



F07-05-MS Lawyer Stymied in Hunt for Power Consumption Stats

A criminal lawyer who had occasional clients in the plant cultivation business concluded it might be a useful strategy to find out how much the amount of residential electrical consumption for residences varied over time. He asked the city to send him the monthly average electrical consumption for residential homes over a two-year period, as well as the yearly average.

The city responded by giving him year-by-year averages with per-house monthly consumption calculated by dividing the yearly total by 12 times the number of residential customers. It told him that it couldn't provide month-by-month averages through the year because its hydro department only reads meters bi-monthly. Convinced that the city wasn't being straight with him, the lawyer sought our assistance.

The city explained to us that, although it didn't keep month-by-month statistics, its computer programmer could print off information that would provide month-by-month statistics based on the number of meters actually read in each month. While the result would not reveal the total power consumption of residential homes each month, it would enable the type of comparison the lawyer was seeking. The lawyer was happy with this solution and in due course obtained the statistics he needed without charge. The solution was consistent with the purpose of section 6(2)(b) of the *Freedom of Information and Protection of Privacy Act*, which provides that a public body must create a record for an applicant if it can be created from a machine-readable record using normal software and expertise and if doing so would not unreasonably interfere with its operations.

The city had correctly responded to the request as it had originally been worded by the lawyer. Our contribution was merely to look beyond the literal meaning of the original request and look for a means by which the city could meet the lawyer's need. Unfortunately, in this case, distrust between the lawyer and city staff had posed an obstacle to finding creative solutions.