

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER MO-2838

Appeal MA11-32

Toronto Community Housing Corporation

January 29, 2013

Summary: The appellant submitted a lengthy, multi-part request to the corporation for records relating to an identified address. The corporation located some responsive records and granted partial access to them, and determined that no records exist for certain parts of the request. The corporation claimed that the mandatory exemption at section 14(1) and the discretionary exemption at section 38(b) (personal privacy) applied to the portions of the records that it withheld. On appealing this decision, the appellant claimed that additional records should exist, thus raising the reasonableness of the corporation's search as an issue on appeal. The adjudicator finds that certain portions of the records do not contain personal information and orders that these portions be disclosed to the appellant. The adjudicator finds further that the remaining portions of the records do contain personal information and upholds the exemption at section 14(1) for those records that do not contain the appellant's information and section 38(b) for those records that contain the personal information of both the appellant and other identified individuals. Finally, the adjudicator upholds the corporation's search for responsive records.

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, sections 2(1) definition of personal information, 14(1), 17, 38(b).

OVERVIEW:

[1] The appellant submitted a lengthy, multi-part request to the Toronto Community Housing Corporation (the corporation) under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*). Approximately two weeks later, the appellant submitted a second access request to the corporation. In the initial request, the appellant asked for correspondence, annual review schedules for a particular address, policies and similar records regarding meeting records, meeting records of a named individual, and written answers to a number of questions. The second request letter added four additional points and amended two points contained in the earlier request.

[2] The corporation combined the two requests and issued two decisions. In the first decision, the corporation granted partial access to a number of records, and indicated that certain records and parts of records were withheld under sections 14 and 38(b) (personal privacy). The corporation also stated that no documents exist for some of the points. It also advised that if a record has not been created that would respond to a question she has included in her list of questions, none can be provided.

[3] The second decision responded to communications the corporation had received from the appellant that flowed from the first access decision, and essentially reiterated the positions taken in the earlier decision.

[4] The appellant appealed this decision.

[5] During mediation the appellant provided the mediator with a detailed chart summarizing the request and the corporation's response, and her view of the response. According to this chart, the appellant is appealing the application of sections 14 and 38(b) to the Residential Lease Expiration List and Annual Review Log. In addition, the appellant took the position that records responsive to three items in her request exist. This raised the issue of whether the corporation's searches for responsive records were reasonable.

[6] Mediation did not resolve this file, and it was forwarded to the adjudication stage of the appeal process. I sought, and received representations from the corporation and the appellant. The representations were shared in accordance with section 7 of the *IPC's Code of Procedure and Practice Direction 7*.

RECORDS:

[7] The records at issue in this appeal consist of the withheld portions of the Residential Lease Expiration Lists and Annual Review Logs.

ISSUES:

- A: Do the records contain "personal information" as defined in section 2(1) and, if so, to whom does it relate?
- B: Does the mandatory exemption at section 14(1) or the discretionary exemption at section 38(b) apply to the information at issue?
- C: Did the institution conduct a reasonable search for records?

DISCUSSION:

A: Do the records contain "personal information" as defined in section 2(1) and, if so, to whom does it relate?

[8] In order to determine which sections of the *Act* may apply, it is necessary to decide whether the record contains "personal information" and, if so, to whom it relates. That term is defined in section 2(1) as follows:

"personal information" means recorded information about an identifiable individual, including,

- (a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,
- (b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
- (c) any identifying number, symbol or other particular assigned to the individual,
- (d) the address, telephone number, fingerprints or blood type of the individual,
- (e) the personal opinions or views of the individual except if they relate to another individual,

- (f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence,
- (g) the views or opinions of another individual about the individual, and
- (h) the individual's name if it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual;

[9] The list of examples of personal information under section 2(1) is not exhaustive. Therefore, information that does not fall under paragraphs (a) to (h) may still qualify as personal information.¹

[10] Sections 2(2), (2.1) and (2.2) also relate to the definition of personal information. These sections state:

(2) Personal information does not include information about an individual who has been dead for more than thirty years.

(2.1) Personal information does not include the name, title, contact information or designation of an individual that identifies the individual in a business, professional or official capacity.

(2.2) For greater certainty, subsection (3) applies even if an individual carries out business, professional or official responsibilities from their dwelling and the contact information for the individual relates to that dwelling.

[11] To qualify as personal information, the information must be about the individual in a personal capacity. As a general rule, information associated with an individual in a professional, official or business capacity will not be considered to be "about" the individual.²

[12] Even if information relates to an individual in a professional, official or business capacity, it may still qualify as personal information if the information reveals something of a personal nature about the individual.³

¹ Order 11.

² Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F and PO-2225.

³ Orders P-1409, R-980015, PO-2225 and MO-2344.

[13] To qualify as personal information, it must be reasonable to expect that an individual may be identified if the information is disclosed.⁴

[14] By way of background to the request, the corporation describes its role in administering social housing and rent-geared-to-income (RGI) subsidies for the City of Toronto as authorized by the *Social Housing Reform Act, 2000*. It explains that the RGI assistance provides qualifying households with a subsidy that "makes up the difference between the amount the household can pay for the unit and the market rent for the unit." In order to administer the rents, the corporation indicates that it is authorized to collect specific personal information from tenants. Moreover, the corporation indicates that it conducts annual reviews to ensure RGI eligibility.

[15] The corporation indicates that the records at issue were prepared for the purposes of administering the RGI subsidy and conducting the annual review. The corporation submits that both records contain the personal information of tenants of the building, including that of the appellant, that it was authorized to obtain. In particular they contain, *inter alia* the tenants' names, unit number, resident status, market rent, actual RGI rent paid by the tenant, dates of different activities and communications between the corporation and the tenant.

[16] The corporation indicates that it provided the appellant with her own information and severed out all of the information pertaining to other individuals contained in the lists and logs. The corporation notes that after receiving its decision, the appellant contacted it and revised her request for these two records. Regarding the "Expiration List", the appellant indicated that she wished to obtain only five categories of information, including the first digit of the unit number, unit type, market rent, lease from date and lease to date. With respect to the logs, the appellant indicated that all personal information, such as names, telephone numbers and the last two digits of the unit number could be removed. She took the position that the remaining information was not personal information and that it should be disclosed.

[17] I note that in her communication with the corporation on this issue, the appellant recognized that the first digit of the unit number might also be considered "private" and it appears that she was willing to accept the records with this information removed.

[18] The corporation takes the position that even with other personal information removed, disclosure of the five categories of information would permit the identification of other tenants "due to the other information in the Withheld Portions." Referring to orders of this office,⁵ the corporation submits that the appellant is a tenant of the

⁴ Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).

⁵ Orders P-230 and PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.), P-316, P-651 and PO-2265.

building and if she was given access to the first digit of the unit number, "it is reasonable to expect that the appellant could identify the individual tenants."

[19] Regarding the move-in dates, the corporation speculates that the appellant may know the approximate time an individual moved into the building and that information combined with other severed and withheld portions of the records, the appellant could discern the tenants' identities.

[20] The corporation submits that once the appellant is able to identify a tenant, she will have access to other personal information about the tenant, including their status as an RGI recipient.

[21] The appellant points out that the building in question has 720 units and submits that it is unreasonable to assume that she could identify a particular tenant from the information she is seeking (as indicated in her revised request).

[22] I note that the appellant appears to believe that these records should contain additional information relating to the creation, approval and/or correction of information on the records by corporation staff. She submits that this information is not personal information but information about and/or created by staff in their professional capacities.

[23] I have reviewed all of the pages of the two records at issue and confirm that they do not contain the information that the appellant believes they should contain. That is, there are no dates that correspond to creation, approval or correction; nor do these records contain the names of staff or their signatures. I will not address this issue further in this discussion, but will consider that appellant's representations under the reasonableness of search heading below.

Analysis and findings

[24] It is clear that the records at issue, that is, the Lease Expiration Lists and the Annual Review Logs, contain the personal information of the individuals referred to in them, including their names, resident status, actual rent paid and telephone numbers, as well as records of communications between them and the corporation. The appellant is listed as a tenant on these records and they, therefore, contain her personal information as well. Accordingly, I find that pages 2-22 to 2-24 of the Lease Expiration List, and pages 2-18 to 2-21 of the Annual Review Log contain the personal information of the appellant and other individuals.⁶ The other portions of these two documents do not contain the personal information of the appellant. The corporation has provided the appellant with her own personal information.

⁶ It should be noted that each of these two page groupings contain a discrete document within the overall grouping of documents entitled "Lease Expiration List" and "Annual Review Log."

[25] According to the corporation's website,⁷ there are three categories of tenants living in its housing: RGI, Affordable rent and Market rent. The corporation indicates that the records at issue pertain only to those tenants receiving RGI subsidies. I note that the number of tenants receiving RGI subsidies as identified on the lists is extensive. According to the appellant, the building in question has over 700 units.

[26] The issue I must now determine is whether disclosure of the categories of information the appellant is seeking would reveal the identities of the tenants receiving RGI assistance. Because the information remaining at issue in the two categories of records is different, I will review each of the two categories of records separately.

Lease Expiration List (pages 2-7 to 2-10, 2-15 to 2-17, 2-23 to 2-24, 2-29 to 2-42 and the withheld portion of 2-22.

[27] The appellant has removed all clearly identifiable personal information from the scope of the appeal, such as names, addresses and telephone numbers. The appellant also attached a mock-up version of the Lease Expiration List to her representations on which she identifies only four categories of information; she has not included the first digit of the unit number. These four categories are: unit type, market rent, lease from date and lease to date. It appears to me that she is prepared to receive this record as suggested in her sample list, and the following sets out my findings regarding each of the four categories of information that the appellant is seeking from the Lease Expiration List.

- information pertaining to the unit type and market rent is information about the building and is not, in itself, linked to a particular individual. In the circumstances of this appeal, and in light of the fact that any other identifying information relating to these categories is not being disclosed, I find that disclosure of the unit type and the market rent would not reveal personal information. In my view, it is not reasonable to expect that an individual may be identified if this information is disclosed.
- information pertaining to the "lease from date" indicates the date when individuals began their leases with the corporation. The range of dates is great, and covers a significance number of dates and years. In the circumstances, and if information about the unit type is disclosed, I accept the position of the corporation that disclosure of the move-in dates may allow the appellant to identify particular individual tenants, and that it is reasonable to expect that an individual may be identified if the information is disclosed. Accordingly, I find that this information constitutes the personal information of the individuals referred to in the records.

⁷ torontohousing.com

- information pertaining to the "lease to date" indicates the date when particular leases end. I note that, with respect to these dates, the range of dates is not great, with many of these dates being similar. I also note that upon expiration, leases would ordinarily be renewed, and the "lease to date" does not necessarily reflect the move-out date. I also note that it is clear that individuals may move out of their units on dates other than the lease end dates. In these circumstances, I am not persuaded that the disclosure of the lease to dates would reveal personal information, nor is it reasonable to expect that an individual may be identified if these dates are disclosed.

Annual Review Log (pages 2-1 to 2-6, 2-11 to 2-14, 2-19 to 2-21, 2-15 to 2-28 and the withheld portion of 2-18)

[28] This record documents administrative activities that occurred regarding the annual review of units. The information includes the names and address of the tenant, and information regarding the dates when the reviews were returned, notices and decisions were sent, and the dates of other administrative matters. Occasionally, these records also include a notation of a particular action that occurred regarding that particular unit or tenant.

[29] The appellant has removed all clearly identifiable personal information from the scope of the appeal, such as name and address of the tenant.

[30] With respect to the information in the Annual Review Log, if the name and address of the tenant is severed from the record, I find that the disclosure of the remaining information in the Annual Review Log would not reveal personal information, as it not reasonable to expect that an individual may be identified if this information is disclosed.

[31] However, where this record also includes a notation of a particular action that occurred regarding a particular unit or tenant, I find that this information on occasion could reasonably be expected to identify an individual. Accordingly, I find that specific notations on pages 2-2, 2-3, 2-6, 2-11, 2-12, 2-20 and 2-28 contain personal information for the purpose of the *Act*, and that these specific notations be severed from the record. For greater certainty, I have attached a highlighted copy of those pages to the copy of this order that I am sending to the corporation, highlighting the portions which should be severed.

Summary

[32] To summarize:

- the appellant has indicated that she is not pursuing access to the names and addresses contained in the Annual Review Log, and they are not at issue in this appeal;
- the appellant has indicated that she is only pursuing access to four categories of information in the Lease Expiration List (unit type, market rent, lease from date and lease to date), and the remaining portions of these records are not at issue in this appeal;
- I find that the information pertaining to the lease from dates in the Lease Expiration list, and the notations of a particular action that occurred regarding the particular unit or tenant contained in the Annual Review Logs, are personal information for the purpose of the *Act*; and
- the remaining information contained in the records does not constitute personal information of identifiable individuals, and ought to be disclosed.

[33] I will now review the possible application of the exemptions in sections 14(1) and 38(b) to the information which I have found constitutes personal information.

[34] Because pages 2-22 to 2-24 of the Lease Expiration List, and pages 2-18 to 2-21 of the Annual Review Log contain the personal information of the appellant and other individuals, I will consider whether the discretionary exemption in section 38(b) applies to these records.

[35] The other pages of records remaining at issue contain only the personal information of identifiable individuals other than the appellant, I will review the application of the mandatory exemption in section 14(1) to these records.

B. Does the mandatory exemption in section 14(1) or the discretionary exemption in section 38(b) apply to the records?

[36] Section 36(1) of the *Act* gives individuals a general right of access to their own personal information held by an institution. Section 38 provides a number of exemptions from this right.

[37] Under section 38(b), where a record contains personal information of both the requester and another individual, and disclosure of the information would constitute an

“unjustified invasion” of the other individual’s personal privacy, the institution may refuse to disclose that information to the requester. Section 38(b) reads:

A head may refuse to disclose to the individual to whom the information relates personal information,

where the disclosure would constitute an unjustified invasion of another individual’s personal privacy

[38] If the information falls within the scope of section 38(b), that does not end the matter. Despite this finding, the institution may exercise its discretion to disclose the information to the requester. This involves a weighing of the requester’s right of access to his or her own personal information against the other individual’s right to protection of their privacy.

[39] Under section 14, where a record contains personal information only of an individual other than the requester, the institution must refuse to disclose that information unless disclosure would not constitute an “unjustified invasion of personal privacy”. Section 14(1)(f) reads:

A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,

if the disclosure does not constitute an unjustified invasion of personal privacy.

[40] In both section 38(b) and 14 situations, sections 14(1), (2), (3) and (4) of the *Act* provide guidance in determining whether disclosure of personal information would result in an unjustified invasion of the individual’s personal privacy. Section 14(2) provides some criteria for the ministry to consider in making this determination; section 14(3) lists the types of information whose disclosure is presumed to constitute an unjustified invasion of personal privacy; and section 14(4) refers to certain types of information whose disclosure does not constitute an unjustified invasion of personal privacy. In addition, if the information fits within any of paragraphs (a) to (e) of section 14(1), disclosure is not an unjustified invasion of personal privacy under section 38(b).

[41] The corporation submits that the disclosure of the information of other identifiable individuals would constitute an unjustified invasion of the personal privacy of the other individuals. It argues that disclosure of the information would be presumed to be an unjustified invasion of personal information under sections 14(3)(c) and (f) of the *Act*. It also states that, with respect to its decision to deny access to certain information under the discretionary exemption in section 38(b) of the *Act*, it has disclosed to the appellant all of the information that relates specifically to her, and has

only denied access to other information that relates directly to other identifiable individuals.

[42] The appellant provides lengthy representations on a number of issues; however, to the extent that these representations address the section 14(1) and/or 38(b) exemptions, they relate to information which I have found does not contain personal information and should be disclosed to her, or to her own personal information which she has been given access to. The appellant also specifically indicates that she is not pursuing access to the personal information of others. In addition, her representations on the public interest in these records only relates to information which she has been given access to, and not the information remaining at issue in this appeal.

[43] Accordingly, in the absence of any factors favouring disclosure of the personal information remaining at issue in this appeal, I find that, for the portions of the pages of records which contain only the personal information of identifiable individuals other than the appellant, this information is exempt under section 14(1) of the *Act*.

[44] In addition, in the absence of any factors favouring disclosure of the personal information, and based on the corporation's representations on its exercise of discretion, I uphold the its decision to deny access to pages 2-22 to 2-24 of the Lease Expiration List, and pages 2-18 to 2-21 of the Annual Review Log under the discretionary exemption in section 38(b) of the *Act*.

C: Did the corporation conduct a reasonable search for records?

[45] In appeals involving a claim that additional responsive records exist, as is the case in this appeal, the issue to be decided is whether the corporation has conducted a reasonable search for the records as required by section 17 of the *Act*. If I am satisfied that the search carried out was reasonable in the circumstances, the decision of the corporation will be upheld. If I am not satisfied, further searches may be ordered.

[46] Previous orders have identified the requirements in reasonable search appeals.⁸ In Order PO-1744, acting-Adjudicator Mumtaz Jiwan made the following statements with respect to the requirements of reasonable search appeals:

... the *Act* does not require the [institution] to prove with absolute certainty that records do not exist. The [institution] must, however, provide me with sufficient evidence to show that it has made a reasonable effort to identify and locate responsive records. A reasonable search is one in which an experienced employee expends a reasonable effort to locate records which are reasonably related to the request (Order M-909).

⁸ See, for example, Orders M-282, P-458, P-535, M-909, PO-1744 and PO-1920.

[47] I agree with acting-Adjudicator Jiwan's statements.

[48] Where a requester provides sufficient detail about the records that he/she is seeking and the institution indicates that records or further records do not exist, it is my responsibility to ensure that the institution has made a reasonable search to identify any records that are responsive to the request. The *Act* does not require the institution to prove with absolute certainty that records or further records do not exist. However, in order to properly discharge its obligations under the *Act*, the institution must provide me with sufficient evidence to show that it has made a reasonable effort to identify and locate records responsive to the request.

[49] Although an appellant will rarely be in a position to indicate precisely which records have not been identified in an institution's response, the appellant must, nevertheless, provide a reasonable basis for concluding that such records exist.

Representations and findings

[50] The corporation takes the position that it conducted a reasonable search for responsive records. It states:

[The corporation] assigned one of its paralegals, [a named paralegal], to coordinate the search efforts. [The named paralegal] is experienced with the appellant's request and claims, having handled all of the appellant's previous and current MFIPPA requests. She is also knowledgeable about [the corporation's] responsibilities under MFIPPA and is responsible for a number of MFIPPA files and duties. As such, she is cognizant of the duty to conduct a reasonable search for records.

In response to the appellant's request, [the named paralegal] contacted all [corporation] staff who have interacted with the appellant and requested copies of all relevant records. Enclosed is an affidavit detailing the efforts made by [the named paralegal] to identify and locate the Meeting Records Policies, Rent Correspondence and Meeting Records.

[51] The corporation then provides an affidavit sworn by the named paralegal in which this individual identifies the three items which remain in dispute at this stage of the appeal, where the issue of reasonable search is raised. In this affidavit, the affiant confirms that she has been a paralegal with the corporation for a number of years, that she has been involved in the processing of the appellant's request, that she has personal knowledge of the facts set out in the affidavit, and that she conducted the initial search for the requested records.

[52] She then reviews each of these items in greater detail, as discussed below.

[53] The appellant also provides representations on the search issue. She begins by questioning the paralegal's identification of the three items at issue, arguing that another item is also one where the search issue is raised. She also provides specific representations on certain positions taken by the corporation. Each of these items and issues is addressed under their separate headings, below.

Preliminary issue – that the search issue is raised for an additional item

[54] As indicated above, the corporation takes the position that the search issue is raised for the three specific items addressed below, and provides representations on those items. In response, the appellant takes the position that, throughout the course of this appeal, she also raised the search issue for a fourth item. Specifically, she states that she had identified her concern that "there are no signatures under the annual review schedule and under the lease expiration list." In support of her position that these records ought to exist, she argues that these records are important and should be signed and approved.

[55] On my review of this issue, and my review of the other, numerous appeals involving these parties, I note that Order MO-2778 addressed issues which parallel and in some instances overlap the issues in this appeal. In that appeal, adjudicator Frank DeVries addressed specific issues concerning the signature pages for two types of records, a "Resident Lease Expiration" and a "Resident Log."

[56] On my review of the records at issue, I note that the "Resident Lease Expiration" is also described as the "Lease Renewal List," (part of which includes page 2-22) and that "Annual Review Log" is the same as the "Resident Log" (part of which includes page 2-18). Accordingly, I am satisfied that the issue of the adequacy of the searches for the signature pages for these two records was addressed by adjudicator DeVries in Order MO-2778, and I will not address this issue in this appeal.

Item 3: Policies and other regulations, city guidelines etc. regarding meeting records in the corporation

[57] The paralegal addresses the search for records responsive to this item in her affidavit as follows:

I searched for policies and other regulations, City guidelines etc. regarding meeting records in [the corporation], using the Policy Management page of [the corporation's] internal website. After conducting my search, I found no such documents exist.

Throughout my employment with [the corporation], I am not aware of any [corporation] policy regarding meeting records.

[58] The appellant does not address this item in her representations.

[59] Based on the affidavit evidence provided by the corporation, and in the absence of representations supporting the position that the search for responsive records was not reasonable, I find that the search for records responsive to item 3 was reasonable.⁹

Item 6: Correspondence (letters, emails, memos) from January 1, 2010 to December 1, 2010 between corporation staff and (a named organization) related to my rent calculation, rent review or change of effective date

[60] The affidavit provided by the paralegal at the corporation states as follows regarding the search for records responsive to this item:

I started my search by emailing the Operating Unit Manager [a named individual], who manages the building where [the appellant] resides. [The Operating Unit Manager] also has access to [the appellant's] tenancy file, which contains correspondence and all her tenancy records relating to rent calculation and rent review,

I obtained [the appellant's] original tenant file from [the named organization] staff and any additional records from [the corporation's] Operating Unit staff.

[The Operating Unit Manager] further provided me with electronic access to emails pertaining to [the appellant's] tenancy.

TCHC subsequently received a new MFIPPA request from [the appellant] dated January 20, 2011 asking for the same item Attached is a copy of the January 20, 2011 MFIPPA request. Items D.1 and D.2 request for the same records for the period of November, 2009 to February 01, 2011.

I searched the tenant files and electronic emails provided by [the named organization] and [the corporation's] staff.

Records were provided for items D.1 and D.2 in our decision letter dated May 3, 2011, [referenced request number].

There were 126 pages responsive to the request for item D.1. Some of the pages were released in their entirety. Other pages were partially severed or not disclosed at all as exemptions had been claimed.

⁹ I note that I addressed a similar issue in Order MO-2770, and also found that the search was reasonable.

There were 64 pages responsive to the request for item D.2, and all pages were released in their entirety.

[61] The appellant argues that her requests D.1 and D.2 are different from this request for Item 6, and provides the exact wording of her requests D.1 and D.2. On my review of those requests and in comparing them with Item 6 in this appeal, I find that records responsive to Item 6 in this appeal would also be responsive to requests D.1 and D.2 in the previous appeal. However, the issue in this appeal is whether the searches for responsive records were reasonable.

[62] The appellant indicates that she did not receive certain records responsive to Items 6 because the corporation claimed that exemptions applied to them. The appellant does not, however, indicate why she takes the position that the searches for responsive records were not reasonable, nor does she provide representations supporting the position that any additional responsive records exist.

[63] In the circumstances and in the absence of any additional evidence from the appellant, I am satisfied that the corporation's searches for records responsive to this request were reasonable.

Item 7: Meeting records, where [the appellant's] rent was discussed, from January 1, 2010 to December 1, 2010 related to my rent calculation, rent review or change of effective date

[64] The affidavit provided by the paralegal at the corporation states as follows regarding the search for records responsive to this item:

[The corporation] subsequently received a new MFIPPA request from [the appellant] dated January 20, 2011 asking for the same item 7 Attached is a copy of the January 20, 2011 MFIPPA request. Item D.3 requests for the same records for the period of November 2009 to February 2011.

I searched the tenant files and electronic emails provided by [the named organization] and [the corporation's] staff.

Records were provided for item D.3 in our decision letter dated March 16, 2011 [referenced request number]. One record was responsive to the request for item D.3 and it was released in its entirety.

[65] The appellant takes the position that this request (Item 7) is not the same as the request for records numbered D.3 in another appeal. However, request D.3 was addressed by adjudicator Frank DeVries in Order MO-2739. In that order he identified request D.3 for "records relating to meetings where the appellant's rent was discussed."

He then reviewed the issue of whether the search for records responsive to D.3 was reasonable, and found that it was.

[66] Based on the similarity between the request for Item 7 in this appeal and request D.3 addressed in Order MO-2739, on the findings made by adjudicator DeVries in Order MO-2739 and in the absence of additional information from the appellant regarding the reasonableness of the search, I find that the search for records responsive to Item 7 was reasonable.

[67] In summary, I find that the corporation's searches for responsive records were reasonable, and I dismiss this aspect of this appeal.

ORDER:

1. I order the corporation to disclose the information contained in the Lease Expiration List under the headings "Unit Type," "Market Rent" and "Lease To Date", and the information contained in columns three (Date Review Returned) through nine (Final Notice Sent) of the Annual Review Log, with the exception of the information that I have highlighted on pages 2-2, 2-3, 2-6, 2-11, 2-12, 2-20 and 2-28 on the copy of these records that I am providing to the corporation along with this order, by sending the appellant a copy of the information by **March 6, 2013, but not before February 27, 2013.**
2. I uphold the corporation's decision to withhold the remaining information in the records.
3. I uphold the corporation's search for responsive records, and find that it was reasonable.
4. In order to verify compliance with the terms of Order provision 1, I reserve the right to require the corporation to provide me with a copy of the material which it discloses to the appellant.

Original signed by: _____
Laurel Cropley
Adjudicator

_____ January 29, 2013