

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2017-46

May 9, 2017

ALBERTA JUSTICE AND SOLICITOR GENERAL

Case File Number 005285

Office URL: www.oipc.ab.ca

Summary: An Applicant made an access request dated April 26, 2016, to Alberta Justice and Solicitor General (Public Body). The Public Body acknowledged receipt of the request but has not yet provided a response as required by the *Freedom of Information and Protection of Privacy Act* (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.

I. BACKGROUND

[para 1] An Applicant made an access request dated April 26, 2016, to Alberta Justice and Solicitor General (Public Body) under the *Freedom of Information and Protection of Privacy Act* (the Act). The Public Body acknowledged receipt of the request by letter dated April 28, 2016.

[para 2] By letters dated January 17 and January 23, 2017, the Applicant requested an update from the Public Body on the progress of the access request. The Public Body

responded to the first letter on January 19, 2017, stating that it had received “an influx of access to information requests which have, unfortunately, resulted in a number of late files”; the Public Body also stated that it would respond as soon as possible.

[para 3] On February 22, 2017, 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 April 13, 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 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’s submission states:

In response to the Notice of Inquiry; the Public Body acknowledges that it did not comply with section 11 of the *FOIP Act*.

The Public Body has made this file a priority and is actively processing it and expects to be able to respond to the Applicant in the near future. As it is late in responding, all fees related to this file will be waived.

[para 8] The Public Body must make every reasonable effort to respond to an access request in 30 days. The Applicant’s access request is dated April 26, 2016. In its April 28, 2016 letter to the Applicant, the Public Body stated that it would make every reasonable

effort to respond by May 26, 2016; there is no indication that the Public Body extended this deadline.

[para 9] Given the above, and the Public Body's acknowledgement that it did not comply with section 11 of the FOIP Act, I find that the Public Body failed to make every reasonable effort to respond within the timelines provided in the Act.

V. ORDER

[para 10] I make this Order under section 72 of the Act.

[para 11] 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 12] 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 Swanek
Adjudicator