



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

ORDER MO-2577

Appeal MA09-361-2

Municipal Property Assessment Corporation



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NATURE OF THE APPEAL:

The Municipal Property Assessment Corporation (MPAC) received a request pursuant to the *Municipal Freedom of Information and Protection of Privacy Act* (the Act). The request read as follows:

1. Records (inclusive of all computer data software) showing of all tabulations, manuals, management directives, policies, to which MPAC staff arrive assessment, pertaining to the following tax roll numbers:
 - Region 15 [3 assessment roll numbers]
 - Region 9 [2 assessment roll numbers]

Documents/records sought are from 1986 to 2012.

2. Records authorizing/directing MPAC staff in valuing in ways to assess municipal, conservation, non-paying tax land owner region #15 and #9.
3. All MPAC staff who worked, approved, entered data and their resources to come up with the assessed values from 1986-2010.

MPAC issued an access decision and accompanying fee to the requester. In its decision, it stated with respect to part 1 that a search was completed for these records and that they would be disclosed to the requester, with the exception of certain personal information of the tax roll owner for two properties, which it had severed out. In its decision, MPAC also provided a list of the records for each roll number and the number of pages and indicated that the fee regarding part 1 of the request was \$163.80, based on search time (4 hours @ \$30.00 per hour) and photocopies (219 photocopies @ \$.20 per page).

MPAC also stated that no records exist for part 2 of the request. MPAC indicated that Order MO-2440 had dealt with the same records and it was determined that MPAC's search for these records, although unsuccessful, had been reasonable. MPAC indicated that in light of Order MO-2440, it did not conduct a new search for records with respect to part 2 of the request.

With respect to part 3 of the request, MPAC stated that there is no "assessor of record" for a property. It indicated that several different persons may have reviewed data and/or completed an analysis in preparation of the valuation of a property. It indicated that based on its search, certain individuals from the Ministry of Finance, Ontario Property Assessment Corporation or MPAC may have reviewed data and/or completed an analysis of the subject properties. MPAC then went on to list the names of these individuals and the corresponding roll number and time period. In its decision, MPAC indicated that the fee regarding part 3 of the request was \$25.00, but that it was waiving the fee.

The requester, now the appellant, filed an appeal concerning parts 1 and 2 of his request, objecting to the fees charged by MPAC and contending that additional records exist.

In his appeal letter, the appellant stated that the fees for copying the five computer data sheets responsive to part 1 of his request are extremely high and improper considering that the data was generated from a computer to a printer. In addition, he contends that search fees were charged for the information, although the assessor names are readily available from the given computer data. The appellant also disputed the photocopy fee.

In response to part 2 of his request, the appellant stated that most of the information requested had not been provided or commented upon. In particular, he received no assessment operational field guide manuals or meaningful tabulations, management directives or policies, upon which MPAC staff depended to enter bulk arbitrary acreage assessments. He also believed that there were printed tables or internal computer software data upon which all MPAC assessors rely upon.

During mediation, the mediator sought clarification from the appellant as to the issues he was appealing. The appellant confirmed that he objected to the fee of \$163.80 associated with part 1 of his request and that at the time he submitted his request, he advised MPAC that he would prefer a compact disc (CD), rather than photocopies, if there were to be numerous pages. He indicated that the cost for the CD would have been \$10.00 and that he does not understand how MPAC arrived at 4 hours of manual search time.

With respect to the existence of additional records, the appellant stated that the request in the present appeal was not properly adjudicated in Order MO-2440 (and Reconsideration Order MO-2464-R).

During mediation, MPAC provided the mediator with some further information regarding its fees and indicated that searching for the requested data was more involved and time-consuming than the appellant believes. MPAC indicated that it could not transfer the requested information onto a CD, without first printing it out. It indicated that now that it has the print-outs, it can put the requested information on CD for the appellant, but that it would still be charging the photocopy fees.

Also during mediation, MPAC reiterated that Order MO-2440 dealt with the same records as those requested in part 2 of the appellant's current request and that MPAC's search in that matter, although unsuccessful, was upheld. MPAC commented that it did not understand the appellant's statement regarding bulk figure tabulations and noted that there are bulk figure tabulations indicated in the records provided and cited for example, Record 47 (bulk land adjustment to 50% of the rate).

As mediation did not resolve the issues in this appeal, the file was transferred to adjudication where an adjudicator conducts an inquiry. I sent a Notice of Inquiry, setting out the facts and issues in this appeal, to MPAC seeking its representations on the issues that arose from this appeal, namely:

- whether the fee of \$163.80 should be upheld; and,

- whether MPAC was required to conduct a search for records responsive to part 2 of the appellant's request.

I received representations from MPAC, a copy of which was sent to the appellant, along with a Notice of Inquiry. I received representations from the appellant, which I sent to MPAC and sought reply representations. MPAC provided reply representations. I then sent these representations to the appellant and sought and received surreply representations from him.

DISCUSSION:

FEES

I will first determine whether MPAC's fee of \$163.80 should be upheld.

General Principles

Where the fee exceeds \$25, an institution must provide the requester with a fee estimate [Section 45(3)].

Where the fee is \$100 or more, the fee estimate may be based on either

- the actual work done by the institution to respond to the request, or
- a review of a representative sample of the records and/or the advice of an individual who is familiar with the type and content of the records [Order MO-1699].

The purpose of a fee estimate is to give the requester sufficient information to make an informed decision on whether or not to pay the fee and pursue access [Orders P-81, MO-1367, MO-1479, MO-1614 and MO-1699].

The fee estimate also assists requesters to decide whether to narrow the scope of a request in order to reduce the fees [Order MO-1520-I].

In all cases, the institution must include a detailed breakdown of the fee, and a detailed statement as to how the fee was calculated [Orders P-81 and MO-1614].

This office may review an institution's fee and determine whether it complies with the fee provisions in the *Act* and Regulation 823, as set out below.

Section 45(1) requires an institution to charge fees for requests under the *Act*. That section reads:

A head shall require the person who makes a request for access to a record to pay fees in the amounts prescribed by the regulations for,

- (a) the costs of every hour of manual search required to locate a record;
- (b) the costs of preparing the record for disclosure;
- (c) computer and other costs incurred in locating, retrieving, processing and copying a record;
- (d) shipping costs; and
- (e) any other costs incurred in responding to a request for access to a record.

More specific provisions regarding fees are found in sections 6, 7 and 9 of Regulation 823. Those sections read:

6. The following are the fees that shall be charged for the purposes of subsection 45(1) of the *Act* for access to a record:

- 1. For photocopies and computer printouts, 20 cents per page.
- 2. For records provided on CD-ROMs, \$10 for each CD-ROM.
- 3. For manually searching a record, \$7.50 for each 15 minutes spent by any person.
- 4. For preparing a record for disclosure, including severing a part of the record, \$7.50 for each 15 minutes spent by any person.
- 5. For developing a computer program or other method of producing a record from machine readable record, \$15 for each 15 minutes spent by any person.
- 6. The costs, including computer costs, that the institution incurs in locating, retrieving, processing and copying the record if those costs are specified in an invoice that the institution has received.

7. (1) If a head gives a person an estimate of an amount payable under the Act and the estimate is \$100 or more, the head may require the person to pay a deposit equal to 50 per cent of the estimate before the head takes any further steps to respond to the request.

(2) A head shall refund any amount paid under subsection (1) that is subsequently waived.

9. If a person is required to pay a fee for access to a record, the head may require the person to do so before giving the person access to the record.

Representations

MPAC submits that:

The fee was based on the actual work done by the institution to respond to the request, except that it was discounted as a courtesy to the requester. MPAC quoted a fee of \$163.80 and the Decision Letter explained clearly to the requester that the fee included:

- 4 hours of search time at \$30.00 per hour [Reg. 823, s. 6(3)] = \$120.00
- 219 photocopies at \$0.20 per page [Reg. 823, s. 6(1)] = \$43.80

In fact, MPAC staff actually spent 6 hours and 14 minutes of time manually searching for and preparing responsive records. As a courtesy to the requester, MPAC did not include 2 hours and 14 minutes of time in its fee...

The fee respecting the 19 minutes to sever 39 pages of responsive records was reduced by MPAC from 2 minutes per page to 30 seconds per page and then waived. Further, MPAC did not include in its fee the shipping cost of \$4.07 to which it was otherwise entitled. The actual fee of \$234.87 was reduced by \$71.07 to arrive at the fee of \$163.80...

In order to locate the records that were responsive to the request, MPAC staff had to conduct a manual search and run reports from a computer system (Order M-1083). The records are stored in a database and required four people [the Manager of Multiple Regression Analysis department, two Customer Service Managers and a cooperative student] to search through many screens to find the applicable screens, followed by a search through numerous pages within each of the applicable screens to locate the requested records.

The information is stored in the database in different formats. MPAC is not able to convert documents from the Integrated Property System (IPS) to Adobe or any other format in order to save it directly onto CD, so the information could not be transferred onto CD without printing it first and then scanning the documents. MPAC could now scan and save the documents onto CD, but the printing/photocopy fees were unavoidable and necessarily incurred by the institution in order to provide the responsive records in any format...

MPAC also provided a chart summarizing the actual search and preparation time compared to the fee charged, as well as the invoice for shipping costs that were waived.

In the Notice of Inquiry I sent to the appellant, I asked him to directly respond to the questions posed therein and the representations of MPAC. On the issue of the fee for responsive records, he submits that:

Regarding photo and CD copying fees:

The statement with respect to "applications" and the interface of the "applications", ISP and Adobe Acrobat is unclear and requires additional information. Information in electronic format is readily and easily transferable to another electronic medium such as a CD. The need to "print" ISP webpage(s) and then photocopy same is, simply put, without logic...

Accordingly, in an effort to bring light and facilitate understanding, please outline, in detail, i) the specific names of the applications used, and; ii) their respective save/save as/print protocols, and iii) software interdependencies, and; iv) cite the exact steps, in progression, undertaken to provide/generate the requested information. In addition, please advise what version of Adobe Acrobat is used and other software available to the staff, such as Screen Capture for example.

The copying of data-usually direct from computer data to print B/W is from 30 to 50 prints per minute.

219 copies would have taken maximum of 8 minutes.

The appellant questions that it took 4 hrs to enter 5 roll numbers, request print the Fine tuning data and retrieve two pages of old data from field books used prior 1997...

In reply, MPAC states that it has already provided the appellant with much of the information he is seeking in its decision letter and initial representations. It confirmed that it printed the responsive records from the various applications using the Print option. Concerning the "software interdependencies", it submits that:

MPAC uses many different software applications, including SPSS, IPS, AIM and DTS, which may share data or otherwise interact with one another. A full explanation of MPAC's complex information technology systems is beyond the scope of the appellant's request...

MPAC did not use the software application Adobe Acrobat in the preparation or generation of the responsive records.

In surreply, the appellant submits that he still cannot understand why MPAC could not have placed all the information on a CD and saved employee time and costs to retrieve the paper copied records before placing them on the CD.

Analysis/Findings

The appellant appears to be challenging the time taken by MPAC to print the records and photocopy them in order to scan the records onto a CD. He believes that MPAC should have been able to transfer the information directly onto a CD from the computer. He is also questioning the search time of four hours.

In Order MO-2530, Adjudicator Laurel Cropley dealt with the issue of scanning paper records onto a CD. She stated that:

Section 6.2 of Regulation 823 indicates that the cost for providing records on CD-Rom is \$10 for each CD-Rom. I interpret this section as referring to making CDs of machine readable records. The regulation does not specifically refer to scanning paper records in order to provide the information on CD. In my view, this activity is a necessary component of producing the paper records in the format requested by the appellant (see Order PO-2424 for a discussion of producing a record in a version other than as a paper record). As I noted above, section 6.4 of the regulation provides that an institution may charge \$7.50 for each 15 minutes spent by any person “for preparing a record for disclosure.” The Town has applied this fee structure in estimating the costs associated with producing the information on CDs. I am satisfied generally in the approach taken by the Town.

Section 6 of Regulation 823 allows MPAC to charge \$0.20 per page for photocopies and computer printouts. MPAC generated 219 photocopies at \$0.20 per page for a total of \$43.80. In the circumstances of this appeal, scanning paper records in order to provide the information on CD was a necessary component of producing the paper records in the CD format requested by the appellant [Order MO-2530]. Therefore, I am upholding MPAC’s fee for photocopies.

Concerning the search time, I find that MPAC has provided a comprehensive description of the steps it actually undertook to locate and retrieve the records. The appellant’s request is complex and it required MPAC to search through many screens to find the applicable screens, followed by a search through numerous pages within each of the applicable screens to locate the requested records. MPAC spent 6 hours and 14 minutes in its search and only sought a fee for four hours of search time from the appellant. MPAC did not charge the appellant a fee for preparing the records for disclosure or for the cost of shipping the records to him.

In Order PO-2904, Adjudicator Stephen Faughnan stated the following in respect of a submission by an appellant there were more efficient methods for locating responsive records and that the search time claimed by the institution was excessive:

This office has previously stated that government organizations are not obliged to maintain records in such a manner as to accommodate the various ways in which a request for information might be framed [See the postscript to Order M-583]. However, this office has also stated that institutions have an obligation to maintain their electronic records in formats that ensure expeditious access and

disclosure in a manner or form that is accessible by all members of the public. In the electronic age, this is essential for an open and transparent government institution [See Order MO-2199]. Furthermore, in the postscript to Order P-1572, former Assistant Commissioner Mitchinson emphasized that as parts of government become increasingly reliant on electronic databases to deliver their programs, it is critically important that public accessibility considerations be part of the decision-making process on any new systems design.

I find that although MPAC was required in the circumstances of this appeal to print and then scan the records to produce them on CD, it did maintain the electronic records in this appeal in a format that ensured expeditious access and disclosure in a manner or form that is accessible by all members of the public. Based on the wording of the appellant's request and the manner in which he required the records, I find that MPAC's search fee of four hours is reasonable in the circumstances and I uphold it.

In conclusion, I uphold MPAC's search fee of \$120.00 and its photocopy fee of 43.80.

SEARCH FOR RESPONSIVE RECORDS

I will now determine whether MPAC was required to conduct a search for records responsive to part 2 of the appellant's request. This part of the appellant's request sought records authorizing/directing MPAC staff in valuing in ways to assess municipal, conservation, non-paying tax land owner region #15 and #9 (Toronto and Halton-Peel region). (Emphasis mine)

The only outstanding issue that was left to be adjudicated upon in Order MO-2440, based on the wording of the appellant's request that was the subject matter of that order, was whether there existed any policies, methodologies and directives regarding the fine-tuning and review of the assessment of municipally-owned flood plain and valley lands in the Toronto or Halton-Peel region. (Emphasis mine)

MPAC did not conduct a search for records responsive to part 2 of the appellant's request. It claims that it already conducted a search as required by section 17 of the *Act* in response to the request that was the subject of the appeal that gave rise to Order MO-2440. If I find that a search has already been conducted by MPAC for records responsive to part 2 of the appellant's request, I will uphold MPAC's decision. If I am not satisfied that MPAC has already conducted a search for records responsive to part 2 of the appellant's request, I will order it to conduct this search.

In Order MO-2440, the relevant portion of the appellant's clarified request stated that he sought access to:

- a) Any document or other form of record that approved MPAC's current valuation policy for valley or flood plain land in the City of Toronto or the Regional Municipality of Peel.

- b) Any document or other form of record describing MPAC's valuation methodology for arriving at assessed values for valley or flood plain land in the City of Toronto or the regional municipality of Peel.
- c) Any document or other form of record that approved MPAC's current valuation policy for valley or flood plain land in other areas of the Province of Ontario, other than the City of Toronto or the Regional Municipality of Peel.
- d) Any document or other form of record sent to MPAC from the Province of Ontario, or any municipality, giving direction to MPAC respecting the determination of assessed values for valley or flood plain land in Ontario.
- e) Any document or other form of record from MPAC management giving direction to MPAC staff relating to valuation policy or methodology for the determination of assessed values for valley or flood plain land in Ontario, including but not limited to such lands in the City of Toronto or the Regional Municipality of Peel.

At the conclusion of the oral inquiry in this previous appeal (Order MO-2440), MPAC and the appellant agreed that the only outstanding issue, based on the wording of this clarified request, was whether there existed any policies, methodologies and directives regarding the fine-tuning and review of the assessment of municipally-owned flood plain and valley lands in the Toronto or Halton-Peel regions. The parties agreed that MPAC would make inquiries of a Customer Service Manager in each of the Toronto and Halton-Peel Field Offices, who is responsible for fine-tuning and review of municipally-owned flood plain and valley lands, for any policies, methodologies and directives regarding this fine-tuning and review of municipally-owned flood plain and valley lands in those regions.

After receiving additional written representations from the parties, I upheld MPAC's search for responsive records in Order MO-2440. I also upheld this order in response to the appellant's reconsideration request in Order MO-2464-R.

In this appeal, MPAC decided that it was not required to conduct a search for records responsive to part 2 of the appellant's request. It submits that:

The appellant has again requested records authorizing/directing MPAC valuation staff in "how to assess municipal, conservation, non-paying tax land owners in Region #15 and #9." MPAC has advised the requester many times in 2008, 2009 (including in the Decision Letter) and 2010, that no such records exist.

Although no records exist, MPAC has given the requester considerable detailed information and explanations on this issue, including in:

- its original Decision Letter giving rise to Order MO-2440, including a detailed explanation of how conservation lands are valued (see page 2 of that Order);

- affidavit evidence from MPAC representatives prior to the hearing in appeal MO-2440;
- detailed representations provided prior to the oral inquiry in appeal MO-2440 (for example, as quoted on page 8 of that Order);
- oral testimony at the hearing in MO-2440 from four MPAC witnesses, including detailed discussion of how municipal lands are assessed, and detailed testimony from the Manager, MRA concerning the existence of any responsive "software development instructions/directives incorporated within the MPAC software, tables, reports, email, etc." (see page 3 of that Order);
- detailed affidavit evidence from two MPAC Customer Service Managers following the oral inquiry; and
- the Decision Letter giving rise to this appeal.

The [appellant's] claim that additional records exist is a duplicate of the previous requests that were resolved in Appeal MO-2440 and MO-2464-R. MPAC has devoted considerable time to exhaustive searches and inquiries in respect of those requests and appeals; the requester now repeats the same request in slightly different words.

MPAC relies on the search previously conducted, which the IPC concluded in Appeal MO-2440 was a reasonable search. No new records have been created since then. MPAC submits that this question has already been decided, was the subject of a reconsideration decision, was not appealed further, and is now res judicata.

The appellant provided representations that appeared to include information about all three parts of his request. It was difficult for me to ascertain which, if any, portions of his representations concern part 2 of his request. The relevant portions appear to be the following, where the appellant submits that:

... MPAC to provide information in assessing various vacant flood hazardous lands: None were produced or submitted during the FOI hearing. MPAC insisted this was in the fine tuning reports, which they did NOT introduce at the FOI hearing. The complainant had to seek a subsequent FOI request. Upon investigating the received MPAC Fine tuning report files, no indication how the requested particular values were arrived. What appears as secret codes are used to churn out computer embedded stored values (example code # 2 for restricted flood plain). If the assessor enters the code #2, the embedded stored data computes the assessment value for such particular lands.

When MPAC uses the code #2 (example)

From assessment rolls--similar Conservation lands in Region of Peel and Toronto have generally identical bulk assessment figures per acre (peel 16,000 and metro 3,200/ac) and of concern, exactly adjacent lands are assessed 10-20 times more. There is a pattern of bulk values used... The complainant wants access to these computer stored bulk land value information...

MPAC computer driven legend sheets are based on fill in the codes and the computer generates results from stored data. This information was requested and denied.

Yes, I do believe that bulk records do exist and MPAC has not produced them.

In reply, MPAC submits that:

Nature of Records Provided

MPAC notes that the appellant refers to "fine tuning documents received" in his representations. The appellant has apparently misunderstood the nature of the responsive records that were provided to him with the access decision letter dated November 5, 2009. The records are printouts of records contained in MPAC's Integrated Property System ("IPS"), Assessment Information Mapper ("AIM") system, Document Tracking System ("DTS") and appraisal cards, as identified in the index contained within the access decision letter. The results of any fine-tuning analysis of the properties identified in the appellant's request would be reflected in the records provided.

... MPAC has previously provided the appellant with detailed information and explanations regarding MPAC's property valuation methodology, including fine-tuning procedures.

MPAC wishes to correct one minor aspect of the access decision letter. On page 5 of 7, paragraph 2, the letter states: "fine-tuning would be done by the Customer Service unit." MPAC confirms its previous advice to the appellant that any fine-tuning would be done by the Property Values Department...

The appellant asserts in part 2 of his representations that MPAC has denied access to "MPAC computer driven legend sheets" or computer-generated "results from stored data". He also requests "access to these computer stored bulk land value information".

As set out in MPAC's access decision letter and as further explained in part 1 of MPAC's representations dated June 28, 2010, MPAC conducted a search and has provided those records that exist for the specific properties identified in the appellant's request. The records provided include records stored in MPAC's IPS, DTS and AIM computer applications.

As set out in the access decision letter, particularly page 5 of 7, paragraphs 1 to 4, and part 2 of MPAC's representations dated June 28, 2010, MPAC has previously conducted a reasonable search for records responsive to part 2 of the appellant's request and advised the appellant that no responsive records exist.

In surreply, the appellant submits that:

The internal programming and classified reference data is excluded from public view. Prior to MPAC implementing total computer dependences, referral tables of land masses was readily used to compile assessment values. This could be made available.

In Toronto/Peel regions, MPAC set in purpose assessments for conservation authority owned lands to lessen their property taxes. (*Conservation Authority Act*, it is mandatory C.A. to pay property taxes). How the values were arrived is top secret.

MPAC's responses to appellant's requests has always been answered by no bulk land assessment tables or data exist. However, there is secretly bulk figures implemented into their computer programming and red herring that such information is copy righted and therefore confidential. This is hard to swallow, the so called fine tuning is actually coarse tuning and the Computer programming is geared to fine tune all assessments using pre-determined hand picked parameters. The MPAC assessors have become-fill in the blanks and presto, the end result can produce numerous unchecked flawed assessment values.

The appellant is concerned with the using of codes and allowing the computer program to churn out possible un-reliable assessment reports. Many errors of glaring results have been pointed out to MPAC; staff but are reluctant to correct the computer processing program faults. Having said this, it is necessary that the workings of the computer programming and OPERATIONAL core data be readily available to the general public. My experience has shown a lot of poor land owners have been hurt by flawed assessments and other well off have gained in low assessments...

Analysis/Findings

Based upon the wording of the requests in this appeal and the appeal that was subject to Order MO-2440, I find that the appellant's requests in both this and the previous appeal (Order MO-2440) effectively seek the same information.

In the current appeal, the appellant is seeking information about conservation land, whereas in the previous appeal he sought information about flood plain land. Conservation land is often designated by MPAC in its assessments as flood plain land (Order MO-2440). Although differently worded, both requests seek records about any directives to MPAC staff in assessing municipally-owned flood plain lands in Toronto and Halton-Peel regions.

In his representations in this appeal, the appellant claims that MPAC should have conducted a search and located responsive records in the form of computer driven legend sheets which “are based on fill in the codes and the computer generates results from stored data.” He describes this information as “secretly bulk figures implemented into [MPAC’s] computer programming. He is seeking “the workings of the computer programming and operational core data”.

In Order MO-2440, I stated that:

The appellant has indicated in his representations that he believes that individual assessments of municipally-owned flood prone valley lands are assessed, not at market value, but at an inflated amount as developable tablelands. He submits that these inflated values are automatically incorporated into the MRA system. The appellant is interested in receiving specific MRA system information, including data entry and model frameworks.

Although the appellant believes that records responsive to his request may be imbedded in the MRA framework, I find that MRA records are not reasonably related to his request as clarified. The MRA system is a province-wide statistical analysis computer technique used by an assessor to estimate values of properties. It is used to automate the sales comparison approach through the development and application of a mass appraisal model. The MRA system is not used by MPAC to fine-tune and review municipally-owned flood plain and valley lands in the Toronto and Halton-Peel Regions...

The scope of this inquiry concerns the existence of whether there are records responsive to the appellant’s request as clarified. If the appellant wishes to obtain records concerning the assessment of individual properties or to obtain specific records concerning the MRA, then he needs to make a specific request to MPAC seeking this information. MPAC would then need to provide the appellant with an access decision in accordance with the exemptions and exceptions set out in the *Act*. Concerning the MRA system (or any other specific request), MPAC cannot simply refuse access on the basis that the information is not publicly available, without citing the relevant statutory provisions as set out in the *Act* and providing the appellant with the opportunity to appeal its decision.

In my view, MPAC has provided a thorough explanation of the efforts made by its experienced employees to identify and locate any records responsive to the appellant’s clarified request, as well as providing an explanation as to why no responsive records could be located. Therefore, I find that MPAC has provided sufficient evidence to establish that it has made a reasonable effort to identify and locate responsive records.

I find that MPAC has conducted a reasonable search for records that are responsive to the appellant’s request as required by section 17 of the *Act*.

Similarly, in this appeal, what the appellant is seeking to obtain is set out in his representations and is not set out in his request. In other words, the information that he has requested in his request is not the same as the information he is seeking in his representations. If the appellant wishes to obtain the information set out in his representations, namely, "the workings of the computer programming and operational core data" and other computer-related information, he needs to specifically and clearly request this information from MPAC.

The *Act* does not require MPAC to prove with absolute certainty that further records do not exist. I find that MPAC has provided sufficient evidence to show that it has made a reasonable effort to identify and locate responsive records in response to part 2 of the request at issue in this appeal [Orders P-624 and PO-2559]. To be responsive, a record must be "reasonably related" to the request [Order PO-2554].

As set out in Order MO-2440, I find that MPAC has already conducted a reasonable search for records responsive to part 2 of the appellant's request. A reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request expends a reasonable effort to locate records which are reasonably related to the request [Orders M-909, PO-2469 and PO-2592]. Accordingly, I find that MPAC is not required to conduct a search for records responsive to part 2 of the appellant's request.

ORDER:

I uphold MPAC's decision and dismiss the appeal.

Original signed by:
Diane Smith
Adjudicator

December 8, 2010