

Information and Privacy Commissioner,  
Ontario, Canada



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

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## ORDER PO-3727

Appeal PA16-170

Ministry of Transportation

April 28, 2017

**Summary:** The Ministry of Transportation (the ministry) received a 15-part request under the *Freedom of Information and Protection of Privacy Act* (the *Act*) for records relating to the Highway 69 construction projects. The ministry issued an interim decision and fee estimate. Upon receipt of the ministry's decision and fee estimate, the appellant filed a request for a fee waiver on the grounds that dissemination of these records will benefit public health or safety, as contemplated by section 57(4)(c) of the *Act*. In response, the ministry advised that although it was denying the fee waiver, the ministry was prepared to offer a 30% reduction of the fee. During the inquiry, the ministry issued a revised fee estimate of \$4,292.26 (which includes the 30% reduction) due to the appellant's amendment to his request. The appellant advised that he rejected the revised fee estimate, but wished to narrow the scope of his request. Due to the narrowed scope of request, the ministry issued a further revised fee estimate of \$3,022.88 (which includes the 30% reduction). In this order, the adjudicator upholds the further revised fee estimate as reasonable. She orders the ministry to waive an additional 10% of the fee estimate but upholds the ministry's decision not to waive the remaining cost.

**Statutes Considered:** *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended, sections 57(4)(c),

**Orders and Investigation Reports Considered:** Orders MO-3300, MO-2697, PO-2776-I, PO-2886, PO-3716, PO-1953-F, and PO-3698.

## **BACKGROUND:**

[1] The Ministry of Transportation (the ministry) received a 15-part request under the *Freedom of Information and Protection of Privacy Act* (the *Act*) for records related to the Highway 69 construction projects, from the Killarney Highway interchange to the Alban interchange and any associated projects.

[2] The ministry issued an interim decision and fee estimate, assessing fees for access to the responsive records at \$6,740.00. The ministry requested a 50% deposit of \$3,370.00 to continue processing the request, as well as a written acceptance of the total fee estimate.

[3] Upon receipt of the ministry's decision and fee estimate, the appellant filed a request for a fee waiver on the grounds that dissemination of these records will benefit public health or safety, as contemplated by section 57(4)(c) of the *Act*.

[4] In response, the ministry advised that although it was denying the fee waiver as the grounds for it under section 57(4)(c) had not been established, the ministry was prepared to offer a 30% reduction of the fee, reducing it to \$4,718.00.

[5] In response, the appellant amended his request by deleting parts 11 and 15. The ministry advised that the amended request was essentially the same as the original request and the required level of effort would remain the same as for the original request.

[6] The appellant appealed the ministry's decision with respect to both the fee and its denial of the fee waiver to this office.

[7] During mediation, the appellant amended his request further by providing the date for part 1 and deleting parts 4 and 14 from the request. The appellant continues to believe that the fee assessed by the ministry is too high and amounts to an effort to prevent access to the records. The appellant also believes that he should be granted a fee waiver under section 57(4)(c) as the dissemination of the records will benefit health or safety.

[8] As a mediated resolution could not be reached, the file was transferred to the adjudication stage of the appeal process for an adjudicator to conduct an inquiry under the *Act*. Representations, reply representations and sur-reply representations were received and shared with the other party in accordance with the Information and Privacy Commissioner's *Code of Procedure* and *Practice Direction Number 7*.

[9] With its representations, the ministry enclosed a copy of a revised fee estimate, which reflected the recent amendments made by the appellant during mediation. The ministry's revised fee estimate reduced the fee from \$6,740.00 to \$6,131.80. Additionally, the ministry advised that it was still prepared to offer a 30% reduction of the fee which would further reduce it to \$4,292.26. Again the ministry requested a 50%

deposit of \$2,146.13 to continue processing the request. The ministry also advised that as the request will involve a search of a large volume of records, it is likely that a time extension will be required.

[10] The appellant advised this office that he does not accept the revised fee estimate and wishes to continue the appeal.

[11] In his representations, the appellant states that he is willing to narrow the scope of his request to one kilometer north of the new Highway 69 and Highway 637 Interchange to one kilometer south of the new Murdock River Bridges on Highway 69.

[12] Due to the further narrowed scope of the request, the ministry advised that the fee estimate is reduced to \$4,318.40. It also advised that it was still prepared to offer a 30% reduction of the fee which would further reduce it to \$3,022.88.

[13] The appellant advised this office that he does not accept the recently revised fee estimate and wishes to continue the appeal.

[14] As the appellant confirmed that the fee estimate should address the recently revised fee estimate that is now the fee estimate that is at issue. The ministry's denial of the appellant request for a fee waiver is also still at issue in this appeal. This appeal was then transferred to me for a disposition.

[15] In this order, I uphold the ministry's recently revised fee estimate as reasonable. I order the ministry to waive an additional 10% of the fee, but uphold the ministry's decision not to waive the remaining cost.

## **ISSUES:**

- A. Should the fee estimate of \$3,022.88 be upheld?
- B. Should the fee be waived?

## **DISCUSSION:**

### **A. Should the fee estimate of \$3,022.88 be upheld?**

[16] Where the fee exceeds \$25, an institution must provide the requester with a fee estimate.<sup>1</sup>

[17] Where the fee is \$100 or more, the fee estimate may be based on either

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<sup>1</sup> Section 57(3).

[18] the actual work done by the institution to respond to the request, or

[19] 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.<sup>2</sup>

[20] 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.<sup>3</sup>

[21] The fee estimate also assists requesters to decide whether to narrow the scope of a request in order to reduce the fees.<sup>4</sup>

[22] In all cases, the institution must include a detailed breakdown of the fee, and a detailed statement as to how the fee was calculated.<sup>5</sup>

[23] This office may review an institution's fee and determine whether it complies with the fee provisions in the *Act* and Regulation 460, as set out below.

[24] Section 57(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
- (e) any other costs incurred in responding to a request for access to a record.

[25] More specific provisions regarding fees are found in sections 6, 7 and 9 of Regulation 460. Those sections read:

6. The following are the fees that shall be charged for the purposes of subsection 57(1) of the *Act* for access to a record:

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<sup>2</sup> Order MO-1699.

<sup>3</sup> Orders P-81, MO-1367, MO-1479, MO-1614 and MO-1699.

<sup>4</sup> Order MO-1520-I.

<sup>5</sup> Orders P-81 and MO-1614.

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.
7. (1) If a head gives a person an estimate of an amount payable under the *Act* and the estimate is \$100 or more, the head may require the person to pay a deposit equal to 50 per cent of the estimate before the head takes any further steps to respond to the request.
- (2) A head shall refund any amount paid under subsection (1) that is subsequently waived.
9. If a person is required to pay a fee for access to a record, the head may require the person to do so before giving the person access to the record.

[26] In its representations, the ministry states that the fee estimate is based upon representative samples of the records. It states that ministry staff reviewed three boxes of general records, which took over three hours to search each box, and found an average of between 82 and 83 responsive records in each box. It also states that ministry staff reviewed three inspection diaries, which took approximately 30 minutes to review each diary and found an average of three responsive records per diary.

[27] In his representations, the appellant asserts that the fee estimate provided by the ministry is grossly excessive. He states that he has amended and refined his information request several times in order to simplify the search of the responsive records, besides providing timeframes on the actual events and offering to meet to review the records. He also asserts that he believes the ministry has provided an exorbitant and exaggerated fee estimate in a thinly veiled effort to discourage the release of the requested information.

***Analysis and findings***

[28] The ministry's fee estimate is broken down as follows:

*Search*

General records – 71 hours

Diaries (Contract Administrator) – 29 hours

Diaries (Environmental Inspection) – 29 hours

Total hours: 129

129 hours @ \$30 per hour \$3,870.00

*Photocopying*

General records – 1894 pages

Diaries – 348 pages

Total pages: 2,242

2,242 pages @ \$0.20 per page \$448.40

Total cost: \$4,318.40

30% reduction of \$6,131.80 **\$3,022.88**

[29] In determining whether to uphold a fee estimate, my responsibility under section 57(3) of the *Act* is to ensure that the estimated amount is reasonable. The burden of establishing the reasonableness of the fee estimate rests with the ministry. To discharge this burden, the ministry must provide me with detailed information as to how the fee estimate has been calculated in accordance with the provisions of the *Act*, and produce sufficient evidence to support its claim. I note that the ministry did not claim any preparation time as it states that full access will be granted.

*Search Time*

[30] With respect to search, the ministry determined that responsive records are located in 23 out of approximately 250 boxes of records for the four construction contracts that are relevant to this appeal. I note that in its original decision (before the scope was narrowed), the ministry estimated that there would be 250 boxes, 50 boxes per each construction contract. In its revised decision, the ministry narrowed the search down to 45 boxes from 250 boxes, which is a substantial number. As discussed earlier, due to the narrowed scope of request, the search was further reduced to 23 boxes.

[31] Besides narrowing down the number of boxes to search, the ministry conducted a search through a representative sample of records to determine a more accurate estimate search time. On my review of the information provided by the ministry, including its evidence of the searches conducted for representative samples of records and the time this took, I find that the ministry has provided sufficient evidence for me to conclude that the search component of the fee was reasonable and that it was calculated in accordance with the *Act* and the Regulations.

### *Photocopying*

[32] In its further revised fee estimate, the ministry allows for photocopying at a rate of \$0.20 per page. Allowable photocopy charges are based on the actual number of records copied per disclosure. The per-page charge of \$0.20 is correct, based on the abovementioned Regulation 460. I, therefore, uphold the ministry's estimated photocopy fees.

### **Summary**

[33] In summary, I find that the fee estimate for search and photocopying the responsive records is appropriate. I also found that the ministry provided detailed information to justify its fee estimate. Accordingly, I uphold the ministry's fee estimate.

### **B. Should the fee be waived?**

[34] Section 57(4) of the *Act* requires an institution to waive fees, in whole or in part, in certain circumstances. Section 8 of Regulation 460 sets out additional matters for a head to consider in deciding to waive a fee. Those provisions state:

57. (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.

[35] The fee provisions in the *Act* establish a user-pay principle which is founded on the premise that requesters pay the prescribed fees associated with processing a request unless it is fair and equitable that they do not do so. The fees referred to in section 57(1) and outlined in section 6 of Regulation 460 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.<sup>6</sup>

[36] 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 part, and may uphold or modify the institution's decision.<sup>7</sup>

[37] The institution or this office may decide that only a portion of the fee should be waived.<sup>8</sup>

### ***Fair and equitable***

[38] For a fee waiver to be granted under section 57(4), the test is whether any waiver would be "fair and equitable" in the circumstances.<sup>9</sup> Factors that must be considered in deciding whether it would be fair and equitable to waive the fees are listed in 57(4)(a) to (d). However, the appellant simply raises 57(4)(c).

[39] The following factors may be relevant in determining whether dissemination of a record will benefit public health or safety under section 57(4)(c):

- 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
  - a. disclosing a public health or safety concern, or
  - b. contributing meaningfully to the development of understanding of an important public health or safety issue

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<sup>6</sup> Order PO-2726.

<sup>7</sup> Orders M-914, P-474, P-1393 and PO-1953-F.

<sup>8</sup> Order Mo-1243.

<sup>9</sup> See *Mann v. Ontario (Ministry of the Environment)*, 2017 ONSC 1056.



- the probability that the requester will disseminate the contents of the record<sup>10</sup>

[40] The focus of section 57(4)(c) is “public health or safety”. It 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.<sup>11</sup>

### ***Representations on public health or safety***

[41] In its representations, the ministry points out that the appellant based his request for a fee waiver solely on the factor of benefiting public health or safety. It asserts that the subject matter of the records is a matter of private interest to the appellant as he has not provided any evidence that there is a particular interest on the part of the public in the information he is seeking. It also points out that the appellant has directed his concerns to the Ombudsman’s Office, who determined that no further inquiries into the appellant’s complaints were warranted, evidently seeing no matter of public interest in the issues raised by the appellant. The ministry acknowledges that some of the requested records relate to health and safety but others relate to the enjoyment of the appellant’s property, e.g. records relating to the ministry’s approval of weekend work and 24 hours a day aggregate crushing. It asserts that the appellant has not established that there exists any significant public health or safety issue that will be ameliorated through access to the requested records. In other words, he has not identified a specific health or safety concern. Moreover, the projects to which the requested records relate have received numerous environmental approvals and have undergone the full environmental approval process required of all the ministry’s capital construction works.

[42] In his submissions, the appellant asserts that the records requested deal with prolonged health and safety issues that were identified to the ministry by its own environmental specialists, at public information centers, in emails, phone calls, meetings, letters, photographs, etc. He points out that there are endless scientific and medical reports dealing with the negative health and safety impacts associated with dust, noise, sedimentation, loss of enjoyment of properties, water pollution, environmental degradation, etc. He also points out that, as an example, for the past several years “a milky brown watery residue” has leached from an Excessive Material Management Area at the Killarney Highway maintenance facility site. The appellant adamantly denies that the request is based on a private interest versus a public interest. He points out that, as President of the Local Cottage Owners Association, Director of the Local Property Owners Association Inc. and Chairperson of the Local Citizen Committee, he represents the interests of numerous members of the public. Further, the appellant asserts that it is his intention to share the records with various

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<sup>10</sup> Orders P-2, P-474, PO-1953-F and PO-1962.

<sup>11</sup> Orders MO-1336, MO-2071, PO-2592 and PO-2726.

groups, including governmental and non-governmental bodies.

[43] In its reply representations, the ministry asserts that it has in fact not been found by any responsible authority to have violated any laws or caused any harm to health or safety as a result of this project, and this despite numerous approaches made by the appellant to these authorities. It asserts again that while some of the records may broadly relate to health and safety, their disclosure will not contribute to an understanding of a health and safety issue or disclose a health or safety concern. The ministry points out that in response to its assertion that he has not identified a specific health or safety concern, the appellant falls back on a general statement to the effect that it has been proven that noise, dust, sediment, etc. can cause damage to health and safety. This response shows that he still does not appreciate that he must demonstrate either that the records will disclose a specific health and safety concern, or meaningfully contribute to the understanding of an important health and safety issue. The ministry also points out that the Ministry of Environment and Climate Change investigated the Killarney Interchange maintenance facility site, and found that there was no health and/or safety concern (as stated in the appellant's representations).

[44] In his sur-reply representations, the appellant refers to a number of specific health and safety issues, which occurred during the Highway 69 construction. He points out, as examples, that the ministry placed deleterious materials into watersheds, and permitted blasting operations that exceeded the allowable decibel limits. He states that the ministry "was very aware that health and safety concerns existed and provided information and protection to their employees" but did not provide the "negatively impacted public with the same knowledge and protection." The appellant also asserts that the ministry's poor treatment of the public during the quarry process is another example that the ministry failed to consider the negative health and safety impacts to the public and is not interested in public consultations. He further points out that the ministry allowed aggregate crushers to work 24 hours a day for approximately six weeks, which is a violation of the Noise Protocol.

***Analysis and findings on section 57(4)(c)***

[45] The appellant's request was originally a 15-part request relating to the Highway 69 construction projects from the Killarney Highway interchange to the Alban interchange and any associated projects. At the adjudication stage, his request was further revised and narrowed down to 11-parts relating to one kilometer north of the new Highway 69 and Highway 637 interchange to one kilometer south of the new Murdock River Bridges on Highway 69.

[46] Although I do not have the records before me, I am satisfied, based on the representations of the ministry and the appellant, for the following reasons, that the dissemination of at least some of the records will benefit public health or safety.

[47] I find that there is a public interest in the subject matter of many of the records

as they concern the environment, specifically noise, dust, sedimentation, and water pollution. However, I agree with the ministry that some parts of the 11-part request relate to a private interest.

[48] I turn now to discuss whether the subject matter of the records relate directly to a public health or safety issue; and whether the dissemination of the records would yield a public benefit by disclosing a public health or safety concern, or by contributing meaningfully to the development of understanding of an important public health or safety issue.

[49] In Order PO-1953-F, Adjudicator Irena Pascoe found that the dissemination of records relating to soil and water conditions would benefit public health or safety. After reviewing previous orders that concluded that certain matters relating to the environment also raise public health and/or safety issues, Adjudicator Pascoe stated:

Based on the above-mentioned orders, it is clear that matters concerning the environment and those concerning public health and safety are not necessarily mutually exclusive and that there is clearly a significant overlap between them. As illustrated above, very often matters concerning the environment, by their very nature, raise important public health or safety concerns. Having said that however, I am not persuaded that every issue concerning the environment would automatically be considered a public health or safety issue, as contemplated by section 57(4)(c).

[50] Adjudicator Pascoe went on to state:

[W]hat is common to all these cases is that the records at issue concern environmental matters with the potential to affect the health and safety of the public...

While I am not in a position to assess the merits of the health concerns as outlined by the appellant, and ultimately these concerns may or may not be determined to be valid or significant, I am satisfied that disclosure of the records would benefit public health by assisting the public in participating in any consultation on the subject of extending the leases and would meaningfully contribute to the development of understanding of the public health and safety issues surrounding this matter.

[51] I agree with this approach and will apply it here. While section 57(4) does not extend to environmental considerations taken on their own, environmental concerns that also raise health or safety concerns would fall within that section.

[52] In this case, the ministry argues that the appellant has not identified a specific health or safety concern relating to the records. In response, the appellant points out a number of specific health and safety issues in his sur-reply. I am satisfied that the

appellant has identified a number of specific health or safety concerns relating to the records. However, I do not find that the dissemination of all the records would yield a public benefit. In fact, I only find that the disclosure of the responsive records for three parts (items #1, 3 and 8) of his 11-part request would yield a public benefit by leading to an informed citizenry which can meaningfully participate in the discussions around these topics.

[53] With regards to dissemination, I find that there is a high probability that the appellant will disseminate the contents of the disclosed records. I accept his assertion that he intends to share the disclosed records with various groups, including governmental and non-governmental bodies. In the past, the appellant has conducted several TV interviews with local media and several interviews with local print media outlining his concerns with respect to the Highway 69 construction projects and its associated projects.

[54] In sum, I conclude that dissemination of at least some portions of the records will benefit public health or safety under section 57(4)(c).

***Other relevant factors***

[55] For a fee waiver to be granted under section 57(4), it must be "fair and equitable" in the circumstances. In addition to the factors that must be considered under section 57(4), other relevant factors that must be considered when deciding whether or not a fee waiver is "fair and equitable." These may include:

- the the manner in which the institution responded to the request;
- whether the institution worked constructively with the requester to narrow and/or clarify the request;
- whether the institution provided any records to the requester free of charge;
- whether the requester worked constructively with the institution to narrow the scope of the request;
- whether the request involves a large number of records;
- whether the requester has advanced a compromise solution which would reduce costs; and
- whether the waiver of the fee would shift an unreasonable burden of the cost from the appellant to the institution.<sup>12</sup>

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<sup>12</sup> Orders M-166, M-408 and PO-1953-F.

### ***Representations on other relevant factors***

[56] In its representations, the ministry asserts that it satisfied a number of the factors listed above. The ministry points out that, after issuing the initial fee estimate, it advised the appellant that he may want to narrow the scope of his request to reduce the fee estimate. The ministry also points out that, after the denial of the fee waiver, it offered the appellant a 30% reduction of the fee. The ministry notes that it has made a number of attempts to work with the appellant to narrow his request in several different ways, besides providing the appellant with numerous records free of charge. The ministry also notes that it invited the appellant to a meeting with its contractors, giving him an opportunity to participate directly in discussing plans to monitor dust and noise from the Patrol Yard construction in 2012, besides installing additional dust and noise monitoring devices. The ministry further notes that its staff and contractors have been responding to requests for information from the appellant, extending as far back as 2006.

[57] In his representations, the appellant does not discuss any of the above listed factors with respect to "fair and equitable." He states the following: "This is not about what is fair and equitable to the [ministry]. This is about what is fair and equitable to the Ontario public and in holding polluters responsible for their decisions and actions." Prior to making the previous statement, the appellant points out that the ministry failed to do the following: (1) provide proper oversight; (2) comply with numerous laws, protocols, guidelines; (3) properly investigate the numerous health and safety concerns that were identified; (4) take prompt and effective mitigation measures to rectify the documented health and safety concerns; and (5) warn the negatively impacted public of these potential health and safety concerns.

[58] I note that the ministry's reply and the appellant's sur-reply do not discuss any of the above listed factors with respect to "fair and equitable."

### ***Analysis and findings***

[59] My finding above that the dissemination of some of the records will benefit public health or safety is a factor in deciding whether it would be fair and equitable to waive the fees. However, there are other relevant factors, which must be considered when deciding whether or not a fee waiver is "fair and equitable". I will now turn to discuss these other factors.

[60] Based on the materials before me, it is clear that the ministry worked cooperatively with the appellant and advised him (through the mediator) of the manner in which he would need to narrow his request in order to reduce the fee. The ministry also offered the appellant a 30% reduction of the fee. I note that the appellant amended his original request twice (prior to mediation) then narrowed the scope of his request. I also note that the amendments did not reduce the fee estimate as the ministry asserts that the required level of effort would remain the same as for the

original request. However, the appellant's narrowing the scope of his request did result in a reduction in the fee estimate. In my view, it is noteworthy that the appellant's request is broad in scope and is focused on a number of issues, besides involving a large number of records. I further note that the ministry provided numerous records to the appellant free of charge over the years.

[61] More importantly, I find that the appellant's main efforts were at obtaining a fee waiver versus working cooperatively with the ministry to reduce the fee estimate. It appears that the appellant feels that "the victims" (the public) should not have to pay for his request as "the polluters" (the ministry and other governmental bodies) should give it to him for free as they are responsible for damaging the environment and failing to comply with protocols, guidelines, the law, the best business practices, etc. However, the appellant may not be aware that if he was granted a fee waiver, the cost of his request would fall on the Ontarian taxpayers. As such, I am not satisfied that the appellant has made reasonable attempts to limit the scope of his request to try and reduce the costs.

[62] In considering the representations of the parties and the records at issue in this appeal, I find that it would be fair and equitable to waive an additional 10% of the fee in the circumstances of this appeal. As stated earlier, the ministry has offered the appellant a 30% reduction of the fee, which is a substantial amount. With the waiver of an additional 10%, the appellant would receive a 40% reduction of the fee. In my view, this respects the user pay principle contained in the *Act*, while making the records more accessible to the appellant and the community affected by the Highway 69 construction projects, without shifting an unreasonable burden to the ministry.

[63] I note that, in the ministry's revised fee estimate dated July 28, 2016, it stated that the appellant's request will involve a search through a large volume of records. As such, "it is likely that a time extension will be required."

[64] Accordingly, I order the ministry to waive an additional 10% of the fee in this appeal, which would result in the fee estimate being \$2,591.04 (40% discount is \$1,727.36). I uphold the ministry's decision not to waive the remaining cost.

**ORDER:**

1. I uphold the ministry's fee estimate.
2. I order the ministry to waive an additional 10% of the fee, which result in the fee estimate being \$2,591.04.
3. I uphold the ministry's decision not to waive the remaining cost.

Original Signed by: \_\_\_\_\_  
Lan An

April 28, 2017 \_\_\_\_\_

Adjudicator