

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER PO-4668

Appeal PA24-00738

Ministry of the Solicitor General

June 17, 2025

Summary: On October 11, 2024, a public interest group asked the Ministry of the Solicitor General for records about examinations conducted on an animal kept at a marine-themed amusement park. It appealed because the ministry did not issue a decision within the prescribed time limit. The decision-maker finds that the ministry has not issued a decision, and the request is deemed to have been refused. The ministry is ordered to issue a final decision by July 2, 2025.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.3, as amended, sections 26 and 29.

BACKGROUND:

[1] On October 11, 2024, a public interest group (the appellant) asked the Ministry of the Solicitor General (the ministry) for access under the *Freedom of Information and Protection of Privacy Act* (the *Act*) for records related to veterinary and/or necropsy examinations conducted on an animal kept at a marine-themed amusement park.

[2] On December 5, 2024, the appellant appealed to the Information and Privacy Commissioner of Ontario (IPC) because the ministry failed to issue a decision within 30 days of the access request. File PA24-00738 was opened.

[3] On March 26, 2025, I asked the ministry whether a decision had been issued in response to the access request.

[4] On April 1, 2025, the ministry asked for additional information to assist in locating

the request. I then provided additional information and asked for a response by April 7, 2025. I did not receive a response.

[5] On April 11, 2025, I asked the ministry for an update and that it identify the analyst assigned to the request.

[6] On April 16, 2025, the ministry provided the name of the analyst assigned to the request.

[7] On April 22, 2025, I asked the analyst for an update by April 25, 2025, or I would issue a Notice of Expedited Inquiry. I did not receive a response.

[8] On April 30, 2025, I decided to conduct an expedited inquiry and issued a Notice of Expedited Inquiry, encouraging the ministry to issue a final decision by May 21, 2025. A final decision was not issued by this date.

[9] On May 22, 2025, I asked the ministry for an update. I did not receive a response.

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

DISCUSSION:

[11] Section 26 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 25, the head of the institution to which it is forwarded or transferred, shall, subject to sections 27, 28 and 57, 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.

[12] The circumstances giving rise to a deemed refusal are set out in section 29(4) of the *Act*. This section states:

A head who fails to give notice required under section 26 or subsection 28(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.

[13] Where a time extension is not issued, it is expected that, prior to the expiry of the 30-day time limit in section 26 of the *Act*, subject to sections 28 and 57 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 29(4) of the *Act*.

[14] The appellant requested records on October 11, 2024. The ministry did not request an extension of time to respond to the access request. As of today, the ministry 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 21, 2025. As a final decision was not issued to the appellant within 30 days of the access request, the ministry is deemed to have refused the access request.

[15] Therefore, I find the ministry to be in a deemed refusal situation pursuant to section 29(4) of the *Act*.

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

ORDER:

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

Original Signed by: _____

Michael Cusato
Case Lead

June 17, 2025 _____