



OFFICE OF THE  
INFORMATION & PRIVACY  
COMMISSIONER  
— for —  
British Columbia

Order 02-09

**CITY OF WHITE ROCK**

David Loukidelis, Information and Privacy Commissioner  
February 27, 2002

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**Summary:** The applicants made an access request to the City that contained a number of elements and asked for answers to questions. In disclosing some responsive records, making others available for inspection, and answering questions raised in the request, the City discharged its duty to assist the applicants under s. 6(1) of the Act.

**Key Words:** duty to assist – adequacy of search – respond without delay – respond openly, accurately and completely – every reasonable effort.

**Statutes Considered:** *Freedom of Information and Protection of Privacy Act*, s. 6(1).

**Authorities Considered: B.C.:** Order 00-15, [2000] B.C.I.P.C.D. No. 18.

## 1.0 INTRODUCTION

[1] The three applicants in this case live in the City of White Rock (“City”). In late March 2001, they sent a letter to the City and asked for records that would answer a series of questions related principally to the City’s Official Community Plan, together with additional questions regarding, for example, economic issues and storm and sewer management. The City responded in the latter part of April by providing answers to a number of the questions, by (in answer to other questions) referring the applicants to various records available for viewing or purchase and by saying there were no records or information that could answer other questions. The City also invited the applicants to contact City staff to arrange for viewing or copying the records the applicants required.

[2] It appears that, on two occasions, the applicants viewed some of the records that the City had available for viewing. They then asked the City to retain the other records for viewing in the future. The City agreed to do this. By a letter dated May 14, 2001, the applicants requested a review of the City's handling of their request, citing ss. 6 and 53 of the *Freedom of Information and Protection of Privacy Act* ("Act"). The applicants wrote to the City two days later and asked for copies of records that they listed in their letter. The City responded soon after that by quoting a copying fee for some of the records and inviting the applicants to contact staff regarding the other items.

[3] During mediation of the applicants' request for review, the City clarified two aspects of the request. It also denied access to one record that it later disclosed to the applicants. The applicants were apparently not satisfied with the results of mediation by this Office. I therefore held a written inquiry under Part 5 of the Act. Although the Notice of Written Inquiry that this Office issued lists denial of access to one record as a second issue, there is no need for me to deal with it, as the City has since disclosed the record.

## 2.0 ISSUE

[4] The only issue in this case is whether the City complied with its duty under s. 6(1) of the Act in responding to the applicants' request. Previous orders have established that the burden of proof in such cases is on the public body.

## 3.0 DISCUSSION

[5] **3.1 Did the City Fulfil Its s. 6(1) Duty?** – Section 6(1) of the Act requires public bodies to "make every reasonable effort to assist applicants and to respond without delay to each applicant openly, accurately and completely". I have discussed in many orders – for example, Order 00-15, [2000] B.C.I.P.C.D. No. 18 – the principles that apply to public bodies in their efforts to assist applicants in searching for records.

[6] The City told me that its freedom of information co-ordinator spent 21 hours in responding to the applicants' request, which

... required extensive research as records had to be located, reports needed to be requested, persons had to be interviewed and personal information from citizens had to be severed.

[7] The City says it waived search fees in connection with the request in an effort to be open and accountable, as it was in the process of dealing with the City's Official Community Plan, the main topic of interest in the request. The City describes how it arranged two viewings of records by the applicants and notes that it agreed to the applicants' request to retain records for future viewing. It also says it later made other records available to the applicants, clarified some items and disclosed a record to which it had earlier refused access.

[8] The City points out that the applicants have not specified what it is they are complaining about regarding the City's handling of their request. The City says it knows of no other basis on which the applicants could complain about what was done here. Further, in its reply submission, the City says some elements of the applicants' request were vague or unclear.

[9] The applicants' submissions focus on their view that the City did not clearly identify records which were responsive to their request, particularly with respect to the part of the request that requested records related to work done by the City on two ravines. They appear to interpret this alleged lapse as a refusal to provide access to those records. I note that the City's response letter of April 26, 2001 informs the applicants that it has three studies on the ravines available for viewing. The City's response identifies a number of other records that appear to respond to the applicants' request, so it is not clear to me how the City failed to identify responsive records.

[10] The applicants also argue the City did not meet its s. 6(1) duty to assist them and, in so arguing, provide follow-up questions on elements of the City's response to their request. Strictly speaking, these are not freedom of information issues, in the sense of requests for access to records under the Act. They are, rather, questions that the applicants should direct to the City. On this point, I note that the City – commendably, but not out of any legal duty – answered a number of questions that formed part of the original request. Again, it is not clear to me how the City could be said to have failed in its duty to assist the applicants in this respect.

[11] The applicants also say they do not understand why the City refused access to a record which it later disclosed. They raise a number of questions along these lines in their reply submission. Although they invited me to deal with this issue in this inquiry, I see no reason to do so. The City has provided access to the record and it would serve no useful purpose for me to examine the City's reasons for not providing it in the first instance.

[12] I find that the City has fulfilled its s. 6(1) duty to the applicants.

#### **4.0 CONCLUSION**

[13] Given my finding that the City fulfilled its s. 6(1) duty to the applicants, no order is necessary under s. 58.

February 27, 2002

#### **ORIGINAL SIGNED BY**

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David Loukidelis  
Information and Privacy Commissioner  
for British Columbia