

Information and Privacy Commissioner,  
Ontario, Canada



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

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## ORDER MO-4653

Appeal MA22-00226

Municipality of Chatham-Kent

May 7, 2025

**Summary:** An individual submitted a request to the municipality under the *Municipal Freedom of Information and Protection of Privacy Act* for records related to emergency services budget proposals ordered disclosed in Order MO-3613. The municipality stated that it had previously disclosed all records to the individual and no further exist, and the individual said the municipality did not conduct a reasonable search. In this order, the adjudicator upholds the municipality's search efforts and dismisses the appeal.

**Statutes Considered:** *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, section 17.

**Orders Considered:** Orders MO-3613, MO-3846, and MO-3933-R.

### OVERVIEW:

[1] An individual submitted a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) to the Municipality of Chatham-Kent (the municipality) for a detailed cost analysis for specific proposals that were ordered to be disclosed in IPC Order MO-3613. He specified that he was seeking the following information:

Attached is a single page spreadsheet prepared by Chatham-Kent representing grand total figures of each proposal A-B-C. Each of the displayed grand totals obviously done with evident accuracy confirm a detailed cost analysis was completed. This new access request is seeking a

complete and accurate cost analysis that will “reasonably verify” the displayed grand total figures. IPC Order MO-3613 compelled Chatham-Kent to disclose such information. To date the requester has received only reams of non relevant material not “reasonably relevant” to the request

We are seeking a detailed cost analysis for proposals “A” “B” “C”

[2] The municipality located and denied access to responsive records, stating that the records were already disclosed in compliance with Order MO-3613. The municipality also advised the appellant that his request concerns the same matter and the same documents as previous freedom of information requests he had submitted, and that no further responsive records exist.<sup>1</sup>

[3] The requester (now the appellant) appealed the decision to the Information and Privacy Commissioner of Ontario (IPC). During the early resolution stage of the appeal process, the municipality issued a revised decision granting the appellant partial access to a copy of a costing spreadsheet and complete access to a copy of a master spreadsheet that contained more details (titled as “Master Combined Service Document”). The municipality withheld some information under the discretionary exemption in section 11(a) (economic interests of the institution), but the appellant stated that this was not the information to which he sought access.

[4] The file moved to the mediation stage of the appeal process. During mediation, the municipality maintained its position that no further responsive records exist. The appellant confirmed that he is not seeking the withheld information in the spreadsheets, stating that additional information responsive to his request existed.<sup>2</sup>

[5] No further mediation was possible, and the appeal was moved to the adjudication stage of the appeals process. The adjudicator initially assigned to the appeal sought and received representations from the municipality and the appellant. The appeal was then assigned to me to complete the inquiry. I reviewed the representations of the parties and determined that I did not need to seek additional representations.

[6] For the reasons that follow, I uphold the municipality’s search and dismiss the appeal.

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<sup>1</sup> As discussed below, the municipality’s search efforts for records responsive to a substantially similar request were assessed in Order MO-3846.

<sup>2</sup> The appellant stated that the records he received from the municipality were not responsive to his request. He also stated that there is a public interest in disclosure of the records that he is seeking access to. However, the responsiveness of records cannot be at issue if there are no records at issue in an appeal. Similarly, the section 16 public interest override of the *Act* can only apply to exemption claims; it cannot apply if there are no responsive records at issue. Accordingly, the only issue in this appeal is the municipality’s search efforts.

## **DISCUSSION:**

[7] The sole issue in this appeal is if the municipality conducted a reasonable search for records responsive to the appellant's request.

[8] If a requester claims that additional records exist beyond those found by the institution, the issue is whether the institution has conducted a reasonable search for records as required by section 17 of the *Act*.<sup>3</sup> If the IPC is satisfied that the search carried out was reasonable in the circumstances, it will uphold the institution's decision. Otherwise, it may order the institution to conduct another search for records.

[9] Although a requester will rarely be in a position to indicate precisely which records the institution has not identified, they still must provide a reasonable basis for concluding that such records exist.<sup>4</sup> The *Act* does not require the institution to prove with certainty that further records do not exist. However, the institution must provide enough evidence to show that it has made a reasonable effort to identify and locate responsive records;<sup>5</sup> that is, records that are "reasonably related" to the request.<sup>6</sup> A reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request makes a reasonable effort to locate records that are reasonably related to the request.<sup>7</sup>

### **Representations, analysis, and finding**

[10] The municipality submits that it conducted a reasonable search for the records that the appellant is seeking. It provided an affidavit of the municipality employee who conducted the search. It explains that the appellant previously made the following request in 2016:

... all supporting evidence and documentation detailing total financial, operational costs: direct, indirect and associated with the Implementation, cost of 1<sup>st</sup> year and subsequent years annual costing's of operation for proposals A; B; C as submitted in "preliminary" only by administration to council and the public on June 27/2016 respecting the FIRE/EMS amalgamation of services and alternatives described under proposal A;B.

[11] The municipality submits that through the present appeal, where the appellant is seeking a "complete and accurate cost analysis that will 'reasonably verify' the displayed grand total figures," the appellant is seeking access to information that he has already received, and for which the IPC has already determined that a reasonable search was conducted in Order MO-3846.<sup>8</sup> The municipality submits that it has previously offered to

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<sup>3</sup> Orders P-85, P-221 and PO-1954-I.

<sup>4</sup> Order MO-2246.

<sup>5</sup> Orders P-624 and PO-2559.

<sup>6</sup> Order PO-2554.

<sup>7</sup> Orders M-909, PO-2469 and PO-2592.

<sup>8</sup> Order MO-3846 addressed the municipality's search efforts for a clarified version of the above request.

meet with the appellant to review the records that he has already received and answer his questions, but the appellant did not follow up on this.

[12] In response, the appellant submits that the records that he has previously received are not reasonably related to this request, and the municipality has additional records that have not been provided.<sup>9</sup> The appellant acknowledges that the municipality provided him with a spreadsheet outlining financial data for the municipality's fire and emergency services, but he submits that this record does not reasonably relate to his request, and additional records responsive to his request exist.

[13] In his representations, the appellant does not provide evidence that the employee who conducted the search for records was not knowledgeable in the subject matter of the request. He takes issue with the municipal clerk conducting the search, stating that a clerk is "knowledgeable only within the boundaries of their job description," and further submits that a clerk cannot be "sufficiently knowledgeable to verify and confirm the disclosed information for every request or any request is relevant" because that is not their job. However, I am not persuaded that this general statement shows that a clerk would not be knowledgeable in a request related to municipal finances, which is, on its face, within the ambit of their knowledge. Furthermore, as outlined in the clerk's affidavit, staff in the finance and emergency services departments assisted with the search.

[14] Additionally, the appellant does not provide evidence disputing the clerk's affidavit outlining their search efforts, nor did he explain why these efforts were not reasonable in the circumstances. Rather, he submits that because, in his view, the records he received are not "reasonably related" to his request, a reasonable search was not conducted.

[15] The municipality submits that the records the appellant received answer his questions about how these numbers were calculated, and previously offered to meet with the appellant to further explain this. The appellant disputes this, generally stating that the records he received do not reasonably relate to his request. Reviewing the Master Combined Service Document, while it may not provide a direct answer to his questions about the underlying costs of the various 2016 proposals, it does, in my view, reasonably relate to his request. As the adjudicator noted in Order MO-3846, the information the appellant is seeking relates to a 2016 document, with the numbers for later years (for which the appellant seeks an explanation of how they were calculated) being projected figures.

[16] In any case, the appellant's dissatisfaction with the records that he received does not mean that the municipality did not conduct a reasonable search for records. The municipality has explained their search efforts and submits that no further records exist, as was accepted by the adjudicator in Order MO-3846 (and again affirmed in the

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<sup>9</sup> I have only summarized those parts of the appellant's representations that are relevant to the issues in this appeal.

reconsideration decision, MO-3933-R). Considering the entirety of the appellant's representations, his submission is that additional records should exist, but he has not provided an explanation for why this must be the case, or an explanation of why the municipality's search efforts were insufficient. The appellant appears to be asking for the municipality to directly break down how the proposals were calculated. While the municipality could not produce records for this other than the Master Combined Service document, it did offer to meet with the appellant to discuss this.

[17] As noted above, the *Act* does not require the municipality to prove with certainty that further records do not exist. Additionally, it does not require the municipality to create new records. Based on the evidence before me, I am satisfied that the municipality's search efforts were reasonable in the circumstances, and I do not find that ordering an additional search is appropriate.

**ORDER:**

I dismiss the appeal.

Original Signed by: \_\_\_\_\_  
Chris Anzenberger  
Adjudicator

May 7, 2025 \_\_\_\_\_