

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 PO-4716

Appeal PA25-00173

Ministry of Transportation

August 28, 2025

**Summary:** On October 7, 2024, an individual asked the Ministry of the Transportation for emails sent to or received by the minister's chief of staff and director of policy about building a highway tunnel. 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 decision, and the request is deemed to have been refused. The ministry is ordered to issue a final decision by October 6, 2025.

**Statute 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 October 7, 2024, an individual (the appellant) asked the Ministry of Transportation (the ministry) for access under the *Freedom of Information and Protection of Privacy Act* (the *Act*) to emails sent to or received by the chief of staff and/or the director of policy to the Minister of Transportation using the following combination of search phrases: "401" AND "tunnel"; "Feasibility study" AND "tunnel"; "[a specific private sector organization]" AND "tunnel"; "[a specific private sector organization]" AND "[a specific union]" AND "tunnel" for the following time period: 6/1/2019 To 6/1/2020.

[2] On March 12, 2025, the appellant appealed to the Information and Privacy Commissioner of Ontario (the IPC) because the ministry failed to issue a decision to the appellant within 30 days of the access request. File PA25-00173 was opened.

[3] On June 19, 2025, the IPC asked the ministry whether a final access decision had been issued.

[4] On July 2, 2025, the ministry advised that it was working to issue a final decision. The ministry did not provide an expected date by which it planned to issue a decision.

[5] On July 9, 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 25, 2025.

[6] On July 24, 2025, the ministry advised it would not be able to issue a decision by July 25, 2025, as it had to give third party notice to an affected party for some records.

[7] On August 27, 2025, the ministry advised it intended to issue notices to the affected third parties by the end of the following week.

[8] 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:**

[9] 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.

[10] 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.

[11] Where a time extension is not claimed, or an interim decision/fee estimate 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 this 30-day time limit, the institution would be in a "deemed refusal" pursuant to section 29(4) of the *Act*.

[12] The appellant requested records on October 7, 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 July 25, 2025. As a final decision was not issued to the appellant within 30 days of the access request and no decision has been issued to date, the ministry is deemed to have refused the access request.

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

[14] 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 third party notices to affected parties by **September 5, 2025** and 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 **October 6, 2025**.
2. To verify compliance, the ministry shall provide me with a copy by email the notices to the affected parties referred to in provision 1 by **September 5, 2025** and a copy of the decision referred to in provision 1 by **October 6, 2025**.

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

Asma Mayat  
Case Lead

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August 28, 2025