Information and Privacy Commissioner,
Ontario, Canada

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

ORDER PO-4706

Appeal PA25-00171

Ministry of Infrastructure

August 21, 2025

Summary: On August 21, 2024, a media appellant asked the Ministry of Infrastructure for records about Ontario Place. They 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 final decision, and the request is deemed to have been refused. The ministry is ordered to issue a final decision by September 11, 2025.

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

OVERVIEW:

[1] On August 21, 2024, a member of the media (the appellant) asked the Ministry of Infrastructure (the ministry) for access under the *Freedom of Information and Protection of Privacy Act* (the *Act*) to:

- Minister Kinga Surma's calendar from June 1, 2024, to the present;
- all briefing notes, presentations and preparatory documents provided to the minister and her staff for the minister's briefing on Ontario Place; and
- all notes taken or generated by staff at the briefing on Ontario Place.

[2] On September 19, 2024, the ministry extended the time to respond to the

request by an additional 40 days until October 30, 2024.

[3] On March 6, 2025, the appellant appealed to the Information and Privacy Commissioner of Ontario (the IPC) because the ministry failed to issue a decision by the extended due date. File PA25-00171 was opened.

[4] On June 3, 2025, the IPC asked the ministry whether a final decision had been issued and for a response by June 17, 2025.

[5] On June 18, 2025, the IPC followed up with the ministry. The ministry advised that it had not yet issued a decision to the appellant and that it still needed a few months to complete the request.

[6] On June 19, 2025, the IPC asked for more details about the delay.

[7] On June 26, 2025, the ministry said that it was taking longer than expected to respond to the request.

[8] On July 3, 2025, I decided to conduct an expedited inquiry and issued a Notice of Expedited Inquiry, encouraging the ministry to issue a final decision by July 18, 2025. A final decision was not issued by this date.

[9] 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 decision to the appellant.

DISCUSSION:

[10] 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.

[11] 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.

[12] Once a time extension has been issued, it is expected that, prior to the expiry of the extension, 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 time extension, the institution would be in a "deemed refusal" pursuant to section 29(4) of the *Act*.

[13] The appellant requested records on August 21, 2024, and the ministry extended the time limit to respond until October 30, 2024. As a final access decision was not issued to the appellant by the extended due date and no decision has been issued to date, the ministry is deemed to have refused the access request.

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

[15] 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*, by **September 11, 2025**.

2. To verify compliance, the ministry shall provide me with a copy by email of the decision referred to in provision 1 by **September 11, 2025**.

Original Signed By: August 21, 2025
Kelley Sherwood,
Case Lead