



Information and Privacy  
Commissioner/Ontario

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

# ORDER P-1431

Appeal P\_9700093

GO Transit



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/Téléc: 416-325-9195  
TTY: 416-325-7539  
<http://www.ipc.on.ca>

On June 12, 1997, the undersigned was appointed Inquiry Officer and received a delegation of the power and duty to conduct inquiries under the provincial Freedom of Information and Protection of Privacy Act and the Municipal Freedom of Information and Protection of Privacy Act.

## **NATURE OF THE APPEAL:**

GO Transit (GO) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for access to all studies conducted prior to the construction of a road running past a water tower at the Meadowvale GO station. The requester also sought access to authorization documentation respecting that road.

GO advised the requester that no records responsive to his request exist. The requester (now the appellant) appealed this decision as he is of the view that responsive records should exist.

This office sent a Notice of Inquiry to GO and the appellant. Representations were received from both parties. The sole issue in this appeal is whether the search undertaken by GO for responsive records was reasonable.

## **DISCUSSION:**

### **REASONABLENESS OF SEARCH**

In its representations, GO states that it had conversations with the appellant in which he stated that he was only interested in the agreement or contract between the Ontario Clean Water Agency (OCWA) and GO for the use of the road. GO had informed the appellant that the land over which the road runs is owned by OCWA.

After receiving GO's representations, the Appeals Officer contacted the appellant to confirm that the request had been narrowed. The appellant agreed that he was seeking the agreement or contract.

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

In Order M-909, Inquiry Officer Laurel Cropley defined a reasonable search. She stated:

... [A] reasonable search would be one in which an experienced employee expending reasonable effort conducts a search to identify any records that are reasonably related to the request.

In his representations, the appellant says he has been informed by GO that there is an “unwritten” licence or agreement between GO and OCWA about the road. He states that he finds the unwritten nature of the licence unlikely and insists that documentation should exist to support such an agreement.

In its representations, GO provided me with a detailed list of the 23 files in its Engineering, Station Plans, Property and Legal departments that were searched as well as the titles of the individuals who searched them. GO also states that the Information and Protection of Privacy Co-ordinator searched a microfiche file and made enquiries to another institution for responsive records. No responsive records were found as a result of these searches.

Applying the definition of reasonable search set out in Order M-909, I find that GO has conducted a reasonable search to locate the agreement sought by the appellant.

**ORDER:**

I dismiss the appeal.

Original signed by: \_\_\_\_\_ July 23, 1997  
Marianne Miller  
Inquiry Officer