Information and Privacy Commissioner,
Ontario, Canada

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

RECONSIDERATION ORDER PO-4303-R

Appeals PA13-490 and PA13-491

Ministry of the Solicitor General

Order PO-4010

September 22, 2022

Summary: This reconsideration order denies the appellant's request for reconsideration of Order PO-4010, in which the adjudicator found that the ministry had conducted a reasonable search for records that would respond to the appellant's access request under the *Act*. The adjudicator finds that the appellant did not establish any of the grounds under section 18.01 of the IPC's *Code of Procedure* to reconsider Order PO-4010 and denies the appellant's reconsideration request.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended, section 24; *IPC Code of Procedure*, sections 18.01 and 18.02.

Orders Considered: Orders 164, MO-4085-F, MO-3865-I, MO-3812-I, P-373, PO-2538-R and PO-3062-R.

Cases Considered: *Chandler v. Alberta Assn. of Architects*, (1989), 1989 CanLII 41 (SCC), 62 D.L.R. (4th) 577 (S.C.C.) and *Grant* v. *Cropley (2001),* 143 O.A.C. 131 (Div. Ct.); [2001] O.J. 749.

OVERVIEW:

[1] This order addresses the appellant's request for reconsideration of Order PO-4010 which disposed of appeals PA13-490 and PA13-491. The appellant submitted a

request to the Ministry of the Solicitor General (the ministry)[1] for:

> All records, physical and electronic, from all locations in respect of;
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> 1. [Names used by the appellant and his date of birth]; and,
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> 2. [Specified address in Toronto] for the period from January 1, 2001 to February 15, 2013; and,
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> 3. [Specified address in Hamilton] for the period January 1, 1989 to October 2, 2013.

[2] The request form indicates that the type of request was for access to both general records and the appellant's personal information.

[3] The ministry conducted a search and issued two decision letters in November 2013 indicating that it did not locate responsive records in its record holdings. One of the decision letters addressed the appellant's request for records relating to himself and a residence in Toronto (parts 1 and 2 of the request). The other decision letter addressed the appellant's request for records relating to himself and a residence in Hamilton (parts 1 and 3 of the request).

[4] The appellant appealed the ministry's decisions to the Information Privacy Commissioner of Ontario (IPC) and two appeal files were opened.[2]

[5] I conducted an inquiry into whether the ministry conducted a reasonable search. I joined the two appeal files and invited the written representations of the parties. The ministry's representations were shared with the appellant in accordance with the IPC's confidentiality criteria set out in *Practice Direction 7*. The appellant's representations were accompanied by voluminous attachments which provided background information that I found did not specifically address the reasonable search issue. Accordingly, during the inquiry I summarized the appellant's main arguments and invited the ministry's reply representations, which it provided. I subsequently determined that the ministry had conducted a reasonable search for responsive records and issued Order PO-4010 which disposed of appeals PA13-490 and PA13-491.

[6] The appellant sought a reconsideration of Order PO-4010 and requests that I separate appeals PA13-490 and PA13-491 for the purposes of the reconsideration request. Though the appellant filed one set of representations during the inquiry, he provided two sets of representations in support of his reconsideration requests. The representations marked "PA13-490" by the appellant appear to be in support of his

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[1] At the time the request was made, the ministry was called the Ministry of Community Safety and Correctional Services.

[2] Appeal file PA13-490 addressed the appellant's request for records relating to himself and a residence in Hamilton. Appeal file PA13-491 addressed the appellant's request for records relating to himself and a residence in Toronto.

position that the ministry did not conduct a reasonable search in response to his request for records containing his personal information. The representations marked "PA13-491" by the appellant are in support of his position that the ministry did not conduct a reasonable search for general records.

[7] As set out above, the ministry initially responded to the appellant's request by issuing two decision letters based on the two different addresses indicated in the appellant's request. Each of the ministry's decision letters addressed the parts of the appellant's request to access general records and records containing his personal information. The appellant did not raise any objections to my joining the appeals during the inquiry, but in his reconsideration request, asked that I revisit my decision to join the appeals.[3] I responded by letter to the appellant indicating the appeals were already closed with the issuance of Order PO-4010. However, the appellant was told that he was free to organize his reconsideration representations in the manner he chose despite my decision to join the appeals. The appellant, in turn, submitted two sets of written representations in response to my letter inviting his representations. For the remainder of this reconsideration order, I will refer to the appellant's two sets of representations as his "reconsideration submissions" or simply, his "submissions".

[8] For the reasons set out below, I find that the appellant has not established any of the grounds in section 18.01 of the IPC's *Code of Procedure* (the *Code*) to support his reconsideration request. Accordingly, I deny the reconsideration request.

DISCUSSION:

Does the appellant's request meet any of the grounds for reconsideration in section 18.01 of the *Code of Procedure*?

[9] There is no express reconsideration power in the *Act*. The IPC's power to reconsider a decision is therefore limited to the grounds at common law, which are reflected in the IPC's reconsideration criteria and procedure set out in section 18 of the *Code*, which reads in part as follows:

> 18.01 The IPC may reconsider an order or other decision where it is established that there is:
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> (a) a fundamental defect in the adjudication process;
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> (b) some other jurisdictional defect in the decision; or

[3] The appellant did not submit that a fundamental or jurisdictional defect occurred as a result of my decision to join the appeals. However, even if he did, I am satisfied that the circumstances of joining the two appeals does not give rise to a potential defect warranting reconsideration of Order PO-4010.

> (c) a clerical error, accidental error or omission or other similar error in the decision.
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> 18.02 The IPC will not reconsider a decision simply on the basis that new evidence is provided, whether or not that evidence was available at the time of the decision.

[10] The IPC has recognized that a fundamental defect in the adjudication process may include a failure to notify an affected party,[4] a failure to invite representations on an issue to be decided,[5] or a failure to allow for sur-reply representations where new issues or evidence are provided in reply.[6] These orders demonstrate that a breach of the rules of natural justice respecting procedural fairness qualifies as a fundamental defect in the adjudication process as described in section 18.01(a) of the *Code*.

[11] Section 18.01(b) of the *Code* relates to whether an adjudicator has the jurisdiction under the *Act* to make the order in question. An example of a jurisdictional defect would be if an adjudicator ordered a body that is not an institution under the *Act* to disclose records.

[12] Previous IPC orders have held that an error under section 18.01(c) may include a misidentification of the "head" or the correct ministry,[7] or another mistake that does not reflect the adjudicator's intent in the decision.[8]

[13] The reconsideration process set out in the *Code* is not intended to provide parties with a forum to re-argue their cases. In Order PO-2538-R, former Senior Adjudicator John Higgins reviewed the case law regarding an administrative tribunal's power of reconsideration, including the Supreme Court of Canada's decision in *Chandler v. Alberta Assn. of Architects*.[9] With respect to the reconsideration request before him, he concluded:

> [T]he parties requesting reconsideration ... argue that my interpretation of the facts, and the resulting legal conclusions, are incorrect ... In my view, these arguments do not fit within any of the criteria enunciated in section 18.01 of the *Code of Procedure*, which are based on the common law set out in *Chandler* and other leading cases such as *Grier v. Metro Toronto Trucks Ltd.*[10]
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> On the contrary, I conclude that these grounds for reconsideration amount to no more than a disagreement with my decision, and an

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[4] Orders M-774, R-980023, PO-2879-R, and PO-3062-R.
[5] Orders M-774 and R-980023.
[6] Orders PO-2602-R and PO-2590.
[7] Orders P-1636 and R-990001.
[8] Order M-938.
[9] ([1989] 2 SCR 848 (*Chandler*).
[10] 1996 CanLII 11795 (ON SC), 28 O.R. (3d) 67 (Div. Ct.).

> attempt to re- litigate these issues to obtain a decision more agreeable to the LCBO and the affected party. As Justice Sopinka comments in *Chandler*, "there is a sound policy basis for recognizing the finality of proceedings before administrative tribunals." I have concluded that this rationale applies here.

[14] Senior Adjudicator Higgins' approach has been adopted and applied in subsequent IPC orders.[11] In Order PO-3062-R, for example, Adjudicator Daphne Loukidelis was asked to reconsider her finding that the discretionary exemption in section 18 of the *Freedom of Information and Protection of Privacy Act* did not apply to the information in the records at issue in that appeal. Adjudicator Loukidelis determined that the institution's request for reconsideration did not fit within any of the grounds for reconsideration set out in section 18.01 of the *Code*, stating as follows:

> It ought to be stated up front that the reconsideration process established by this office is not intended to provide a forum for re-arguing or substantiating arguments made (or not) during the inquiry into the appeal...

[15] In his submissions, the appellant raises all three grounds set out in section 18.01 of the *Code* in support of his request for reconsideration. A substantial portion of the appellant's submissions consists of quotes from varied sources, including court cases and IPC orders. The appellant also sets out his perspective on the IPC's reconsideration process and procedural fairness.

[16] I have reviewed the appellant's reconsideration submissions and have considered all of them, but in this order, I have not set out every argument raised by the appellant. I have set out the most relevant submissions and, in some cases, combined arguments the appellant made which appear under different headings.

Section 18.01(a) fundamental defect in the adjudication process and section 18.01(b) jurisdictional defect in the decision

[17] The appellant alleges in his submissions that during the adjudication process leading to Order PO-4010, the following occurred:

- "Transgressing boundaries of jurisdiction conferred by section 50(2.1)[12],"
- "Failure to afford the appellant a meaningful right to be heard,"

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[11] See, for example, Reconsideration Orders PO-3558-R and PO-3062-R.

[12] The appellant also made similar arguments under the headings "Failure to comply with legitimate expectations" and "The Failure to Live Up to the Understanding." The appellant's submissions under these headings will be addressed under the heading "Transgressing boundaries of jurisdiction conferred by Section 50(2.1)."

- "Failure to provide adequate notice during the reconsideration period after the inquiry," and
- "Failure to provide adequate reasons."

[18] The headings referenced above are the headings the appellant used in his submissions.

"Transgressing boundaries of jurisdiction conferred by section 50(2.1)"

[19] The appellant argues that my finding that he failed to establish a reasonable basis to conclude that responsive records exist gives rise to a jurisdictional error in Order PO- 4010.[13]

[20] The appellant submits that before I issued Order PO-4010, the IPC had already made a determination, during the intake stage of the appeals process, that he had provided a reasonable basis for establishing that responsive records exist. He says that *functus officio* applies and I should not have revisited the issue during the inquiry.

[21] *Functus officio* is a common law principle, which means that once a matter has been determined by a decision-maker, she generally has no jurisdiction to further consider the issue.[14]

[22] The Notice of Inquiry sent to the parties during the inquiry contained the following passage which was reproduced in paragraph 11 of Order PO-4010:

> Although a requester will rarely be in a position to indicate precisely which records the institution has not identified, they still must provide a reasonable basis for concluding that such records exist [Order MO-2246].

[23] The appellant explains that during the intake stage, he exchanged emails with the IPC and was asked to explain why he believed that responsive records existed that would respond to his request. The appellant says that he provided his reasons and that the appeal files were subsequently transferred to the mediation stage of the appeals process. The appellant cites section 50(2.1) of the *Act* and argues that the IPC's decision to transfer his file to mediation is evidence that the IPC had already determined that he established a reasonable basis to conclude that responsive records exist.

[24] Section 50(2.1) of the *Act* states:

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[13] In paragraph 22 of Order PO-4010, I stated: "I also considered the appellant's evidence and find that he has not provided sufficient evidence to establish a reasonable basis for concluding that the requested records should exist in the ministry's record-holdings."

[14] Reconsideration Order MO-4194-R.

> The Commissioner may dismiss an appeal if the notice of appeal does not present a reasonable basis for concluding that the record or the personal information to which the notice relates exist.

[25] The appellant argues that by not referencing the IPC's earlier decision to move the appeal files to mediation, I exceeded my jurisdiction. In support of his position, the appellant says that "…by purporting to invoke the Section 50(2.1) power a second time, [when Order PO-4010 was issued, the IPC] has thereby transgressed the boundaries of its jurisdiction established by its parent statute and overstepped its mandate."

[26] The appellant's interpretation of the *Act* fails to acknowledge that section 50(2.1) provides the IPC with *discretion* to dismiss an appeal at the initial stage if the notice of appeal does not present a reasonable basis for concluding that the records to which the appeal relates exist.[15] However, this discretionary power does not prevent the IPC, at a later stage in the processing of an appeal, from requiring an appellant to establish a reasonable basis for believing records exist as part of the IPC's determination of whether the institution has met its search obligations under section 24.[16]

[27] In this matter, the IPC initially determined that the appeals that are the subject of Order PO-4010 should proceed, as at that stage of the appeal, the IPC did not find that there was a reasonable basis for concluding that the records did not exist. In other words, the IPC chose not to exercise its discretion to screen out the appeals at their initial stage because the records *could* exist. The files were ultimately transferred to me for a determination of the issue in these appeals, i.e. whether or not the ministry's search was reasonable under section 24. The IPC's discretionary power to dismiss an appeal at the early stages does not preclude me from assessing, at the adjudication stage, and based on a more complete evidentiary record, whether there is a reasonable basis to conclude that records exist.

[28] Having regard to the above, I find that the appellant's arguments failed to establish a jurisdictional defect under section 18.01(b) of the *Code*. I am also not satisfied that the appellant's arguments establish any other ground for reconsideration under section 18.01.

"Failure to afford the appellant a meaningful right to be heard"

"Failure to provide adequate notice"

[29] The appellant argues that he should have been given an opportunity to provide sur-reply representations in response to the ministry's reply representations.

[30] The appellant takes the position that the representations he submitted during inquiry "…directly confronted the initial claim made by the institution that [he] had not

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[15] Order MO-3575.

[16] Interim Order PO-1954-I.

provided a reasonable basis for the absence of a reasonable search…" and that his representations "thoroughly rebutted" the ministry's "initial non-suit argument" in its representations. The appellant goes on to state:

> However, at some point known only to the [IPC] and without any notice or indication to the appellant, the [IPC] began: (a) to treat the [representations of the appellant] as not setting out a reasonable basis for the absence of a reasonable search and, (b) to accede to the institution's [reply representations] which the [IPC] did not share with the appellant until the [IPC] disclosed them to the appellant along with Order PO-4010.
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> Not only did the [IPC] fail to notify the appellant that the institution had made further submissions, fail to provide the appellant with a copy of those submission until Order PO-4010 was issued, and fail to notify the appellant of the further claim for non-suit made in those submissions, the appellant was not invited to submit a further or sur-reply representation to confront the newest plea for non-suit made by the institution in its [reply representations].

[31] The appellant's characterization that his representations submitted during the inquiry "thoroughly rebutted" the ministry's representations is entirely his perception. My reasons for concluding that a reasonable search took place are set out in paragraphs 20- 24 of Order PO-4010. It is clear from the appellant's reconsideration submissions that he disagrees with my findings in Order PO-4010. However, as noted above the IPC's reconsideration process is not intended to provide a forum to re-argue a case or present new evidence, whether or not that evidence was available at the time of the decision.

[32] The appellant suggests that procedural fairness required that he be afforded an opportunity to provide a rebuttal to the ministry's reply representations.

[33] To begin, I note that section 52(13) of the *Act* provides that a party is not entitled to have access to or to comment on the other party's representations made to the IPC.[17]

[34] The IPC has consistently found, and this has been recognized by the courts, that the IPC has the discretion to set the appeal procedures for inquiries under the *Act*, and must be given a considerable degree of latitude in doing so. For example, in *Grant* v.

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[17] Section 50(13) states:

> The person who requested access to the record, the head of the institution concerned and any other institution or person informed of the notice of appeal under section 50(3) shall be given an opportunity to make representations to the Commissioner, but nor person is entitled to have access to or to comment on representations made to the Commissioner by any other person or to be present when such representations are made.

Cropley the Divisional Court upheld the IPC's decision to not share with a requester the representations of another party. [18] The Court stated as follows:

> In our opinion, the language of s. 52(13) is explicit and clear in stating that the applicant did not have the right either to receive the Minister's submissions or to comment upon them for the purposes of the appeal.[19]

[35] As the adjudicator in this matter, I have the power to control the process, which includes having the authority to *not* seek the appellant's sur-reply representations. In Order 164, Former Commissioner Sidney Linden stated:

> … the only statutory procedural guidelines that govern inquiries under the *Freedom of Information and Protection of Privacy Act*, 1987 are those which appear in that *Act*. However, while the *Act* does contain certain specific procedural rules, it does not in fact address all of the circumstances which arise in the conduct of inquiries under the *Act.* By necessary implication, in order to develop a set of procedures for the conduct of inquiries, I must have the power to control the process. In my view, the authority to order the exchange of representations between the parties is included in the implied power to develop and implement rules and procedures for the parties to an appeal.

[36] Finally, review of the ministry's reply did not lead me to conclude that sur-reply representations should be sought from the appellant for procedural fairness reasons. The Notice of Inquiry I sent to the appellant before he made his representations stated that a requester challenging an institution's search must establish a reasonable basis to believe that further records exist. The appellant thus had ample notice of the "reasonable basis" issue.

[37] For the reasons stated above, I find that the appellant's not being provided an opportunity to provide sur-reply representations does not establish that a fundamental defect in the adjudication process occurred.[20]

[38] Accordingly, I am satisfied that the appellant's arguments do not establish a fundamental defect in the adjudication process under section 18.01(a) or any other grounds for reconsideration under section 18.01.

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[18] 143 O.A.C. 131 (Div. Ct.); [2001] O.J. 749.

[19] Here, the Court referred to *Kane v. Board of Governors of the University of British Columbia* [1980] 1 S.C.R. 1105, per Dickson J. (as he then was) at p. 1113.

[20] A copy of the ministry's reply representations was provided along with a copy of Order PO-4010 in response to the appellant's telephone request for same made approximately three weeks before Order PO- 4010 was issued. The IPC subsequently contacted the ministry to obtain its sharing position and the ministry confirmed that it had no objections if a copy of its reply representations was provided to the appellant.

"Failure to provide adequate notice"

"Failure to provide fair notice during the reconsideration period after the inquiry"

[39] The appellant argues that he was not provided with sufficient notice about the IPC's reconsideration policy.

[40] Order PO-4010 was issued on November 26, 2019. The appellant sent a letter to my attention on December 13, 2019, which was received before the deadline established in the *Code of Procedure* for filing a reconsideration request.[21] However, the appellant's letter did not request a reconsideration of Order PO-4010 nor did his letter request a new deadline for the receipt of his reconsideration request.

[41] Instead, the appellant argued that the deadline for filing a request to reconsider Order PO-4010 should be held in abeyance, until the IPC provided him with answers regarding the possible application of recent decisions issued by the Supreme Court of Canada and an explanation of the term "jurisdictional defect" as it appears in section 18 of the IPC's *Code of Procedure*.

[42] I responded in a letter dated December 23, 2019 that the reasons set out in the appellant's December 13, 2019 letter did not support a variance in the process with regard to the deadline for him to file a reconsideration request. I also told the appellant that his inquiries amounted to a request for legal advice, which the IPC cannot provide to parties. I informed the appellant that he must ensure that his submissions address the grounds for a reconsideration request based on section 18.01 of the *Code*.

[43] I also told the appellant that his letter dated December 13, 2019 would be accepted as his request to file a reconsideration request and provided him additional time to provide supplemental representations on his reconsideration request. Initially, the appellant was given approximately one month to submit supplemental representations. Further extension requests were granted at the request of the appellant to facilitate his legal research. The COVID-19 pandemic, which the appellant asserted affected his ability to provide supplemental representations, resulted in him being afforded yet additional time.

[44] The appellant says that shortly after his initial variance request was denied, he sought clarification from me on another matter. The appellant states that he sought an explanation "as to why there was an apparent inconsistency in the application of the reconsideration policy", as set out in Reconsideration Order R-980034[22], and my

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[21] Section 18.04(b) of the *Code* provides that a reconsideration request shall be made in writing to the individual who made the decision within 21 days after the date of the decision.

[22] Reconsideration Order R-980034 is a 1999 IPC decision in which former Assistant Commissioner Tom Mitchinson stated:

direction in my December 23, 2019 letter that he must "ensure" that his submissions "address the grounds for a reconsideration request based on section 18.01 of the [*Code*]." Though I located a note in the appeal files that the appellant raised his question in a telephone call on January 15, 2019 with IPC staff, it appears that I did not write to the appellant in response.

[45] In his reconsideration submissions, the appellant states:

> … in the absence of reasonable clarification about the Tribunal's approach to the application of the reconsideration policy there is no fair notice in terms of "understanding what one has to prove to win", which visits upon the appellant a breach of natural justice and procedural fairness.

[46] I have reviewed the appellant's submissions and disagree with his assessment that his request for clarification regarding my usage of the term "ensure" in my December 23, 2019 required a response. The appellant is essentially arguing that my reminding him of the requirements under the *Code* gives rise to a defect in the reconsideration process that itself warrants reconsideration.

[47] Section 18.01 of the *Code* sets out the three situations in which the IPC *may* reconsider an order. My December 23, 2019 letter told the appellant to "[p]lease ensure that your representations address the grounds for a reconsideration request based on section 18.01 of the *Code*."

[48] I am not satisfied that any fundamental or jurisdictional defect under sections 18.01(a) or (b), occurred as a result of my not providing the appellant clarification regarding his question. I am also not satisfied that the appellant's arguments establish any other grounds for reconsideration under section 18.01.

"Failure to provide adequate reasons"

[49] The appellant takes the position that the reasons provided in Order PO-4010 fail to explain my reasons for finding that a reasonable search took place. The appellant also says that Order PO-4010 fails to demonstrate that I "grappled with the substance of the matter." In addition, the appellant says that I did not "pay careful attention to the particular case, the particulars which were carefully prepared, organized and set out in the [representations]." Finally, the appellant argues that I failed to address a number of "critical issues."

[50] The appellant submits that the lack of reasons in Order PO-4010 could hamper

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> In my view, the Commissioner's Reconsideration Policy is consistent with the applicable principles of administrative law. The policy does not exist in a vacuum. It is intended as a guide for parties who may want to submit a reconsideration request, and for adjudicators in deciding whether a request should be accepted. Adjudicators must not, and do not, apply the policy rigidly…

the courts' ability to review the decision. In support of this argument the appellant cites *VIA Rail Canada Inc. v Canada* (*National Transportation Agency*)[23] and argues that the lack of reasons "do not allow the supervising court to determine whether the decision-maker erred thereby renders the [IPC] unaccountable to that court."

[51] I have considered the appellant's submissions and find that he has provided insufficient evidence to establish a ground for reconsideration on this basis. Instead, the appellant's assertions appear to be based on his disagreement of my assessment of the evidence as opposed to a real concern that a supervising court would not be able to ascertain my reasons for dismissing his appeal.

[52] In paragraphs 12 to 18 of Order PO-4010, I summarize the evidence of the parties and in paragraphs 19 to 24, my reasons for concluding that the ministry's search was reasonable are clearly set out. The appellant disagrees with my finding and seeks to re- argue the point. However, as noted above, a reconsideration is not intended as an opportunity to re-argue an appeal. In any event, adjudicators are not required to expressly refer to every piece of evidence put forth by the parties.[24]

[53] Having regard to the above, I find that the appellant has failed to establish a ground for reconsideration under section 18.01 on this basis.

"Rejection of relevant evidence and submissions"

"Critical issues unaddressed"

[54] The appellant argues that I improperly "rejected relevant evidence and submissions" in dismissing the appeals that led to the issuance of Order PO-4010. In support of this argument, the appellant's reconsideration submissions recount some of the critical issues he says I failed to consider. The appellant also alleges that I incorrectly dismissed most of his evidence presented in the attachments provided with his representations as "background information." The appellant states that the evidence he provided during the inquiry:

> … was very carefully prepared for the [IPC], including by the taking of much effort, considerable expense and great pains to organize it so as to facilitate easy reading and cross-referencing with the attachments thereto.
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> The arguments prepared for the [IPC] and the attachments to support them went straight to the controversy and directly addressed both grounds of appeal: (a) whether the institution conducted a reasonable search for responsive records, and (b) the reasonableness of the institution's procedures.

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[23] [2001] 2 F.C. 25 (Fed. C.A.)

[24] Reconsideration Order MO-4004-R, at para 16.

[55] Again, the appellant's disagreement with the manner I determined what evidence was relevant and what weight to attribute the ministry's evidence is not a ground for reconsideration. As previously stated, a reconsideration is not intended to provide the parties with an opportunity to re-argue an appeal and adjudicators are not required to expressly refer to every piece of evidence put forth by the parties.

[56] Accordingly, I find that the appellant has failed to establish a ground for reconsideration under section 18.01 on this basis.

Section 18.01(c): clerical error, accidental error or omission or other similar error in the decision

[57] The appellant submits that errors and/or omissions appear in paragraphs 1, 2, 6, 13 and 21 of Order PO-4010 which would warrant reconsideration. The appellant says that I incorrectly referred to his access request to the ministry in the singular and says that I should have included additional information from the ministry's decision letter in Order PO-4010 (paragraphs 1 and 2). The appellant also says that I should have provided more information in paragraph 13, to provide a better context, regarding his subsequent access request under the *Act* to Archives Ontario.

[58] The appellant also submits that my statement in paragraph 6 of Order PO-4010, that the sole issue before me was whether the ministry's search for responsive records was reasonable, was incorrect. In support of that argument, the appellant states:

> [t]his statement is an error because the appellant has set out two grounds of appeal in the Notice of Appeal. The first is the absence of reasonable search. The second deals with the reasonableness of the institution's processing and its misapprehension of scope.

[59] Finally, the appellant says that my statement that he expected the ministry to identify every individual consulted by the individual responsible for coordinating the ministry's search is incorrect as he "did not make that or any such similar submission."

[60] I have reviewed the alleged errors or omissions and find that the appellant's objection of my using the term "request" in the singular, omitting information from the ministry's decision letter or not providing additional information about his request to the Ontario Archives are immaterial to my findings in Order PO-4010.[25]

[61] I also find that the appellant's objections regarding my summation of the issues before me or his submissions do not rise to the level of errors or omissions previously identified by the IPC under section 18.01(c) or any other grounds under section 18.01.

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[25] The file contents of appeal files PA13-490 and PA13-491 each contain one copy of the same request, dated October 2, 2013 containing identical wording. During the inquiry, the appellant provided a copy of a letter, dated October 3, 2013 addressed to the ministry with his representations. This letter appears to have been attached to two copies of the identical request form, dated October 2, 2013.

[62] In any event, the appellant's representations about the scope of the request and the manner in which the ministry responded to his request, including his position that the ministry failed to provide evidence in support of its position that some of the responsive records were destroyed, were addressed in my summation of his representations in paragraphs 15 to 17.

[63] Having regard to the above, I find that the appellant's arguments fail to establish the ground for reconsideration under section 18.01(c).

Summary

[64] As the appellant has not established any of the grounds in section 18.01 of the *Code* which I may reconsider Order PO-4010, I deny his reconsideration request.

ORDER:

I deny the appellant's reconsideration request

Original Signed by: September 22, 2022

Jennifer James
Adjudicator