



**Information and Privacy
Commissioner/Ontario**

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

ORDER PO-2181

Appeal PA-030149-2

Ministry of Community, Family and Children's Services



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NATURE OF THE APPEAL:

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

On March 6, 2003, the requester submitted a request to the Ministry of Community, Family and Children's Services (the Ministry).

The request was for copies of all correspondence concerning the property at 2024 Innes Road (also known as Progress House) operating as a group home run by Ottawa Valley Autistic Homes (OVAH), between:

- Representatives of OVAH and National Capital Commission;
- representatives of OVAH and Minto Developments;
- representatives of OVAH and Ministry staff/officials;
- Ministry staff/officials and other ministry staff/officials; and
- parents/guardians/advocates of persons living at 2024 Innes Road and representatives of OVAH and/or Ministry staff/officials.

The requested records were to include:

- Correspondence with respect to the relocation of persons living at 2024 Innes Road and construction of a new group home to replace Progress House;
- copies of internal memos, records of telephone conversations, e-mails;
- copies of health inspections concluded in December 2000, February 2001 and April 2001;
- copy of a letter dated February 15, 2001, to Ministry officials (from Wayne Turner);
- copy of the City compliance order issued June 26, 2001; and
- copy of fire inspection in October 2002.

The requested records were to cover the period from August 2000 to March 2003.

Section 26 of the *Act* requires the Board to issue a decision within 30 days of receipt of a request. If a decision is not issued within that time period, the Board is in a "deemed refusal" situation pursuant to subsection 29(4) of the *Act*. That provision states:

A head who fails to give the notice required under section 26 or subsection 28(7) concerning a record shall be deemed to have given notice of refusal to give access to the record on the last day of the period during which notice should have been given.

On April 28, 2003, the requester (now the appellant) wrote to this office indicating that the Ministry had not replied to his request under the *Act*. Appeal PA-030149-1 was opened.

On April 30, 2003, this office sent a Notice of Inquiry to both the appellant and the Ministry stating that the Ministry was in a deemed refusal situation. The Notice also advised that if a

decision was not issued by May 14, 2003, I would be in a position to issue an order requiring the Ministry to provide a decision letter to the appellant.

On May 16, this office received a copy of the Ministry's decision letter dated May 16, 2003, in which the Ministry sets out a fee estimate of the costs to process the appellant's request. The Ministry requested a deposit equal to 50 percent of the estimated fee in order to resume processing the request. As a result of the Ministry issuing a decision, Appeal PA-030149-1 was closed.

On August 18, 2003, the appellant wrote to this office indicating that it has been three months since he paid the deposit equal to 50 percent of the estimated fee and the Ministry has not provided him with a final decision and/or the records.

On September 8, 2003, Appeal PA-030149-2 was opened and this office sent another Notice of Inquiry to both parties stating that the Ministry was again in a deemed refusal situation. The Notice also advised that if a decision was not issued by September 22, 2003, I would be in a position to issue an order requiring the Ministry to provide a final decision letter to the appellant.

I called the Freedom of Information and Protection of Privacy Co-ordinator (the FOIC), for the Ministry on September 16, 2003, regarding the status of the decision. The FOIC advised that the Ministry was in the process of preparing a decision but she could not guarantee that a final decision would be released by the September 22, 2003, deadline.

My attempts to contact the FOIC on September 19 and 22, 2003, have not been successful. As of September 23, 2003, neither the appellant nor myself have received a copy of a final decision.

To ensure that there are no further delays in processing this request, I am therefore ordering the Ministry to issue a decision regarding access.

ORDER:

1. I order the Ministry to issue a final 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 **October 2, 2003**.
2. In order to verify compliance with Provision 1 of this Order, I order the Ministry to provide me with a copy of the decision letter referred to in Provision 1 by **October 2, 2003**. 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: _____

September 24, 2003 _____

Lucille Sorin
Intake Analyst