



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

ORDER P-1178

Appeal P-9500529

Ministry of Transportation



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NATURE OF THE APPEAL:

The appellant submitted a request under the Freedom of Information and Protection of Privacy Act (the Act) to the Ministry of Transportation (the Ministry). The appellant requested all information in the Ministry's possession "held under [his] name or where [his] name is included". He named five Ministry employees who would likely have records relating to him, and mentioned several other areas where responsive records could be located. He also indicated that some of the responsive records could relate to an unfair labour practices investigation, and/or human resource and grievance information.

The Ministry granted full access to a large number of records, and partial access to others. For the most part, where only partial access was granted, the Ministry denied access to the withheld portions under the exemption provided by section 21(1) of the Act (invasion of privacy). Part of one record was withheld under section 13(1) (advice or recommendations).

The appellant filed an appeal of the decision to deny access to the withheld information.

During mediation, the Ministry disclosed a small part of the information it had previously withheld. Subsequently, the appellant agreed not to proceed with his appeal of the denial of access of the other withheld information, but indicated that he wished to proceed with the appeal because, in his view, the Ministry did not identify all responsive records in its possession. Therefore, the only outstanding issue in this appeal is whether additional responsive records exist.

This office sent a Notice of Inquiry to the appellant and the Ministry. In response to this Notice, only the Ministry submitted representations.

DISCUSSION:

REASONABLENESS OF SEARCH

Where a requester provides sufficient details about the records which he is seeking and the Ministry indicates that further records do not exist, it is my responsibility to ensure that the Ministry has made a reasonable search to identify any records which are responsive to the request. The Act does not require the Ministry 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 Ministry 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.

When an individual seeks access to his own personal information, section 48(1)(b) requires the individual to "identify the personal information bank or otherwise identify the location of the information". In addition, section 47(1)(b) requires the individual to "provide sufficiently specific information to render it reasonably retrievable by the institution."

The appellant has not referred to any personal information banks. In my view, the preamble to his request, in which he seeks all information under his name or where his name is included, is not sufficiently specific to meet the requirements of section 47(1)(b) or 48(1)(b). Therefore, I will not consider whether the Ministry's search was adequate to locate all records relating to the appellant **anywhere** in its files; rather, I will only consider whether the Ministry's searches adequately addressed the locations and specific kinds of records mentioned in the request.

The Ministry submitted affidavits executed by six of its staff. These affidavits describe searches at several Ministry offices. I am satisfied that these searches addressed the locations and types of records mentioned by the appellant in his request. Each of the searches was conducted at the request stage, and repeated during this inquiry without the discovery of additional records. I find that the Ministry's efforts to locate responsive records were reasonable under the circumstances.

ORDER:

This appeal is dismissed.

Original signed by: _____

John Higgins
Inquiry Officer

_____ May 14, 1996