

ALBERTA

OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

ORDER F2017-75

October 13, 2017

EXECUTIVE COUNCIL

Case File Number 006443

Office URL: www.oipc.ab.ca

Summary: On August 18, 2016, the Applicant made an access request to Communications and Public Engagement formerly the Public Affairs Bureau) of Executive Council (the Public Body) pursuant to the *Freedom of Information and Protection of Privacy Act* (the Act) for “...all records relating/referring to the Climate Leadership Plan, Bill 20 (Implementation of the Climate Leadership Plan), and/or the carbon levy (carbon tax, carbon pricing)...”

The Applicant did not receive a response to his access request from the Public Body.

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. Therefore, the Adjudicator ordered them to do so.

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

I. BACKGROUND

[para 1] On August 18, 2016, the Applicant made an access request to Communications and Public Engagement formerly the Public Affairs Bureau) of Executive Council pursuant to the *Freedom of Information and Protection of Privacy Act* (the Act) for “...all

records relating/referring to the Climate Leadership Plan, Bill 20 (Implementation of the Climate Leadership Plan), and/or the carbon levy (carbon tax, carbon pricing)...”

[para 2] The Public Body received the request and began process the request. During that time, one affected public body was identified and consulted with. The consultation process commenced on September 28, 2017. While the Public Body updated the Applicant about the processing of his request, the Public Body did not respond to the request.

[para 3] On July 5, 2017, the Applicant requested a review of the Public Body’s failure to respond to the request. On September 14, 2017, the Office of the Information and Privacy Commissioner issued a Notice of Inquiry. I received submissions from the Public Body.

II. ISSUE

[para 4] The Notice of Inquiry dated September 14, 2017 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 5] 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 6] The Public Body acknowledges that it has missed the deadline imposed by section 11. It explains that workload, staffing issues, volume of records, and consultation process are the reason for the delay in responding to the Applicant’s access request. It further states it expects to respond to the Applicant’s request by December 1, 2017.

[para 7] 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 8] I make this Order under section 72 of the Act.

[para 9] 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 10] 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