

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2016-30

July 27, 2016

ALBERTA ENVIRONMENT AND PARKS

Case File Number 002700

Office URL: www.oipc.ab.ca

Summary: The Applicant made an access request to Alberta Environment and Parks (the Public Body) pursuant to the *Freedom of Information and Protection of Privacy Act* (the Act) for all communication records related to the Climate Leadership Plan and climate change strategy. The Public Body responded and confirmed that it had received the access request and would attempt to process the request in the time allotted by the Act. The Public Body provided a fee estimate to the Applicant and the Applicant requested a fee waiver. On March 10, 2016, the Applicant provided the deposit the Public Body had requested. The Applicant did not receive a response to his access request from the Public Body following this payment.

The Adjudicator found that the Public Body did not respond to the Applicant within the time limit set out in section 11 of the Act. Therefore, the Adjudicator ordered them to do so.

Statutes Cited: **AB:** *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 11, and 72.

I. BACKGROUND

[para 1] On December 15, 2015, the Applicant made an access request to Alberta Environment and Parks (the Public Body) pursuant to the *Freedom of Information and*

Protection of Privacy Act (the Act) for all communication records related to the Climate Leadership Plan and climate change strategy. Specifically he stated:

I request all communication records related to the Climate Leadership Plan and climate change strategy. I specifically request all correspondence and strategic communication plans involving the Minister's Office, Deputy Minister's Office, Communications Department. Please note that duplicates may be excluded, as can drafts. In addition, emails may be restricted to final strings where the final string shows the entirety of the conversation.

Timeframe: May 5, 2015 - Date Received

I also request all records related to this request to be provided electronically, whether email or digital media, including the final record and correspondence.

[para 2] On January 8, 2016, the Public Body responded and confirmed that it had received the access request and would attempt to process the request in the time allotted by the Act.

[para 3] On January 13, 2016, the Public Body provided a fee estimate to the Applicant and requested half of the estimate as a deposit. The Public Body stated that the processing of the Applicant's request had ceased pending the receipt of the deposit.

[para 4] On January 29, 2016, the Applicant requested a fee waiver. On March 10, 2016, the Applicant provided the deposit the Public Body had requested. To date, the Applicant has not received a response from the Public Body following the payment of the deposit.

[para 5] On March 30, 2016 the Office of the Information and Privacy Commissioner received a Request for Review from the Applicant. On June 28, 2016, the Office of the Information and Privacy Commissioner issued a Notice of Inquiry. I received submissions from the Public Body.

II. ISSUE

[para 6] The Notice of Inquiry dated June 28, 2016 states the issue in this inquiry as follows:

Did the Public Body comply with section 11 of the Act (time limit for responding)?

III. DISCUSSION OF ISSUE

Did the Public Body comply with section 11 of the Act (time limit for responding)?

[para 7] Section 11 of the Act states:

11(1) The head of a public body must make every reasonable effort to respond to a request not later than 30 days after receiving it unless

(a) that time limit is extended under section 14, or

(b) the request has been transferred under section 15 to another public body.

(2) The failure of the head to respond to a request within the 30-day period or any extended period is to be treated as a decision to refuse access to the record.

[para 8] The Public Body acknowledges that it has missed the deadline imposed by section 11. It states that this was not intentional and was caused by the complex nature of the request, the volume of records (approximately 8,000 pages currently), and extensive program area consultation. In addition, the Public Body is dealing with a higher than usual volume of access requests and staffing shortages. It submitted:

During the processing of this file AEP received over 1160 access requests and the Advisor processing this file was assigned 193 access requests for processing. A combination of staffing shortages and a higher than usual volume of requests has had a significant impact on the processing of all access received. AEP acknowledges that a response to this FOIP request is significantly past due and that it is an anomaly in that regard.

[para 9] Finally, the Public Body states that it has been in regular contact with the Applicant to provide status updates and hopes to have its review completed in the next few months.

[para 10] I understand that the complexity of the request, volume of records and lack of resources with which to process the volume of requests received by the Public Body are serious issues the Public Body is having to deal with when attempting to respond to this specific access request. I also appreciate that the Public Body has attempted to keep the Applicant informed of the progress of his access request. While I sympathize with the predicament in which the Public Body currently finds itself, section 11 of the Act sets out a statutory obligation which has not been met. Therefore, I find that the Public Body has breached section 11 of the Act.

IV. ORDER

[para 11] I make this Order under section 72 of the Act.

[para 12] I find that the Public Body did not respond to the Applicant within the time limit set out in section 11 of the Act. While it is too late for the Public Body to now comply with that section of the Act, I order the Public Body to respond to the Applicant in accordance with the Public Body's remaining duties under the Act.

[para 13] I order the Public Body to notify me in writing, within 50 days of being given a copy of this Order, that it has complied with it.

Keri H. Ridley
Adjudicator