



**Information and Privacy
Commissioner/Ontario**

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

ORDER MO-1880

Appeal MA-040345-1

Toronto Community Housing Corporation



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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 September 17, 2004, the requester submitted a request to the Toronto Community Housing Corporation (the TCHC) for access to a copy the most recent contract between the TCHC a named property management company.

On November 12, 2004 the requester went to the TCHC offices to inquire about the status of his request. At that time the Freedom of Information and Privacy Co-ordinator at the TCHC acknowledged receipt of the request in writing. The requester was dissatisfied with this, as the acknowledgement was a full two months late.

On the same day, the requester appealed to this office.

Section 19 of the *Act* requires the TCHC to issue a decision within 30 days of receipt of a request. If a decision is not issued within that time period, the TCHC 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 TCHC did not issue an access decision for the request within the 30 days, nor did it request a time extension to process the request pursuant to section 20 of the *Act*. Accordingly, the TCHC placed itself in a "deemed refusal" situation pursuant to section 22(4) of the *Act*.

DISCUSSION:

On November 19, 2004, a Notice of Inquiry was issued to both the appellant and the TCHC stating that the TCHC was in a deemed refusal situation. The Notice also advised that if a decision was not issued by December 3, 2004, I would be in a position to issue an order requiring the TCHC to provide a decision letter to the appellant.

I left voicemail messages for the Freedom of Information and Privacy Co-ordinator on November 23, 2004, November 25, 2004 and November 30, 2004, but did not receive a return call. I attempted to contact other staff, but was not successful.

Barring exceptional circumstances, which are not present here, when assessing the time and resources to properly respond to a request, an institution must decide and provide written notice within the initial 30-day time limit for responding to the request, the length of any time extension it will need pursuant to section 20 of the *Act* (Orders P-234, M-439 and M-581, MO-1748). To ensure that there are no further delays in processing this request, I am ordering TCHC to issue a decision regarding access.

1. I order the TCHC to issue a decision letter to the appellant regarding access to the requested records in accordance with the *Act* and without recourse to a time extension, no later than **December 10, 2004**.

2. In order to verify compliance with Provision 1 of this Order, I order the TCHC to provide me with a copy of the decision letter referred to in Provision 1 by December 10, 2004. This should be forwarded to my attention, c/o Information and Privacy Commissioner/Ontario, 2 Bloor Street West, Suite 1400, Toronto, Ontario, M4W 1A8.

Original signed by: _____
Enza Ragone
Intake Analyst

_____ December 3, 2004