



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

# **ORDER MO-1879**

**Appeal MA-040344-1**

**City of Toronto**



Tribunal Service Department  
2 Bloor Street East  
Suite 1400  
Toronto, Ontario  
Canada M4W 1A8

Services de tribunal administratif  
2, rue Bloor Est  
Bureau 1400  
Toronto (Ontario)  
Canada M4W 1A8

Tel: 416-326-3333  
1-800-387-0073  
Fax/Télé: 416-325-9188  
TTY: 416-325-7538  
<http://www.ipc.on.ca>

## **NATURE OF THE APPEAL:**

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

On August 12, 2004, the requester submitted a request to the City of Toronto (the City) for the “Legal actions brought against the City of Toronto for any injuries suffered by third parties on property owned or maintained by the City.”

This included the following information:

- Number of lawsuits filed against the City in the years 1980, 1990, 1995, 1996 through 2004;
- Breakdown re: the type of City facility or property on which the alleged injuries occurred;
- The status of this litigation, e.g. number of lawsuits in each category that are/were:
  1. Being actively litigated;
  2. In settlement negotiations;
  3. Settled, by agreement between the City and the party concerned
  4. The subject of a court order for damages
  5. Discontinued
- Amount of City’s funds paid: for deductibles; to settle litigation, or to pay court awarded damages
- Dollar amount of claims paid by insurance companies for settlement or court awarded damages.

On September 20, 2004, the City Clerk at the City acknowledged receipt of the request, in addition to extending the time for responding to October 20, 2004.

The requester did not appeal the extension.

On November 15, 2004, the requester appealed to this office because the City had not replied to the request by the October 20, 2004 deadline.

Section 19 of the *Act* requires the City to issue a decision within 30 days of receipt of a request. If a decision is not issued within that time period, the City is in a "deemed refusal" situation pursuant to subsection 22(4) of the *Act*. That provision states:

A head who fails to give the notice required under section 19 or subsection 21(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.

The City did not issue an access decision at the expiry of the time extension. Accordingly, the City placed itself in a "deemed refusal" situation pursuant to section 22(4) of the *Act*.

### **DISCUSSION:**

On November 17, 2004, a Notice of Inquiry was issued to both the appellant and the City stating that the City was in a deemed refusal situation. The Notice also advised that if a decision was not issued by December 1, 2004, I would be in a position to issue an order requiring the City to provide a decision letter to the appellant.

On November 23, 2004, I spoke with an Analyst in the Freedom of Information Office at the City who indicated she was hoping to have a decision issued by the December 1, 2004 deadline.

On December 1, 2004, I spoke with the Analyst to determine whether a decision would be issued. The Analyst indicated a decision would not be issued on that day.

The appellant rejects any further delay on the part of the City to respond to the request.

### **ORDER:**

1. I order the City to issue a decision letter to the appellant regarding access to the requested records in accordance with the *Act* and without recourse to a time further extension, no later than **December 8, 2004**.
2. In order to verify compliance with Provision 1 of this Order, I order the City to provide me with a copy of the decision letter referred to in Provision 1 by **December 8, 2004**. This should be forwarded to my attention, c/o Information and Privacy Commissioner/Ontario, 2 Bloor Street East, Suite 1400, Toronto, Ontario, M4W 1A8.

Original Signed by: \_\_\_\_\_  
Enza Ragone  
Acting Adjudicator

December 1, 2004 \_\_\_\_\_

