Information and Privacy Commissioner,
Ontario, Canada

Commissaire à l'information et à la protection de la vie privée,
Ontario, Canada

ORDER MO-3013

Appeals MA11-369

City of Toronto

February 19, 2014

Summary: The city received a request for access to records concerning "due diligence" conducted by the city in respect of certain matters relating to land purchased by the city. In response, the city issued a fee estimate for searching for responsive records. The requester appealed the fee estimate and the denial of his request for a fee waiver. In this decision, the city's fee estimate and its decision to deny a fee waiver are upheld.

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, sections 45(1), 45(4), Regulation 823.

Orders Considered: Order MO-2218.

OVERVIEW:

[1] The city received a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for access to certain records relating to the Ashbridges Bay lands in the city. The initial request was for:

- Evidence and documents regarding due diligence the city may have done regarding liabilities associated with purchasing the Ashbridges Bay lands … remediating and/or removing soil and using site for [Light Rail Vehicle (LRV)] LRV-related purposes.

- Documents showing the Toronto Transit Commission's [the TTC's] advice to the city indicating the financial and operational advantages of the site as indicated on Page 4 of Confidential Attachment 1 with [the Toronto Port Authority (the TPA)] deal report (made public [on a specified date]).

[2] The request was subsequently clarified to read:

> Any documents concerning due diligence conducted by the city regarding:
>
> - the remediation and/or removal of soil from the "Ashbridges Bay lands" which were purchased for the purpose of using the site for LRV-related purposes;
>
> - the suitability of using the site for LRV-related purposes.
>
> Any documents the city has received from the TTC pertaining to the financial and operational advantages of the site, as indicated on page 4 of the confidential attachment to [an identified] "TPA deal report."

[3] In response to the request, the city issued a fee estimate decision which stated:

> Staff of Legal Services have advised that a comprehensive search will have to be conducted to identify records which may be responsive to your request. A minimum of three staff persons will have to locate and search through four banker's boxes, three separate filing cabinets and a total of 65 folders and sub-folders, as well as 1200 e-mails in order to identify the records which may be responsive to your request. Staff have advised that it will take approximately 23 hours to conduct the search.
>
> It is, therefore, estimated that the following search fees under section 45 [of the *Act*] will apply to your request:
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> > Cost of identifying/retrieving responsive records @ $30.00 per hour for 23 hours = $690.

[4] The city also requested a deposit of $345 to begin processing the request.

[5] The appellant appealed the city's decision.

[6] During the processing and mediation of this file, certain issues regarding the scope of the request and access to certain records were raised and resolved. However, at the end of the mediation process, the appellant confirmed that he was appealing the amount of the fee estimate.

[7] Also during mediation, the appellant submitted a request for a fee waiver, which the city denied. The appellant then provided additional financial information to the city, but the city maintained its decision not to waive the fee. The appellant confirmed that he was also appealing the decision not to waive the fee.

[8] Mediation did not resolve this appeal, and it was transferred to the inquiry stage of the process, where an adjudicator conducts an inquiry under the *Act*.

[9] A Notice of Inquiry was initially sent to the city, inviting representations on the fee estimate and the denial of the fee waiver request, and the city provided representations in response. The Notice of Inquiry, along with a copy of the city's representations, was then sent to the appellant, who also provided representations in response. The city was then provided with a copy of the appellant's representations, and invited to submit reply representations, which it did. The city's reply representations were provided to the appellant, who then submitted surreply representations in response.

[10] This file was subsequently transferred to me to complete the inquiry process.

[11] In this order, I uphold the fee estimate and the city's decision to deny a fee waiver.

ISSUES:

A. Should the fee estimate be upheld?

B. Should any or all of the fee be waived?

DISCUSSION:

Preliminary Issue – Nature of the request

[12] As indicted above, the city received an initial request from the appellant, which was subsequently clarified by the parties to read:

> Any documents concerning due diligence conducted by the city regarding:
>
> - the remediation and/or removal of soil from the "Ashbridges Bay lands" which were purchased for the purpose of using the site for LRV-related purposes;
>
> - the suitability of using the site for LRV-related purposes.

> Any documents the city has received from the TTC pertaining to the financial and operational advantages of the site, as indicated on page 4 of the confidential attachment to [an identified] "TPA deal report."

[13] The fee estimate provided by the city was based on this clarified request, and this appeal proceeded on the basis of this request. The city's representations on its fee estimate refer to records responsive to this clarified request.

[14] In his representations, the appellant now raises an issue regarding the clarified request. He states that what he is really seeking is the risk assessment, which he says was promised to city council. He states that "all he is looking for is the simple but documented justification that the city solicitor and the city manager would have given the councillors had they raised questions about the pros and cons of acquiring [the land] …. It either exists or it doesn't. If it doesn't exist, admit as much and let me get on with this. If it does exist, why on earth does it cost $690 to retrieve it?"

[15] The appellant then states:

> [The access request] was simple, and it's difficult to imagine that the city did not compile for councillors some case for accepting the liabilities that would accompany the … acquisition of the land in question. Instead of narrowing the scope of the request, the city seems to have talked me in into broadening it. The wording, "Any documents," which the city uses as a claim that this request would become costly, is wording suggested by the city's [staff person]. … I'm not looking for all or any records. I merely want to see the case the city would have made if someone on council had [asked] whether this [land purchase] may have been too good to be true. …

Analysis and Findings

[16] Section 17 of the *Act* sets out the procedure for making an access request. Sections 17(1) and (2) read:

> A person seeking access to a record shall,
>
> > (a) make a request in writing to the institution that the person believes has custody or control of the record;
> >
> > (b) provide sufficient detail to enable an experienced employee of the institution, upon a reasonable effort, to identify the record; and

> (c) at the time of making the request, pay the fee prescribed by the regulations for that purpose.
>
> (2) If the request does not sufficiently describe the record sought, the institution shall inform the applicant of the defect and shall offer assistance in reformulating the request so as to comply with subsection (1).

[17] Determining the scope of the appeal is vital in ensuring that the records at issue are responsive to a request. Previous orders of the Commissioner have established that to be responsive, a record must be "reasonably related" to the request. In Order P-880, former Adjudicator Anita Fineberg stated:

> In my view, the need for an institution to determine which documents are relevant to a request is a fundamental first step in responding to a request. It is an integral part of any decision by a head. The request itself sets out the boundaries of relevancy and circumscribes the records which will ultimately be identified as being responsive to the request.

[18] I agree with the above statement. Clarity concerning the scope of a request and what the responsive records are is a fundamental first step in responding to a request and, subsequently, determining the issues in an appeal.

[19] In the circumstances of this appeal, the initial request made by the appellant (as set out above) included a request for "evidence and documents" regarding due diligence the city may have done regarding certain matters, and "documents" showing the TTC's advice to the city about certain matters. The subsequent clarification (set out above) confirmed that the request was for "any documents" relating to these matters. This request proceeded on that basis, the decision was made on that basis, and this appeal was processed on that basis. It is only in the appellant's representations that he raises the concerns set out above about what records he is seeking.

[20] In the circumstances of this appeal, I am satisfied that the city properly identified the nature and scope of the request, and confirmed it with the appellant. Accordingly, I find that the nature and scope of the request resulting in this appeal is as set out in the clarified request identified above.

[21] Although the appellant now states that what he is really seeking is the risk assessment, which he says was promised to city council, that is not how his request was initially worded, nor how it was clarified. I also do not accept the appellant's position that the city "talked him into" broadening his request. In my view, the modifications to the wording of the request from "evidence and documents" to "all documents" simply reflect a minor clarification of the wording. I also note that the appellant agreed to this wording at the time it was identified for him.

[22] Accordingly, I will proceed with this appeal on the basis of the clarified request.

[23] I also note that nothing prohibits the appellant from submitting a new request for any specific documents he may be seeking.

Issue A: Should the fee estimate be upheld?

[24] Previous orders have established that, where the fee is $100.00 or more, the fee estimate may be based on either:

- Actual work done by the institution to respond to the request, or
- A review of a representative sample of the records and/or the advice of an individual who is familiar with the type and content of the records.[1]

[25] The purpose of a fee estimate is to give the requester sufficient information to make an informed decision on whether or not to pay the fee and pursue access. The fee estimate also assists requesters to decide whether to narrow the scope of a request in order to reduce the fees. In all cases, the institution must include a detailed breakdown of the fee, and a detailed statement as to how the fee was calculated.[2]

[26] This office may review an institution's fee and determine whether it complies with the fee provisions in the *Act* and Regulation 823, as set out below.

[27] Section 45(1) requires an institution to charge fees for requests under the *Act*. That section reads:

> A head shall require the person who makes a request for access to a record to pay fees in the amounts prescribed by the regulations for,
>
> (a) the costs of every hour of manual search required to locate a record;
>
> (b) the costs of preparing the record for disclosure;
>
> (c) computer and other costs incurred in locating, retrieving, processing and copying a record;
>
> (d) shipping costs; and

[1] Order MO-1699.
[2] Orders P-81 and MO-1614.

> (e) any other costs incurred in responding to a request for access to a record.

[28] More specific provisions regarding fees are found in sections 6, 6.1, 7 and 9 of Regulation 823. Section 6 reads:

> 6. The following are the fees that shall be charged for the purposes of subsection 45(1) of the *Act* for access to a record:
>
> 1. For photocopies and computer printouts, 20 cents per page.
>
> 2. For records provided on CD-ROMs, $10 for each CD-ROM.
>
> 3. For manually searching a record, $7.50 for each 15 minutes spent by any person.
>
> 4. For preparing a record for disclosure, including severing a part of the record, $7.50 for each 15 minutes spent by any person.
>
> 5. For developing a computer program or other method of producing a record from machine readable record, $15 for each 15 minutes spent by any person.
>
> 6. The costs, including computer costs, that the institution incurs in locating, retrieving, processing and copying the record if those costs are specified in an invoice that the institution has received.

[29] In reviewing the city's fee estimate, I must consider whether its charge is reasonable, giving consideration to the content of the appellant's request, the circumstances of the appeal and the provisions set out in section 45(1) of the *Act* and Regulation 823. The burden of establishing the reasonableness of the fee estimate rests with the city. To discharge this burden, the city must provide me with detailed information as to how the fee estimate was calculated in accordance with the provisions of the *Act*, and produce sufficient evidence to support its claim.

Representations

[30] As noted above, the city issued a fee estimate in the amount of $690 representing 23 hours of search time, and requested a deposit of $345 to begin processing the request.

[31] In its representations, the city begins by identifying the scope of the request. It reviews the initial request and the subsequent clarification, both of which are set out above. The city then states:

> The breadth of this request (for [initially] "evidence and documents" and [subsequently] "any documents") resulted in the City's issuing a search fee estimate and interim decision for records held by the City's Legal Division. Legal Division advised that a comprehensive search will have to be conducted to identify records which may be responsive to the request. The fee estimate was $690.00 based on an estimated 23 hours (total) search time at $30/hour.

[32] In support of this fee estimate, the city submits:

> The City did not base the fee estimate on actual work done to locate the responsive records. Instead the City relied on the expert knowledge of Legal staff, namely a Solicitor in the Municipal Law Section. He has detailed and in-depth knowledge of the records sought and also of [the *Act*]. Based on his knowledge of the records that could be responsive and the actions and time needed to fully identify and retrieve these records, a fee estimate was issued to the requester.
>
> The requested records are not physically consolidated as they may pertain to different solicitors in the Legal Services Division, including those overseeing purchases of land, dealing with other jurisdictions (Toronto Port Authority), other organizations (TTC), and environmental and related mailers. Furthermore, responsive records will exist in both physical (paper) and electronic (e-mail) form. In order to locate any responsive records, the relevant file folders dealing with the subject matter must be located, then documents within the folders must be reviewed to determine specifically what is responsive to the request.
>
> Similar actions are necessary with respect to the e-mails. E-mails dealing with the subject matter must be located in each individual e-mail box of those involved, then reviewed to determine if they contain any information that is responsive to the request.
>
> There are at least 4 storage boxes of files, a minimum of three filing cabinets containing at least 65 folders and volumes and approximately 1200 e-mails to review. Legal staff has determined that, for paper records, it will take 3 staff a total of 17 hours to locate and review for responsiveness. The breakdown is as follows:
>
> - 5 minutes for locating and retrieving each file involved,

- 10-15 minutes for locating and identifying specific records requested which are located within a file, and

- 30 minutes per file, for files containing a large number of records and/or more complicated material that may require a more thorough review to identify the responsive records.

With respect to e-mail records, it will take a further 6 hours to locate and review the content of the e-mails for responsiveness.

[33] The city then summarizes its position by stating:

> The City submits that its fee estimate is accurate based on the advice and knowledge of an individual who is familiar with the type and content of the requested records and, therefore, should be upheld.

[34] The appellant's representations on the fee estimate of $690 do not address the specifics of the time estimated by the city to locate the documents; rather, the appellant's representations focus on his view that documents responsive to the request ought to be easily accessible, and should not have required a lengthy search to locate. He states that it is "unconscionable" to charge anyone $690 for the "simple information" he is seeking. He also identifies his surprise that not one member of the previous city council appears to have asked the city staff why certain actions were taken, which could have resulted in the compilation of the type of information he is seeking, and would have obviated the need for a costly search.

[35] The appellant then reviews the history of the dealings with the lands identified in his request, and states that, based on the nature of this type of information, it would be reasonable to expect that city staff would have had available "documented reasoning for why this acquisition was in the city's interest, how much the land is worth in its then current state, and [other information about the property and the transaction]." The appellant also states: "…even if no councillor sought such explanations … it would … be reasonable to expect that the city solicitor and city manager would have filed their documented research in a manner that permitted it to be retrieved easily and released promptly for a straight $5 fee should a concerned member of the public file a freedom of information request, as I did …."

[36] He also states that what he is really seeking is the risk assessment and/or the documented justification that the city solicitor and the city manager would have given the councillors had they raised questions, which I address above.

Analysis and findings

[37] The fee estimate is based on an initial estimate of the time required to perform the search and prepare the disclosure, at a rate of $30.00 per hour. This is an allowable cost under section 45(1)(a) of the *Act*. Further, the rate of $30.00 per hour is allowable under section 6(3) of Regulation 823.

[38] In Order MO-2218, Adjudicator Cropley confirmed that:

> In preparing a fee estimate, there are three optional approaches an institution can take. It may either base its fee on the actual work done to respond to the request; or it may seek the advice of an individual who is familiar with the type and contents of the requested records; or it may base its decision on a representative sample of the records.

[39] In this appeal, the city relies on the knowledge of a solicitor in the Municipal Law Section of the city who has "detailed and in-depth knowledge of the records sought." The city then indicates that the requested records are located in different, named departments and are stored in different formats. The city submits that in order to locate the responsive records, numerous file folders must be reviewed to determine if they contain any information that is responsive to the request. It then identifies the number of file folders, boxes and emails, and provides a breakdown of the estimated time to search these records.

[40] The appellant's representations focus on his view that it should not take this amount of time to locate the records he wants, and that the city ought to have previously consolidated or otherwise compiled the requested information to ensure easy access.

[41] Based on the wording of the request and the evidence provided by the city, I am satisfied that the city's fee estimate of $690 is reasonable. I note that the city has provided detailed information about the types of record-holdings that must be searched to locate "any documents concerning due diligence conducted by the city" relating to the subjects identified in the request. I accept that this request is broadly worded, and that locating responsive records would require a detailed search of the various record-holdings identified. The city's detailed information is based on the knowledge of a solicitor with the city who has "detailed and in-depth knowledge of the records sought."

[42] Although the appellant argues that this information ought to have been compiled and prepared in response to a possible request from city council, there is no evidence that any such request was made, or that any such records were compiled.[3]

[3] Previous orders have also confirmed that the *Act* does not require institutions to keep records in such a manner as to accommodate the myriad ways in which a request might be framed. See Order 31.

[43] As a result, I uphold the city's fee estimate decision.

Issue B: Should the fee be waived?

General principles

[44] Section 45(4) of the *Act* requires an institution to waive fees, in whole or in part, in certain circumstances. Section 8 of Regulation 823 sets out additional matters for a head to consider in deciding whether to waive a fee. Those provisions state:

> 45. (4) A head shall waive the payment of all or any part of an amount required to be paid under subsection (1) if, in the head's opinion, it is fair and equitable to do so after considering,
>
> (a) the extent to which the actual cost of processing, collecting and copying the record varies from the amount of the payment required by subsection (1);
>
> (b) whether the payment will cause a financial hardship for the person requesting the record;
>
> (c) whether dissemination of the record will benefit public health or safety; and
>
> (d) any other matter prescribed by the regulations.
>
> 8. The following are prescribed as matters for a head to consider in deciding whether to waive all or part of a payment required to be made under the Act:
>
> 1. Whether the person requesting access to the record is given access to it.
>
> 2. If the amount of a payment would be $5 or less, whether the amount of the payment is too small to justify requiring payment.

[45] The fee provisions in the *Act* establish a user-pay principle which is founded on the premise that requesters should be expected to carry at least a portion of the cost of processing a request unless it is fair and equitable that they not do so. The fees referred to in section 45(1) and outlined in section 8 of Regulation 823 are mandatory unless the requester can present a persuasive argument that a fee waiver is justified on

the basis that it is fair and equitable to grant it or the *Act* requires the institution to waive the fees.[4]

[46] A requester must first ask the institution for a fee waiver, and provide detailed information to support the request, before this office will consider whether a fee waiver should be granted. This office may review the institution's decision to deny a request for a fee waiver, in whole or in part, and may uphold or modify the institution's decision.[5]

[47] The institution or this office may decide that only a portion of the fee should be waived.[6]

Part 1: basis for fee waiver

[48] In this appeal, the appellant has requested that the fee be waived based on financial hardship, and on the basis that dissemination of the record will benefit public health and safety.

[49] I will review each of these grounds in turn.

Section 45(4)(b): financial hardship

[50] For section 45(4)(b) to apply, the requester must provide some evidence regarding his or her financial situation, including information about income, expenses, assets and liabilities.[7]

[51] In this appeal, the appellant takes the position that the payment of the fee of $690 will cause him financial hardship. In support of his position, he provided the city with information regarding his financial situation. The city responded to the appellant's request by stating that, in the absence of additional information about whether payment would cause financial hardship, it was not granting the fee waiver.

Representations

[52] The city provides representations on the issue of financial hardship. It states:

> … the [appellant] notes in his [initial] fee waiver request … that he is seeking a fee waiver on the grounds that his household income falls below the "tax low-income cut-off (LICO)" used by the city's parks and

[4] Order PO-2726.
[5] Orders M-914, P-474, P-1393 and PO-1953-F.
[6] Order MO-1243.
[7] Orders M-914, P-591, P-700, P-1142, P-1365 and P-1393.

> recreation's "welcome policy" for 2010 which was $28,182 for a two-person household". …
>
> The City sent a letter to [the appellant] … noting that detailed information relating to [the appellant's] assets and expenses must be provided to enable the City to determine if the payment will cause undue financial hardship. In order to establish financial hardship, [the appellant] should have provided details on actual income, expenses, assets or liabilities.[8]
>
> [In response], the City received, via e-mail, a listing of [the appellant's] assets and expenses. Based on the information provided by [the appellant] regarding his financial circumstances, the City is not satisfied that the payment of the estimated fee would cause him financial hardship within the meaning of section 45(4)(b). While [the appellant's] annual income falls below the "tax low-income cut-off", given that [the appellant] shows in excess of [a significant amount] worth of assets, the City is not convinced that paying the fees would cause financial hardship.

[53] In response, the appellant argues that payment of the fee would cause him financial hardship. He reiterates that his income was well below the "tax low-income cut-off" for 2011, and states that, with respect to the value of his assets, they are only half his, as they are shared with his spouse. The appellant also reviews his and his wife's benefits, vacation and pension situation, various other costs that he is incurring for other purposes, and his prospects for future income (which, he acknowledges, may improve). He then states: "Money is tight and to demand that we pay $690 to get an answer that would be freely and promptly available in a healthy democracy is troubling."

[54] The city responds by stating:

> With respect to the issue of financial hardship, it is the City's position that [the appellant] has failed to provide sufficient evidence demonstrating financial hardship. The four financial markers that are required to ascertain a real picture of [the appellant's] financial situation is income, expenses, assets and liabilities. The City must balance each of these markers. In this case, given the value of [the appellant's] assets and net worth, the City submits that there is insufficient evidence to support a finding of financial hardship.
>
> … The fee in this appeal may pose a financial challenge for [the appellant], but the City is not convinced that paying this fee alone would cause [the appellant] to undergo "severe financial suffering or privation."[9]

[8] The city refers to Orders M-914, P-591, P-700, P-1142, P-1365 and P-1393.
[9] The city relies on the Concise Oxford Definition of "hardship."

[55] In response, the appellant takes issue with the city's "dictionary definition" of financial hardship, and then states that, notwithstanding these definitions, the city has itself identified the low-income cut-off in its Parks and Recreation program's "welcome policy." He reviews the income levels set by this policy, and then states that he and his spouse "certainly fall below the city's two-income threshold."

Findings

[56] On my review of the appellant's evidence respecting his financial situation, including the information provided by him about his income, expenses, assets and liabilities, for the reasons that follow, I find that payment of the fee of $690 would not constitute financial hardship for the appellant as contemplated by section 45(4)(b) of the *Act*.

[57] While I accept that the appellant's finances could be strained by payment of the $690 fee for this request, I conclude based on the evidence before me that he has access to adequate financial resources to cover the cost of the request without suffering financial hardship. Furthermore, based on my review of the appellant's financial situation as provided by him, I am satisfied that this is not a case where my decision on the waiver of fees will determine the appellant's ability to obtain access to the records. The appellant himself has identified a number of expenses which he is incurring for other matters. In these circumstances, based on the amount of the fee estimate and the financial information provided by the appellant, I find that there is not sufficient evidence to support a finding that payment of the estimated fee to the city would impose a financial hardship on the appellant.

[58] Given my finding that financial hardship under section 45(4)(b) has not been established by the appellant, it is not necessary for me to consider whether it would be fair and equitable to waive the fee on this basis. However, I will now consider the appellant's claim that a waiver is warranted on the basis of benefit to public health or safety.

Section 45(4)(c): benefit public health or safety

[59] Previous orders of this office have found the following factors to be relevant in determining whether dissemination of a record will benefit public health or safety:

- whether the subject matter of the record is a matter of public rather than private interest

- whether the subject matter of the record relates directly to a public health or safety issue

- whether the dissemination of the record would yield a public benefit by disclosing a public health or safety concern, or contributing meaningfully to the development of understanding of an important public health or safety issue

- the probability that the requester will disseminate the contents of the record.[10]

Representations

[60] The city's initial representations state that the appellant has not demonstrated that there is a public health or safety concern which may be addressed by the dissemination of the information sought. It acknowledges that the appellant wrote to the city and stated "I have to pursue the case because the public interest in massive waste and likely corruption outweighs all other concerns," but states this is not sufficient to establish that section 45(4)(c) applies.

[61] In the appellant's representations, he states that the "strict wording" of that section "appears to fixate on public health or safety." The appellant then reviews some of the specifics of the land transaction which is the subject of the request in this appeal, and states that there is "very strong evidence" that the city is paying too much for the land. He then states:

> There is extreme public interest in knowing why the city felt this might be a good deal for taxpayers. By the strict wording of the act within 45(4)(c) health and safety are the only issues that matter, it's clear that by the spirit of [the *Act*], there are reasonable and probable grounds to believe that it is in the public interest to release this information and that there are no good reasons that an individual citizen should be asked to pay for these answers out of his pocket …. The health and safety of public finances are clearly at stake here and the health and safety of democracy is in danger if [access to information is controlled for improper reasons].
>
> … [although] this apparently wasteful project cannot be rescued, there is excellent reason for the public to learn lessons for future decision-making. [The money wasted] is unavailable for investment in programs that could benefit public health and safety.

[62] In response, the city states that the appellant has not demonstrated that there is a public health or safety concern which may be addressed by the dissemination of the information sought. It states that the appellant's position is that he is trying to get answers to "crucial public interest questions," but states that the focus of section

[10] Orders P-2, P-474, PO-1953-F and PO-1962.

45(4)(c) is "public health or safety." The city states: "[I]t is not sufficient that there be only a "public interest" in the records or that the public has a "right to know". There must be some connection between the public interest and a public health and safety issue.[11]

[63] In response, the appellant states that city revenues "essentially come from one pot," and that the "waste" of money in any area is a threat to the city's health and safety programs, "even if the directness of application isn't always readily apparent in a level of government that operates largely within a system of silos." He states:

> When there is a more-than-reasonable suspicion that very large amounts of public money have been wasted by a municipality that's scrambling to fund various health and safety programs, it's almost certainly disingenuous of the City to argue there is no connection.

Analysis and findings

[64] Based on my review of the appellant's representations, I am not satisfied that the basis for fee waiver in section 45(4)(c) applies.

[65] Previous orders have established that one of the relevant factors in determining whether dissemination of a record will benefit public health or safety is "whether the subject matter of the record relates *directly* to a public health or safety issue" [emphasis added]. Although the appellant argues that any significant waste of money affects the city's health and safety programs (because less money may be available for these programs), the record requested in this appeal does not relate *directly* to a public health and safety issue.

[66] Furthermore, the appellant has not provided evidence to support the view that dissemination of the requested information contained in the records would yield a public benefit by disclosing a public health or safety concern, or contributing meaningfully to the development of understanding of an important public health or safety issue.

[67] As a result of the above, I find that section 45(4)(c) does not apply in this appeal.

[68] In summary, I find that none of the considerations in section 45(4) apply in this appeal. Therefore, I uphold the city's decision to deny the fee waiver.

[11] The city refers to Orders MO-1336, MO-2071, PO-2592 and PO-2726 in support of its statement.

ORDER:

I uphold the city's decision, and dismiss this appeal.

Original Signed By: February 19, 2014
Frank DeVries
Adjudicator