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

ORDER MO-2423

Appeal MA08-131

City of Greater Sudbury

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NATURE OF THE APPEAL:

A member of the local media submitted a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) to the City of Greater Sudbury (the City) for access to information related to the purchase, use and distribution by members of Sudbury City Council of tickets for the Elton John and Anne Murray concerts which were held at the Sudbury Community Arena (the Arena), a City-operated venue, in 2008.

The following day, the same individual submitted a second request under the *Act* to the City, seeking access to information about public availability of tickets for the Elton John concert only. The requester expressed particular interest in the number of tickets available for purchase by the public through the City's website or in-person at the Arena during a specified time period, as well as the number of tickets not available to the public through these sources.

The City identified several records as responsive to the requests. The concert promoter was identified as a party whose interests may be affected by disclosure of the information in the records (the affected party). However, the City did not notify the affected party under section 21 of the *Act* to seek its views on disclosure at that time. Instead, the City issued a decision disclosing information about the number of tickets purchased by City Councillors and the Mayor, but denied access to certain numerical portions of the records pursuant to the mandatory exemption for third party information in section 10(1) of the *Act*. The City also advised the requester that it had not located any records that would indicate how tickets for either concert were used by Council members.

The day after the City sent the decision letter responding to both requests, it issued a news release about the Elton John concert containing information similar to that disclosed to the requester, and an explanation of the context of the City's decision to deny access to the withheld information.

The requester (now the appellant) appealed the City's access decision respecting the information related to the Elton John concert to the Commissioner's office, which appointed a mediator to try to resolve the issues. At the outset of mediation, the City identified one additional responsive record related to council member use of Elton John tickets, and granted full access to it in a supplementary decision letter. The City also advised that while it had initially withheld column and row headings in the records because this information was considered to be non-responsive to the request, it would now disclose this particular information. The issue of responsiveness was thereby removed from the scope of the appeal. However, the City continues to maintain its position that section 10(1) applies to the numerical information in the records.

The appellant argues that there is a strong public interest in the disclosure of this information and that the public interest override in section 16 should be applied in the event that the City's section 10(1) exemption claim is upheld. The appellant also takes the position that additional records should exist with respect to how Elton John tickets were used by City council members. Accordingly, a review of the adequacy of the City's search for records responsive to this part of the request was added as an issue in this appeal.

As a mediated resolution of the appeal was not possible, it was transferred to the adjudication stage of the appeal process, where it was assigned to me to conduct an inquiry. I sent a Notice of Inquiry outlining the facts and issues seeking representations from the City, as well as the affected party. The City and the affected party are represented by the same legal counsel, and I received joint representations from those two parties. In the representations, the affected party consented to disclosure of additional information, and this was provided to the appellant through the sharing of representations.

I sent a modified Notice of Inquiry to the appellant, along with a complete copy of the joint submissions of the City and the affected party, in order to seek representations on the issues from him. Although the appellant sought and received several extensions to the deadline for the submission of representations, he ultimately did not provide representations for my consideration.

As previously noted, the City and the affected party provided joint submissions in this appeal. For the sake of clarity, it should be noted that reference to the positions effectively taken by both of the parties may be attributed solely to one or the other in certain parts of this order.

RECORDS:

At issue in this appeal is numerical information related to seat allocation "hold" totals contained in a sales report and an e-mail (2 pages).

DISCUSSION:

THIRD PARTY INFORMATION

According to the City and the affected party, sections 10(1)(a), (b) and/or (c) apply to the withheld information. The relevant parts of section 10(1) state:

> A head shall refuse to disclose a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, if the disclosure could reasonably be expected to,
>
> (a) prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
>
> (b) result in similar information no longer being supplied to the institution where it is in the public interest that similar information continue to be so supplied;
>
> (c) result in undue loss or gain to any person, group, committee or financial institution or agency; …

Section 10(1) is designed to protect the confidential "informational assets" of businesses or other organizations that provide information to government institutions [*Boeing Co. v. Ontario (Ministry of Economic Development and Trade)*, [2005] O.J. No. 2851 (Div. Ct.)], leave to appeal dismissed, Doc. M32858 (C.A.)]. Although one of the central purposes of the *Act* is to shed light on the operations of government, section 10(1) serves to limit disclosure of confidential information of third parties that could be exploited by a competitor in the marketplace [Orders PO-1805, PO-2018, PO-2184, MO-1706].

For section 10(1) to apply, the parties resisting disclosure must satisfy each part of the following three-part test:

1. the record must reveal information that is a trade secret or scientific, technical, commercial, financial or labour relations information; and

2. the information must have been supplied to the institution in confidence, either implicitly or explicitly; and

3. the prospect of disclosure of the record must give rise to a reasonable expectation that one of the harms specified in paragraph (a), (b), (c) and/or (d) of section 10(1) will occur.

Part 1: type of information

According to the joint representations, the information at issue in this appeal constitutes the trade secret, financial and commercial information of the affected party. These types of information have been described in prior orders in the following manner:

> *Trade secret* means information including but not limited to a formula, pattern, compilation, programme, method, technique, or process or information contained or embodied in a product, device or mechanism which
>
> (i) is, or may be used in a trade or business,
>
> (ii) is not generally known in that trade or business,
>
> (iii) has economic value from not being generally known, and
>
> (iv) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy [Order PO-2010].
>
> *Financial information* refers to information relating to money and its use or distribution and must contain or refer to specific data. Examples of this type of information include cost accounting methods, pricing practices, profit and loss data, overhead and operating costs [Order PO-2010].

> *Commercial information* is information that relates solely to the buying, selling or exchange of merchandise or services. This term can apply to both profit-making enterprises and non-profit organizations, and has equal application to both large and small enterprises [Order PO-2010]. The fact that a record might have monetary value or potential monetary value does not necessarily mean that the record itself contains commercial information [P-1621].

I adopt these definitions for the purposes of this appeal.

Representations

The City explains that there was a contractual relationship between it and the affected party concert promoter (or the Promoter) through which the City sold and distributed tickets for the Elton John concert under the direction of the affected party. The City notes that it has already disclosed to the appellant some information about the number of "holds" (seats not available to the general public) for the Elton John concert, including those provided to elected officials, arena staff, club suites, club seats, and charity. The City submits that it also:

> Disclosed the following list of words noted next to the detailed numbers reflecting tickets that were withheld from public sale: artist, promotion, fan club, media, record, promoter and tech. … This latter number of "tech" seats has now been disclosed, above.

The City describes the individual categories of numbers at issue in the following manner:

- Available tickets: total tickets/seats for the concert minus the specified holds;
- Holds: specified holds as indicated in the records;
- Total of available and holds: total number of tickets available for the concert, i.e., the total tickets available plus the holds;
- Artist: tickets that Elton John and the affected party agreed may be provided at the discretion of the artist;
- Promotion: tickets that were used for generic promotion by [the Promoter];
- Fan club: tickets that were used for the fan club of the artist in Sudbury;
- Media: tickets that were provided to the media for the concert;
- Record: tickets that were provided to the record retailers for the concert; and
- Promoter: tickets that were provided to the Promoter for promotion of the concert.

According to the City, the withheld information constitutes the "informational assets" of the affected party.

Analysis and Findings

Based on the representations and upon review of the records, I find that the information at issue is connected to the "buying, selling or exchange of goods or services," in that it flows from and relates specifically to the contractual arrangement between the City and the affected party for the

hosting of the Elton John concert in Sudbury. This information includes the seat totals for each of the ticket "hold" categories allocated by the affected party for the concert, as well as the overall seat totals. I find that this information qualifies as the "commercial information" of the affected party for the purposes of part 1 of the test in section 10(1).

Having determined that the records contain commercial information, I find that part 1 of the test under section 10(1) of the *Act* has been met. It is therefore unnecessary for me to also determine whether the information constitutes the trade secret or financial information of the affected party. I will now go on to consider whether the affected party's commercial information was "supplied in confidence" to the City under part 2 of the test.

Part 2: supplied in confidence

In order to satisfy part 2 of the test under section 10(1), the affected party must have "supplied" the information to the City in confidence, either implicitly or explicitly.

The requirement that the information be demonstrated as having been "supplied" reflects that the purpose of section 10(1) of the *Act* is to protect the informational assets of third parties [Order MO-1706]. Information may qualify as "supplied" if it was directly supplied to an institution by a third party, or where its disclosure would reveal or permit the drawing of accurate inferences with respect to information supplied by a third party [Orders PO-2020, PO-2043].

In order to satisfy the "in confidence" component of part two, the parties resisting disclosure must establish that the supplier had a reasonable expectation of confidentiality, implicit or explicit, at the time the information was provided. This expectation must have an objective basis [Order PO-2020].

In determining whether an expectation of confidentiality is based on reasonable and objective grounds, it is necessary to consider all the circumstances of the case, including whether the information was communicated to the institution on the basis that it was confidential and that it was to be kept confidential; treated consistently in a manner that indicates a concern for its protection from disclosure by the affected person prior to being communicated to the government organization; not otherwise disclosed or available from sources to which the public has access; and prepared for a purpose that would not entail disclosure [Orders PO-2043, PO-2371, PO-2497]

Representations

The City states that, in keeping with "industry practice," there was a confidential agreement between the affected party and Elton John regarding concert seat allocations, and submits that decisions about the allocations are "based on the collective expertise of the promoter and the artist with a view to enhancing the promotion of the events." Furthermore, the City submits that:

> [the] numbers were provided to Sudbury in confidence by [the Promoter] to enable it to sell tickets to the Elton John concert held in the arena owned by

> Sudbury. The numbers were "supplied" in that they were provided to Sudbury and were not the subject of negotiation as between Sudbury and [the Promoter].

The following submissions regarding the "in confidence" nature of the information were contained in an affidavit provided by the individual who promoted the Elton John concert for the affected party:

> The numbers at issue in this appeal regarding the Elton John concert, if disclosed, would breach a confidentiality agreement .. [the Promoter] … entered into with Elton John. … The numbers … are highly confidential and protected within the entertainment industry, as are the totals as noted. The information was provided to Sudbury explicitly in confidence, through verbal assurances, to enable it to appropriately distribute the tickets for the concert; such information is consistently treated confidentially by Sudbury and me. This precise information about this concert is not otherwise available publicly. … These numbers are not disclosed by other promoters in the entertainment industry.

Analysis and Findings

Based on the circumstances of this appeal, and with one exception, I accept that the affected party supplied the numerical information at issue to the City as a necessary part of directing the sale and distribution of tickets for the Elton John concert. Accordingly, I find that this information was "supplied" to the City within the meaning of section 10(1).

The exception to this finding relates to the total number of seats for the concert. In my view, this number is determined to a large extent by the capacity of the Arena. Further, the number would necessarily be based on information provided by the City – as the operator of that facility – to the affected party and not the other way around. In my view, while the information representing the total number of seats at the Arena for the Elton John concert may possibly have been agreed-upon, I do not accept that it was "supplied," as that term is defined in the context of the third party information exemption. Accordingly, I find that this particular information does not meet part 2 of the test and cannot, therefore, qualify for exemption under section 10(1).

The next issue for me to determine is whether the information that I have found to have been "supplied" by the affected party to the City was done so "in confidence." The records consist of a Performance Sales Report generated by staff of the City-operated Arena and an email exchange between employees of the City Arena and the Promoter. These records bear no outward markings or labeling of confidentiality. However, I accept the affidavit evidence tendered by the affected party in support of the position that the numerical information about the "holds" was supplied to the City with an expectation that it would remain confidential. Moreover, I am satisfied that this expectation was reasonable in the circumstances. Accordingly, I find that part 2 of the test for exemption under section 10(1) of the *Act* is satisfied.

I will now consider whether the numerical information at issue meets part 3 of the test, which addresses the reasonable expectation of harm resulting from disclosure of the information.

Part 3: harms

To meet this part of the test, the City and/or the affected party, as the parties resisting disclosure, must provide "detailed and convincing" evidence to establish a "reasonable expectation of harm". Evidence amounting to speculation of possible harm is not sufficient [*Ontario (Workers' Compensation Board) v. Ontario (Assistant Information and Privacy Commissioner)* (1998), 41 O.R. (3d) 464 (C.A.)].

The failure of a party resisting disclosure to provide detailed and convincing evidence will not necessarily defeat the claim for exemption where harm can be inferred from other circumstances. However, only in exceptional circumstances would such a determination be made on the basis of anything other than the records at issue and the evidence provided by a party in discharging its onus [Order PO-2020].

Parties should not assume that harms under section 10(1) are self-evident or can be substantiated by submissions that repeat the words of the *Act* [Order PO-2435].

Representations

The City provides the context for its submissions on the harms issue by stating that:

> [w]hat has not been disclosed and is not publicly known are the marketing and promotional details relating to the remaining tickets that were not available to the public for the Elton John concert.

In the segment of its representations setting out the categories of ticket "holds" and totals at issue (*type of information*, above), the City asserts that disclosure of the numbers "could be used to show how [the Promoter] conducts its business," or would permit "competitors to discern [the Promoter's] marketing and promotion strategies."

A senior executive with the affected party concert promoter provided an affidavit noting the company's stature in the industry and briefly describing concert promotion practices and the entertainment industry in general. According to the affidavit evidence,

> [The Promoter] enters into agreements with artists to perform at concerts; the details of the financial arrangements are strictly confidential. Ticket sales and all aspects of ticketing are the core elements of these financial arrangements and form an integral aspect of the financial and commercial viability of [the Promoter]. As a promoter of such entertainment, it is my responsibility to ensure that each concert is promoted or marketed to ensure maximum ticket sales.

The affected party submits that over his years of experience in the industry, he has developed expertise in marketing concerts like the Elton John event, and that his methods and strategies for "successful promotion would be discerned from disclosure of the numbers at issue in this appeal and particularly the numbers given to specified groups or individuals." He also submits that:

> These numbers are not disclosed by other promoters in the entertainment industry. These numbers are not disclosed both to protect the manner in which the promoters do business, the confidentiality of the artist, as well as to ensure that detailed knowledge of ticket distribution is not disseminated.
>
> Accordingly, disclosure of the numbers at issue in this appeal would significantly prejudice [the Promoter's] competitive position since it would allow others to know how I promote a concert. It would also interfere with contractual negotiations I have with other artists and groups and result in undue loss to me and [the Promoter]. Disclosure would also result in similar information not being provided to Sudbury with the result that concerts of this nature would not likely take place at that venue in future.

According to the affected party, the prior disclosure of the category headings to the appellant offers sufficient information about the ticketing aspect of promotion to him, while disclosure of the exact numbers of tickets within each category would compromise the affected party's marketing strategy and confidential business proprietary information.

Analysis and Findings

As outlined previously in this order, the exemption in section 10(1) is intended to protect the "informational assets" of private businesses and other organizations from which the government receives information in the course of carrying out its public responsibilities (*Boeing, supra*). For the reasons that follow, I find that neither the City nor the affected party have provided sufficient evidence to establish a reasonable expectation of harm resulting from disclosure of the information at issue.

As I understand the affected party's position, disclosure of the numbers – both specific ticket "hold" category allocations and totals – would somehow place detailed knowledge of its concert marketing, promotional and business strategies into the public domain. The affected party also submits that the ticket numbers represent an integral aspect of its financial and commercial viability and appears to suggest that disclosure would breach the confidentiality due to the artist in this instance. The submissions echo the language of the *Act* by stating that disclosure of the numbers would "significantly prejudice [the Promoter's] competitive position," "interfere with contractual negotiations I have with other artists and groups," "result in undue loss to me and [the Promoter]," and "result in similar information not being provided to Sudbury with the result that concerts of this nature would not likely take place at that venue in future."

However, as I stated previously in this order, the parties resisting disclosure of information should not assume that harms under section 10(1) are self-evident or can be substantiated by submissions that merely repeat the words of the *Act* [Order PO-2435]. The onus rests on the parties resisting disclosure to satisfy me with "detailed and convincing" evidence that a connection exists between disclosure and an alleged harm such that the harm could reasonably be expected to occur if disclosure is ordered.

On review of the evidence before me, I note that the City's and affected party's assertions of harm reflect the language contained in the *Act* and are insufficient to persuade me that there is a reasonable expectation of the harms contemplated by sections 10(1)(a) or (c) with disclosure of this specific information. It is worth emphasizing that the central intent of this exemption is to limit disclosure of the confidential information of third parties that could be exploited by a competitor in the marketplace. In my view, it remains unclear and unsubstantiated how the information remaining at issue in this appeal, if released to the appellant, could lead to its exploitation in the concert promotion industry. In particular, I am not satisfied by the evidence that disclosure of these particular numbers could reasonably be expected to reveal *how* the affected party promoter conducts its business, *how* it markets or promotes its concerts, or *why* these numbers impact its commercial viability. The City and the affected party have not adequately demonstrated that the affected party's competitive position or negotiating ability in the industry could reasonably be expected to be significantly affected for the purposes of section 10(1)(a). Similarly, I find that the evidence tendered does not link disclosure of the numerical information with a reasonable expectation of undue loss or gain to any party for the purposes of section 10(1)(c) of the *Act*.

With respect to the harms described as relating to section 10(1)(b), I reject the suggestion that disclosure of these numbers could reasonably be expected to result in similar information no longer being supplied to the City. It should be noted that the harm section 10(1)(b) is intended to protect against relates to the provision of confidential third party information to government institutions, not live entertainment services. Viewed in this context, I reject what I view as an exaggerated argument that the future of live music at the Sudbury Arena would be jeopardized or otherwise harmed by the disclosure of the numerical information to the appellant. In the circumstances, I find that the parties resisting disclosure have not provided sufficient evidence to establish a reasonable expectation of harm under section 10(1)(b).

In view of my finding that neither the City nor the affected party have established that the harms contemplated by sections 10(1)(a), (b) or (c) of the *Act* could reasonably be expected to occur should the information be disclosed, I find that the third part of the section 10(1) test has not been met. Since all three parts of the test for exemption under section 10(1) must be met, the numerical information at issue will therefore be released to the appellant through this order.

In view of this finding, it is unnecessary for me to review the possible application of the public interest override in section 16 of the *Act*.

SEARCH FOR RESPONSIVE RECORDS

As previously stated in this order, the appellant had expressed concern with the adequacy of the City's search for records responsive to the part of the request related to the use of Elton John concert tickets by City councillors.

It should be noted that although the City contends that no further responsive records exist, it also provided representations on the issue of custody or control under section 4(1) of the *Act*. The City maintains that there are no additional records responsive to the request, but argues in the

alternative that even if there were other records created by Councillors (at their home offices, for example) that might relate to their use of the tickets, such records would not be in the custody or under the control of the City.

General Principles

In appeals, such as this one, that involve a claim that additional responsive records exist, the issue to be decided is whether the City conducted a reasonable search for the records as required by section 17 of the *Act*. If I am satisfied that the search carried out was reasonable in the circumstances, the City's search will be upheld. If I am not satisfied, further searches may be ordered.

The *Act* does not require the City to prove with absolute certainty that further records do not exist. However, the City must provide sufficient evidence to show that a reasonable effort was made to identify and locate responsive records. A reasonable search is one in which an experienced employee expends a reasonable effort to locate records which are reasonably related to the request [Orders M-282, P-458, M-909, PO-1744 and PO-1920].

Furthermore, 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.

Representations

As previously noted, the appellant did not submit representations for my consideration in this appeal. In sending the Notice of Inquiry to the appellant, I noted that the City appeared to be arguing that there were no further records responsive to the request, but that even if there were other records created by Councillors (at their home offices, for example) that might relate to their use of the tickets, such records would be considered "personal" and, hence, not be in the custody or under the control of the City, or accessible under the *Act*. The appellant did not respond to this submission although requested to do so.

The City notes that the Mayor and three Councillors returned all of their tickets for the concert, and submits that my review of the adequacy of the search ought to relate only to the use of the tickets by the eight remaining Councillors. The City adds that it conducted a search of its business records and located one that was responsive to the part of the request related to "how the tickets personally purchased by the Councillors for both concerts were ultimately used." This was the ticket that was used as a raffle prize for a local fundraising event.

The City's representations included an affidavit sworn by the Executive Director the City's Administrative Services who, in this capacity, is a member of the City's Senior Management Team responsible to the Chief Administrative Officer and Council for services including Clerk and Corporate Communications and Information Technology. With respect to the use of Elton John tickets by Councillors, the Executive Director submits:

> … the appellant was advised of the number of concert tickets for the Elton John concert … received by Members of Council. The chart reflecting the tickets retained and returned by the Councillors and the Mayor for the Elton John concert also showed the use some of the Members made of their tickets when it indicated that some tickets for that concert were exchanged as between members of Council.

According to the Executive Director, since the Elton John concert tickets were "personally purchased" by the Councillors, there was no policy or business rationale to regulate or collect records about how they used the tickets. The Executive Director submits that

> [u]nless reimbursement was made for tickets purchased for a business purpose, once the tickets are purchased for personal use, actual use of such tickets would not serve a business interest or mandate of Sudbury.
>
> If records regarding use of personally purchased concert tickets existed, they would … be located in the Community Development Department, which has responsibility for the arena where the concert took place, or in the Financial Services Department where reimbursements are processed.

The Executive Director submits that the City Clerk notified the Arena manager of the requests, and that a "package of documents" was provided to her for review to determine if they contained information responsive to the request. Further, she submits that

> Upon examination, it was determined that no records indicated how the Councillors, who did not return their personally purchased tickets, … used those tickets. One record indicated that one Councillor intended to purchase a ticket for the Councillor's secretary. I have confirmed that while the ticket was provided to the Councillor's Secretary, it was subsequently returned.
>
> If Sudbury had reimbursed a Councillor for his or her personally purchased tickets, then records concerning the reimbursement would exist in the Financial Services Department. Subsequent to the search of the Community Development Department, I was advised that the Financial Services Department had a record reflecting a reimbursement to one Councillor made in respect of one ticket for the Elton John concert. … [S]uch was disclosed to the appellant. I have been advised and believe that no further records of that nature exist.
>
> While a search was conducted regarding where records of the use of the tickets personally purchased by the Councillors may exist, the search did not extend to the *personal* records held by the Councillors [emphasis in original].

As mentioned above, the City also provided submissions on the issue of custody or control of business records. For the most part, these representations are not relevant to my findings in this section. However, the City submits that:

> Sudbury does not regulate how the Councillors used the tickets that they personally purchased for the events. …
>
> [The] records at issue, if they existed, would not be in respect of the mandate or business purpose of Sudbury. Sudbury was involved in the distribution of the tickets at the direction of the Promoters, but did not have a mandate to track or direct how the Councillors used the tickets they purchased with their own personal funds. It is submitted that, in accordance with the case law, Sudbury has no obligation to search the confidential personal records of Councillors in these circumstances to see if such records may exist.
>
> Even if Sudbury did have an obligation to search the private records of Councillors to determine if relevant records exist, the appellant has provided no reasonable basis for concluding that such records exist. As noted in Order MO-2184, dated April 20, 2007, an appellant must provide a reasonable basis for suggesting that such records exist. In our respectful submission, no reasonable basis has been provided.

Analysis and Findings

As previously stated, in appeals involving a claim that additional records exist, the issue to be decided is whether an institution has conducted a reasonable search for responsive records as required by section 17 of the *Act*. Furthermore, although requesters are rarely in a position to indicate precisely which records an institution has not identified, a reasonable basis for concluding that additional records might exist must still be provided.

I have considered the representations of the City, and the overall circumstances of this appeal, to decide whether or not I am satisfied that the City made a reasonable effort to identify and locate any records that might be responsive to the appellant's request.

On my review of the representations provided by the City, including the affidavit evidence of the Executive Director of Administrative Services, I am satisfied that the City performed searches possessing adequate knowledge of the nature of the records that were of interest to the appellant. I have also considered the fact that the City utilized experienced and relevant employees to undertake to locate the information sought by the appellant.

I note that the appellant did not submit representations or otherwise direct my attention to records he believes ought to exist in relation to the use of Elton John tickets by City Councillors. As the appellant did not provide representations, I have no comments from him regarding the City's supplementary argument that it had no obligation to search beyond its "business" records for responsive records. In the circumstances, therefore, I find I have not been provided with any reasonable basis upon which I might conclude that additional responsive records not yet identified by the City may exist.

Based on the evidence before me, I am satisfied that the City made a reasonable effort to identify and locate responsive records. Accordingly, I find that the City conducted a reasonable search for the purposes of section 17 of the *Act*, and I dismiss this part of the appeal.

ORDER:

1. I order the City to disclose the withheld information in the records to the appellant by sending him a complete copy of the records by **June 29, 2009** but not before **June 24, 2009**.

2. In order to verify compliance with the terms of this order, I reserve the right to require the City to provide me with a copy of the records which are disclosed to the appellants pursuant to Provision 1.

3. I uphold the City's search for responsive records and dismiss this part of the appeal.

Original Signed by: May 25, 2009
Daphne Loukidelis
Adjudicator