

Information and Privacy Commissioner,  
Ontario, Canada



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

---

## FINAL ORDER MO-4408-F

Appeal MA21-00145

Town of Iroquois Falls

July 7, 2023

**Summary:** In Interim Order MO-4365-I, the Town of Iroquois Falls (the town) was ordered to conduct another search for records responsive to a request made under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*); the request related to a certain property. In this order, the adjudicator finds that the town has now provided sufficient evidence of its search efforts, and dismisses the appeal.

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

**Order Considered:** Order MO-4365-I.

### OVERVIEW:

[1] In Interim Order MO-4365-I, I ordered the Town of Iroquois Falls (the town) to conduct another search for records responsive to a freedom of information request that it received under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*). In that order, I stated that the town's evidence could be described as "vague overall, and lacking in some important details, especially given the nature of the request." After Interim Order MO4365-I was issued, the town conducted a further search and provided affidavit evidence regarding its search efforts. The appellant provided his views about this, and the town replied, in turn. On my review of the appellant's further response to the town, I determined that I did not need to seek any further representations.

[2] For the reasons that follow, I uphold the reasonableness of the town's search, and dismiss the appeal.

## **DISCUSSION:**

[3] If an appellant claims that additional records exist beyond those found by the institution, the issue is whether the institution has conducted a reasonable search for records as required by section 17 of the *Act*. If the IPC is satisfied that the search carried out was reasonable in the circumstances, it will uphold the institution's search.<sup>2</sup> For the following reasons, that is the case here.

[4] The IPC will order a further search if the institution does not provide enough evidence to show that it has made a reasonable effort to identify and locate all of the responsive records within its custody or control.<sup>3</sup> In Interim Order MO-4365-I, I found the town's evidence to be insufficient.

[5] In response to Interim Order MO-4365-I, the town conducted another search.<sup>4</sup> It provided its affidavit describing the details of this search to the appellant, so there is no need that I set out all of those details here. However, I can summarize this evidence by saying that the town has now provided details about the scope of its search, the employees involved in the search, and the locations they searched. While the appellant characterizes the town's evidence as "essentially the same" as that which led me to issue the interim order, I disagree. As noted, in Interim Order MO-4365-I, I summarized my view of the town's evidence this way: "vague overall, and lacking in some important details, especially given the nature of the request." I noted, for example, that the town asserted that "various searches and inquiries" led to the identification of three records, but I found that this was not sufficient to conclude whether these search efforts were reasonable in the circumstances.

[6] Based on my review of the wording of the request and the parties' representations, I am satisfied on my review of the town's evidence that the town has now provided sufficient evidence that it conducted a reasonable search. I accept that the employees involved are experienced employees in the subject matter, and that the locations searched and key words used (where applicable) were reasonable in the circumstances, given the subject matter of the request. I will not set out further specifics about this because, in my view, doing so risks identifying the appellant in these particular circumstances. The appellant's representations appear to cast doubt, or at least minimize, the significance of the details about the search that were offered by

---

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

<sup>2</sup> Otherwise, it may order the institution to conduct another search for records.

<sup>3</sup> Order MO-2185.

<sup>4</sup> The town located three additional records, and disclosed them to the appellant. The appellant appears to question the relevance of the records released. Having reviewed them, I confirm that they are responsive to the request.

the town. However, this is the type of detail that is examined in a reasonable search appeal. A reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request makes a reasonable effort to locate records that are reasonably related to the request.<sup>5</sup> The IPC requests institutions to provide evidence about their search efforts to that effect.

[7] In addition, I uphold the town's decision to search for records only within the timeframe specified by the appellant in his request. Although I acknowledge that, as the appellant submits, he is not necessarily aware of records related to the subject matter that would fall outside that timeframe (if any), the town was ordered to conduct a search in response to his request. The town provided a copy of his request form, which specified a particular timeframe. Therefore, I find nothing improper about the fact that the town used this to define the scope of its search. I do not accept the appellant's view that this amounts to "confining" his request. If the appellant seeks records that fall outside of the timeframe he specified in this request, he may file an access request to that effect.

[8] Furthermore, although Interim Order MO-4365-I also included analysis reflecting my understanding of the town's representations about the purchase of a certain property, the town has since clarified how its previously submitted evidence might have led to this erroneous conclusion. Since the town confirms that it did not, in fact, buy the property in question, the town explains that after the date of the decision not to buy the property, no other responsive records exist. This is a reasonable explanation, which I accept.

[9] In any event, even if it is the case that additional records should have been generated about a subject, that does not mean that they actually were. A reasonable search appeal examines whether an institution has provided enough evidence to show that it made a reasonable effort to identify and locate responsive records.<sup>6</sup> The *Act* does not require the institution to prove with certainty that further records do not exist. For the reasons set out above, I find that the town has now done so, and I dismiss the appeal.

**ORDER:**

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

Original Signed by: \_\_\_\_\_  
Marian Sami  
Adjudicator

\_\_\_\_\_ July 7, 2023

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

<sup>6</sup> Orders P-624 and PO-2559.