



**Information and Privacy
Commissioner/Ontario**

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

ORDER MO-1999

Appeal MA-050138-1

City of Toronto



Tribunal Services 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/Téloc: 416-325-9188
TTY: 416-325-7539
<http://www.ipc.on.ca>

NATURE OF THE APPEAL:

The City of Toronto (the City) received a request under the *Municipal Freedom of Information and Protection of Privacy Act* from an individual representing the board of directors of a “co-ownership” apartment building for the following:

Full and detailed report of fire at building on Friday January 28, 2005.

The City identified several Emergency Incident Reports relating to this fire and granted access to portions of them. The City denied access to parts of the reports based on the exemption in section 14(1) of the *Act* (protection of personal privacy). The City stated that it severed personal information because disclosure would constitute an unjustified invasion of privacy.

The requester (now the appellant) appealed the decision to withhold parts of the record.

This office assigned a mediator to assist the parties in resolving issues. During mediation, the appellant stated that she was only interested in information about the cause of the fire that started in a particular unit of the building. The severed portions of the Emergency Incident Reports consisted of the apartment unit owner’s name, phone number, insurance details, and the personnel numbers of various fire services employees. Since these severed portions of the reports do not relate to the cause of the fire, the appellant was not interested in receiving this information and therefore disclosure of the withheld portions of the reports is no longer at issue in this appeal.

However, during mediation, the issue of whether the City conducted a reasonable search for additional records under section 17 of the *Act* arose. In response, the City provided an explanation for the code “52” contained in the box labelled “Cause (possible)” on page 2 of Emergency Incident Report A. The code represents “electrical failure”. The appellant informed the mediator that fire fighters at the scene of the fire had informed residents that the cause of fire was other than electrical failure. The appellant was not satisfied with the City’s explanation of the record and believed other records exist containing information about the cause of the fire.

The City agreed to conduct a further search for records, particularly for firefighter’s notes. The City interviewed the firefighters involved. A firefighter’s notes were located which had one page containing information about this fire. The City issued a revised decision letter granting access to part of the page of notes. The City relied on the exemption in section 14(1) of the *Act* to deny access to portions of the notes on the grounds that disclosure would constitute an unjustified invasion of the privacy of an individual. The name, telephone number and date of birth of an individual were withheld as well the name of an insurance company and a three-letter abbreviation.

The appellant did not appeal the decision to withhold parts of firefighter’s notes. However, the appellant continued to believe that records exist that contain more information about the cause of the fire. Therefore, the issue of whether the City conducted a reasonable search for records was not fully resolved during mediation.

The appeal then entered the inquiry stage. I initially provided the appellant with a Notice of Inquiry setting out the facts and the issue in this appeal and invited the appellant to provide representations initially. The appellant did so. I then provided the City with a Notice of Inquiry and the appellant's representations, and received representations from the City in response.

DISCUSSION:

SEARCH FOR RESPONSIVE RECORDS

Did the City conduct a reasonable search for records?

Where a requester claims that additional records exist beyond those identified by the institution, the issue to be decided is whether the institution has conducted a reasonable search for records as required by section 17 [Orders P-85, P-221, PO-1954-I]. If I am satisfied that the search carried out was reasonable in the circumstances, I will uphold the institution's decision. If I am not satisfied, I may order further searches.

The *Act* does not require the institution to prove with absolute certainty that further records do not exist. However, the institution must provide sufficient evidence to show that it has made a reasonable effort to identify and locate responsive records [Order P-624].

Although a requester will rarely be in a position to indicate precisely which records the institution has not identified, the requester still must provide a reasonable basis for concluding that such records exist.

A reasonable search is one in which an experienced employee expending reasonable effort conducts a search to identify any records that are reasonably related to the request (see Order M-909).

Analysis and findings

The appellant sincerely believes that additional records must exist that provide more information about the cause of the fire. As indicated earlier, the only recorded information provided to the appellant about the cause or possible cause of the fire was "electrical failure". This is a general term that can encompass many causes involving many different sources, ranging from incorrectly installed wiring to overloaded circuits or defective appliances. It provides little information about the actual cause of a fire. In light of the vagueness of the recorded information, the additional, and possibly contradictory, information about the cause of the fire that the appellant claims was provided orally by firefighters at the scene of the fire (which is described in greater detail in the appellant's representations), and the fact that a fire in a multi-unit residential building can have serious consequences, it is reasonable to believe that the City would have recorded more detailed and specific information about the cause of this fire than "electrical failure".

The appellant's representations state:

What we have been provided with is insulting. "Electrical failure" and ridiculously useless notes mean nothing.

...We know why this fire started, as per advices from the firemen on the scene, and the City knows. To not provide us with a clear document stating clearly how, why, where, and all other circumstances as to this event is, quite simply unacceptable.

In its representations, the City states that the only records it is required to create regarding fires are Emergency Incident Reports. Firefighters may also make notes to assist their memory for preparing these reports. However, there is no requirement to keep notes.

The City states:

Under the Toronto Municipal Code, Chapter 79, the Fire Chief is responsible for keeping an accurate record in a convenient form for reference of all fires, rescues and emergencies responded to by Toronto Fire Services.

Fire Services has a data system whereby firefighters, who attend a particular incident, log on and record information relevant to the incident (i.e., populate a report template), thereby creating the Emergency Incident Reports for that particular call out. These reports contain the detailed information about the fire including location, owner's name and address, possible cause(s), conditions and observations upon arrival, initial actions, entry methods, security of property, etc.

The City claims that the following searches were conducted "by knowledgeable Toronto Fire Services staff":

On February 28, 2005, a CAP [Corporate Access and Privacy] employee contacted Toronto Fire Services with the request. A staff member of the Fire Services accessed the Fire Services database and located the Emergency Incident Reports for the specific location and date and forwarded copies of them to the CAP office on March 4, 2005.

On July 5, 2005, following discussions with the IPC mediator, the CAP office contacted Fire Services to ascertain if any of the firefighters who had attended the fire has personally prepared notes relating to the specific fire, in addition to completing the Emergency Fire Incident Reports. Subsequently, the Division Commander contacted the relevant firefighters including the reporting Captains and District Chief to ascertain if they had any other responsive records. As a result, one page of firefighters' notes that had been prepared by the driver for the District Chief was located.

The City also states:

The City is of the view that the appellant is not claiming that additional records exist but rather she is dissatisfied with the specific information she has received and is seeking to have the City create a record; i.e., a summarizing report, which it does not have.

I do not accept the latter submission. As I indicated earlier, a reasonable person would believe that, under the circumstances as understood by the appellant, the City would have recorded more information about the cause or possible cause of the fire than is found in the records provided. I am satisfied that the appellant's belief that additional records exist is sincere.

Nevertheless, I am satisfied, based on the information provided by both parties, that the search for records carried out by the City is reasonable.

ORDER:

I find that the search for responsive records conducted by the City is reasonable.

Original Signed By: _____ November 28, 2005
John Swaigen
Adjudicator