

Information and Privacy Commissioner,
Ontario, Canada



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

RECONSIDERATION ORDER MO-4224-R

Appeal MA19-00878

Town of Parry Sound

Order MO-4140

July 18, 2022

Summary: The appellant requested a reconsideration of Order MO-4140.

In Order MO-4140, the adjudicator found that \$1,463.10 represented a reasonable fee for the Town of Parry Sound (the town) to prepare the records responsive to the appellant's request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for disclosure under section 45(1)(b).

In their request for a reconsideration of Order MO-4140, the appellant sought to challenge the town's representations on the work that had to be done to prepare the records for disclosure and the time it would take the town to do that work.

In this reconsideration order, the adjudicator finds the appellant has not established any of the grounds under section 18.01 of the IPC's *Code of Procedure* for reconsidering Order MO-4140 and dismisses the request.

Order Considered: Order PO-2538-R.

OVERVIEW:

[1] This order addresses the appellant's request for reconsideration of Order MO-4140.

[2] In Order MO-4140, I found that a fee of \$1,463.10 represented a reasonable fee estimate for the Town of Parry Sound (the town) to prepare the records in response to the appellant's request made under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*). The appellant had made a request under the *Act* for access to records relating to the town's general ledger transactions with individual source journals for six specified fiscal years. The appellant sought access to this information in a specific format (a PDF file).

[3] The town provided an initial fee estimate of \$100, which it subsequently revised to \$3,000, to prepare the records for disclosure under section 45(1)(b) of the *Act*. No fee waiver was sought by the appellant and the sole issue in the appeal was the review of the fee estimate. An inquiry was conducted into the fee estimate and then I issued Order MO-4140.

[4] After Order MO-4140 was issued, the appellant sent an email to the IPC stating that they were requesting a reconsideration. Three files were attached to the appellant's email request: a copy of the town's 2014 general ledger transactions in an Excel spreadsheet, a copy of the inquiry documents from the appellant's appeal (including an annotated Notice of Inquiry and the parties' representations submitted to the adjudicator during the inquiry) and a document entitled *Detailed g/l history from September 1, 2020 to August 31, 2021*.

[5] In the annotations to the Notice of Inquiry, the appellant set out their representations "in response to" Order MO-4140.¹

[6] The procedure for reconsideration, and the grounds upon which the IPC may reconsider an order, are set out in section 18 of the IPC's *Code of Procedure* (the *Code*). Neither the appellant's request for reconsideration nor the attached documentation included the reason why the appellant was making the reconsideration request nor the grounds for doing so. I provided the appellant with a copy of the *Code*, directing them to section 18.01 (grounds for reconsideration) and section 18.05 (initiating a reconsideration). I invited the appellant to provide representations to support their request, with reference to the grounds for reconsideration in section 18.01 of the *Code*.

[7] The appellant did not provide representations within the time limit given for doing so and has not pursued a request for an extension of time. I notified the appellant that if I did not hear further from them, I would proceed without further notice.

[8] For the reasons that follow, I find that the appellant has not established any grounds for reconsideration under section 18.01 of the *Code*. Accordingly, the appellant's reconsideration request is denied.

¹ These annotations appeared to me to repeat the appellant's representations made during the inquiry.

DISCUSSION:

Are there grounds under section 18.01 of the Code to reconsider Order MO-4140?

[9] As already noted, the appellant has not provided representations addressing the grounds under section 18.01 of the *Code*. Section 18 of the *Code* provides for the IPC's reconsideration process and section 18.01 states:

18.01 The IPC may reconsider an order or other decision where it is established that there is:

- (a) a fundamental defect in the adjudication process;
- (b) some other jurisdictional defect in the decision; or
- (c) a clerical, accidental error or omission or other similar error in the decision.

[10] Previous orders of the IPC have held that this office's reconsideration process is not intended to provide a forum for parties to re-argue cases made (or not) during the inquiry into an appeal.²

[11] In Order PO-2538-R, Senior Adjudicator John Higgins reviewed the case law regarding an administrative tribunal's power of reconsideration, including the Supreme Court of Canada's decision in *Chandler v Alberta Association of Architects*.³ The senior adjudicator stated that the IPC's reconsideration criteria are based on the common law principles set out in the *Chandler* decision. In the case before him, Senior Adjudicator John Higgins concluded that the arguments made in support of the parties' request for reconsideration did not fit within the criteria in section 18.01 but amounted to "no more than a disagreement with [the] decision and an attempt to re-litigate the issues to obtain a decision more agreeable to [the parties]."

[12] I agree with and adopt this approach here. The appellant's request for reconsideration of Order MO-4140 discloses no reason nor grounds for doing so that fit within the criteria in section 18.01 of the *Code*. I find that the appellant is attempting to re-argue why they do not accept that the town needs to do the work it has specified in its fee estimate. The appellant provides an example of a general ledger of a different organization in a pdf file format and argues that this is what the town "should" provide in response to their access request. The appellant states that the time taken by the other organization to search this file (a matter of seconds) is comparable with the work that the town has to undertake to prepare its general ledger for disclosure.

² See Orders PO-2538-R and PO-3062-R.

³ [1989] 2 SCR (S.C.C.).

[13] I have reviewed the documents submitted by the appellant and find that the appellant repeats the arguments they made in their representations during the inquiry into the appeal. The appellant reiterates their position in response to the town's evidence regarding the work to be done to process the appellant's request. I considered these arguments in my analysis and findings, which are set out in Order MO-4140.

[14] I am not persuaded that the appellant has established that there was a fundamental defect in the adjudication process, a jurisdictional defect in the decision or an error or omission within the meaning of section 18 of the *Code*. Accordingly, there is no basis upon which the IPC may reconsider Order MO-4140 and I deny the appellant's request.

ORDER:

I deny the appellant's reconsideration request.

Original Signed by: _____
Katherine Ball
Adjudicator

July 18, 2022 _____