



Order F24-15

DISTRICT OF SUMMERLAND

Celia Francis
Adjudicator

February 29, 2024

CanLII Cite: 2024 BCIPC 21

Quicklaw Cite: [2024] B.C.I.P.C.D. No. 21

Summary: The District of Summerland (District) requested authorization under s. 43 of the *Freedom of Information and Protection of Privacy Act* to disregard ten outstanding requests from the respondent. The adjudicator found that the requests were both “systematic” and “excessively broad” and that responding to them would interfere unreasonably with the District’s operations. The adjudicator authorized the District to disregard the ten requests and, for three years, to respond to one request at a time from the respondent or his family.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, [RSBC 1996] c. 165, ss. 5(1)(a), 43(c)(i), 43(c)(ii).

INTRODUCTION

[1] The District of Summerland (District) is requesting authorization under ss. 43(a) and (c) of the *Freedom of Information and Protection of Privacy Act* (FIPPA) to disregard ten of the respondent’s 17 outstanding access requests. The District argues that the ten requests are frivolous and/or vexatious in nature, excessively broad, repetitious and/or systematic, and responding to them would unreasonably interfere with its operations.¹ The District is also requesting other forms of relief regarding his seven other outstanding requests and possible future requests.

[2] The respondent opposes the District’s s. 43 application, saying his requests were made in good faith and are not repetitious.²

¹ District’s initial submission of November 29, 2023, pp. 1 and 12. The District made its s. 43 application on November 9, 2023.

² Respondent’s response of November 30, 2023, paras. 1-3.

[3] For reasons given below, I have decided to grant the District's request in part, under ss. 43(c)(i) and (ii).

PRELIMINARY MATTERS

The seven other outstanding requests

[4] In its submissions, the District asks to respond to the other seven outstanding requests one at a time, before it starts work on any other requests.³ However, the District did not actually request authorization under s. 43 to disregard these seven requests. It also did not provide any argument or evidence about how s. 43 might apply to them. It simply asked to be excused from responding in the way that FIPPA requires.

[5] I find that these seven requests are not properly before me in this s. 43 application, so I will not consider them or make any decision about them.

[6] Further, I note that s. 7(3) says that the response timelines in ss. 7(1) and (2) do not apply to requests that are the subject of a s. 43 application. These seven requests were not the subject of a s. 43 application. Therefore, the District must respond to them in accordance with their respective FIPPA timelines.

Requests from family members

[7] The District said that, over the last three years, the respondent has made 79 access requests, of which his family members made 18 on his behalf. It noted that the family members' requests are similarly worded and structured to those of the respondent.⁴ The respondent admitted that some of the requests came from his family.⁵

[8] The District's submission indicates that the 10 requests at issue here all originated with the respondent.⁶ I need not, therefore, consider whether the family members' requests fall under s. 43(a) or (c).

[9] However, I can see that the family members' requests are indeed similarly worded and structured to those of the applicant. I accept that the family members made these requests on the respondent's behalf. Therefore, I have included the

³ The District received these seven requests between August 31 – November 8, 2023. They consist of requests for financial agreements, employment contracts, councillors' Union of BC Municipalities (UBCM) expenses and FOI request records.

⁴ District's initial submission, p. 1.

⁵ Respondent's response, para. 26.

⁶ Appendix A of the District's initial submission.

family members' requests when considering the burden the 79 earlier requests as a whole have placed on the District in the past and what relief is warranted.⁷

District wishes to add more requests

[10] On February 15, 2024, the District asked that it be allowed to add two new access requests from the respondent's family to its s. 43 application. (The District also noted that it had received almost identical requests from the public but said it planned to respond to these requests in line with FIPPA's timelines.)⁸

[11] The respondent and his family member objected to the District's requests to add these two requests to its s. 43 application. The respondent nevertheless asked to make new submissions to this inquiry in connection with those requests.⁹

[12] I acknowledge that the District asked in its s. 43 application that it be permitted to disregard any new requests from the respondent and his family that are dated after its s. 43 application (November 9, 2023) and that are similarly worded and structured to the ten requests at issue in this case. However, over three months have since passed and I do not consider it appropriate to permit the District to add new requests at this late date. In any event, I consider that the remedy I have authorized below will enable the District to manage these and any other new requests from the respondent and his family for the three-year time of this authorization.

ISSUES

[13] At this inquiry, I must decide the following issues:

1. Are the respondent's ten outstanding requests frivolous and/or vexatious within the meaning of s. 43(a)?
2. Would responding to the ten outstanding requests unreasonably interfere with the District's operations because they are excessively broad, repetitious and/or systematic within the meaning of s. 43(c) of FIPPA?
3. If the answer to either or both of the first two questions is yes, what relief, if any, is appropriate?

⁷ Former Commissioner Flaherty did the same in Order No. 137-1996, 1996 CanLII 754 (BC IPC).

⁸ District's emails of February 14 and 22, 2024 to OIPC.

⁹ Email of February 15, 2024 from family member to OIPC .

[14] The burden of proof is on the District to show that its s. 43 application should be granted.¹⁰

DISCUSSION

Section 43

[15] Section 43 gives the commissioner the power to grant the extraordinary remedy of authorizing a public body to disregard an access request. Sections 43(a) and (c) say:

43 If the head of a public body asks, the commissioner may authorize the public body to disregard a request under section 5 or 29, including because

(a) the request is frivolous or vexatious,

... or

(c) responding to the request would unreasonably interfere with the operations of the public body because the request

(i) is excessively broad, or

(ii) is repetitious or systematic.

[16] As stated in Order F23-98:¹¹

Public bodies do not have the authority under FIPPA to disregard access requests on their own. Authorizing a public body to disregard an access request is part of the Commissioner's oversight function.¹²

Given that relief under s. 43 curtails or eliminates the rights to access information, s. 43 applications must be carefully considered.¹³ Granting s. 43 applications should be the "exception" and not a mechanism for public bodies to avoid their obligations under FIPPA.¹⁴

However, s. 43 serves an important purpose. It exists to guard against the abuse of the right of access.¹⁵ It recognizes that when an individual overburdens a public body with access requests, it interferes with the ability of others to legitimately exercise their rights under FIPPA.¹⁶ In this way, s. 43

¹⁰ Order F21-31, 2021 BCIPC 39 (CanLII) at para. 12, for example.

¹¹ Order F23-98, 2023 BCIPC 114 (CanLII), at paras. 27-30.

¹² Order F18-25, 2018 BCIPC 28 (CanLII), at para. 14.

¹³ Auth (s. 43) 99-01. Available at <https://www.oipc.bc.ca/decisions/170> at page 3.

¹⁴ Auth (s 43) (19 December 1997), available at <https://www.oipc.bc.ca/decisions/168> at page 1.

¹⁵ Auth (s. 43) 99-01. Available at <https://www.oipc.bc.ca/decisions/170> at page 7.

¹⁶ Auth (s. 43) 99-01. Available at <https://www.oipc.bc.ca/decisions/170> at page 7.

is “an important remedial tool in the Commissioner’s armory to curb abuse of the right of access.”¹⁷

Relief under s. 43 is at the Commissioner’s discretion.¹⁸

[17] I agree with, and will apply, these principles below.

Background

[18] The District said that the respondent is “an active member and frequent critic” of the District and that he uses FIPPA, social media, Council meetings, complaints and litigation to raise issues with the District. The District added that the respondent’s requests have increased in volume, culminating in “a massive spike” in 2023.¹⁹

[19] The District said that the respondent has also filed a civil claim against the District and others. As part of this claim, the District said, the respondent has requested the same records in the form of “Demands for Documents” to the District.²⁰

[20] The respondent said he has been “deeply involved in local politics” and has attended nearly every council meeting since December 2022 “with the objective of holding Government accountable.” He said he provides advice to Summerland residents on how to use FIPPA and is a “source of information that the public can rely on for accuracy.” The respondent said he “has invested significant time and resources to find information through FOI requests.” The respondent said he is not being paid for his “public service” and has paid thousands of dollars to the District for his FOI requests since 2020.²¹

[21] The respondent’s submission indicates that he is suing the District and that he has complained to the District about a neighbour’s alleged bylaw infractions regarding the use of his property.²² His submission also shows that he actively uses social media to post about local news and issues, as well as the FIPPA issues he pursues with the District and with the Office of the Information and Privacy Commissioner (OIPC), including this s. 43 application.²³

¹⁷ *Crocker v British Columbia (Information and Privacy Commissioner)* 1997 CanLII 4406 at para. 33.

¹⁸ Order F22-61, 2022 BCIPC 69 (CanLII), at para. 56.

¹⁹ District’s initial submission, p. 1.

²⁰ District’s initial submission, p. 6 and Appendix B. Respondent’s response, paras. 98-102.

²¹ Respondent’s response, paras. 113, 116. All quotes in this paragraph are from para. 113.

²² Respondent’s response, Exhibit C.

²³ Respondent’s response, paras. 103-106 and Exhibit S. District’s reply, Appendix A.

[22] Several of the respondent's FIPPA access requests have led to OIPC files and orders.²⁴

Requests from 2019 to date of s. 43 application

[23] The District said that the respondent and his family members submitted 79 requests from 2019 to the date of this s. 43 application (November 9, 2023). The District provided tables of these 79 requests, by year. These tables show that the respondent or his family submitted 30 requests in 2023, 11 requests in 2022, 7 requests in 2021, 23 requests in 2020 and 8 requests in 2019.²⁵ Many of the 79 requests are multiple requests in one, so I find the actual number is much higher than 79, closer, in fact, to 180. The respondent does not dispute that these are requests he or his family made.

Requests at issue

[24] The District has requested authorization under s. 43 to disregard the following ten outstanding requests: 2023-32, 2023-33, 2023-37, 2023-38, 2023-39, 2023-40, 2023-45, 2023-46, 2023-48 and 2023-68.²⁶

FOI Number	Date Received	Scope
2023-32	2023 Jul 05	All emails sent or received by [staff member 1] from June 21 to July 2, 2022; and All emails sent or received by [staff member 2] from June 21 to 30, 2022.
2023-33	2023 Jul 05	All emails sent or received by [councillor 1] from February 10 to 26, 2021; and All emails sent or received by [Mayor] from February 10 to 26, 2021.
2023-37	2023 Jul 21	All communications sent or received by [Mayor, councillors 1 & 2, staff members 1, 3 & 4] from June 26-July 18, 2023 that include any of the following keywords: [respondent's surname], [respondent's first name], decorum, respect, rules, protocol, workplace, ban, draft, good, bad, idea, rant, [person's surname], clown, real, video, or Facebook.
2023-38	2023 Jul 25	All communications sent or received by [councillor 1] in 2023 that include any of the following keywords: [respondent's initials], [councillor 1's husband], FOI and UBCM All communications sent or received by [staff members 3 & 4] in 2023 that include the following keyword: [respondent's initials]
2023-39	2023 Jul 26	All communications sent or received by [Mayor, councillors 1 & 2, staff members 3 & 4] in 2023 that include any of the following keywords: Stupid, dumb, rude, idiot, angry, mad, stress, stressed, stressing, bully, bullied, bullying, prevent, stopped, sick, crap, and/or uncomfortable.

²⁴ Appendix A, District's initial submission. Respondent's response, paras. 4-24.

²⁵ Appendix A, District's initial submission.

²⁶ Appendix A, p. 1, District's initial submission.

FOI Number	Date Received	Scope
2023-40	2023 Jul 27	All emails sent or received by [councillor 1] from January 1, 2018 to May 31, 2018 that include any of the following keywords: RDOS, [councillor 1's husband], husband, communications, hire, job or experience. All emails sent or received by [councillor 1] from February 1, 2020 to July 31, 2020 that include any of the following keywords: [councillor 1's husband], husband, communications or coordinator.
2023-45	2023 Aug 10	All emails sent or received by [staff members 5-9] from May 22, 2019 to September 30, 2019 that include any of the following key words: charges, charged, RCMP, arrest, arrested, arresting, harass, harassed, harassing, harassment, trespass, trespassing, trespassed, suing, sued, sue, lawsuit or 7.6
2023-46	2023 Aug 10	All emails sent or received by [former mayor & six councillors] from May 9, 2019 to October 15, 2019 that include any of the following key words: charges, charged, RCMP, arrest, arrested, arresting, harass, harassed, harassing, harassment, trespass, trespassing, trespassed, suing, sued, sue, lawsuit, 7.6, or [respondent's first name].
2023-48	2023 Aug 30	All emails sent or received by [mayor, staff members 3 & 11] from April 1, 2023 to August 29, 2023 that include any of the following keywords: [address], food, Hub, or ranch.
2023-68	2023 Nov 02	All emails, including attachments, sent or received by [staff member 11 or 12] from July 1-November 2, 2023 that include the keywords [name of business], [neighbour's address], or "NFUA". If [name of business] is in an email address, that is within the search parameters and should be provided. And this request is for full email chains where either keyword is present.

[25] Based on this table, I find that the ten requests at issue are actually 14 individual requests.²⁷ However, for the purposes of this order, I will refer to them as the 10 outstanding requests.

Past requests

[26] Based on my review, I find that most of the 62 closed requests were worded and structured similarly to the requests at issue. They included requests for "all" records about the following topics: the respondent, his property and his bylaw complaints; the respondent's neighbour and his property (e.g., the respondent's bylaw complaints about the neighbour's use of his property, the neighbour's fines, permits, business licences, development permits, communications with the RCMP and other neighbours, a named business, stop work order); the respondent and his contact with the RCMP and council; the firing of an employee; various contracts, development permits and business permits; communications among staff and councillors; a local pier; a local fence; bylaw fines; staff and councillors' UBCM expenses.

²⁷ Request numbers 2023-32, 2023-33, 2023-39 and 2023-40 consist of two requests each.

Requests since November 9, 2023

[27] The District said that the respondent submitted two “information requests” on November 30, 2023. The District told the respondent it would answer the first request outside FIPPA and that the Respondent would need to make an access request for the second information request. He did so and the District responded. The respondent then followed up with three additional questions. The District told the respondent it would respond to two of the questions outside FIPPA and that an access request would be required for the third question.²⁸

[28] As noted above, on February 15, 2024, the District said the respondent’s family member submitted two new requests. These consist of requests for records on the District’s Chief Administrative Officer, one of which uses key words and a lengthy time frame.

Section 43(c)(i) – “excessively broad” – and s. 43(c)(ii) – “systematic”

[29] These provisions have two parts. In the case of s. 43(c)(i), the District must first show that each request is “excessively broad”²⁹ and, for s. 43(c)(ii), that each request is “systematic.”³⁰ The second step is for the District to show that responding to each request would unreasonably interfere with its operations. Below, I will decide if the requests are “excessively broad” and if they are “systematic” before deciding if responding to them would unreasonably interfere with the District’s operations.

What is an “excessively broad” request?

[30] FIPPA does not define “excessively broad.” Order F23-98 considered the interpretation of this term for the first time. The adjudicator in that case said that the first part of the test is whether the *request itself* is excessively broad and thus would result in an “overwhelming” or “inordinate” volume of responsive records. The adjudicator cited, as an example, an Ontario order³¹ which concluded an applicant’s requests were excessively broad because they generated over 23,000 pages of responsive records.³²

[31] Order F23-98 also concluded that the term “excessively broad” does not refer to the volume of records a public body must search through to identify the responsive records. Rather, the adjudicator said, the time and effort needed to

²⁸ District’s reply of December 12, 2023, paras. 20-22.

²⁹ Order F23-98, 2023 BCIPC 114 (CanLII), para. 32.

³⁰ Order F23-61, 2023 BCIPC 71, para. 48.

³¹ Ontario Order PO-4193, [2021 CanLII 98534 \(ON IPC\) | London Health Sciences Centre \(Re\) CanLII](#), paras. 64 and 66.

³² Order F23-98, 2023 BCIPC 114 (CanLII), paras. 31-42.

search goes to the second part of the test, that is, whether responding to the request would unreasonably interfere with the public body's operations.³³

[32] I agree with and will apply this interpretation.

Are the respondent's requests "excessively broad"?

District's submission

[33] The District said that the respondent does not request records about specific topics. Rather, it said, the requests are blanket requests for "all records" and list multiple key words (often routine words) and the names of staff or councillors. In the District's view, the requests, for "all records", do not lend themselves to narrowing. Moreover, the District said, the requests are likely to result in the retrieval of many thousands of pages of responsive records, which include many duplicate emails and attachments. For example, the District said,

... if four individuals are the subject of an email word search, and one conversation yields 5 pages, a search would produce 20 pages of records. Additionally, if the same email conversation includes a 150-page attachment, the number of records balloons to 620 pages."³⁴

[34] The District provided a table showing that nine of the ten requests at issue would generate almost 47,000 pages of responsive records and three video files, as follows:³⁵

Request number	Responsive Volume (pages)	Request Summary
2023-32	1,661 pages	All emails sent/received: 2 staff
2023-33	2,584 pages	All emails sent/received: 2 staff
2023-37	5,966 pages, 2 video files	All emails sent/received: 6 staff, 18 words
2023-38	1,412 pages	All emails sent/received: 3 staff, 4 words
2023-39	11,556 pages, 1 video file	All emails sent/received: 5 staff, 17 words
2023-40	1,184 pages	All emails sent/received: 1 staff, 7 words
2023-45	7,248 pages	All emails sent/received: 5 staff, 18 words
2023-46	10,167 pages	All emails sent/received: 7 staff, 19 words
2023-48	5,980 pages	All emails sent/received: 3 staff, 4 words
2023-68	TBD	All emails sent/received: 2 staff
Total Volume	46,791 pages, 3 video files	

³³ Order F23-98, 2023 BCIPC 114 (CanLII), paras. 31-42.

³⁴ District's initial submission, pp. 2-3. District's reply paras. 8, 11.

³⁵ District's initial submission, pp. 2-3.

Respondent's submission

[35] The respondent did not specifically address the issue of whether his requests were “excessively broad.” He did say, however, that the District has not asked him to reduce the scope of his requests.³⁶

[36] The respondent provided explanations for making the ten requests. The following is my understanding of what he wants:

2023-32: information on the involvement of one employee in the firing of another.

2023-33: information on two councillors' connection to the District's proposed solar project.

2023-37: records of internal discussions of his attendance at District council meetings.

2023-38: records related to councillor 1's attendance at a UBCM meeting and related expenses.

2023-39: records which refer to him as dumb, stupid, rude, idiot or a bully, and about the stress his appearance at council meetings caused.

2023-40: records that might confirm his suspicion that councillor 1 improperly influenced the local regional district to hire her husband.

2023-45 and 2023-46: records related to, for example, his complaint about a neighbour, the neighbour's allegations that the respondent was harassing him, his arrest and charges related to two different matters.

2023-48: records related to a proposed project which never happened, despite an \$800,000 federal grant.

2023-68: records related to his neighbour's alleged bylaw infractions regarding the use of his property. He added that the records are relevant to his civil claim against the District “regarding allegations of defamation, misfeasance in public office, and conspiracy”.³⁷

³⁶ Respondent's response, paras. 42, 49, 82.

³⁷ Respondent's response, para. 98.

Discussion and finding

[37] A number of the ten requests at issue are for the respondent's own personal information. Others are for records related to his complaints against his neighbour. The rest relate to District business, with emphasis on councillor 1. Moreover, while some requests span two or three weeks, others cover several months and, in some cases, a full year.

[38] However, rather than simply asking for records about the topics of interest to him, for a reasonable time frame, the respondent took a scattergun approach of requesting records containing many names and seemingly unrelated "key words," many of them routine or common words and terms, covering lengthy periods of time in many cases. I infer that, in some cases, the respondent was interested in knowing what District staff and councillors said about him (e.g., 2023-37, 2023-38) or what the District was doing about his complaints about his neighbour (e.g., 2023-68). In others, however, without the respondent's after-the fact explanation, I am left to guess at what he is actually interested in (e.g., 2023-32, 2023-33).

[39] In light of the respondent's wide-ranging approach, it is hardly surprising that the District said it would retrieve thousands, even tens of thousands, of pages of responsive records in each of the first nine cases. It is reasonable to conclude that many records were responsive only because they contained a specified key word, not because they concerned a topic of interest to the respondent.

[40] In my view, the respondent worded his requests unnecessarily broadly and for inordinate periods of time, in order to obtain access to records on the topics he says he wanted. I find, therefore, that each of the respondent's first nine requests (2023-32, 2023-33, 2023-37, 2023-38, 2023-39, 2023-40, 2023-45, 2023-46, 2023-48) was "excessively broad" for the purposes of s. 43(c)(i).

[41] The District did not provide the projected number of pages of responsive records for the tenth request, 2023-68. However, in light of its similar structure and wording (all emails and attachments involving two staff) and the span of time involved (July 1-November 2, 2023), I am satisfied that the tenth request would also likely result in the retrieval of many hundreds, if not thousands, of pages of responsive records. I conclude, therefore, that it is also "excessively broad."

[42] In summary, I find that all ten of the outstanding requests at issue are excessively broad. However, before deciding whether responding to them would unreasonably interfere with the District's operations, I will consider if the requests are also systematic.

What is a “systematic” request?

[43] Systematic requests are requests made according to a method or plan of acting that is organized and carried out according to a set of rules or principles.³⁸ Some characteristics of systematic requests may be:

- a pattern of requesting more records, based on what the respondent sees in records already received;
- combing over records deliberately in order to identify further issues;
- revisiting earlier freedom of information requests;
- systematically raising issues with the public body about their responses to freedom of information requests, and then often taking those issues to review by the OIPC; and
- behaviour suggesting that a respondent has no intention of stopping the flow or requests and questions, all of which relate to essentially the same records, communications, people and events.³⁹

[44] It is necessary to consider past requests when deciding whether an access request is systematic.⁴⁰

Are the respondent’s requests systematic?

District’s submission

[45] The District said that some requests are based on records the respondent received in previous requests. For example, it said,

- request 2023-35 is based on records the respondent received in request 2022-37;⁴¹ and
- requests 2023-38 and 2023-40 are based on records the respondent received in request 2023-31.⁴²

[46] The District noted that several requests are for records on the same topics:

- 31 requests were for information about the respondent’s neighbour; and
- keywords used in re

³⁸ Order F13-18, *supra* note 24 at para. 23.

³⁹ Order F18-37, 2018 BCIPC 40 at para. 26.

⁴⁰ Auth (s. 43) 02-01 at para 24. Available at <https://www.oipc.bc.ca/decisions/171>.

⁴¹ I believe the District meant to refer here to request 2023-27.

⁴² District’s initial submission, p. 5.

- quests 2023-45 and 2023 46 are the same, identifying different staff or councillors.⁴³

[47] The District also said some past requests also exhibit repetitious (overlapping) characteristics, for example:

- request 2020-31 asked for records provided in 2020-27, 2020-28 and 2020-29;
- request 2020-19 asked for records provided in requests 2019-18, 2019-09, 2019-14, 2019-19, 2019-21, 2019-20, 2019-22, 2020-04, 2020-13, 2020-14; and
- request 2020-18 asked for records provided in 2020-10.⁴⁴

[48] The District also said that, as part of his civil claim against the District, the respondent has made “Demands for Documents” covering many of the same records.⁴⁵ In addition, the District said, the respondent has emailed it many questions on the same topics.⁴⁶ The District added that some of these exchanges have prompted further access requests. It referred here to request 2022-18 and the respondent’s email of August 5, 2022 at 1:14 pm, as an example.⁴⁷

[49] The District said that, after November 9, 2023, the respondent submitted two new requests and three follow-up questions. In its view, this suggests the respondent has no intention of stopping the flow of requests.⁴⁸

Respondent’s submission

[50] The respondent did not specifically address whether each request was systematic. He did, however, say that, in each case, he was requesting new records for different reasons, which he explained, as summarized above (in paragraph 36). He also said that “The keyword searches have been very effective in producing documents that would not be obtained otherwise,” such as an email that referred to him and his family as “radicals and nutcases.”⁴⁹

[51] The respondent also acknowledged that some of the requests at issue arose out of earlier requests or events. For instance, he identified the following requests:

⁴³ District’s initial submission, p. 5.

⁴⁴ District’s initial submission, p. 5.

⁴⁵ District’s initial submission, p. 6.

⁴⁶ Appendix C, District’s initial submission.

⁴⁷ District’s initial submission, p. 8.

⁴⁸ District’s reply, paras. 10, 20-22.

⁴⁹ Respondent’s response, paras. 26, 52, 97.

- request 2023-38 flowed from 2023-31;
- 2023-39 flowed from a council meeting at which the mayor criticized the respondent; and
- request 2023-37 flowed from the respondent's interactions at a council meeting.

Discussion and finding

[52] I consider that each of the ten outstanding requests is a “systematic” request, for reasons which follow.

[53] The requests at issue follow the same method and pattern the respondent used in making the past requests, that is, requesting “all” records about the same individuals and about essentially the same topics, using key words, for various time frames. The ten outstanding requests are for records about the following:

- internal discussions among various combinations of district staff and councillors, often about the respondent and his property;
- his neighbour and his neighbour's property (e.g., fines against the neighbour; the neighbour's building licences, business permits and development permits; a stop work order against the neighbour; the District's actions against the neighbour; the respondent's complaints about the neighbour's use of his property); and
- District business (e.g., councillor 1's UBCM expenses and activities; firing of an employee; a solar project).

[54] Some of the requests at issue arose out of, or overlap with, earlier requests or flowed from events.

[55] Seventeen of the respondent's past requests led to OIPC files, of which two led to orders.⁵⁰

[56] The flow of requests increased in 2023, sometimes with two to four arriving on the same day or within a day or two of each other. The District's table shows that the applicant sent it 30 access requests in 2023 and 11 in 2022. However, I find that many of these requests are multi-part, so they amount to 35 requests in 2023 and 22 in 2022.

[57] The respondent has continued to submit requests since the District's s. 43 application. As with the earlier requests, these requests exhibited systematic characteristics, in that they led to further questions and access requests.

⁵⁰ Orders F20-34, 2020 BCIPC 40 (CanLII), and F23-81, 2023 BCIPC 97 (CanLII).

[58] In conclusion, I find that each of the respondent's ten requests is "systematic", for the purposes of s. 43(c)(ii).

Would responding to the requests unreasonably interfere with the District's operations?

[59] I found above that the ten outstanding requests at issue are both "systematic" and "excessively broad." I will now consider if responding to them would unreasonably interfere with the District's operations.

[60] What constitutes unreasonable interference with a public body's operations rests on an objective assessment of the facts. It will vary, depending on the size and nature of the operation.⁵¹ In determining whether responding to a request unreasonably interferes with the operations of the public body, past orders have considered the impact of responding to the relevant requests on the rights of other access applicants.⁵²

[61] In my view, "responding" to a request requires a public body do the following:

- receive the request;
- communicate with the applicant, if necessary, to clarify the request;
- review the request to see if it overlaps with previous requests;
- assess any fees;
- search for and retrieve records that respond to the request;
- review and organize the records to remove duplicate pages;
- decide if any FIPPA exceptions to disclosure apply;
- manage the external consultant, if one was hired to assist the public body with responding to requests;
- consult with third parties and other public bodies, as necessary;
- prepare the records for disclosure, including severing them, if applying exceptions; and
- send the public body's decision letter and the records to the applicant.

District's submission

[62] The District said it is a small municipality with a small staff. Its FOI Head is one of three staff and he has other duties besides managing the District's responses to access requests. The District said that the increase in requests due

⁵¹ *Crocker v British Columbia (Information and Privacy Commissioner)*, 1997 CanLII 4406 at para. 37 [*Crocker*].

⁵² Order F22-08, 2022 BCIPC 8 (CanLII), para 59, and Order F22-61, 2022 BCIPC 69 CanLII), at para 61.

to the respondent has meant that FOI Head must spend 100% of his time on FOI-related matters, leaving the other staff to fulfil his duties, along with their own.⁵³ The ability of the other two staff to facilitate the FOI process and fulfil their regular duties has also been adversely affected by the respondent's requests.⁵⁴ The District said it has had to hire an external consultant to handle many of the services associated with the respondent's requests.

[63] The District acknowledged that searching electronic records is not as labour-intensive as it would be with paper records. However, the District said it is often difficult to tell what the respondent wants and it is necessary to compare new requests with old ones to see if they overlap with what the respondent has already received. The District said it attempts to "de-duplicate" the records with the consultant's assistance. Nevertheless, the District said, it must still manually organize, review and process thousands of pages of records, line by line, to determine if the records are responsive and if any exceptions apply. The District must also in some cases consult with third parties and other public bodies, which takes away from the time the District can spend on its other applicants and other functions. The District said it does not have the budget to sustain the cost of the consultant or hire an internal employee, just to handle one individual's requests.⁵⁵

[64] The District provided tables showing the number of hours and dollars the respondent's requests have consumed to date, as compared to those of its other applicants. These tables show that the respondent's 62 closed requests and OIPC-related matters for 2021, 2022 and 2023 have taken 565 hours of staff time in the review and preparation of the resulting records, at a cost of \$70,626 in staff time. By comparison, it said, all other applicants' requests and OIPC-related matters, for the same three years, required 623 hours and \$77,875.⁵⁶ The District did not say how many other applicants and requests it dealt with over this time.

Respondent's submission

[65] The respondent said, "The FOI requests at issue in this inquiry are specific to activities, topics, and subject matter involving the District".⁵⁷ He said the way he has worded his requests, with named individuals, specific time frames and key words, is intended to make it easier for District staff to identify the requested information.⁵⁸ The respondent also suggested that, since November 2023, District staff now have more time to process FOI requests, now that it is no

⁵³ District's initial submission, pp. 4, 8. District's reply, para. 8.

⁵⁴ Affidavit of District's Chief Administrative officer, District's reply.

⁵⁵ District's initial submission, pp. 3-4.

⁵⁶ District's initial submission, pp. 3-4.

⁵⁷ Respondent's response, para. 25.

⁵⁸ Respondent's response, paras. 25, 115.

longer occupied with conducting a referendum, which took three months. He also noted that the District has had help from the private consultant.⁵⁹

[66] The Respondent said that the District's own submission indicates that the proportion of hours his requests have required has decreased from 2021 onwards, compared to those of other applicants.⁶⁰

Discussion and finding

[67] I accept the District's evidence on the amount of time it has taken its staff to respond to the respondent's previous requests for the last three years. In my view, these requests have consumed inordinate amounts of District staff time and resources. The District did not provide an estimate of the amount of time the ten requests at issue would take. However, they are similar in wording and structure to the respondent's past requests and it is reasonable to conclude that responding to these requests would also take up an inordinate amount of staff time and resources.

[68] Given the small size of the District's staff and their responsibilities to respond to other applicants and to carry out many other duties, I am satisfied that responding to the ten requests at issue would unreasonably interfere with the District's operations. The respondent is also, in my view, being disingenuous in suggesting that District staff now have more time to spend on his requests since the referendum finished. They have other duties. I also accept that having to hire an external private consultant to assist with the volume of the respondent's requests has been a drain on the District's time and finances and has thus interfered with its ability to respond to other applicants and carry out its other duties.

Conclusion

[69] I found above that the ten requests at issue are both "systematic" and "excessively broad" and that responding to them would unreasonably interfere with the District's operations. I find, therefore, that the District has met its burden and that ss. 43(c)(i) and (ii) apply to the outstanding requests that are the subject of this s. 43 application.

[70] In light of this finding, I do not need to consider whether the requests are also frivolous, vexatious or repetitive.

⁵⁹ Respondent's response, para. 109.

⁶⁰ Respondent's response, para. 112.

What relief is appropriate?

[71] The District asked for the following relief:

1. Disregard requests 2023-32, 2023-33, 2032-37, 2023-38, 2023-39, 2023-40, 2023-45, 2023-46, 2023-48 and 2023-68.
2. For a period of three years, limit the number of requests that can be submitted by the applicant directly or indirectly through family members to one active FOI request for processing at a time.
 - a. The public body requests it begin with processing, responding to and closing requests in the order they were received beginning with 2023-49, then 2023-60, then 2023-61, then 2023-66, then 2023-67, then 2023-69 and then 2023-70 before the applicant can submit another FOI request to the public body.
3. For a period if [*sic*] three years, allow the public body to disregard future requests from the applicant that are worded in similar in scope [*sic*] to the requests identified in #1.
4. Allow the public body to append any requests submitted by the applicant that are worded similar in scope with the requests under #1 to this application.
5. Allow the public body to append any requests worded similar in scope to those identified in #1 that the public body deems to have been submitted indirectly by the applicant through their family members to this application.
6. Allow the public body to hold in abeyance any requests submitted by the applicant from the date this authorization request has been submitted to the OIPC until such time as a decision is rendered by the OIPC.
7. Allow the public body to hold in abeyance any requests submitted by the applicant's family members from the date this authorization request has been submitted to the OIPC until such time as a decision is rendered by the OIPC.⁶¹

Findings

[72] I find that the request to disregard the ten active requests at issue (2023-32, 2023-33, 2023-37, 2023-38, 2023-39, 2023-40, 2023-45, 2023-46, 2023-48 and 2023-68) is a reasonable remedy, in light of my findings above.

[73] I also find that some relief is warranted to deal with any outstanding requests that were made by the respondent (or his family on his behalf) between November 9, 2023 and the date of this order, as well as for any future requests they may make that are worded and structured similarly to the ten active requests at issue in this case. The remedy I have ordered at paragraph 76,

⁶¹ District's initial submission, p. 12.

item 2, below will enable the District to manage the current outstanding requests and future requests from the respondent (and his family on his behalf) in a way that balances the rights of the respondent to access records against the District's responsibilities to its other applicants and operations.

[74] In addition, I find that it is reasonable to authorize the District, for a period of three years from the date of this authorization, to process only one new access request at a time made by the respondent (or his family on his behalf). I have also decided, in light of the continued flow of requests from the respondent and his family since the District made its s. 43 authorization, to start this authorization as of November 9, 2023.

Managing requests

[75] Below is some guidance for the District on managing current and future requests made by applicants, including the respondent and his family on his behalf:

- FIPPA allows public bodies to charge certain fees. The District is also free to encourage applicants to narrow their future requests. These things could lead to narrowing requests and reduce the burden on the District in responding.
- The District does not need authorization under s. 43 to disregard requests that repeat past requests.
- FIPPA does not grant a right to ask questions or receive a response to questions. Therefore, the District may, as it sees fit, respond to questions outside FIPPA.
- Requests for records must comply with s. 5(1)(a) which says that a request must provide “enough detail to enable an experienced employee of the public body, with a reasonable effort, to identify the record sought, ...”.

CONCLUSION

[76] For the reasons given above, I make the following authorizations under s. 43 of FIPPA:

1. I authorize the District to disregard requests 2023-32, 2023-33, 2023-37, 2023-38, 2023-39, 2023-40, 2023-45, 2023-46, 2023-48 and 2023-68.

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2. For a period of three years from the date of this authorization, regarding open and future access requests made on or after November 9, 2023, by the respondent or his family on his behalf, I authorize the District
 - a. to respond to one open request at a time;
 - b. to determine what a request is; and
 - c. to spend no more than 8 hours responding to each request.

February 29, 2024

ORIGINAL SIGNED BY

Celia Francis, Adjudicator

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