

ALBERTA

OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

ORDER F2018-30

July 18, 2018

SENIORS AND HOUSING

Case File Number 009048

Office URL: www.oipc.ab.ca

Summary: On June 26, 2017, the Applicant made an access request to Seniors and Housing (the Public Body) pursuant to the *Freedom of Information and Protection of Privacy Act* (the Act) that stated the following:

I request all briefing notes that were created as a result of or in preparation for meetings between the Minister and Deputy Minister...

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.

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

I. BACKGROUND

[para 1] On June 26, 2017, the Applicant made an access request to Seniors and Housing (the Public Body) pursuant to the *Freedom of Information and Protection of Privacy Act* (the Act) that stated the following:

I request all briefing notes that were created as a result of or in preparation for meetings between the Minister and Deputy Minister...

[para 2] The Applicant's request included a proposed schedule for the continuing request.

[para 3] On July 4, 2017, the continuing request and schedule for each installment were clarified as follows:

A copy of briefing materials provided to the Minister for a meeting between the Minister and Deputy Minister. Briefing materials include attachments, which are limited to the following: the actual briefing note, presentations, memorandums, and reports related to the briefing note. Duplicates and drafts are excluded.

[para 4] A table of dates for the continuing request were attached.

[para 5] On July 20, 2017, a fee estimate was issued for the first request. The Applicant requested a fee waiver, which was partially denied. The Applicant paid the fees on March 22, 2018. The Public Body advises that those fees will be refunded to the Applicant for fairness reasons.

[para 6] The Public Body asked for, and was granted, a time extension for the first installment by this Office pursuant to section 14(1)(b) of the Act. The Applicant was advised by the Public Body that the new response date was December 11, 2017.

[para 7] As part of responding to the Applicant access request, the Public Body had to consult with various public bodies and provided status updates to the Applicant. As well, according to the Public Body:

During the processing of the first installment, the second to fifth installments were opened on the scheduled activation dates and put on hold pending the 50% fee deposits for the specific installments. Installments 2 through 4 were closed as abandoned and the Applicant withdrew the fifth and remaining installments for this continuing request.

During the processing of this continuing request, Seniors and Housing received the Applicant's "FOIP the FOIP" request on May 2, 2018 whereby the Applicant is requesting all records related to the processing of the continuing request SAH-2017-G-0019.

[para 8] On June 29, 2018, the Applicant requested a review of the Public Body's failure to respond to the request.

II. ISSUE

[para 9] The Notice of Inquiry dated July 4, 2018 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 10] 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 11] The Public Body admits that it has missed the timelines set out in section 11 of the Act and apologizes for doing so.

[para 12] 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 13] I make this Order under section 72 of the Act.

[para 14] 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 15] 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