

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-4660

Appeal MA23-00468

The Corporation of the Town of LaSalle

June 3, 2025

**Summary:** An individual made a request for records relating to the backyard water drainage system of a specified address. The Town of LaSalle located and granted partial access to records.

The individual appealed the town's decision on the basis of his belief that additional records should exist.

In this order, the adjudicator finds that the town conducted a reasonable search for records responsive to the request and dismisses the appeal.

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

### OVERVIEW:

[1] The Corporation of the Town of LaSalle (the town) received a request pursuant to the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for records relating to "the detailed layout plan for a backyard water drainage system" of a specified address.

[2] The town issued a decision granting partial access to the responsive records and the requester, now the appellant, appealed the town's decision to the Information and Privacy Commissioner of Ontario (IPC).

[3] During mediation, the appellant confirmed that he is not seeking access to the information that the town withheld from the records. The appellant advised that he believes additional records responsive to his request should exist.

[4] As mediation did not resolve the appeal, the file was transferred to the adjudication stage of the appeal process, where an adjudicator may conduct an inquiry under the *Act*. I decided to conduct an inquiry and sought representations from the parties.

[5] I received representations from the town. The appellant did not submit representations.

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

## **DISCUSSION:**

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

[8] Where a requester claims additional records exist beyond those identified by the institution, the issue to be decided is whether the institution has conducted a reasonable search for records as required by section 17 of the *Act*.<sup>1</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 must still provide a reasonable basis for concluding that such records exist.<sup>2</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>3</sup> that is, records that are "reasonably related" to the request.<sup>4</sup>

[10] 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>5</sup> The IPC will order a further search if the institution does not provide enough evidence to show that it has made a reasonable effort to identify and locate all of the responsive records within its custody or control.<sup>6</sup>

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<sup>1</sup> Orders P-85, P-221 and PO-1954-I.

<sup>2</sup> Order MO-2246.

<sup>3</sup> Orders P-624 and PO-2559.

<sup>4</sup> Order PO-2554.

<sup>5</sup> Orders M-909, PO-2469 and PO-2592.

<sup>6</sup> Order MO-2185.

## **Representations**

[11] The town submits that it conducted a reasonable search and that no further responsive records exist. The town submits that the appellant's request was clear and concise and that it did not require further clarification. In support of its position, the town submits an affidavit from its Chief Building Official (CBO) in which the CBO provides information about the search process and the results of his search.

[12] The CBO submits that he is an experienced employee who is knowledgeable in the subject matter of the request, having worked as the CBO since 2021 and in other related roles at the town since 2014. The CBO states that he is responsible for all aspects of the town's Building Division, including plans examination, building and plumbing inspections, and permit issuance in compliance with the *Ontario Building Code*, the town's building by-law, and other applicable legislation.

[13] The CBO indicates that his search included a search of paper files, digital files in the town's Geographic Information System (GIS), and personal email correspondence (including attachments). The CBO states that he referenced the specified address in each of his searches and that all of the responsive records that were located were provided to the appellant in full or in part.

[14] The CBO explains that when it comes to the building permit application process for a new residential construction, the lot grading sheet is the main document that the Building Division requires in relation to a property's drainage. The CBO states that any document submitted as part of the building permit application would be kept in the town's development file. The CBO submits that the lot grading sheet, which was already disclosed to the appellant, was the only document that references drainage in the development file.

[15] The CBO submits that the appellant references records that are not routinely collected by the town in the normal course of its operations. The CBO states that after the town disclosed the responsive records to the appellant, it continued to engage in telephone, email, and in-person communications with the appellant on whether additional records exist. The CBO states that he has repeatedly advised the appellant that no additional records exist.

[16] Finally, the town indicates that its records retention by-law governs the classification, retention, and destruction of records. The town states that according to the by-law, 1) the records sought by the appellant are classified as permanent and would not have been destroyed, and 2) the destruction of any record, regardless of format, must be supported by a Records Destruction Form. The town states that in this case, internal procedures would have required the signatures of the CBO, the Director of Planning and Development, and the Records Management Clerk prior to the destruction of a record. The town submits that it conducted a search of the town's destruction records and did not find anything to indicate that the responsive records were destroyed.

[17] The appellant did not submit representations in support of his position that additional records exist. During the inquiry, the appellant indicated that he had previously submitted documents to the town and the IPC and that those may be taken as his representations. The appellant was informed that the IPC does not have access to documents submitted to the institution and that he is required to re-submit any information that he may have provided to the town or the IPC if he intends to rely on it. I did not receive any representations or supporting documents from the appellant during the inquiry and do not have the benefit of referring to them in making my decision.

### **Analysis and findings**

[18] For the reasons that follow, I am satisfied that the town has conducted a reasonable search for records responsive to the appellant's request.

[19] I accept that the CBO is an experienced employee who is knowledgeable in the subject matter of the request. Based on the information in the CBO's affidavit, which includes the method of the search, the locations that were searched, and the results of the search, I am satisfied that the CBO has made a reasonable effort to locate records related to the appellant's request.

[20] I have also reviewed an excerpt of the town's retention policy, which was attached to the town's representations, and accept that it provides for the governance of the destruction of records and the disposition of records. I accept the town's position that the records sought by the appellant would be considered permanent records, and that based on a search of the town's destruction records, there is no indication that any responsive records have been destroyed.

[21] In his correspondence to the IPC, referenced above<sup>7</sup>, the appellant appears to raise concerns about the town's issuance of a specified building permit. In my view, these limited comments are not relevant to the reasonableness of the town's search, which is at issue in this appeal. I also find that in the absence of the appellant's representations, I do not have sufficient basis to conclude that additional records exist.

[22] As a result, I find that the town's search for responsive records was reasonable.

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<sup>7</sup> At paragraph 17.

**ORDER:**

I uphold the town's search and dismiss the appeal.

Original Signed by: \_\_\_\_\_  
Anda Wang  
Adjudicator

\_\_\_\_\_ June 3, 2025