



Information and Privacy
Commissioner/Ontario

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

ORDER M-164

Appeals M-9200413 and M-9200414

Ottawa-Carleton Regional Transit Commission



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ORDER

The Ottawa-Carleton Regional Transit Commission (OC Transpo) received two similar requests for information from the same individual under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The requester sought access to copies of any original documents in the custody of the institution which would explain inaccuracies in his home address. These inaccuracies subsequently appeared in correspondence addressed to the requester in response to two freedom of information requests.

OC Transpo issued two separate decision letters and granted access to one record which it identified as responsive to both requests. The responsive record is a photocopy of the appellant's very first access request dated January 2, 1991. In its decision letters, OC also made the following comments:

First, let me point out that the document OC Transpo received [i.e. access request dated Jan. 2, 1991] was not an original but a photocopy. ... Furthermore, on the document in question, you will notice that the address line was somehow half printed and then altered.

We must assume that the reason you are requesting this information is to point out the fact that a mistake was made in your address on all the correspondence regarding Freedom of Information you have received for over a year and a half. The error was copied from this initial request and then copied from letter to letter.

The requester appealed both decisions because he was not satisfied that the record identified was responsive to his request. Two appeal files were opened to address the individual decisions which were made.

During the mediation stage of the appeal process, OC Transpo's Freedom of Information and Privacy Co-ordinator conducted a further search to locate responsive records and, specifically, to find the original version of the January 2, 1991 access request.

Since mediation of these appeals was not successful, notice that an inquiry was being conducted to review the institution's decisions was sent to the appellant and to OC Transpo. Representations were received from both parties. The appellant requested that earlier correspondence which he had authored be considered as part of his representations.

The only appealable issue which is before me is whether OC Transpo's search for the original version of the January 2, 1991 request was reasonable in the circumstances of these appeals.

The appellant submits that he has been denied legible copies of an original record, and disputes the statement in OC Transpo's decision letters that the document which the institution received from him was a photocopy and not an original.

In its representations, OC Transpo describes the extent of the search conducted to locate the original request which would be responsive to both requests. OC Transpo submits that its photocopy of the copy

of the appellant's request dated January 2, 1991 is the only copy in its custody. The institution further submits that:

It is very difficult to ascertain if the original records ever existed at OC Transpo. Because of the time elapsed, all we can rely on is memory and the existing documents.

Where a requester provides sufficient detail about the records which he or she is seeking and an institution indicates that additional records do not exist, it is my responsibility to ensure that the institution has made a reasonable search to identify the records which are responsive to the request. While the Act does not require that an institution prove to the degree of absolute certainty that such records do not exist, the search which the institution undertakes must be conducted by knowledgeable staff in locations where the records in question might reasonably be found.

I have carefully considered the representations provided and I am satisfied that the search conducted by OC Transpo for the original version of the January 2, 1991 request was reasonable in the circumstances.

Original signed by: _____
Irwin Glasberg
Assistant Commissioner

July 20, 1993