



**Information and Privacy
Commissioner/Ontario**

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

ORDER MO-1902

Appeal MA-040274-2

Toronto Community Housing Corporation



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NATURE OF APPEAL:

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

On June 28, 2004 the requester made the following access request to the Toronto Community Housing Corporation (TCHC) which reads in part:

At this time we wish to see a list of contractors since 1998 that have applied for their Contractor Pre-Qualification, when they were approved, how much work they have received, what type of work and how often (if they are on regular rotation list). The same applies for the non-rotational trades as outlined above.

As well please inform us of all the members of the Board of Directors for TCHS, Council Members that are on the TCHC Board, how we may contact them via telephone, fax, and address in order that we may keep them informed of our progress and possible assistance.

By letter dated July 14, 2004, the TCHC advised that it was extending the time for responding to the request under section 20(1) of the *Act* for 30 days to September 3, 2004.

The TCHC advised that it was further extending the time for responding to the request for an additional 30 days to October 12, 2004, by letter dated September 10, 2004.

On September 13, 2004, the requester (now the appellant) appealed the TCHC's time extension decision to this office, and appeal MA-040274-1 was opened.

Order MO-1849 was issued on October 7, 2004, by Acting Adjudicator Brian Bisson. The order required TCHC to issue an access decision letter to the appellant no later than October 12, 2004.

The TCHC issued a decision letter on November 8, 2004, granting partial access to the records requested, and included a fee in the amount of \$29.80 for photocopying.

On November 30, 2004, the appellant submitted the \$29.80 fee to the TCHC.

By letter dated January 20, 2005, the appellant filed another appeal with this office indicating that the TCHC had failed to disclose the records as indicated in their decision of November 8, 2004. Appeal MA-040274-2 was opened.

On January 24, 2005, a Notice of Inquiry was issued to both the appellant and the TCHC stating that the TCHC had failed to disclose requested records even though it issued a decision indicating it would do so. The Notice also advised that if a settlement was not reached by February 7, 2005, I would be in a position to issue an order requiring the TCHC to disclose the records to the appellant.

I left voicemail messages for the Freedom of Information and Privacy Co-ordinator on several occasions, but did not receive a return call. I attempted to contact other staff in the Freedom of Information office, but was not successful.

DISCUSSION:

HAS THE MINISTRY COMPLIED WITH ITS OBLIGATION TO DISCLOSE THE REQUESTED DOCUMENTS?

Where an institution makes a decision to disclose records, or parts of records, in response to a request under the *Act*, section 19 sets out the time frames with which this disclosure is to take place. This section reads:

Where a person requests access to a record, the head of the institution to which the request is made or if a request is forwarded or transferred under section 18, the head of the institution to which it is forwarded or transferred, shall, subject to sections 20, 21, and 45, within thirty days after the request is received,

- (a) give written notice to the person who made the request as to whether or not access to the record or part thereof will be given; and
- (b) if access is to be given, give the person who made the request access to the record or part thereof, and where necessary for the purpose cause the record to be produced.

In my view, section 19 requires the issuance of a decision *and* the disclosure of records to which access is to be given within 30 days of receipt of the request. However, where an access fee is requested, the “30 day clock” stops pending payment, but begins to run again upon receipt of payment (see Order 81).

I find that the TCHC did not comply with its obligation under section 19(b) to disclose those portions of the responsive records referred to in its decision letter within the time frame required by both section 19 and 45. I note that I have not been provided with any explanation from the TCHC as to its reasons for non-compliance. Accordingly, I will order that the TCHC disclose to the appellant those records or parts of the records referred to in its November 8, 2004, decision letter in accordance with the provisions set out below.

ORDER:

1. I order the TCHC to disclose to the appellant those portions of the responsive records in accordance with its decision letter of November 8, 2004, by **February 16, 2005**.

2. In order to verify compliance with Provision 1 of this Order, I order the TCHC to provide me with a copy of the covering letter to the appellant which accompanies the records which are disclosed pursuant to Provision 1.

Lucy Costa
Intake Analyst

February 9, 2005