



Information and Privacy  
Commissioner/Ontario

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

## **ORDER M-578**

Appeal M\_9500150

City of Peterborough



80 Bloor Street West,  
Suite 1700,  
Toronto, Ontario  
M5S 2V1

80, rue Bloor ouest  
Bureau 1700  
Toronto (Ontario)  
M5S 2V1

416-326-3333  
1-800-387-0073  
Fax/Télééc: 416-325-9195  
TTY: 416-325-7539  
<http://www.ipc.on.ca>

## **NATURE OF THE APPEAL:**

The City of Peterborough (the City) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to the contents of a particular file referred to in two records previously disclosed to the requester in response to other requests and appeals. The City sought and obtained clarification of the subject matter of the file requested. In its decision letter, the City indicated that the complete contents of the file had been previously disclosed to the appellant and that no additional records exist. The requester appealed.

The file relates to a fire department compliance investigation involving the requester's property. The appellant claims that records, other than the ones previously disclosed, must exist within the file. The sole issue in this appeal is whether the search conducted by the City for records responsive to the request was reasonable in the circumstances.

A Notice of Inquiry was provided to the appellant and the City. Representations were received from both parties.

## **DISCUSSION:**

### **REASONABLENESS OF SEARCH**

Where a requester provides sufficient details about the records which he or she is seeking and the City indicates that such a record does not exist, it is my responsibility to ensure that the City has made a reasonable search to identify any records which are responsive to the request. The Act does not require the City to prove with absolute certainty that the requested records do not exist. However, in my view, in order to properly discharge its obligations under the Act, the City must provide me with sufficient evidence to show that they have made a **reasonable** effort to identify and locate records responsive to the request.

As part of its representations, the City has provided an affidavit sworn by the City Clerk who is also the Freedom of Information and Privacy Co-ordinator. The City Clerk states that upon receipt of the request, he contacted the appellant to obtain more information about the nature of the records sought. The appellant provided the City with a copy of a record previously disclosed to him which made reference to the file.

The City Clerk states that he had previously reviewed all the records relating to the appellant's property for the purposes of responding to the appellant's previous requests and that these records were still in his office. Copies of these records were previously disclosed to the appellant in response to his earlier requests and appeals. The City Clerk affirms that he again reviewed all the records and that he could not locate the file.

The City Clerk states that he then contacted the Chief of the Fire Department, the Chief Fire Prevention Officer and the Administrative Secretary in order to determine the status and possible location of the file. The City Clerk explains that he was advised by these individuals that the contents of the file were consolidated with the other department records relating to the appellant's

property and that "the files in my possession constitute all of the records of the Fire Department in connection with [the appellant's property]". The City Clerk further states that as a result of this consolidation, there "is no longer a separate file".

In the circumstances of this appeal, I accept the explanation given by the City that while the file may have existed separately at one point in time, its contents have since been consolidated with other records which have previously been disclosed to the appellant and that the file no longer exists as a separate entity. I am satisfied that the search conducted by the City for records responsive to the request was reasonable in the circumstances.

**ORDER:**

I uphold the decision of the City.

Original signed by: \_\_\_\_\_  
Mumtaz Jiwan  
Inquiry Officer

\_\_\_\_\_ July 31, 1995