



**Information and Privacy  
Commissioner/Ontario**

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

# **ORDER MO-2302**

**Appeal MA08-157**

**Toronto Community Housing Corporation**



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## **NATURE OF THE APPEAL:**

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

On January 14, 2008, the requester submitted a request to the Toronto Community Housing Corporation (TCHC) for access to the following records:

...I am requesting a copy of notes for the following:

[a named Special Constable].....November 04, 2007

[a named individual].....November 04, 2007

All other notes pertaining to [a named report]

Notes in notebook #6107 for November 04, 2007

Record of dispatch call for November 04, 2007

Record and name of person from the call centre that [a named Special Constable] spoke to that gave her the lease information on November 04, 2007

Any transcripts, recordings or video from interrogation in regards to the call made for the property at [a residential address in Toronto] from November 04, 2007 to present

On April 7, 2008, the requester sent an e-mail to the Freedom of Information and Protection of Privacy Unit's Co-ordinator (the Co-ordinator). The e-mail indicated the requester had placed several phone calls to the Co-ordinator and had left several messages on the Co-ordinator's voice mail, in addition to having visited the TCHC's Freedom of Information and Protection of Privacy office to leave messages for the Co-ordinator in person. The e-mail further indicated that despite these attempts the requester did not receive any communication from the Co-ordinator on the status of his request.

On April 25, 2008, the requester (now appellant) filed an appeal with the Information and Privacy Commissioner/Ontario (IPC). The appellant alleges the TCHC is in a deemed refusal position as it has not issued a decision on whether or not access to the requested records would be granted in accordance with section 19 of the *Act*.

On May 1, 2008, this office sent a Notice of Inquiry to both the appellant and the TCHC that stated the TCHC is in a deemed refusal position. The Notice further stated that if a final decision was not issued by May 15, 2008, I would be in a position to issue an order requiring the TCHC to provide its decision to the appellant.

On May 6, 2008, I left a voice mail message for the Co-ordinator to contact me by the end of the business day to advise me of the status of the TCHC's decision to the appellant's request. I did not receive a return call or voice mail message from the Co-ordinator or another staff member of the TCHC.

On May 7, 2008, I left another voice mail message for the Co-ordinator, this time to contact me by the end of the following business day (May 8, 2008). I advised that if I did not receive a return call or voice mail message from the Co-ordinator, I would proceed with issuing an order on May 15, 2008. I did not receive a return call or voice mail message from the Co-ordinator or another staff member of the TCHC.

## **DISCUSSION:**

The matter before me is whether the TCHC is in a deemed refusal position pursuant to section 22(4) of the *Act*.

Section 19 of the *Act* requires the TCHC to issue a decision within 30 days of receipt of a request. If a decision is not issued within that time period, the TCHC is in a “deemed refusal” position 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.

I have not been advised by the TCHC that it did not receive the request or that it issued an access decision for the request within the 30 days, or that it requested a time extension within this period to process the request pursuant to section 20 of the *Act*. Accordingly, I find that the TCHC placed itself in a “deemed refusal” position pursuant to section 22(4) of the *Act*.

## **ORDER:**

1. I order the Institution to issue a **final** decision letter to the appellant regarding access to the requested records in accordance with the *Act* and without recourse to a time extension, **no later than May 22, 2008**.
2. In order to verify compliance with provision 1, I order TCHC to provide me with a copy of the decision letter referred to in provision 1 **by May 22, 2008**. 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: \_\_\_\_\_  
Joseph Sommer  
Intake Analyst

\_\_\_\_\_ May 15, 2008