

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2022-51

October 13, 2022

CITY OF LETHBRIDGE

Case File Number 027242

Office URL: www.oipc.ab.ca

Summary: An Applicant made an access request to the City of Lethbridge (Public Body) under the *Freedom of Information and Protection of Privacy Act* (the Act) dated February 1, 2022.

By April 26, 2022, the Public Body had not responded to the Applicant's request and the Applicant requested a review of the Public Body's failure to respond.

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 two access requests to the City of Lethbridge (Public Body) under the *Freedom of Information and Protection of Privacy Act* (the Act) dated February 1, 2022. One request was for specific records relating to the Applicant and one was for general information about a contract between the Public Body and Alberta Health Services. This inquiry relates to the latter request for general information.

[para 2] On April 26, 2022, the Applicant requested a review of the Public Body's failure to respond to the request.

II. RECORDS AT ISSUE

[para 3] 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 4] The Notice of Inquiry, dated September 16, 2022, 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 5] 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; it 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 6] In his request for review, the Applicant states that he communicated with the Public Body about his access requests but ultimately did not receive a response under the Act. He states:

I submitted, in person, both a personal and general request for information on February 1st, 2022. I followed up with a phone call a few days later to [DS] to confirm he received my requests. He acknowledged receipt of my requests and I informed him there were outstanding fees for my requests. I asked if he would like payment at that time. He informed me that I would be notified later of the costs.

I called [DS] 6 weeks later, on March 16th to follow up on my pending requests. During our conversation he informed that the documents were ready, but he needed clearance to release them. He said I could expect the documents by email on Friday, March 18th. I called again two weeks later to follow-up on Thursday, March 24th. [DS] explained at that time that he was swamped with FOIP requests regarding the "Last Cat Ranch" closure. I attempted again to follow-up with [DS] on April 14th and left a message on his voice mail. He has not returned my call at the time of this letter.

[para 7] The Public Body did not provide a submission to this inquiry. As such, I have no explanation or argument from the Public Body on this matter.

[para 8] The Public Body must make every reasonable effort to respond to an access request in 30 days, subject to extensions under section 14. There is no indication that the Public Body extended its time to respond to the Applicant under section 14, nor is there any indication that the Public Body responded to the Applicant in the time since the Applicant's request for review was made to this office. Given the expiration of the Public Body's deadline, and a lack of explanation from the Public Body, 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