



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

ORDER MO-1756

Appeal MA-040027-1

City of Toronto



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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*).

On November 27, 2003, the requester submitted the following three requests to the City of Toronto (the City) for access to information.

Request #1 was a request for "...all the materials relating to the application/s for previously proposed developments at 106 King Street East. Specifically, but without limitation to any other proposal, the condominium development proposal on the cathedral lands and the subsequent proposal to enlarge the existing buildings (outside the current footprint) on the cathedral lands."

Request #2 was for "...all materials relating to the application/s. RE: official Plan Amendment and Rezoning – 33-45 Lombard Street; 980 110 Church Street; 106 King Street East (St. James Cathedral) (Toronto Centre-Rosedale, Ward 28) leading to the passage of By-Laws 984-2003, 983-2003, 982-2003."

Request #3 was for "...all the materials relating to the application/s for the construction of the Diocesan Centre and refurbishment of the parish hall at 106 King Street East. This construction took place in approximately 1958-1960."

On January 27, 2004, the requester appealed because the City had not replied to his requests under the *Act*.

Section 19 of the *Act* requires the City to issue a decision within 30 days of receipt of a request. If a decision is not issued within that time period, the City is in a "deemed refusal" situation pursuant to subsection 22(4) of the *Act*. That provision states:

A head who fails to give the notice required under section 19 or subsection 21(7) concerning a record shall be deemed to have given notice of refusal to give access to the record on the last day of the period during which notice should have been given.

The City did not issue access decisions for the three requests within the 30 days, nor did it request a time extension to process the requests under section 20(1) of the *Act*. Accordingly, the City placed itself in a "deemed refusal" situation pursuant to section 22(4) of the *Act*.

DISCUSSION:

On January 28, 2004, a Notice of Inquiry was issued to both the appellant and the City stating that the City was in a deemed refusal situation. The Notice also advised that if a decision was not issued by February 11, 2004, I would be in a position to issue an order requiring the Ministry to provide a decision letter to the appellant.

On January 29, 2004, I spoke with an analyst in the Freedom of Information Unit at the City who indicated she was hoping to have decisions issued by the February 11, 2004 deadline.

On February 11, 2004, I spoke with the Acting Manager, Public Access who indicated two decisions had been issued, one was outstanding and would not be issued by the end of the day.

On February 12, 2004, I spoke with the appellant, who agreed to wait until February 16, 2004.

On February 16, 2004, I left a detailed message for the Acting Manager, Public Access indicating I had not received copies of the two decisions.

On February 17, 2004, the Acting Manager, Public Access left a detailed message again indicating two decisions had been issued and that the third was waiting for a signature.

On February 18, 2004, I contacted the appellant to explain the above. The appellant had not received any decision from the City to date and rejected any further delay on the City's part to respond to his requests.

To date, I have not been provided with a copy of any decision in this appeal. I therefore find that the institution continues to be in a deemed refusal situation.

ORDER:

1. I order the City to issue three decision letters to the appellant regarding access to the requested records in accordance with the *Act* and without recourse to a time extension, no later than February 27, 2004.
2. In order to verify compliance with Provision 1 of this Order, I order the City to provide me with a copy of the decision letter referred to in Provision 1 by February 27, 2004. This should be forwarded to my attention, c/o Information and Privacy Commissioner/Ontario, 80 Bloor Street West, Suite 1700, Toronto, Ontario, M5S 2V1.

Original Signed by: _____
Enza Ragone
Intake Analyst

February 19, 2004 _____