

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER PO-4718

Appeal PA25-00056

Ministry of Transportation

August 28, 2025

Summary: On November 19, 2024, an individual asked the Ministry of Transportation for records about bike lanes. The ministry issued a fee estimate and then extended the time limit to respond to the request after the appellant paid the required fee deposit. The appellant appealed because the ministry did not issue a decision within the extended 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 access decision by September 18, 2025.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended sections 26 and 29.

OVERVIEW:

[1] On November 19, 2024, the appellant asked the Ministry of Transportation (the ministry) for access under the *Freedom of Information and Protection of Privacy Act* (the *Act*) to:

Electronic copies of all communications (including emails from public or private devices, reports, notes to file and voicemails) to or from the following people that mention the phrase "bike lanes": [list of specific ministry officials/staff]. Note: I do not need multiple copies of exact duplicates.

[2] On December 19, 2024, the ministry issued a fee estimate of \$120 and requested

a \$60 deposit to proceed with the request.

[3] On January 24, 2025, the appellant appealed to the Information and Privacy Commissioner of Ontario (the IPC) because the ministry failed to issue a decision within 30 days of the access request. File PA25-00056 was opened.

[4] On January 24, 2025, the appellant paid the full fee.

[5] On January 24, 2025, the ministry issued a time extension, extending the time to respond to the request for an additional 90 days until April 24, 2025.

[6] On May 20, 2025, the IPC asked the ministry whether a final access decision had been issued.

[7] On June 2, 2025, the ministry advised that it had not issued a final decision to the appellant. The ministry stated that it was undertaking consultations with other ministries about the requested records. The IPC sought additional details from the ministry, including when it expected to issue a final decision.

[8] On July 2, 2025, the ministry confirmed that a final access decision has not been issued.

[9] On July 7, 2025, I decided to conduct an expedited inquiry and issued a Notice of Expedited Inquiry, encouraging the ministry to issue a final access decision by July 23, 2025.

[10] On July 24, 2025, the ministry advised that it required additional time to respond to the access request. To date a final access decision has not been issued to the appellant.

[11] 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:

[12] Section 26 of the *Act* outlines the time parameters for an institution to respond to an access request:

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.

[13] Section 29(4) of the *Act* outlines the circumstances giving rise to a deemed refusal:

A head who fails to give the 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.

[14] Previous IPC orders have found that a decision to extend the time for responding to a request¹ and/or an interim decision/fee estimate² should be issued within the initial 30-day time limit for responding to a request.

[15] Where 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*.

[16] Previous IPC orders have found that issuing a time extension³ once the 30-day time limit has expired does not cure a deemed refusal.

[17] The appellant requested records on November 19, 2024. The ministry issued a fee estimate on December 19, 2024 and upon payment of the fee by the appellant on January 24, 2025, the ministry issued a time extension until April 24, 2025.⁴

[18] 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.

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

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

¹ Orders MO-1520-I, PO-2634.

² Orders P-234, M-439 M-581, MO-1748 and PO-2634.

³ Orders MO-1777, PO-2595 and PO-2634.

⁴ The ministry may have already been in a deemed refusal position given that its time extension may have been claimed after the 30-day time limit to do so. This is less relevant given that the ministry has not issued a decision by the extended due date.

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 18, 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 18, 2025**.

Original Signed by: _____

Asma Mayat
Case Lead

August 28, 2025