



Information and Privacy  
Commissioner/Ontario  
Commissaire à l'information  
et à la protection de la vie privée/Ontario

# ORDER P-462

Appeal P-9200770

Stadium Corporation of Ontario Limited



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# ORDER

On May 10, 1993, the undersigned was appointed Inquiry Officer and received a delegation of the power and duty to conduct inquiries and make orders under the provincial Freedom of Information and Protection of Privacy Act and the Municipal Freedom of Information and Protection of Privacy Act.

## BACKGROUND:

The Stadium Corporation of Ontario Limited (SkyDome) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for access to the 1992 briefing notes/issue sheets to the Ministry of Treasury and Economics. The requester asked for a fee waiver with respect to the request and to view the records in Ottawa as they became available.

SkyDome responded by providing the requester with the following fee estimate:

Manual Search to locate record in excess of 2 hours (\$7.50/15 minutes)	\$300.00
Photocopy costs (20 cents per page)	\$ 20.00
Shipping costs	\$ 20.00
Total:	\$340.00

Skydome asked the requester to pay a deposit equal to 50% of the estimated fee before the request would be processed. It did not make a substantive decision on access to the responsive records; nor did it respond to the request to view the records in Ottawa. SkyDome also did not address the issue of fee waiver in the original decision letter, but subsequently advised that it would not grant the waiver.

The requester appealed SkyDome's decision regarding the search time and the shipping costs stating that these charges were "unreasonable". The requester did not appeal the issue of fee waiver.

During mediation, SkyDome denied the appellant the opportunity to view the records in Ottawa. The appellant did not pursue this issue.

Further mediation was not possible, and notice that an inquiry was being conducted to review the decision of SkyDome was sent to the appellant and to SkyDome. No representations were received from either party.

The sole issue arising in this appeal is whether the amount of the estimated fees was calculated in accordance with section 57(1) of the Act.

Section 57(1) of the Act reads as follows:

Where no provision is made for a charge or fee under any other Act, a head shall require the person who makes a request for access to a record or for correction of a record to pay,

- (a) a search charge for every hour of manual search required in excess of two hours 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; and
- (d) shipping costs.

SkyDome has provided no evidence to substantiate its fee estimate in this appeal. It has not justified the search time of twelve hours, or explained where the searches were conducted, or how extensive they were. Skydome also has not indicated what factors were considered in calculating the shipping costs.

Therefore, I find that the amount of the estimated fee in this appeal does not comply with the requirements of section 57(1) of the Act. SkyDome is precluded from charging any fee for searching for the records and shipping them to Ottawa in processing the appellant's request.

**ORDER:**

1. I do not uphold SkyDome's decision to charge a fee for the search and shipping costs of processing the appellant's request. I order SkyDome to issue a proper decision letter in response to the appellant's original request within 15 days of the date of this order.
2. In order to verify compliance with this order, I order SkyDome to provide me with a copy of the decision letter sent to the appellant within 20 days of the date of this order. This notice should be forwarded to my attention, c/o Information and Privacy Commissioner/Ontario, 80 Bloor Street West, Suite 1700, Toronto, Ontario, M5S 2V1.

Original signed by:  
Anita Fineberg  
Inquiry Officer

May 19, 1993