



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

# ORDER M-588

Appeal M\_9500307

City of Scarborough



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## NATURE OF THE APPEAL:

This is an appeal under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The City of Scarborough (the City) received 17 requests for access to documents regarding the appellant's residence and litigation stemming from complaints about the residence. The City responded to the request by advising the requester that records responsive to most of his requests did not exist. Further, the City located and provided records responsive to the remainder of the requests to the requester. The requester appealed that decision on the basis that additional records responsive to his requests should exist.

During the mediation stage of the appeal, the appellant agreed to narrow his appeal to the single request in which he seeks access to "all materials and photographs in the files of the City of Scarborough Property Standards Department regarding my house and any correspondence to other City departments". He had received responsive records with respect to this request but believed there to be further records in this file.

The sole issue in this appeal is whether the City's search for responsive records was reasonable in the circumstances.

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

## DISCUSSION:

### REASONABLENESS OF SEARCH

The City has described the nature and extent of the searches undertaken for responsive records in the files of various City departments. Affidavits sworn by the Supervisor of the Property Standards Division, Planning and Buildings Department of the City and its Freedom of Information and Privacy Co-ordinator set out in detail the specifics of the searches undertaken for responsive records.

The affidavit of the Supervisor indicates that an additional search was undertaken during the inquiry stage of the appeal and that a further seven records were located which have subsequently been disclosed to the appellant.

The appellant indicates that during the disclosure process involving a by-law prosecution, counsel for the City provided him with a copy of a document entitled "Request for Prosecution" which, he argues, originated from the Planning and Buildings Department. The appellant states that this document has not been provided to him through this request. For this reason, he believes further records responsive to his request should exist.

Where a requester provides sufficient details about the records which he is seeking and the City indicates that further records do 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 further 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 it has made a **reasonable** effort to identify and locate records responsive to the request.

I have carefully reviewed the evidence provided by both parties. Based on the information as to the nature and extent of the searches undertaken which are outlined in the affidavits of the City employees, I am satisfied that the efforts made by the City to locate records responsive to the request were reasonable in the circumstances.

**ORDER:**

I uphold the decision of the City.

Original signed by: \_\_\_\_\_  
Donald Hale  
Inquiry Officer

\_\_\_\_\_ August 25, 1995