received at the waste site for the six-month period from January 1, 2000 to June 30, 2000, and the names of the companies that purchased goods from the waste site for the same period. The Municipality accordingly revised its fee estimate to \$150 based on five hours of search time at the rate of \$30 per hour. The Municipality requested a 50% deposit from the appellant which she paid. The appellant appealed the revised fee estimate.

I initially sent a copy of a Notice of Inquiry that set out the issues in this appeal to the Municipality which submitted representations. I then sent the Notice together with the non-confidential portions of the Municipality's representations to the appellant who also submitted representations.

The Municipality subsequently sent the appellant a 3-page computer generated report and 51 invoices. At issue is the fee charged by the Municipality that was based on its fee estimate.

DISCUSSION:

The charging of a fee 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 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.

Section 6 of Regulation 823 states:

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 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.

In its representations, the Municipality describes its system for tracking revenues from its waste site as consisting of invoices that are filed in folders according to the month of receipt, and corresponding postings to the computer. The Municipality indicates that it could not rely on the computer postings to provide the information requested by the appellant since these postings often show only an invoice number and not "the names of the companies that purchased goods from the waste site" as was requested by the appellant.

The Municipality advises that in preparing its fee estimate it sought the advice of its Clerk Treasurer who had set up its invoicing and filing systems, and maintains its computer system.

The Municipality also explains that its fee estimate was based on a representative sample of the records. It says that it reviewed one month of records as its sample. It then considered the appellant's request for the total revenue generated from the waste site, including all cash receipts and invoices, over a two-year period. The Municipality concluded that this search would comprise "thousands of copies and weeks of work". It calculated the cost to disclose two years of records at \$600 for 20 hours search time. Using the same formula to calculate the fee estimate for the current request, the Municipality estimated the cost at \$150 for five hours search time for six months of records.

The Municipality submits that it first created a General Ledger report from the computer postings and then manually searched the six monthly file folders for relevant invoices. It photocopied the invoices and compared the copies with the report to ensure accuracy. The Municipality says it took five hours to complete this search.

The Municipality also says it spent two hours checking the invoices for personal information, but found no information that had to be deleted. The Municipality did not charge for this preparation time.

The appellant questions why an easier method of retrieving the information, other than a manual search, was not available. Based on the computer report that she received, she suggests that a computer printout should have been available. She also points out inconsistencies between the computer printout and the paper invoices: 20 invoices do not appear in the printout and one invoice appears in the printout but no paper copy was provided.

The appellant submits that she received 51 invoices that were numbered from 2000-08 to 2000-67, and three pages of a General Ledger. She questions how it could take seven hours to search through 67 invoices and separate out the 51 that were related to the waste site.

The appellant disputes the Municipality's representative sample of the records on which it based its fee estimate. She states that there are approximately 70 invoices for the six-month period at issue. Assuming the same level of activity, she calculates there would be 140 invoices for one year and 280 for two years and not "thousands of copies...".

Findings

I accept the Municipality's explanation of why a manual search was required in addition to its computer search. The appellant's request included the names of the purchasers as well as the revenue from the waste site. I accept the Municipality's explanation that the computer record did not provide the name of the purchaser in every case and it was therefore necessary to pull the invoice to obtain that information. As well, the appellant points out the deficiencies in the report that was generated from the computer records. Twenty of the 51 invoices that she received did not appear in the report. Without the invoices, the appellant would have received only 60% of the information that she requested.

The appellant mistakenly attributes seven hours of search time to the Municipality, instead of the five hours that it actually charged. Nevertheless, she raises doubts about the number of hours the Municipality claims it took to find the relevant records. After reviewing the records, I agree with the appellant that the Municipality's estimate of five hours to search six monthly file folders is not warranted. I find a reasonable search time to be 2.5 hours.

The Municipality first calculated a fee estimate for the appellant's request for records covering a two-year period. It based this estimate on a representative sample of the records and concluded that the search would comprise "thousands of copies". In calculating the fee estimate for the current request for six months of records, the Municipality used one-quarter of the cost of the original fee estimate which corresponds to one-quarter of the time of the original request. However, comparing the Municipality's perception that the original search would include "thousands of copies" to the actual 67 invoices that turned up over the six-month period, I find it likely that the fee estimate was overstated. Accordingly, I uphold a fee of \$75.00.

The appellant has paid \$75.00 as a deposit to the Municipality and therefore I find that no additional amount is owing to the Municipality.

ORDER:

I uphold a fee in the amount of \$75.00.

Dawn Maruno
Adjudicator

December 21, 2001