

**ALBERTA**

**OFFICE OF THE INFORMATION AND PRIVACY  
COMMISSIONER**

**ORDER F2017-25**

February 14, 2017

**ALBERTA ENVIRONMENT AND PARKS**

Case File Number 004372

**Office URL:** [www.oipc.ab.ca](http://www.oipc.ab.ca)

**Summary:** An Applicant made an access request dated August 16, 2016 to Alberta Environment and Parks (Public Body). The Public Body acknowledged receipt of the request on August 24, 2016 but has not yet provided a response as required by the Act.

The Applicant requested a review of the time taken by the Public Body 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, Freedom of Information and Protection of Privacy Regulation, Alta. Reg. 186/2008, s.14.

**I. BACKGROUND**

[para 1] An Applicant made an access request dated August 16, 2016, to Alberta Environment and Parks (Public Body). The Public Body acknowledged receipt of the request by letter dated August 24, 2016, stating that it would endeavor to have the response completed within 30 days, and gave a "request due date" of September 19, 2016.

[para 2] The Public Body sent the Applicant a fee estimate dated August 26, 2016, and a second fee estimate dated September 8, 2016.

[para 3] On November 18, 2016, this office received the Applicant's request for a review of the Public Body's failure to respond.

## **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 January 25, 2017, states the issue for this inquiry as follows:

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

## **III. 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] The Public Body provides the following timeline in its submission, regarding the Applicant's access request:

- Aug. 23/16 - access request received.
- Aug. 26/16 - Advisor issued a fee estimate on 200,000 pages of records with a due date to respond by Sept. 15/16.
- Sept. 28/16 - received a narrowed scope of the request from the applicant.
- Sept. 29/16 - sent out a revised search for records to program areas.
- Oct. 14/16 - program area informed Advisor would still be 200,000 pages of records.
- Advisor informed applicant.
- Dec. 21/16 - Advisor issued abandonment letter to applicant.

[para 8] The Public Body also states that many factors, such as a significant increase in FOIP requests and large volumes of records, have contributed to the delay in responding to the Applicant.

[para 9] The Public Body did not provide copies of any correspondence it sent to the Applicant, such as the abandonment letter. It also did not explain why it sent the abandonment letter. Possibly, the Applicant did not pay the 50% of the fee estimate as required by the Regulation. Section 14(1) of the Regulation states, in part:

*14(1) Processing of a request ceases once a notice of estimate has been forwarded to an applicant and recommences immediately on the receipt of an agreement to pay the fee, and on the receipt*

*(a) of at least 50% of any estimated fee that exceeds \$150,*

...

[para 10] If an applicant does not pay the fee as required by the Regulation, the public body is permitted to stop processing the request, which affects the 30-day limit to respond set out in section 11 of the Act.

[para 11] However, the Public Body has not argued that the Applicant refused to pay the required fee, nor did it provide any evidence to support such a finding. Further, the Public Body's submission indicates that it was the cause of the delay in responding to the Applicant's request. Therefore, it is reasonable to conclude that the Public Body failed to make every reasonable effort to respond within the timelines provided in the Act.

#### **IV. ORDER**

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

[para 13] 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 14] 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 Swaneke  
Adjudicator