



**Information and Privacy
Commissioner/Ontario**

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

ORDER 100

Appeal 890299

Stadium Corporation of Ontario Limited



80 Bloor Street West,
Suite 1700,
Toronto, Ontario
M5S 2V1

80, rue Bloor ouest
Bureau 1700
Toronto (Ontario)
M5S 2V1

416-326-3333
1-800-387-0073
Fax/Télééc: 416-325-9195
TTY: 416-325-7539
<http://www.ipc.on.ca>

October 4, 1989

VIA COURIER

Mr. Richard A. Peddie
President
Stadium Corporation of Ontario Limited
Suite 3000, 300 The Esplanade West
Toronto, Ontario
M5V 3B2

Dear Mr. Peddie:

Re: Order 100
Appeal Number 890299
Appellant

This letter constitutes my Order in the appeal by Appellant (the "appellant") from a decision of the Stadium Corporation of Ontario Limited (the "institution") to extend the time in which to respond to the appellant's request for access to certain information under the Freedom of Information and Protection of Privacy Act, 1987 (the "Act").

On July 30, 1989, the appellant wrote to the institution in the following manner:

"I am applying under the Ontario FOI Act for the following records, (the descriptions for each application are below)

Appl. One - Board of Director meeting minutes after February /89 until the present.

Appl. Two - Most recent Multi-Year Capital Plan and 1989 minutes of Finance Subcommittee of the Board of Directors. Please explain as well ALL Province of Ontario financial loans/commitments, and forecasts as to when loans will be repaid and how the debt burden will and when not be the responsibility of the Province. Also, please provide a breakout of all extra/unexpected construction costs 1988, 1989.

Appl. Three - Briefing notes about contemplated or actual changes in the relationship between the Stadium Corporation and the Dome Consortium Investments now that the construction phase is largely over and the stadium is in its operational/maintenance phase. Provide any draft or final operating agreements between these two parties

[IPC Order 100/October 4, 1989]

(Skydome crown corporation/Dome Investments).

Appl. Four - Provide any 1989 letters sent by the Stadium Corporation to firms not part of the Dome consortium warning them when they sponsor events at Skydome of the restriction for advertising/promotion. Provide as well any general policy guidelines on this subject. Include references as to how this policy is compatible to the Canadian Charter of Rights and Freedoms or the competition laws of Canada.

Appl. Five - Provide a list or records of all law suits filed in 1989 against the Stadium Corporation or its Dome partners, the costs sought and status of the cases.

Appl. Six - Changes sought to Ontario's liquor laws and responses, plans to control drinking, views on massive police checks on exiting plans for drinking.

Appl. Seven - Any briefing notes in 1988, 1989 to responsible Ministers and to the Ontario Government.

Appl. Eight - Records of safety certification and associated reports for fire, the roof, the structure, on-site patron's safety including at heights and to climb steep steps, crowd control/evacuation safety. Has there been any fire/safety drills since opening and what were the resulting reports? Are there available statistics on patrons' accident/health problems occurring on-site.

I request a fee waiver for each application and to view the records here in Ottawa as they become available. Call immediately for any clarifications."

On August 31, 1989, the Freedom of Information and Privacy Co-ordinator for the institution (the "Co-ordinator") responded to the request in the following manner:

In reference to your letter dated July 30, 1989, please be advised that we need to extend the time limit to consider your request to September 30, 1989.

Your request is for a large number of records and meeting the time limit would unreasonably interfere with the operations of the Corporation.

On September 14, 1989, the appellant wrote to my office appealing the institution's decision and I gave notice of the appeal to both parties on September 20, 1989.

On September 20, 1989, the Co-ordinator was contacted by an Appeals Supervisor from my office. The Co-ordinator confirmed that the

institution decided to treat the eight applications for records contained in the appellant's request dated July 30, 1989 as one request.

Also on that day, the Appeals Officer assigned to the case wrote to the institution requesting a response to a series of questions on before September 27, 1989. The questions were designed to assist the institution in explaining the circumstances which led to the decision that a 30-day time extension to respond to the request was warranted pursuant to section 27 of the Act. The letter was delivered by taxi to the Co-ordinator.

The institution did not respond to the Appeals Officer's letter until October 2, 1989. The institution submitted that:

As the Appellant did not prioritize his eight part request to indicate the order or urgency of his eight applications, our decision was to treat it as a single request. This decision was based on the fact that in our assessment, the turn around time would be quicker if we treated the request as a single request rather than as eight individual requests. It is obvious, I am sure, that it takes less scheduling and meeting time to discuss all eight applications at one meeting than having to schedule eight different meetings to discuss each application at a time.

The sole issue for me to determine in this appeal is whether the extension of time claimed by the institution as necessary to respond to the appellant's request is reasonable in the circumstances.

Subsection 27(1) of the Act states:

27.--(1) A head may extend the time limit set out in section 26 for a period of time that is reasonable in the circumstances, where,

- (a) the request is for a large number of records or necessitates a search through a large number of records and meeting the time limit would unreasonably interfere with the operations of the institution; or
- (b) consultations that cannot reasonably be completed within the time limit are necessary to comply with the request.

I had occasion to consider a similar fact situation in Order 28 (Appeal Number 880317, released on December 6, 1988). In that case, the institution received a number of separate requests from the same individual and extended the time in which to respond to

the requests en bloc pursuant to section 27. In my Order I stated:

I do not believe that section 27 lends itself to the interpretation that, where the response to a number of separate requests from the same individual, which collectively involve a large number of records or necessitate consultation, section 27 is properly triggered... I do not believe that the institution's approach was correct in that it did not consider each request separately and decide whether each individual request was for a sufficiently large number of records as to justify a section 27 time extension.

I addressed this issue more recently in my Order 93 (Appeal Number 890264, released on September 21, 1989). My findings in that Order are worth reiterating here since they reflect my views with respect to the present appeal. At page 4, I stated:

I find, therefore, that the institution's decision to process the appellant's request as a single request with six parts was not a correct approach. A requester should not be penalized for having listed multiple requests in one letter as would be the case if an institution were able to combine requests and then determine that an extension of time is required before it can respond to that combined request. Whether an institution receives multiple requests from one individual or single requests from several individuals it must consider each request separately and decide whether the request triggers the circumstances in which a time extension is authorized by section 27 of the Act.

I find in this appeal that the institution was in error when it combined the appellant's eight requests into one. Having so found, I must now determine whether the 30-day time extension claimed by the institution was reasonable in the circumstances.

Having reviewed the institution's response to our request for an explanation as to the circumstances which warranted the time extension, I find that the evidence provided is insufficient to substantiate that the time extension was reasonable in the circumstances. Therefore, I do not uphold the head's decision.

Accordingly, I order that the institution respond to the appellant's request immediately and without any further delay, unless it has already done so. I order the head to advise me in writing of the date of the response to the appellant, within five (5) days of the date of this Order.

Yours truly,

Sidney B. Linden
Commissioner

cc: Appellant
Mr. John Kravis, Corporate Treasurer