



**Information and Privacy  
Commissioner/Ontario**

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

# **ORDER MO-1586**

**Appeal MA-020131-2**

**City of Toronto**



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## **NATURE OF THE APPEAL:**

The City of Toronto (the City) received a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the Act) for access to all records pertaining to changes to parking signage. In response, the City issued a decision stating that no such records exist.

On receipt of the decision, the appellant spoke to the Freedom of Information Co-ordinator at the City (the Co-ordinator), who advised that he submit a second, more detailed request listing specific street names that had been affected by the signage change. The appellant did so in a letter, in which he stated:

“I have the necessity to receive any and all information pertaining to changes to parking signage on “arterial/collector” roads from “no parking” to “no stopping” in the city of Toronto and its former predecessor Metro. Such streets as: Bloor Street, Yonge Street, College Street, Queen Street, Spadina Avenue, Islington Avenue, Dupont Avenue, Queens Quay, Danforth Avenue, University Avenue, Wellesly (sic) Street, King Street, Bathurst Street, Runnymede Road, Eglinton Avenue, The Queensway, Bayview Avenue, Avenue Road, Dundas Street, Front Street, Jane Street, Windermere Avenue, St. Clair Avenue, Lakeshore Blvd.

This request needs to cover council minutes, internal and external correspondence, work orders and all other pertinent information received, circulated or discussed by the Toronto Police Services, Finance and Works and Emergency Services Departments. The period of discovery for this request is from January 1, 1998 to the present day of completion of the request.”

The appellant did not receive a decision to this second request, and he filed a deemed refusal appeal (MA-020131-1). After being contacted by this office, the Co-ordinator indicated that they would issue a decision on his request as soon as possible, although their records indicated that they had not received this request.

The City undertook a new search for the requested records, and issued a decision on June 6, 2002, stating that the “Works and Emergency Services Department has advised that no wholesale changes have occurred to parking signage on an area-wide basis. Therefore, access cannot be granted to the requested records as the records do not exist.”

The appellant has appealed the decision.

The appellant believes that records responsive to his request should exist. He states that he made a presentation before the Works Committee on October 6, 1999 and at this meeting a Councillor questioned the Commissioner of Transportation directly as to whether he had changed the parking signs across the city from “no parking” to “no standing”, and the Commissioner confirmed that he had.

I provided the appellant and the City with a Notice of Inquiry informing them that an oral inquiry will be held to determine whether the City conducted a reasonable search for records responsive to the request.

Prior to the inquiry, there was an opportunity for mediation, and during mediation, in a teleconference call with the mediator and the City's Access and Privacy Officer, the appellant narrowed his request to read as follows:

A copy of any directive from September 1, 1998 to October 31, 1999 to/from [a named individual] to authorize sign changes from "no parking" to "no standing". In addition, any work orders authorizing the sign shop to print and/or replace signs from "no parking" to "no standing".

No further mediation was possible.

The inquiry was conducted via teleconference. The appellant was present, as were two staff from the City's Corporate Access and Privacy Office: the Access and Privacy Officer and the Manager of Public Access. Both the appellant and the City provided oral representations.

## **DISCUSSION:**

### **Introduction**

Where a requester provides sufficient details about the records that he or she is seeking, and the institution indicates that records do not exist, it is my responsibility to ensure that the institution has made a reasonable search to identify all responsive records. The *Act* does not require the institution to prove with absolute certainty that records do not exist; however, in order to properly discharge its statutory obligations, the institution must provide me with sufficient evidence to show that it has made a reasonable effort to identify and locate responsive records.

Although an appellant will rarely be in a position to indicate precisely which records have not been identified in an institution's response to a request, the appellant must, nevertheless, provide a reasonable basis for concluding that such records may in fact exist.

During the inquiry, the appellant faxed the City and me a number of documents. He sent minutes from an October 6, 1999 Works Committee meeting, and although the minutes note that the appellant appeared before the Committee, I find that the referrals and requests recorded in these minutes do not refer to changing parking signs from "no parking" to "no standing".

The appellant also faxed a letter dated February 2, 1999 from the Director, Works and Emergency Services to a Sign Specialist with the Ministry of Transportation; a letter dated February 2, 1999 from the Director, Works and Emergency Services to the appellant; a letter dated October 19, 1998 from the appellant to the General Manager, Transportation Services; a letter dated April 19, 1999 from the Minister of Transportation to the appellant, and a recommendation from the Toronto Police Services Board dated April 29, 1999 to the Toronto Corporate Services Committee.

I reviewed these records and although I see that they relate to the broad issue of disabled parking permits, I do not find that they directly addressed the issue of changing of parking signs from “no parking” to “no standing”.

In addition, during the inquiry, in outlining the details of the steps taken by the City in response to the appellant’s narrowed request, the Access and Privacy Officer provided the following information:

- He contacted several people in the City’s Transportation Services Division of the Works and Emergency Services Department in 1999, at the time of the first request, again in mid-2002, at the time of this second request, and for a third time during the mediation process of this appeal, and was told that signs have not been changed on a wholesale, area-wide basis.
- An individual in the Works and Emergency Services Department spoke directly to the [the named individual] who indicated that he did not recall making the alleged statement at the October 6, 1999 meeting, and that wholesale changes had not occurred to signs.
- He spoke to the manager of the Traffic Sign/Pavement Markings Unit in the Transportation Services Division and with another individual in that Unit who responded that there has not been wholesale changes to the signs.
- When [the named individual] was contacted about a directive, he responded that because the signs have not been changed on a wholesale basis, there would have been no directive to authorize such a change.
- He spoke to the Manager of Traffic Sign/Pavement Markings Unit, the Transportation Services Coordinator, and three managers in Traffic Operations, who explained that the signs had never been changed on an area-wide basis, so there was no need to search for directives about changing them or to search for work orders for changing them.

In summary, the City has provided evidence to me that it contacted staff in the Works and Emergency Services Department and the Transportation Services Section including [the named individual] about “wholesale” or “area-wide” changes to parking signage. The letter of September 17, 2002 from the Co-ordinator also makes it clear that the City was searching for “area-wide” records.

However, the appellant has not requested records relating to “wholesale” or “area-wide” changes to parking signage. In his narrowed request, he specifies the following records:

“...any directive from September 1, 1998 to October 31, 1999 to/from [a named individual] to authorize sign changes from “no parking” to “no standing”. ...any work orders authorizing the sign shop to print and/or replace signs from “no parking” to “no standing”.

The Access and Privacy Officer has stated that when [the named individual] was contacted directly and asked about a directive, his response was that because the signs have not been changed on a wholesale basis, there would have been no directive to authorize such a change.

Based on the representations provided by the Access and Privacy Officer during the inquiry, a search of [the named individual's] files was not undertaken.

Under these circumstances, I find that the City has not provided me with sufficient evidence to conclude that its search for records responsive to the appellant's narrowed request was reasonable.

Given the specificity of the appellant's narrowed request, my order is as follows:

**ORDER:**

1. I order the City to conduct a search of [the named individual's] files for directive(s) either to or from [the named individual] relating to authorization for sign changes from "no parking" to "no standing" within the stated time period.
2. If there are any records in [the named individual's] files which would indicate that another employee(s) of the City might have such a directive in his or her files, I order that the City undertake a search of that employee's or employees' files.
3. I order the City to conduct a search for work orders as described in the appellant's narrowed request.
4. I order the City to provide the appellant with information as to the results of these further searches in accordance with sections 18, 21 and 22 of the *Act*, treating the date of this order as the date of the request, and without recourse to a time extension under section 20 of the *Act*.

Original signed by: \_\_\_\_\_  
Leslie McIntyre  
Acting-Adjudicator

\_\_\_\_\_  
November 7, 2002