

Information and Privacy Commissioner,  
Ontario, Canada



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

---

## ORDER MO-3081

Appeal MA14-102

City of Toronto

July 31, 2014

**Summary:** The appellant sought access to detailed information on funding for the city's priority neighbourhoods over an eight year period. The city responded by disclosing a three page record that it created specifically to address the appellant's request. The appellant questioned the reasonableness of the city's search and appealed the city's decision. The city's search is upheld as reasonable.

**Statutes Considered:** *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, section 17.

### BACKGROUND:

[1] The City of Toronto (the city) received a request for detailed funding information relating to the 13 high priority neighbourhoods identified by the city. The requester specifically sought access to:

- the amount of government grant and private funding allocated to each neighbourhood each year between 2005 and 2013, as well as the grand total per neighbourhood
- a description of the projects, programs or activities for which the funding was allocated

- a description of the projects, programs or activities on which the funding was spent
- the amount of government grant and private funding allocated to each neighbourhood each year for the creation, promotion, expansion and consolidation of residents' committees.

[2] The city searched for records that were responsive to the appellant's request for a detailed breakdown of investment for each of the 13 high priority neighbourhoods from 2005 to 2013. The city granted the appellant access to one responsive record created by its Social Development, Finance and Administration (SDFA) department. The city advised in its decision that it was unable to provide a greater level of detail than that in the record as a result of the way that the funding information was tracked over time. The city also stated in its decision that it was not able to provide specific breakdowns of the funding information requested by neighbourhood, year or program; nor was it able to provide a description of every service or program accomplished throughout the eight year service investment period.

[3] The appellant appealed the city's decision to this office on the basis that he believes additional records exist. In his appeal letter, the appellant stated he seeks access to a complete breakdown of the \$352,091,632.45 investment in the 13 priority neighbourhoods from 2005 to 2013. The appellant further stated that the city's position that additional records do not exist does not accord with the media coverage in the past two years on the hundreds of millions of dollars invested over the eight year period.

[4] Mediation was attempted but did not resolve the sole issue in this appeal, which is, whether the city conducted a reasonable search for records. The appeal was then transferred to the adjudication stage of the appeal process for a written inquiry under the *Act*. I sought and received representations from the city and the appellant and shared these in accordance with this office's *Code of Procedure and Practice Direction Number 7*.

[5] In this order, I find that the city conducted a reasonable search for records.

## **DISCUSSION:**

[6] The appellant claims that additional records exist beyond those identified by the city. As a result, the sole issue for me to determine in this appeal is whether the city conducted a reasonable search for records as required by section 17.<sup>1</sup> If I am satisfied that the search carried out was reasonable in the circumstances, I will uphold the institution's decision. If the city does not provide sufficient evidence to demonstrate

---

<sup>1</sup> Orders P-85, P-221 and PO-1954-I.

that it has made a reasonable effort to identify and locate all of the responsive records within its custody or control, I will order a further search.<sup>2</sup>

[7] 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 it has made a reasonable effort to identify and locate responsive records.<sup>3</sup> To be responsive, a record must be "reasonably related" to the request.<sup>4</sup> A reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request expends a reasonable effort to locate records which are reasonably related to the request.<sup>5</sup> 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.<sup>6</sup>

### **The city's representations**

[8] The city states that although it was unable to provide the detailed breakdown requested by the appellant, it provided responsive information in the greatest level of detail available, and additional responsive records do not exist. The city notes the appellant asserts that additional records exist because there has been information released through media coverage over the past two years. The city states that it discussed this with the staff of its SDFA department and concluded that a further detailed breakdown beyond what was disclosed to the appellant could not be compiled. It adds that because more detailed records could not be compiled, such records did not exist and were never released to the media. The city states that moving forward it will modify its tracking methods to ensure a detailed breakdown will be possible. The city concludes by asserting that the appellant has not provided a reasonable basis to conclude there are additional records.

[9] Along with its representations, the city provides two affidavits that outline in detail the searched conducted by its staff to locate responsive records. The first affidavit is sworn by the Manager, Access & Privacy for the city. In the affidavit, the Manager states that an initial search was conducted by the SDFA with no records being located. Staff in the SDFA then conducted a search of records so as to obtain sufficient information to permit the creation of a document responsive to the request. The Manager states that the Director of Community Resources, SDFA, personally searched for records and directed other staff to search for information that could be used to create a responsive record.

---

<sup>2</sup> Order MO-2185.

<sup>3</sup> Orders P-624 and PO-2559.

<sup>4</sup> Order PO-2554.

<sup>5</sup> Orders M-909, PO-2469 and PO-2592.

<sup>6</sup> Order MO-2246.

[10] The second affidavit is sworn by the Director of Community Resources with the city's SDFA department. The Director states that as a result of her responsibility for the city's priority neighbourhood work since 2005, she knows that no record responsive to the appellant's request exists. She states that due to her experience with the subject matter of the request, she was aware that information could be located in order to create a record responsive to the request. She states that she personally conducted the search of the majority of the records and databases held by SDFA to locate information that could be and was used to create the record ultimately disclosed to the appellant. She adds that she also directed the Manager of Community Development, the Senior Systems Integrator, and staff in Community Funding, Tower Renewal and Community Development within her department, to search for and provide her with relevant information that could be used to assist in the creation of a responsive record, and she received all responsive information located by these individuals. The Director continues that she also contacted staff in the Toronto Office of Partnerships, Parks, Forestry and Recreation, and Toronto Employment and Social Services for additional relevant information, which she received. Finally, she also contacted external organizations to determine if she could obtain any relevant information from them. These organizations were the Ministry of Children and Youth Services and United Way Toronto, and they provided her with all responsive information they were able to locate. The Director states that she confirmed and verified specific information from Parks, Forestry and Recreation Capital Projects and Youth Challenge Fund and used accurate information to create the responsive record.

[11] The Director then describes the process she undertook to compile the data she received in a spreadsheet. This included:

- reviewing information from a database created in 2009/2010 to track initiatives and investments in the 13 priority neighbourhoods by funders, neighbourhood and category
- reviewing, verifying and re-entering the investments that were outdated or inaccurate
- reviewing a project tracking sheet used by SDFA and locating all investments and initiatives over \$5,000 as information to confirm the accuracy of smaller amounts was not available
- reviewing all Neighbourhood Action Update briefing notes prepared for the Mayor's Office commencing in 2006 for relevant information
- reviewing presentations prepared for each year in which SDFA reported on investments in the 13 priority neighbourhoods for relevant information

- searching email and archival email for communications from 2010 to 2012 for records relating to the methodology of calculating investment totals and other information
- reviewing spreadsheets tracking the Partnership Opportunities Legacy Fund (the 26 capital projects funded by the city and its partners)
- summarizing the information on the investment categories previously used by the city and determining that a responsive record on the basis of funder categories could be created.

[12] The Director concludes by stating that she is not aware of any records responsive to the request that would have been destroyed contrary to the record retention requirements of Chapter 217 of the City of Toronto Municipal Code.

### **The appellant's representations**

[13] The appellant does not directly address the issue of the reasonableness of the city's search in his representations. Instead, he expresses his displeasure at how a specified neighbourhood association is organized and how it is run by the trustee. He also makes a number of allegations about the actions of the neighbourhood association, and the funding it received from the city. Overall, the appellant's representations set out his concerns and allegations about a lack of oversight, accountability, transparency and financial auditing within the specified neighbourhood association.

### **Analysis and findings**

[14] Based on the evidence before me, I am satisfied that the city has conducted a reasonable search for responsive records. The two affidavits provided by the city, particularly the one sworn by the Director, provide detailed evidence of the multiple searches conducted and various steps taken to produce a three page record that was responsive to the appellant's request. The Director, an experienced city employee with extensive knowledge on the city's priority neighbourhood funding, created the record in order to respond to the appellant's request. The record provides three pages of information directly responding to the appellant's request, including: a breakdown of total investments made by various city departments/initiatives and external partners for the eight year period in question; a breakdown of investments in the Service Development Improvement Program and the Identify 'n Impact Youth Investment Program by neighbourhood for the eight year period; and descriptions of the community capital projects and programs undertaken during the relevant period. While the appellant insists that additional records exist, he has not provided me with a reasonable basis for believing his assertion. Instead, he has described his concerns and allegations about a specified neighbourhood association's receipt and use of funding; these concerns and allegations do not establish a reasonable basis for believing that

additional records exist. I find the city's evidence to be sufficient and its search reasonable.

**ORDER:**

I uphold the city's search as reasonable and dismiss the appeal.

Original signed by: \_\_\_\_\_  
Stella Ball  
Adjudicator

\_\_\_\_\_ July 31, 2014