

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2018-58

October 2, 2018

CITY OF CALGARY

Case File Number 009292

Office URL: www.oipc.ab.ca

Summary: On March 13, 2018, the Applicant made an access request under the *Freedom of Information and Protection of Privacy Act* (the FOIP Act) to the City of Calgary (the Public Body).

On May 18, 2018, the Applicant requested review by the Commissioner of the Public Body's failure to respond to his access request.

The Commissioner directed that the matter proceed to inquiry. The Public Body responded to the access request prior to the inquiry. The Adjudicator noted that the Public Body had not complied with section 11, but as it had now responded to the Applicant, she did not make an order requiring it to respond.

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] On March 13, 2018, the Applicant made a request for access under the *Freedom of Information and Protection of Privacy Act* (the FOIP Act) to the City of Calgary (the Public Body).

[para 2] The Public Body acknowledged receipt of the access request on March 14, 2018.

[para 3] On April 26, 2018, the Applicant contacted the Public Body to find out why he had not yet received records. The Public Body explained that it was having difficulty formatting the records into the Applicant's chosen format.

[para 4] On May 10, the Applicant contacted the Public Body to learn the status of his access request. The Public Body stated that it could not provide a date for its response. It informed the Applicant that he could request review by the Commissioner.

[para 5] On May 18, 2018, the Applicant requested review of the Public Body's failure to respond to his access request.

[para 6] The Commissioner agreed to conduct an inquiry and delegated her authority to conduct the inquiry to me.

[para 7] On August 23, 2018, the Public Body responded to the Applicant. It informed this office of its response on August 24, 2018.

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

[para 8] 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 9] The Public Body confirms that it did not meet its duty under section 11 of the FOIP Act. However, the Public Body has now responded to the Applicant and taken the additional step of refunding the initial fee paid by the Applicant.

[para 10] As the Public Body has now responded to the Applicant, there is no benefit to be gained from ordering the Public Body to respond to the Applicant and I will not make an order directing it to respond in this case.

III. ORDER

[para 11] I make this Order under section 72 of the Act.

[para 12] I confirm that the Public Body did not meet its duty to take all reasonable steps to respond to the Applicant within the terms of section 11 of the Act.

[para 13] As the Public Body has now responded to the Applicant's access request, I will not make an order requiring it to perform its duty to respond to the Applicant. However, I ask that it review its processes regarding responding to an applicant, so that it may align them with the requirements of section 11 of the Act in the future.

Teresa Cunningham
Adjudicator