



OFFICE OF THE
INFORMATION & PRIVACY
COMMISSIONER
— for —
British Columbia

Order 00-45

INQUIRY REGARDING CITY OF WHITE ROCK'S HANDLING OF A REQUEST

David Loukidelis, Information and Privacy Commissioner
October 5, 2000

Quicklaw Cite: [2000] B.C.I.P.C.D. No. 49

Order URL: <http://www.oipcbc.org/orders/Order00-45.html>

Office URL: <http://www.oipcbc.org>

ISSN 1198-6182

Summary: Applicants requested lists of suppliers who received payments under \$10,000 for fiscal years ending 1996, 1997, 1998. City provided 1998 list first and 1996 and 1997 lists later; City found to have complied with duty under s. 6(1) to respond accurately and completely to the request.

Key Words: duty to assist – respond openly, accurately and completely – every reasonable effort.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, ss. 6(1) and (2).

Authorities Considered: B.C.: Order 00-15, Order 00-26; Order 00-42.

1.0 INTRODUCTION

On October 13, 1999, the applicants sent a request under the *Freedom of Information and Protection of Privacy Act* (“Act”) to the Minister of Municipal Affairs, requesting lists of suppliers of goods and services to the City of White Rock (“City”) who had received payments of less than \$10,000 each, for the fiscal years ending December 31 in each of 1996, 1997 and 1998.

They also sent a request dated October 27, 1999 to the Minister of Finance and Corporate Relations, requesting a 32-page “working file report”, from which staff at the City had compiled information on suppliers of goods and services who had received payments of less than \$10,000 each from the City in the fiscal year ending December 31, 1998.

Both ministries referred the applicants’ requests to the City. The Ministry of Municipal Affairs did this on October 19, 1999, while the Ministry of Finance and Corporate Relations did so on October 29, 1999. The City acknowledged the two requests on

November 2, 1999 and provided a fee estimate of \$1,950 for producing the requested records manually, for preparing them for disclosure and for handling them. It added a fee of \$18.75 for copying the records.

The City gave the applicants a “copy of the 1998 List of Suppliers under \$10,000” on November 12, 1999. Its covering letter indicated that this response answered both the 1998 part of the applicants’ October 13 request and their October 27 request. The City also said it would not charge the applicants anything to retrieve, produce, prepare or handle the records; it offered to make the lists available for viewing without charge. If the applicants wished a copy, the City said, a fee of \$8 would be payable for supplying copies of the 32-page report. It said that if the format of the list met the intent of the applicants’ requests, then staff would proceed to prepare similar reports for 1996 and 1997. It asked the applicants to let the City know what their position was on this proposal.

The applicants wrote to the City on November 20, 1999, saying that “This heavily censored document does not satisfactorily address our 13th of October 1999 F.O.I. request ...[nor] our October 27th, 1999, F.O.I. request”. They requested that the City supply the information without further delay.

The City next wrote to the applicants on November 26, 1999 to say that it would be providing copies of the 1996 and 1997 lists to the public no later than January 31, 2000. On January 14, 2000 the City wrote once again to the applicants to remind them that they had received a copy of the 1998 list of suppliers who had received payments of less than \$10,000 “amended to provide information that was applicable to the figure requested only” (*i.e.*, to delete payments of over \$10,000 to suppliers). The City also provided a complete copy of the 1998 list, with no “amendments”. It also told the applicants it would be supplying the 1996 and 1997 lists of suppliers under \$10,000 to the public by the end of January 2000. It appears the City made these two lists publicly available at the end of January 2000.

The applicants wrote to this Office in February 2000 and requested a review of the City’s handling of their requests. They said they had yet to receive the information they had requested on October 13, 1999. They said the information they had finally received from the City on January 31, 2000 did not “sum to the totals indicated in either White Rock’s 1996 or 1997 Financial Information Statements”. As the matter was not settled in mediation, I held an inquiry under s. 56 of the Act.

2.0 ISSUE

The issue in this inquiry is whether the City complied with its obligation under s. 6(1) of the Act to “make every reasonable effort to assist applicants and to respond without delay to each applicant openly, accurately and completely”. Although the Act is silent on the point, previous orders have placed the burden of proof on the public body to establish that it has complied with its s. 6(1) duties.

3.0 DISCUSSION

3.1 Procedural Objections – The applicants sent a series of letters to this Office in April and May of this year, before this Office had issued the Notice of Written Inquiry, expressing concern about due process. They provided no specifics about their concerns. To the extent that the applicants were concerned that they might not have the opportunity to be heard, however, the applicants were given an opportunity to participate fully in this inquiry and I have carefully considered both their representations and those of the City.

3.2 Applicable Standards – I have already dealt in several orders with the standards public bodies must meet under s. 6(1) in their efforts to assist applicants. See, for example, Order 00-15, Order 00-26 and, more recently, Order 00-42. There is no need to repeat myself here.

3.3 Did the City Fulfill Its Section 6(1) Duty? – The applicants argue that the City has disclosed more information than they had requested. They say that the three lists they had received in response to their freedom of information request included information on payments made to City employees and City councillors, information they had not requested.

They also argued that the information on the three lists contained discrepancies as compared to the City's Financial Information Statements (issued under the *Financial Information Act*) for the same three years. As an example, they said that total disbursements to suppliers who received less than \$10,000 from the City, as shown on the City's 1996, 1997 and 1998 *Financial Information Act* information statements (apparently those attached to their submission, although they do not say so), were different from total disbursements to suppliers and employees who had received less than \$10,000 for goods and services, as shown in the three lists they had received as a result of their requests.

The applicants also appear to argue that the City did not make every reasonable effort to assist them, in that the City did not comply with s. 6(2) of the Act. This section requires public bodies to create a record, if the record can be created from a machine-readable record in the custody or under control of the public body, using its normal computer hardware and software and technical expertise, and creating the record would not unreasonably interfere with the operations of the public body.

For its part, the City argues that the records the applicants requested were not readily available at the time of the request, although it does not explain why. The City said that, in November, its treasurer took the time to go through the 1998 records (which it says are normally called "Vendors Lists") and manually prepare the records to provide the exact information requested for that year.

Nowhere in its submissions does the City explain what "manually preparing" the records for disclosure meant in this case. When I asked for complete copies of the records it had produced in response to the applicants' requests, however, it provided me with two sets

of lists for each of 1996, 1997 and 1998, entitled “all payees to whom cheques were issued on accts payable system showing total amounts paid during year”, excluding “refunds of performance bonds and taxes etc”. One list for each year was complete while the other had certain payees and amounts struck out with black lines.

These latter lists are apparently what the City referred to as those “severed” or “amended to provide the information that was applicable to the figure requested only” (*i.e.*, amounts paid less than \$10,000) in its correspondence with the applicants and its submissions to me, although the City does not explicitly say so. I therefore deduce that “manually preparing” the records for disclosure in this case meant the City blacked out unwanted information to render the requested information readily ascertainable.

The City also says that, at the time of the request, it was preparing a five-year financial plan, completing the “1999 year end”, conducting the 1999 municipal election and dealing with Y2K issues. The City cites s. 6(2) of the Act and appears to suggest that preparing the records for disclosure (presumably, as noted above, by blacking out the unwanted information) would interfere unreasonably with its operations. It says that it made every effort to supply the information as quickly and cost-effectively as possible and says that it has since hired a freedom of information co-ordinator to help the City process freedom of information requests in a timely manner.

The City reminds me in its reply submissions that it initially severed the 1998 vendors lists to make more visible the exact information requested, *i.e.*, amounts of less than \$10,000 paid to suppliers. Upon learning that the applicants were upset with what they saw as a “censored” document, the City provided them with a full copy of the same 1998 list, showing all payees. The City again says that it provided both full and severed copies of the lists for 1996 and 1997 to the applicants at the end January 2000. It also reminds me that under s. 6(2) it is not required to create a record. (It should be noted here that I have not found it necessary to address application of s. 6(2) to this case.)

It is rare, in my experience, for applicants to complain that they have received too much information from a public body. I also do not believe the applicants in this case can have it both ways. They cannot complain, on the one hand, that they were given too much information, in the form of complete lists of payees for 1996, 1997 and 1998, and on the other hand complain that they received “censored” lists, with the unwanted information on amounts of more than \$10,000 removed, leaving intact the information they requested, regarding payments of less than \$10,000.

As for the alleged discrepancies, the City does not address the applicants’ complaint that the amounts under \$10,000 paid out in the three years in question – as shown in the *Financial Information Act* information statements – are not the same as those in the vendors lists. I note that the figures the applicants refer to in the financial information statements as being amounts of less than \$10,000 paid out to suppliers are called “Total amount of payments made to all other suppliers of goods and services”, while each of the vendors lists gives “no. [number] of payees under [\$10,000]”, followed by a dollar figure.

It is not clear from the material before me if these two categories of information refer to the same kinds of payments.

Whether or not they do, however, is not, in my view, relevant to the issue before me. The issue is whether the City of White Rock complied with its duty under s. 6(1) of the Act when responding to the applicants' requests. The City argues, and I accept, that in providing the "amended" records, it provided the requested records showing payments of less than \$10,000 to suppliers for 1996, 1997 and 1998. Based on my review of the records that the City produced as those responsive to the requests – and in light of my consideration of the parties' submissions – I find that the City complied with its duty under s. 6(1) of the Act by responding openly, accurately and completely to the applicants' requests.

4.0 CONCLUSION

Because I have found that the City of White Rock complied with its duty under s. 6(1) in its handling of the applicants' requests, no order is necessary under s. 58(3) of the Act.

October 5, 2000

David Loukidelis
Information and Privacy Commissioner
for British Columbia