

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER PO-4732

Appeal PA23-00307

Ministry of Municipal Affairs and Housing

September 26, 2025

Summary: An individual made a request to the Ministry of Municipal Affairs and Housing under the *Freedom of Information and Protection of Privacy Act* for access to records of communication between the ministry and specified parties, including the City of Vaughan, regarding active park lands on specified land in Vaughan.

The ministry granted partial access to some records. The individual believes that additional records responsive to the request ought to exist. She appealed the ministry's decision and challenged the reasonableness of the ministry's searches.

In this order, the adjudicator finds that the additional records the appellant is seeking are outside the scope of the request. The adjudicator also finds that the ministry conducted a reasonable search as required by section 24 of the *Act* and dismisses the appeal.

Statute Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended, section 24.

Order Considered: Order P-880.

OVERVIEW:

[1] This order addresses whether records the appellant believes should have been located by the Ministry of Municipal Affairs and Housing (the ministry) in response to her access request are within the scope of the request. The order also considers whether the ministry conducted reasonable searches in response to the appellant's request as required

by section 24 of the *Freedom of Information and Protection of Privacy Act* (the *Act*).

[2] The appellant made a request under the *Act* for:

Correspondence between the City of Vaughan, [the ministry] and/or between [a specified entity] or their acting representatives regarding active park lands on prime agricultural greenbelt designated lands Block 41 in Vaughan.

Time period: May 1, 2020 to August 4, 2022

[3] After a period of delay, the ministry issued a final access decision and granted the appellant partial access to responsive records. The ministry indicated that it withheld portions of the records pursuant to the mandatory personal privacy exemption in section 21 of the *Act*.

[4] The appellant believes that responsive records ought to exist in addition to those identified by the ministry. The appellant appealed the ministry's decision to the Information and Privacy Commissioner of Ontario (IPC).

[5] During the mediation stage of the appeal process, the appellant confirmed that she is not pursuing access to the information withheld by the ministry in the released records. The possible application of section 21 to the withheld information is therefore not at issue in this appeal. The appellant provided the mediator with a written description of the additional records she is seeking, specifically records of correspondence between the ministry and York Region.

[6] The ministry takes the position that the additional records described by the appellant are outside the scope of the request, which is for correspondence between the ministry and the City of Vaughan. Mediation did not resolve the appeal.

[7] The file was transferred to the adjudication stage, where an adjudicator may conduct an inquiry. I decided to conduct an inquiry and invited and received representations from the parties.

[8] In this order, I find that the additional records sought by the appellant are outside the scope of the request. I also find that the ministry has conducted reasonable searches for responsive records, as required by section 24 of the *Act*.

PRELIMINARY ISSUE

[9] In this appeal, the appellant raises concerns about the procedural fairness of the ministry's response to their request. These concerns focus on the ministry's delay in responding to the request and what the appellant calls its "abuse" of the third party notice procedure.

[10] As noted above, there was a period of delay before the ministry issued a final access decision to the appellant. The ministry did not issue a final access decision within the time period prescribed by the *Act* and the appellant appealed to the IPC. Appeal file PA23-00124 was opened to deal with the issue of the ministry's deemed refusal.¹ After the ministry issued the final access decision, appeal file PA23-00124 was closed. Accordingly, the issue of the ministry's delay in responding to the appellant's request has been determined and I will not consider it in this order.

[11] The issues in this appeal arise from the ministry's final access decision, specifically, the ministry's interpretation of the scope of the request and the reasonableness of its searches.

ISSUES:

- A. What is the scope of the appellant's request? Are the additional records that the appellant is seeking responsive to the request?
- B. Did the ministry conduct a reasonable search?

DISCUSSION:

Context of this appeal: land use permissions for Greenbelt lands

[12] The subject matter of the request in this appeal is a Minister's Zoning Order (MZO) affecting specified lands in Vaughan² and a private landowner's request for an amendment to the Official Plan of York Region 2010 that was adopted by the York Regional Municipality at its Regional Council on October 28, 2021. This amendment is known as the Regional Official Plan Amendment ("ROPA7") and was placed before the Minister for decision as the ultimate approval authority under the *Planning Act, 2006*. The appellant and the ministry both state that, ultimately, the Minister did not make a decision on ROPA7.

[13] It is the appellant's position that although the Minister did not make a decision on ROPA7, the private landowner's request for amendment to the Official Plan of York Region 2010 that was adopted by the York Municipality has resulted in a policy shift. The appellant states that her request arises from this perceived change in policy regarding land use permissions to allow active parkland on designated prime agricultural Greenbelt land. Specifically, the request relates to an identified block of land in Vaughan.

[14] The appellant's representations focus on this contextual background and their

¹ Section 29(4) of the *Act* outlines the circumstances where an institution may be in a position of deemed refusal.

² The Minister's Zoning Order is contained in O. Reg 644/20.

concerns regarding changes in land use permissions on Greenbelt lands. The appellant distinguishes this context from the government's proposal to remove selected lands from the Greenbelt plan.³ I assure the appellant that I have read her representations and acknowledge the context of the request. However, I have not reproduced all the appellant's representations in this order. Below, I summarise the submissions that I find are relevant to the two issues in this appeal.

Issue A: What is the scope of the appellant's request? Are the additional records that the appellant is seeking responsive to the request?

[15] Section 24 of the *Act* imposes certain obligations on requesters and institutions when submitting and responding to requests for access to records. This section states, in part:

(1) A person seeking access to a record shall,

(a) Make a request in writing to the institution that the person believes has custody or control of the record, and specify that the request is being made under this Act;

(b) Provide sufficient detail to enable an experienced employee of the institution, upon a reasonable effort, to identify the record;

...

(2) If the request does not sufficiently describe the record sought, the institution shall inform the applicant of the defect and shall offer assistance in reformulating the request so as to comply with subsection (1).

[16] To be considered responsive to the request, records must "reasonably relate" to the request.⁴ Institutions should interpret requests generously, in order to best serve the purpose and spirit of the *Act*. Generally, if a request is unclear, the institution should interpret it broadly rather than restrictively.⁵

Ministry's representations

[17] The ministry's position is that the appellant's request provides sufficient detail to identify responsive records. The ministry submits that the scope of the request is clear and accordingly, it was not obliged to contact the appellant for clarification under section 24(2) of the *Act*.

[18] The ministry states that the appellant's request unambiguously identified the types

³ The government announced its proposal to amend the Greenbelt plan on November 4, 2022, which is after the appellant submitted her request to the ministry. The proposal was subsequently reversed.

⁴ Orders P-880 and PO-2661.

⁵ Orders P-134 and P-880.

of records being sought, specifically “correspondence” relating to prime agricultural greenbelt designated lands Block 41 in Vaughan. The ministry states that the request identified the relevant time period and the parties to the correspondence that the appellant is seeking. The ministry states that the request clearly identified the City of Vaughan, the ministry and another specified entity or its representatives as parties to the correspondence.

[19] The ministry explains that Ontario’s system of local governance is comprised of three types of municipalities: the lower tier, upper tier and single tier municipalities. Municipalities are corporations. The ministry states that the City of Vaughan, the municipality specified in the appellant’s request, is a lower tier municipality within the Regional Municipality of York (York Region), which is an upper tier municipality. The ministry states that the City of Vaughan is a distinct legal entity from York Region and that both are separate institutions under the municipal version of the *Act*.

[20] The ministry submits that it interpreted the appellant’s request as seeking records of correspondence between the ministry and the City of Vaughan. The ministry’s position is that correspondence between the ministry and York Region (which the appellant explained during mediation is the correspondence she is seeking) is outside the scope of the appellant’s request. The ministry submits that its interpretation of the request is not restrictive, but it is reasonable because the appellant is experienced in submitting requests under the *Act* and has used precision in the wording of her requests.

[21] The ministry also relies upon the fact that the appellant has indicated that at the time she made the request, she did not understand that the communications she is seeking would have occurred predominantly between the ministry and York Region but had assumed that the City of Vaughan would be involved in the relevant correspondence.

[22] The ministry states that the IPC has previously held that a finding that a record falls outside the scope of a request does not preclude a requester from making a new request for the records they are seeking.⁶ The ministry states that it has advised the appellant that she is entitled to make a new request for records of correspondence involving York Region.

Appellant’s representations

[23] As already noted, the appellant’s representations provide context for the request. The appellant explains that she seeks access to the records to understand the government’s policy shifts relating to permitted land use in designated Greenbelt land.

[24] The appellant states that the land specified in the request was the subject of a private landowner’s request as part of ROPA7. The appellant states that ROPA7 was not approved but she believes that the landowner’s request became policy in the York

⁶ The ministry cites order PO-3492.

Region's official plan in November 2022.

[25] Further, the appellant states that the specified land was the subject of an MZO and that the MZO process is between the lower tier municipality of the City of Vaughan and the ministry and excludes regional government. The appellant states that she had hoped that there may have been records of correspondence as the MZO requested parks on Greenbelt lands, which were excluded from the approval.

[26] The appellant states that she did not specifically identify the MZO or ROPA7 in the request as she is seeking any records "generally discussing" a policy shift to allow active parkland on Greenbelt designated prime agricultural land.

[27] The appellant's position is that while she may have "erred" in the wording of the request, she did not realise it at the time. The appellant submits that when she made the request, she did not anticipate that communications regarding the specified lands in Vaughan would be submitted to the ministry through York Region. The appellant submits that this only occurred to her during the mediation stage of the appeal process.

[28] The appellant acknowledges that her request was "not perfect" but submits that the ministry's submission that she is an expert is "unfair". The appellant submits that the ministry did not state that the scope of the request was limited to exclude York Region nor did it attempt to clarify the scope of the request as required by section 24(2) of the *Act*.

Appellant's additional representations

[29] The appellant provided additional representations after reviewing Interim Order PO-4611-I, which was issued by the IPC on February 20, 2025. The appellant states that after reading that order, she became concerned that this appeal may be "prejudiced" since the scope and timeframe differ from the Greenbelt amendment, which was the subject matter of the request in Interim Order PO-4611-I.

[30] The appellant states that this appeal is not "technically" related to the government's proposal to amend the Greenbelt nor is it informed by any of the findings of the Auditor General or the Integrity Commissioner in their reports.⁷ Notwithstanding these submissions, the appellant also expresses concern that the records she is seeking may not have been captured by the ministry and preserved like the records relating to the Greenbelt amendment.⁸

⁷ In Interim Order PO-4611-I, the IPC made findings based on the *Special Report on Changes to the Greenbelt*, published by the Auditor General in August 2023 and the *Report of the Integrity Commissioner re: Minister of Municipal Affairs and Housing*, published in August 2023.

⁸ The appellant refers to Interim Order PO-4449-I, which dealt with the ministry's preservation of Greenbelt records.

Ministry's reply representations

[31] In reply, the ministry states that the appellant "concedes" that she made a mistake in her request, which is based upon a misunderstanding that the communications regarding ROPA7 occurred between the ministry and the City of Vaughan, rather than York Region. The ministry reiterates that any records of these communications with York Region are outside the scope of the appellant's request. The ministry submits that it is not required to produce records that fall outside the scope of the request, which would set a troubling precedent.

Analysis and findings

[32] For the reasons that follow, I find that the additional records that the appellant is seeking, specifically, records of correspondence between the ministry and York Region are outside the scope of her request.

[33] As noted above, a responsive record "reasonably relates" to the request.⁹ In Order P-880, the adjudicator considered the test for "relevancy" and stated:

In my view, the need for an institution to determine which documents are relevant to a request is a fundamental first step in responding to the request. It is an integral part of any decision by a head. The request itself sets out the boundaries of relevancy and circumscribes the records which will ultimately be identified as being responsive to the request.

[34] I agree with this approach and adopt it in this appeal. It is the appellant's request that sets the boundaries of relevancy and determines the records that are responsive to the request. Adopting this approach, I find that the scope of the request does not include *all* correspondence relating to the specified subject of park lands on prime agricultural Greenbelt designated land. In the request, the appellant identifies the entities whose correspondence she is seeking. These entities do not include York Region. I accept the ministry's submission that York Region is a separate legal entity to the City of Vaughan. Accordingly, I am not persuaded that the scope of the request includes records of correspondence between the ministry and York Region.

[35] I also accept the ministry's submission that the appellant's request is clear and unambiguous. From my review of the request, I find that it provides clear parameters about the types of records being sought, the relevant time period and entities and the subject matter of the records.

[36] From the wording of the request and the appellant's representations, it is clear that the appellant seeks records of correspondence. The time period for the request is clearly defined from May 1, 2020 to August 4, 2022. The appellant seeks correspondence between specified parties, namely the City of Vaughan, the ministry and an identified

⁹ Orders P-880 and PO-2661.

entity or their acting representatives. Finally, the appellant requests records relating to active park lands on prime agricultural Greenbelt designated land in respect of a specified block in Vaughan.

[37] I accept the appellant's submission that the request was written with the intention of capturing a general discussion about policy changes in respect of land planning and use. I also accept that the appellant intentionally avoided referring to ROPA7 or the MZO. However, I am not persuaded that the generality of the request is sufficiently broad in its scope to include correspondence between the ministry and York Region, which is not an entity specified in the request. As I have noted, it is the specific language used in the request that defines its scope.

[38] I agree with the ministry that the appellant's request does not contain ambiguity. I am not persuaded that the request is either broad or vague such that it is unclear what records the appellant is seeking.

[39] From my review of the appellant's request, I find that it does not contain defects so that an experienced ministry employee could not use reasonable effort to search for responsive records.

[40] Accordingly, I find that the ministry was not obliged to seek clarification from the appellant under section 24(2) of the *Act*.

[41] I accept the appellant's submission that she had expected the records of correspondence she is seeking to have been sent between the ministry and the City of Vaughan. However, the appellant acknowledges that since submitting her request, she has learned that this expectation was wrong and was based upon a misunderstanding of the land use planning process. Accordingly, I find that if there is a defect, it lies in the appellant's understanding of the ROPA7 process but there is no defect in the parameters of the request.

[42] For this reason, I am not satisfied that the ministry is obliged to read into the clear wording of the request an amendment to correct the appellant's misunderstanding.

[43] I acknowledge the appellant's submission that there was delay in the ministry issuing a final access decision to the appellant. Notwithstanding this delay, I am not persuaded that it demonstrates that the ministry has unreasonably interpreted the scope of the request. The appellant expresses concern that the ministry has somehow been influenced by third parties to limit the scope of the request. There is no reasonable basis for me to find that this is the case. The request identifies entities other than the appellant and the ministry, who qualify as parties whose interests may be affected by the ministry's decision to release records to the appellant or "third parties". Having identified third parties, section 28 of the *Act* obliges the ministry to notify them of the request and provide an opportunity for them to comment.

[44] I accept the ministry's submission that it contacted third parties pursuant to its

statutory obligations under section 28 of the *Act*.

A new request for the records sought

[45] The ministry submits that the IPC has previously held that a finding that a record is outside the scope of a request does not preclude a requester from submitting a new request under the *Act* for the records she is seeking.¹⁰ The ministry has also advised the appellant that she can make a new request under the *Act*.

[46] The appellant submits that the ministry's position is unreasonable and that she anticipates encountering other "obstacles" should she make a further request.

[47] I agree with the ministry's submission. Although I acknowledge that there was some initial delay before the ministry issued an access decision, I am not persuaded that this is a reasonable basis for anticipating obstacles if the appellant makes a new request under the *Act*. My finding that the records the appellant is seeking are outside the scope of the request is without prejudice to her right to submit a new request identifying the records of correspondence that she believes exist.

Issue B: Did the ministry conduct a reasonable search?

[48] When a requester claims that records exist in addition to those identified by an institution, the issue to be decided is whether the institution has conducted a reasonable search for records as required by section 24 of the *Act*.¹¹ If the institution can demonstrate that the search carried out was reasonable, the IPC will uphold the institution's decision. Otherwise, the IPC may order the institution to conduct a further search for records.

[49] Although a requester will rarely be in a position to indicate precisely which records the institution has not identified, they must still provide a reasonable basis for concluding that such records exist.¹²

[50] The *Act* does not require the institution to prove with certainty that further records do not exist.¹³ However, the institution must provide enough evidence to show that it has made a reasonable effort to identify and locate responsive records.¹⁴

The ministry's representations

[51] The ministry's position is that it conducted a reasonable search. The ministry states that following receipt of the appellant's request, it notified staff in the relevant divisions, branches and offices of the request, who carried out searches.

¹⁰ See Order PO-3492.

¹¹ Orders P-85, P-221 and PO-1954-I.

¹² Order MO-2246.

¹³ *Youbi-Misaac v. Information and Privacy Commissioner of Ontario*, 2024 ONSC 5049 at para 9.

¹⁴ Orders P-624 and PO-2559.

[52] The ministry states that in the Municipal Services Division, the Manager of Community Planning and Development in the Municipal Services Office for the Central Region (the Manager) conducted a search. The ministry submits that the Manager is an experienced employee who is knowledgeable in the subject matter of the request, specifically the MZO affecting the specified land and ROPA 7. The ministry states that staff in the Municipal Services Division were involved in drafting the MZO and reviewing materials related to ROPA7.

[53] The ministry states that the Manager carried out the initial searches in the Municipal Services Division in August 2022 and located responsive records. The ministry states that it issued an access decision in respect of these records in May 2023. The Manager then carried out a supplementary search in November 2023 after receiving notification of this appeal. The ministry states that the Manager located additional responsive records in the supplementary search and it issued a supplementary access decision.

[54] The ministry provided an affidavit from the Manager describing their searches.

Manager's affidavit

[55] The Manager states that she has been in her position in the Municipal Services Offices for over five years and she has extensive experience dealing with requests under the *Act* and identifying responsive records in the ministry's custody or control.

[56] The Manager provides details of her professional experience as a planner and her knowledge of the landowner's request regarding the specified land that is the subject matter of the appellant's request under the *Act*. The manager explains that she oversaw the staff who worked on the development of the relevant MZO and reviewed material for ROPA7. The manager explains that ROPA7 was a private landowner application made to the York Region. The Manager states that although the Minister is the approval authority for the adopted official plan amendment under the *Planning Act*, ultimately the Minister made no decision on it.

[57] The Manager states that in August and September 2022 she searched Outlook for responsive records using a list of search terms, including "active parkland", "ROPA 7", "Block 41" and "City of Vaughan". In addition, the Manager searched using the names of the entity specified in the request and the names of the landowners and their representatives. The Manager lists these names in the affidavit.

[58] The Manager explains that she also searched the virtual folders on Outlook to see all email items that matched the specific search terms. In addition, the Manager states that she directed the key staff to undertake searches of their own, including searches of the ministry's shared drive. The Manager explains that the ministry's shared drive is organized by geography and then specific subjects and that there are files specific to MZOs.

[59] The Manager states that she located responsive records and the ministry issued an access decision to the appellant.

[60] The Manager explains that following the appeal to the IPC, she conducted a supplementary search in November 2023. The Manager states that this search was informed by the information received from the appellant during the appeal process. In particular, the Manager states that the supplementary search included a search for records relating specifically to the MZO for the specified land. The Manager states that this search located additional responsive records, including records that are already publicly available.

[61] The Manager states that the ministry issued supplementary access decisions in respect of these additional records.

[62] The Manager states that all locations where responsive records could exist have been searched. The Manager states that she is unable to comment on whether it is possible that responsive records that may have at one time existed are no longer available. However, she refers to the ministry's record retention schedules that have been developed in accordance with the *Archives and Recordkeeping Act, 2006*.

Appellant's representations

[63] The appellant's position is that the ministry's searches were not reasonable. The appellant states that between the time she submitted her request to the ministry until the release of the records, "every indication given...suggested a large volume of records." The appellant states that the ministry only released 43 pages of records, most of which are publicly available.

[64] The appellant submits that because the ministry applied a literal interpretation to the request, it used a limited number of search terms. The appellant submits that the ministry unreasonably failed to combine search words to locate responsive records. The appellant also states that it is unclear from the Manager's affidavit whether all the program areas notified of the request conducted searches or whether the Minister's office conducted a search of records of the Minister's correspondence.

Ministry's reply representations

[65] In reply, the ministry submits that the appellant was mistaken to rely upon the access fee as an indication that there were voluminous records responsive to the request. The ministry states that the access fee is determined based on the time required to search for potentially responsive records rather than the volume of responsive records that might be located.

[66] The ministry submits that it reasonably used search terms to locate responsive records. The ministry explains how the combination of search terms suggested by the appellant is redundant and unnecessary. The ministry states that the Manager who

conducted the searches managed the team of staff that worked on the files related to the appellant's request and is familiar with the records. The ministry states that the Manager did not identify any gaps in the records she located based on the search terms she used.

[67] The ministry states that the Manager only carried out her search in the Municipal Services Division. However, the ministry clarified its position set out in its initial representations that the staff in other notified divisions carried out searches of their divisions and that staff from the Minister's office met with the ministry's Freedom of Information office to discuss the appellant's request. The ministry states that the staff in the Minister's office did not indicate that it had responsive records.

Analysis and findings

[68] For the reasons that follow, I find that the ministry has conducted reasonable searches for responsive records, as required by section 24 of the *Act*.

[69] I find that the Manager has the requisite knowledge and experience in the Municipal Services Division to carry out the ministry's searches. I accept the Manager's evidence that she oversaw the team of staff who worked on the development of the MZO that is the subject of the request and reviewed material for ROPA7. I also find it reasonable that the ministry notified staff in other relevant areas of the request, including the Minister's office. I accept the ministry's submission that staff in the Minister's office met with its Freedom of Information office staff to discuss the request and where responsive records were likely to be located.

[70] Regarding the search terms used in the ministry's searches, I find that the list of terms is comprehensive. From my review of the search terms listed in the Manager's affidavit, I am satisfied that the list includes terms describing the matters of interest to the appellant and drawn directly from their request, namely "active parkland", "Block 41", the amendment to the York Region Official Plan ("ROPA7") and the geographical location of interest ("City of Vaughan"). The search terms also include the entity specified in the request and the names of all the relevant landowners and their representatives.

[71] In addition, after the appellant provided the ministry with a description of the records she is seeking during mediation, I accept the Manager's evidence that she conducted supplementary searches using the search term "MZO". I am satisfied that these search terms are reasonable to locate responsive records.

[72] I do not agree with the appellant's submission that the ministry applied a literal approach in the search terms that were used and that the words "active", "parkland", "Greenbelt", "prime agricultural" and "agricultural" were unreasonably excluded from the list. I am not persuaded that using these additional search terms would have located the additional records that the appellant is seeking. I accept the ministry's submission that use of the search term "ROPA7" would identify records relating to the proposed

amendment to the Official Plan affecting Greenbelt lands designated prime agricultural. I agree that the use of the additional search terms proposed by the appellant is therefore redundant to locate responsive records.

[73] Given that the appellant specifically seeks records of correspondence, I find it reasonable that the Manager searched for responsive records in emails held on Outlook. I also accept the Manager's evidence that she searched the folders of files relating to the geographical area specified in the request and the files specific to the MZO. I find that it was reasonable for the ministry to search for responsive records in these locations, where responsive records were likely to be found.

[74] As I have noted above, the appellant expresses concern that this appeal is prejudiced because the request is not informed by the findings in the reports of the Auditor General or the Integrity Commissioner and does not relate to the government's proposal to amend the Greenbelt. The appellant states that the records she is seeking may not have been captured by the ministry and preserved in the way that records relating to the Greenbelt amendment have been preserved on the ministry's internal SharePoint drives.

[75] The Manager has provided evidence of the ministry's record retention schedules. I accept that these retention schedules are developed as part of the ministry's obligations under the *Archives and Recordkeeping Act, 2006*.

[76] There is no basis for me to find that this appeal is "prejudiced". The subject matter of this appeal is not the proposed Greenbelt amendment that the government announced in November 2022, which was after the appellant submitted her request to the ministry.

[77] In the circumstances of this appeal, I have kept in mind that the appellant remains dissatisfied with the ministry's response to her request because the ministry has not conducted searches to locate correspondence with the Region of York relating to the "downgrading of Greenbelt lands to facilitate land use permissions that support adjacent development outside of the Greenbelt." I have found that records of correspondence with the Region of York are outside the scope of the request. The *Act* does not require the ministry to search for non-responsive records.

[78] For these reasons, I uphold the ministry's searches as reasonable.

ORDER:

Appeal dismissed.

Original Signed by:
Katherine Ball
Adjudicator

September 26, 2025