

ALBERTA

OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

ORDER F2017-19

February 8, 2017

ALBERTA ENVIRONMENT AND PARKS

Case File Number 004366

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). The Public Body acknowledged it did not respond to the Applicant within the time frame of section 11 of the Act. The Adjudicator ordered the Public Body to comply with the Act.

Statutes Cited: **AB:** *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 11, 14, 72.

I. BACKGROUND

[para 1] This inquiry arises from a request for records made by the Applicant to Alberta Environment and Parks (the Public Body) on July 27, 2016. He requested “All business cases, briefing notes, “advice to minister” and “advice to deputy minister” notes relating/referring to the Cypress Hill Provincial Park and Cypress Hill Interprovincial Park”. The Applicant states that the Public Body has not responded to the access request. The Applicant has therefore requested review by the Commissioner of the Public Body’s compliance with section 11 of the Act.

II. ISSUE

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

III. DISCUSSION OF ISSUE

[para 2] 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 3] The Applicant's request for access to information was received by the Public Body on August 2, 2016.

[para 4] The Public Body wrote the Applicant on August 4, 2016 and indicated the Applicant would receive the Public Body's response on September 1, 2016.

[para 5] The Public Body's submission to this inquiry states:

During the month this request was received [the Public Body] received over 192 access requests and the former two Advisors in charge of processing this file left the department. Due to the unforeseen staffing situation and a higher than usual volume of requests received by [the Public Body] this has had a significant impact on the processing of all access received. [The Public Body] acknowledges that a response to this FOIP request is significantly past due.

Currently this access request has approximately 318 pages that require a line by line review of the records. [The Public Body] will continue to ensure the applicant is updated on a regular basis regarding the status of this request and work diligently to complete this file.

[para 6] Section 14 of the Act states:

14(1) The head of a public body may extend the time for responding to a request for up to 30 days or, with the Commissioner's permission, for a longer period if

(a) the applicant does not give enough detail to enable the public body to identify a requested record,

(b) a large number of records are requested or must be searched and responding within the period set out in section 11 would unreasonably interfere with the operations of the public body,

(c) *more time is needed to consult with a third party or another public body before deciding whether to grant access to a record, or*

(d) *a third party asks for a review under section 65(2) or 77(3).*

(2) *The head of a public body may, with the Commissioner's permission, extend the time for responding to a request if multiple concurrent requests have been made by the same applicant or multiple concurrent requests have been made by 2 or more applicants who work for the same organization or who work in association with each other.*

(3) *Despite subsection (1), where the head of a public body is considering giving access to a record to which section 30 applies, the head of the public body may extend the time for responding to the request for the period of time necessary to enable the head to comply with the requirements of section 31.*

(4) *If the time for responding to a request is extended under subsection (1), (2) or (3), the head of the public body must tell the applicant*

(a) *the reason for the extension,*

(b) *when a response can be expected, and*

(c) *that the applicant may make a complaint to the Commissioner or to an adjudicator, as the case may be, about the extension.*

[para 7] The Public Body did not provide me with any evidence that it exercised its options under section 14. I therefore find the Public Body was to respond to the Applicant within 30 days of August 2, 2016. I find it failed to do so.

[para 8] The submissions of the Public Body are of concern to me. While acknowledging it failed to meet its obligations under the Act, the Public Body states it will continue to “update the applicant on a regular basis regarding the status of this request”. I have no indication the Public Body updated the Applicant on this matter at any time since August 4, 2016.

[para 9] I find the Public Body has failed to meet its obligations under section 11 of the Act.

IV. ORDER

[para 10] I make this Order under section 72 of the Act.

[para 11] I find the Public Body did not respond to the Applicant within the time limit set out in section 11 of the Act.

[para 12] I order the Public Body to respond to the Applicant in accordance with the Public Body's remaining duties under the Act. The Public Body is to respond to the request for access to information.

[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 the Order.

Neena Ahluwalia Q.C.
Adjudicator