

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-4662

Appeal MA25-00008

City of Hamilton

June 6, 2025

**Summary:** On May 22, 2024, an individual asked the City of Hamilton for records related to an investigation by a third-party organization. They appealed because the respondent did not issue a decision within the prescribed time limit. The decision-maker finds that the respondent has not issued a decision, and the request is deemed to have been refused. The decision-maker orders the respondent to issue a decision by June 20, 2025.

**Statutes Considered:** *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, sections 19 and 22.

### BACKGROUND:

[1] On May 22, 2024, the appellant submitted an access request to the City of Hamilton (the respondent) under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for records related to an investigation by a third-party organization, including draft and final reports, contract and final cost.

[2] On January 3, 2025, the appellant appealed to the Information and Privacy Commissioner of Ontario (the IPC) when the respondent failed to issue a decision to the appellant within 30 days of the access request. File MA25-00008 was opened.

[3] On April 13, 2025, the appeal was assigned to me as the case lead.

[4] On April 15, 2025, I asked the respondent whether a decision had been issued for

this request. The respondent sought additional information to identify this request, which I provided. But it did not address my question about whether a decision had been issued.

[5] On April 23, 2025, I asked the respondent for an update, advising that I would proceed to an expedited inquiry if I did not receive a response by April 30, 2025. I did not receive a response from the respondent.

[6] To prevent any further delays, I decided to conduct an expedited inquiry and issued a Notice of Expedited Inquiry on May 2, 2025, encouraging the respondent to issue a final decision by May 22, 2025. A final decision was not issued by this date.

[7] On May 22, 2025, I reminded the respondent of the deadline, but did not receive a response.

[8] Considering the above, and to ensure there are no further delays in processing this access request, I will order the respondent to issue a final access decision to the appellant.

## **DISCUSSION:**

[9] Section 19 of the *Act* states:

Where a person requests access to a record, the head of the institution to which the request is made or if a request is forwarded or transferred under section 18, the head of the institution to which it is forwarded or transferred, shall, subject to sections 20, 21 and 45, within thirty days after the request is received,

(a) give written notice to the person who made the request as to whether or not access to the record or a part thereof will be given; and

(b) if access is to be given, give the person who made the request access to the record or part thereof, and where necessary for the purpose cause the record to be produced.

[10] The circumstances giving rise to a deemed refusal are set out in section 22(4) of the *Act*. This section states:

A head who fails to give notice required under section 19 or subsection 21(7) concerning a record shall be deemed to have given notice of refusal to give access to the record on the last day of the period during which notice should have been given.

[11] Where a time extension is not issued, it is expected that, prior to the expiry of the 30-day time limit in section 19 of the *Act*, subject to sections 21 and 45 of the *Act*, written

notice will be given to the requester as to whether access to the record or a part thereof will be given and for access to the record to then be given to the requester. This is referred to as a final access decision. If a final access decision is not issued prior to the expiry of the 30-day time limit, the institution would be in a "deemed refusal" pursuant to section 22(4) of the *Act*.

[12] The appellant requested records on May 22, 2024. The respondent did not request an extension of time to respond to the access request. As of today, the respondent has not issued its final access decision despite the appellant filing this appeal with the IPC and me issuing a Notice of Expedited Inquiry, encouraging it to do so by May 22, 2025. As a final decision was not issued to the appellant within 30 days of the access request, the respondent is deemed to have refused the access request.

[13] Therefore, I find the respondent to be in a deemed refusal situation pursuant to section 22(4) of the *Act*.

[14] To ensure that there are no further delays, I will order the respondent to issue a final access decision to the appellant.

## **ORDER:**

1. I order the respondent to issue a final access decision to the appellant regarding access to the records in accordance with the *Act* without recourse to a time extension, by **June 20, 2025**.
2. To verify compliance, the respondent shall provide me with a copy by email of the decision referred to in provision 1 by **June 20, 2025**.

Original Signed by: \_\_\_\_\_

Kelley Sherwood  
Case Lead

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June 6, 2025