



**Information and Privacy
Commissioner/Ontario**

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

ORDER MO-1541

Appeal MA-020122-1

Regional Municipality of Niagara



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NATURE OF THE APPEAL:

This is an appeal under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*).

On March 25, 2002, the requester submitted a request to the Regional Municipality of Niagara (the Municipality) for records as follows:

“Copy of all e-mail, notes, messages, diary entries, journals, scratch pad notes, telephone call message or similar messages left, hand written notes, memo, etc;

- Of the current director of Public Works, [a named individual], and
- The former Director of Public Works, [a named individual]

that deal with, or refer in any way to [a named company], and the low bids on the Garner Road and Port Weller tenders. This request covers those records created by or for them, sent by or for them, and/or received by of (sic) for them from anyone. We are not seeking documents created by [named company] or received by [named company], nor any technical material addressing the design or specifications for the project.

For e-mail, I request that the e-mail server be checked for deleted items, archived items, sent items and received items. The period in question is April 1998 to date.

I understand that [the named individual] left Niagara in mid 1998, therefore I would ask that [the named individual] review the files left to him by [the named individual] including those on computer hard disks.

Internal Niagara sources for e-mail sent to the Director(s) would be [three named individuals] amongst possibly several others at Niagara. I would ask that the e-mail accounts of these Niagara individuals be checked for deleted, archived, sent and received items. If any of these individuals have assistants who manage e-mail, please check the assistants (sic) e-mails as well.”

The Municipality did not issue a decision letter to the requester as required by sections 19 and 22 of the *Act* within the 30 days prescribed by the *Act*, nor did the Municipality request a time extension to process the request under section 20(1) of the *Act*. Accordingly, the Municipality placed itself in a “deemed refusal” situation pursuant to section 22(4) of the *Act*. The requester (now the appellant) appealed the Municipality’s deemed refusal to provide access to the records.

On May 7, 2002, a Notice of Inquiry was issued notifying the Municipality that a “deemed refusal” appeal had been opened, because a decision letter had not been issued to the appellant. The notice indicated that the matter would be mediated, and if settlement was not reached by May 21, 2002, an Order would be issued requiring the Municipality to issue a decision letter to the appellant.

I contacted the Municipality but to date, a decision letter has not been issued.

ORDER:

1. I order the Municipality to issue a decision letter to the appellant regarding access to the records in accordance with the *Act* and without recourse to a time extension, no later than May 27, 2002.
2. In order to verify compliance with Provision 1 of this Order, I order the Municipality to provide me with a copy of the decision letter referred to in Provision 1 by May 30, 2002. This should be forwarded to my attention, c/o Information and Privacy Commissioner/Ontario, 80 Bloor Street West, Suite 1700, Toronto, Ontario M5S 2V1.

Original signed by: _____
Leslie McIntyre
Acting-Adjudicator

_____ May 21, 2002