

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2021-44

November 18, 2021

ALBERTA JUSTICE AND SOLICITOR GENERAL

Case File Number 018980

Office URL: www.oipc.ab.ca

Summary: An Applicant made an access request to Alberta Justice and Solicitor General (Public Body) under the *Freedom of Information and Protection of Privacy Act* (the Act) on March 14, 2017. The Public Body acknowledged the request, and provided a fee estimate.

The Applicant requested a fee waiver from the Public Body. The Public Body denied this request, and the Applicant asked for an inquiry regarding that decision. That inquiry concluded in August 2020 (Order F2020-24). After the conclusion of the inquiry, the Public Body restarted processing the Applicant's request. It extended its time to respond to the Applicant by 30 days, under section 14(1)(b) of the Act. The Applicant requested a review of this extension, and subsequently an inquiry.

Following its 30-day extension, the Public Body requested and received two further time extensions from this Office. The last extension expired in August 2021. On August 9, 2021, the Public Body requested a further extension of 90 days. The Commissioner denied this request. As such, and because the Public Body has not yet responded to the Applicant, the Commissioner decided to hold an inquiry into the Public Body's failure to respond to the Applicant's request.

The Adjudicator ordered the Public Body to respond to the Applicant's access request as required by the Act.

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

I. BACKGROUND

[para 1] The Applicant made an access request to Alberta Justice and Solicitor General (Public Body) under the *Freedom of Information and Protection of Privacy Act* (the Act) in March 2017.

[para 2] The Public Body acknowledged receipt of the request on March 15, 2017; it issued a fee estimate on March 29, 2017. The Applicant requested a fee waiver from the Public Body. The Public Body denied this request, and the Applicant asked for an inquiry regarding that decision. That inquiry concluded in August 2020 (Order F2020-24). After the conclusion of the inquiry, the Public Body restarted processing the Applicant's request. It extended its time to respond to the Applicant by 30 days, under section 14(1)(b) of the Act. The Applicant requested a review of this extension, and subsequently an inquiry.

[para 3] Following its 30-day extension, the Public Body requested and received two further time extensions from this Office. The last extension expired in August 2021. On August 9, 2021, the Public Body requested a further extension of 90 days. The Commissioner denied this request. As such, and because the Public Body has not yet responded to the Applicant, the Commissioner decided to hold an inquiry into the Public Body's failure to respond to the Applicant's request.

II. RECORDS AT ISSUE

[para 4] As the issue in this inquiry relates to the timeliness of the Public Body's response, there are no records at issue.

III. ISSUE

[para 5] The Notice of Inquiry, dated October 27, 2021, states the issue for this inquiry as follows:

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

IV. DISCUSSION OF ISSUE

[para 6] Section 11 of the Act requires a public body to make every reasonable effort to respond to an access request no later than 30 days after receiving the request. 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 7] In its submission, the Public Body acknowledged that it did not comply with section 11 of the Act. It states that it is actively processing the Applicant's request.

[para 8] The Public Body must make every reasonable effort to respond to an access request in 30 days. Given the expiration of the Public Body's extended deadline, and the Public Body's acknowledgement that it did not comply with section 11 of the Act, I find that the Public Body failed to make every reasonable effort to respond within the timelines provided in the Act.

V. ORDER

[para 9] I make this Order under section 72 of the Act.

[para 10] 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 11] I further 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.

Amanda Swanek
Adjudicator