

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2017-26

February 23, 2017

ALBERTA JUSTICE AND SOLICITOR GENERAL

Case File Number 004729

Office URL: www.oipc.ab.ca

Summary: An Applicant made an access request on January 19, 2016, to Alberta Justice and Solicitor General (the Public Body) under the *Freedom of Information and Protection of Privacy Act* (the Act). The Public Body acknowledged receipt of the request and corresponded with the Applicant to clarify his request.

On December 7, 2016, this office received a request for review from the Applicant, as he had not yet received a response by the Public Body 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] An Applicant made an access request dated January 19, 2016, to Alberta Justice and Solicitor General (the Public Body) under the *Freedom of Information and Protection of Privacy Act* (the Act). This request was stamped as received on February 11, 2016.

[para 2] With his request for review, the Applicant provided copies of correspondence between him and the Public Body. By email dated February 11, 2016, the Public Body asked the Applicant to clarify his request. The Applicant responded by email dated

February 17, 2016. After further clarifications, all occurring via email on February 17, 2016, the Public Body told the Applicant it would begin processing his request.

[para 3] The Applicant followed up with the Public Body via email dated September 6, 2016. The Public Body responded the same day, informing the Applicant that his request would be processed that week.

[para 4] The Applicant followed up again with the Public Body; the final follow-up email provided to me is dated November 29, 2016. No response from the Public Body to that email was provided to me.

[para 5] On December 7, 2016, this office received a request for review from the Applicant of the time taken by the Public Body to respond to his request.

[para 6] In its submission to the inquiry, the Public Body stated that it responded to the Applicant's request on January 25, 2017.

[para 7] By letter dated February 15, 2017, I asked the Applicant whether he was interested in continuing with this inquiry, addressing only the timeliness of the Public Body's response under section 11 of the Act. I advised him that any new issues (such as the application of any exception to access) would not be added to the inquiry.

[para 8] The Applicant responded via email on February 23, 2017, stating that he wishes to pursue the inquiry on the issue of the timeliness of the Public Body's response.

II. RECORDS AT ISSUE

[para 9] 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 10] The Notice of Inquiry, dated January 24, 2017 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 11] 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 12] Although the Public Body has now responded to the Applicant as required by the Act, section 11 of the Act requires a public body to make every reasonable effort to respond to an access request in 30 days. In its submission, the Public Body acknowledges that it did not comply with this provision.

[para 13] Therefore, I find that the Public Body failed to make every reasonable effort to respond within the timelines provided in the Act.

V. ORDER

[para 14] I make this Order under section 72 of the Act.

[para 15] I find that the Public Body did not respond to the Applicant within the time limit set out in section 11 of the Act. As the Public Body has now responded to the Applicant's access request, it is not necessary for me to order the Public Body to respond to the Applicant under the Act.

Amanda Swanek
Adjudicator