



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

ORDER M-750

Appeal M_9500744

City of Peterborough



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NATURE OF THE APPEAL:

The appellant submitted a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) to the City of Peterborough (the City). He asked for "all records from your fire department files" relating to a specified municipal address from November 1992 to the date of the request. In particular, the appellant sought access to "all action reports", "all diary and notebook entries" of a specified fire prevention officer, and "all records" kept by another individual, during this period.

The City conducted a search for responsive records. Its decision letter advised the appellant that the responsive records had been previously disclosed to him, and for this reason, most of them would not be disclosed a second time. The letter indicates that one particular record was being disclosed again, although no explanation was provided as to why this record would be disclosed while others were not.

The appellant filed an appeal of this decision. A Notice of Inquiry was sent to the City and the appellant. Both parties provided representations.

The appellant does not appear to take issue with the City's indication that it would not provide him with access to records previously disclosed to him. In any event, I find that this was a reasonable approach for the City to take in the circumstances (see Order M-717). Accordingly, the sole issue in this appeal is whether the City's search for responsive records was reasonable.

DISCUSSION:

REASONABLENESS OF SEARCH

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.

Although an appellant will rarely be in a position to indicate precisely which records have not been identified in an institution's response to a request, the appellant must, nevertheless, provide a reasonable basis for concluding that such records may, in fact, exist.

The appellant's representations included three documents which, in his view, substantiate the existence of additional records. However, he does not explain why or how the contents of these documents indicate that additional records, not previously disclosed to him, exist. The appellant already has these three documents, and I find that they do not provide a sufficient basis for concluding that additional undisclosed records may exist. Moreover, the City has provided an affidavit indicating the steps taken to locate responsive records. In my view, the City's efforts in this regard were reasonable under the circumstances.

ORDER:

This appeal is dismissed.

Original signed by: _____ April 11, 1996
John Higgins
Inquiry Officer