



**Information and Privacy
Commissioner/Ontario**

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

ORDER MO-1911

Appeal MA-050075-1

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 July 22, 2004, the requester submitted two requests to the City of Toronto (the City).

One request was for various **internal** records relating to the building and/or cancelling the fixed link to the Toronto City Center Airport (TCCA) from January 1, 2002 to the date of the request. The second request was for various **external** records relating to the building and/or cancelling the fixed link to the Toronto City Center Airport (TCCA) from January 1, 2002 to the date of the request.

On August 6, 2004, the requester clarified with the City that he was not seeking publicly available documents such as Council reports, or communication from the general public except where such communications are from special interest groups such as the Pilot's Association. The requester also advised the City that his focus is not on the technical details of the infrastructure of the fixed link to the airport, but rather on how the decision of Toronto City Council has changed over time, especially as a result of the Municipal Elections.

On August 19, 2004, the City issued a decision to extend the time to process the request under section 20 of the *Act*. The time for processing the request was extended 45 days to October 11, 2004. The City indicated that the reason for the time extension is that the request is for a large number of records and necessitates a search through a large number of records, and meeting the time limit would unreasonably interfere with the operations of the institution.

The requester did not appeal the time extension.

On December 2, 2004, the City issued a decision stating the following:

This decision covers the first 1000 pages of records that are responsive to the portion of both of your requests in which you requested records that were released or about to be released pursuant to previous FOI requests from 2002-2004. A decision on the remaining pages of this portion of your request (approximately 3000 pages) will be made on or before December 20, 2004. A decision on records responsive to the remaining portions of both of your requests (approximately 5000 pages) will be made by January 31, 2005.

The reason for the further time extension is that the request is for a large number of records and necessitates a review of a large number of records to determine responsiveness and/or exemptions, and meeting the time limit would unreasonably interfere with the operations of the institution.

Access is granted in part to the first 1000 pages of the records as described above. Access is denied to the remaining parts of these records under sections 7 and 14 of the *Act*.

The requester did not appeal the City's decision to deny access to a portion of the records pursuant to sections 7 and 14 of the *Act* nor did he appeal the City's second time extension.

The City did not issue a final decision letter to the requester as set out in its decision letter dated December 2, 2004. Accordingly, the City has placed itself in a "deemed refusal" situation.

On February 7, 2005, the requester (now the appellant) wrote to this office to appeal the City's deemed refusal to provide access to the remaining requested records.

On February 21, 2005, this office sent a Notice of Inquiry 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 March 7, 2005, barring exceptional circumstances, I would be in a position to issue an order requiring the City to provide a decision letter to the appellant.

On March 4, 2005, I called the City's Freedom of Information Office to inquire as to the status of a decision. The City advised me that a decision had not yet been issued and someone from their office would call me on March 7, 2005, to advise as to whether a decision would be issued that day. On March 7, 2005, the City advised me that a decision had not been issued and one would not be issued by the end of that day, despite receiving the request over seven months ago and applying two time extensions.

On March 17, 2005, I received from the appellant a copy of another decision issued by the City dated February 14, 2005, that states the following:

This decision covers pages 1-525 of 1429 pages received from the Offices of the Mayor and the Chief Administrative Officer. A decision on the remaining records from the Mayor's Office and the CAO's office as well as records from the Urban Development Services is still outstanding. We apologize for the delay and will advise you as soon as a decision on these records is made.

Access is granted in part to the records as described above. Access is denied to the remaining parts of these records under sections 6, 7, 9, 10, 11, 12 and 14 of the Act.

It appears that there are records that are still outstanding. The City has been unable to provide me with a definitive date as to when a final decision will be issued with respect to the remaining records.

ORDER:

1. I order the City to issue a final decision letter to the appellant regarding access to the records in accordance with the *Act* and without recourse to a further time extension or fee estimate, no later than **April 8, 2005**.

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 **April 8, 2005**. This should be forwarded to my attention, c/o Information and Privacy commissioner/Ontario, 2 Bloor Street East, Suite 1400, Toronto, Ontario, M4W 1A8.

Original Signed By: _____

_____ March 23, 2005

Lucille Sorin
Intake Analyst