



Order F25-47

Architectural Institute of British Columbia

Alexander R. Lonergan
Adjudicator

June 19, 2025

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Summary: An engineering firm requested access, under the Freedom of Information and Protection of Privacy Act (FIPPA), to various records from the Architectural Institute of British Columbia (AIBC). AIBC applied, under ss. 43(a), (b), and (c)(i) of FIPPA, for authorization to disregard the request on the basis that the request is vexatious, that the respondent can access the records from another source, and that responding to the request would unreasonably interfere with AIBC's operations because it is an excessively broad request. The adjudicator determined that the respondent's request was excessively broad and that responding to it would unreasonably interfere with AIBC's operations. On this basis, the adjudicator authorized AIBC to disregard the respondent's access request and authorized AIBC to disregard any request from the respondent exceeding one request at a time for a period of two years.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, RSBC 1996, c 165, ss. 43 (a), (b), and (c)(i); *Professional Governance Act*, SBC 2018, c 47; *Architects Regulation*, BC Reg 33/2023.

INTRODUCTION

[1] The Architectural Institute of British Columbia (AIBC) regulates the practice of architecture in British Columbia (BC) using its authority under the *Professional Governance Act* (the PGA) and the related *Architects Regulation*.¹

[2] An engineering firm (the respondent) requested AIBC provide it with access to various records under the *Freedom of Information and Protection of Privacy Act* (FIPPA). AIBC subsequently applied to the Office of the Information and Privacy Commissioner for British Columbia (OIPC) under s. 43 for authorization to disregard the respondent's request.

¹ *Professional Governance Act*, SBC 2018, c 47; *Architects Regulation*, BC Reg 33/2023.

Preliminary Matters

Matters Outside the Scope of FIPPA

[3] A substantial amount of the parties' submissions and affidavit evidence discuss the legislative history and statutory scheme of engineering and architectural regulation in BC. It is clear to me that the parties disagree about the scope, overlap, and implications of architectural and engineering practices as they relate to building enclosures in BC. Moreover, the parties indicate that some of these issues are now the subject of ongoing court proceedings.

[4] My jurisdiction as the Commissioner's delegate is limited to the FIPPA issues in dispute. I do not have the jurisdiction to determine the boundary between building enclosure architecture and engineering. Therefore, I will only comment on the parties' submissions and evidence insofar as they are relevant to the FIPPA issues before me.

Mediation Material

[5] The OIPC's *Instructions for Written Inquiries* explains that "mediation material" refers generally to communications that relate to offers or attempts to resolve the matter during mediation.² This document further explains that a party may not, without the written consent of the other parties, refer to or include in their submissions any mediation materials, including any opinions or recommendations that an investigator expressed during mediation.

[6] The respondent discusses correspondence exchanged between the parties and an OIPC investigator.³ I can see that this correspondence is about an attempt to resolve the parties' dispute before it proceeded to this application. AIBC briefly responds to this correspondence while noting that it believed this material was inadmissible under the *OIPC's Instructions for Written Inquiries*.⁴

[7] The respondent did not seek advance consent from AIBC before including mediation material in its submission. Furthermore, the parties do not clearly explain, nor is it apparent to me, how this material is relevant to the s. 43 analysis. For these reasons, I will not consider any mediation material in the analysis below.

New Issue, s.43(b)

[8] AIBC raises s. 43(b), which provides the Commissioner with the authority to permit a public body to disregard an access request because it is for a record

² Available online at: <https://www.oipc.bc.ca/documents/guidance-documents/1658>.

³ Respondent's submission at paras 7-8, 41 and Schedules 7 and 8.

⁴ AIBC's reply submission at paras 2.4-2.5.

that has been disclosed to the access applicant or that is accessible by the access applicant from another source.⁵ Section 43(b) is not listed as an issue in the OIPC's *Notice of Request for Application to Disregard (s. 43)*.⁶

[9] The OIPC's notice of s. 43 application and its *Instructions for Written Inquiries*, both of which were provided to the parties at the outset of the application, explain that parties may not add new issues without the OIPC's consent. Past orders and decisions of the OIPC have consistently confirmed this approach to new issues.⁷

[10] AIBC says s. 43(b) is relevant because the respondent's lawyer filed a petition in BC Supreme Court after AIBC filed its s. 43 application. AIBC argues that the requested records are accessible in that proceeding which it says engages s. 43(b). The respondent says that the s. 43 application predates the court petition, so AIBC cannot have thought that s. 43(b) applied at the time it made this application.⁸

[11] AIBC obviously could not have known about the petition proceeding when it initially applied to the OIPC for relief under ss. 43(a) and 43(c)(i). Furthermore, the respondent had an opportunity to respond to AIBC's s. 43(b) arguments and did so, so I do not see any prejudice to respondent by considering s. 43(b) in my analysis below.

[12] Under these circumstances, I am satisfied that it is fair for me to add s. 43(b) as a new issue and I will consider it in the analysis below.

New Issue, s. 6

[13] Turning to s. 6, the respondent says that AIBC failed to comply with its obligations under s. 6 of FIPPA.⁹ In making this argument, the respondent discusses the circumstances of AIBC's initial response to the access request and the amount of time that passed before AIBC made its s. 43 application.¹⁰ Section 6 is not listed as an issue in the OIPC's *Notice of Request for Application to Disregard (s. 43)* and the respondent did not request permission to add s. 6 as an issue.

[14] The respondent has not identified any exceptional circumstances that justify adding s. 6 as an issue in this s. 43 application, nor is it apparent to me

⁵ AIBC's initial submission at para 5.1.

⁶ Notice of Request for Application to Disregard (s. 43).

⁷ Order F12-07, 2012 BCIPC 10 (CanLII) at para 6; Order F10-27, 2010 BCIPC 55 (CanLII) at para 10.

⁸ Respondent's submission at para 52. AIBC's initial submission at paras 2.2, 5.1 and 5.4.

⁹ Respondent's submission at para 51.

¹⁰ Respondent's submission at paras 41 to 51.

that any such circumstances exist. Therefore, I decline to add s. 6 as a new issue in this application.

[15] Although some of the respondent's arguments refer to s. 6, in substance these arguments are about whether AIBC has allocated sufficient resources to process the respondent's access request. These arguments are relevant to s. 43(c)(i) so I will address those arguments under that part of the analysis below.

DISCUSSION

Background¹¹

[16] The PGA is legislation that enables regulation of the engineering, architecture, and other professions by providing regulatory authority to certain professional bodies. AIBC currently regulates the architectural profession under the PGA.

[17] One regulation enacted under the PGA is the Architects Regulation. The Architects Regulation creates a "reserved practice" system that describes the type of building projects which require the advice or services of an architect registered with AIBC.¹² The parties' underlying disagreement is about the extent to which an architect's advice and services is necessary for modifications to building enclosures in BC if a registered engineer participates in the modification.

[18] Through a series of phone calls, AIBC and an employee of the respondent discussed the Architects Regulation. Subsequently, the respondent's lawyer sent a letter to AIBC (the Demand Letter). The Demand Letter alleged that AIBC was telling engineers and other entities that building enclosures could not be repaired without the participation of an architect and that making such statements misrepresented recent legislative changes as limiting the scope of building enclosure engineering in BC. The Demand Letter also included demands that AIBC take certain actions and make certain statements. AIBC did not comply with any of the respondent's demands.

[19] The respondent subsequently asked AIBC to provide it with access to various records under FIPPA. The respondent's request consists of six pages containing 25 paragraphs that each describe a different category of requested records. The categories are too lengthy to reproduce here, however, the requested records are generally about AIBC, AIBC's communications with the respondent and other entities, AIBC's position with respect to various regulatory matters, and certain contractual and policy documents. The types of requested records include draft legislation, policy materials, contracts, records of

¹¹ The information in this background section is based on information provided in the parties' submissions and evidence. It is not information that is in dispute.

¹² Architects Regulation, BC Reg 33/2023 at s. 5.

communications, and records of conversations. The respondent limited some parts of its request to records dated within a four-year period.

[20] Citing the complexity and breadth of the respondent's access request, AIBC initially extended its required response time under s. 10(1). However, AIBC ultimately did not provide any of the requested records. Instead, AIBC applies to the OIPC for authorization to disregard the request under ss. 43(a), (b) and (c)(i).

Issues and burden of proof

[21] The issues I must decide in this application are as follows:

1. Is the respondent's request frivolous or vexatious under s. 43(a)?
2. Is the respondent's request for a record that has been disclosed to the respondent or that is accessible by the respondent from another source under s. 43(b)?
3. Would responding to the request unreasonably interfere with the operations of AIBC because the request is excessively broad under s. 43(c)(i)?
4. If the answer to either 1, 2, or 3 above is yes, what is the appropriate remedy?

[22] As the public body applying for relief under s. 43, AIBC has the burden to prove that s. 43 applies.¹³

Application to disregard an access request – s. 43

[23] Section 43 gives the OIPC the discretion to authorize public bodies to disregard certain access requests.

[24] In making its application, AIBC relies on the following parts of s. 43 of FIPPA:

- 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,
 - (b) the request is for a record that has been disclosed to the applicant or that is accessible by the applicant from another source, or

¹³ Order F17-18, 2017 BCIPC 19 (CanLII) at para 4; Order F18-09, 2018 BCIPC 11 (CanLII) at para 2.

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

(i) is excessively broad . . .¹⁴

[25] Section 43 is a remedial tool used to curb abuse of the right of access. It is not punitive in nature.¹⁵ In addition, s. 43 applications require careful consideration because relief under that section curtails or eliminates the rights of access to information granted by the Legislature through FIPPA.¹⁶

Frivolous or vexatious – s. 43(a)

[26] Under s. 43(a), the OIPC may authorize a public body to disregard an access request that is frivolous or vexatious. AIBC argues that s. 43(a) applies to the respondent's access request, but AIBC does not discuss whether the request is frivolous.¹⁷ Therefore, I will only consider whether the request is vexatious.

Parties' Positions, s. 43(a)

[27] AIBC argues that the access request is an abuse of provincial access rights, motivated by retribution, disregard for the function and extent of AIBC's authority, and the respondent's private commercial interests. AIBC argues that the breadth and identification of individual AIBC employees establish that the access request is plainly intended to frustrate, vex and harass AIBC.¹⁸

[28] AIBC says that the respondent made its access request for the following reasons:

- The respondent believes that AIBC is acting unlawfully;
- The respondent suffered regulatory problems on a specific project that relate to building enclosure engineering;
- Architects have recently quit from a business entity related to the respondent; and
- Recent court decisions have resulted in local governments rigorously reviewing permit applications to determine whether an architect's advice or services are required.¹⁹

¹⁴ For clarity, s. 43 refers to an "applicant", which in this case is the respondent who applied for access to records from AIBC. AIBC is an applicant in the sense that AIBC is applying for relief from the OIPC under s. 43.

¹⁵ *Crocker v. British Columbia (Information and Privacy Commissioner)*, 1997 CanLII 4406 (BC SC) at paras 32-33; Order F19-34, 2019 BCIPC 37 (CanLII) at para 14.

¹⁶ Decision-Auth (s. 43) 99-01 (December 22, 1999) at 3. Available online: <https://www.oipc.bc.ca/documents/decisions/158>.

¹⁷ AIBC's s. 43 application at para 2.2; AIBC's initial submission at para 7.2

¹⁸ AIBC's s. 43 application at para 2.7.

¹⁹ AIBC's s. 43 application at paras 2.3, 2.5, 2.7, and 2.8.

[29] AIBC says that if the respondent had a genuine interest in the requested information, it would not ask for certain material included in the request, such as personal contracts and indemnities for AIBC employees, draft legislation, or confidential cabinet and local public body material.²⁰

[30] In response, the respondent says that its access request is drafted to describe and identify the information which would address public interest questions about engineering practice guidelines and the scope of practice rights of professional engineers under the PGA. The respondent argues that these issues arise from AIBC taking positions that the respondent and others in the engineering profession consider legally incorrect.²¹

[31] Finally, the respondent argues that its disagreement with AIBC and the existence of related legal proceedings does not mean that its request is vexatious within the meaning of s. 43(a).²²

Analysis and Findings, s. 43(a)

[32] Vexatious requests include those made in bad faith, such as for a malicious purpose or for the purpose of harassing or obstructing the public body. Past orders have found requests to be vexatious in the following circumstances:

- The purpose of the requests was to pressure the public body into changing a decision or taking an action;
- The respondent was motivated by a desire to harass the public body;
- The intent of the requests was to express displeasure with the public body or to criticize the public body's actions; and
- The request was intended to be punitive and to cause hardship to an employee of a public body.²³

[33] Hostility or ill will between an access applicant and a public body is insufficient, without more, to establish that an access request is vexatious.²⁴

[34] The respondent clearly wants AIBC to interpret the PGA and Architects Regulation differently than it currently does. I have no doubt that the respondent is applying pressure to AIBC, through its demands and litigation, with the goal of having AIBC take certain actions and change some of its decisions. However, what is required for s. 43(a) to apply is that the access request itself be designed

²⁰ AIBC's s. 43 application at para 2.9.

²¹ Respondent's submission at paras 21-23.

²² Respondent's submission at paras 57-61.

²³ Order F22-08, 2022 BCIPC 8 (CanLII), at paras 81-83, and the decisions cited therein.

²⁴ Order F21-34, 2021 BCIPC 42 (CanLII) at para 56.

to apply this pressure. It does not matter that the disputed information could theoretically be used to apply pressure to a public body once disclosed.

[35] The access request follows an exchange of positional legal correspondence between the parties. The respondent's correspondence is somewhat aggressive in tone. However, I do not think that the respondent's legal argument and tone are sufficiently unreasonable or outrageous to establish that the access request is intended to vex and harass AIBC.

[36] Despite the size of the access request, the many categories of requested records are all logically connected to the underlying matters that concern the respondent. Furthermore, I can see that the respondent tried to narrow some aspects of the 25 categories of records sought.²⁵ Under these circumstances, I am not persuaded that the request is vexatious merely because it is broad.

[37] Some of the requested records include correspondence and contracts relating to specific AIBC employees. Although AIBC says this reveals an intention to frustrate, vex and harass AIBC, AIBC does not clearly explain how it draws this conclusion. I can see that these parts of the access request are also relevant to the underlying dispute between the parties, so I do not agree that the inclusion of some employee-specific records means that the request is vexatious.

[38] Finally, the fact that the respondent has a commercial interest in the outcome of the underlying dispute does not prove that the access request is vexatious. On the contrary, the fact that the respondent has a commercial interest in the dispute indicates that the respondent did not request records for the sole purpose of criticizing or harassing AIBC.

[39] I find that there is insufficient evidence to support AIBC's claim that the access request was made in bad faith or for any purpose other than to access the requested information. Taking the matters discussed above into consideration, I conclude that the respondent's access request is not vexatious. Therefore, I find that s. 43(a) does not apply.

Already disclosed or accessible from another source – s. 43(b)

[40] Under s. 43(b), the OIPC may authorize a public body to disregard an access request if the request is for a record that has been disclosed to the respondent, or that is accessible by the respondent from another source.

Parties' Positions, s. 43(b)

[41] AIBC argues that the respondent could access the requested records through an interim disclosure order under the Supreme Court Civil Rules and s.

²⁵ Respondent's submission at para 27.

10 of the *Judicial Review Proceedings Act*.²⁶ AIBC refers to the respondent's existing Supreme Court petition and its option to file a Notice of Civil Claim as proceedings where the respondent can compel disclosure of the requested records.²⁷ AIBC also points to Order F24-39, in which the OIPC found s. 43(b) applied to part of an access request because some of the records were obtainable under the Supreme Court Civil Rules.²⁸

[42] In response, the respondent says that petition proceedings do not have disclosure mechanisms that would apply to the information and records it requested under FIPPA. The respondent also says that AIBC can avoid court disclosure mechanisms by taking certain positions in the petition proceeding.²⁹

Analysis and Findings, s. 43(b)

[43] In Order F24-39, the related court and Human Rights Tribunal proceedings had already reached a stage where the disclosure mechanisms were underway. The access applicant in that matter had already received some records through the other disclosure processes which allowed the adjudicator to determine that there was some overlap between the records disclosed in the other proceedings and the access request made under FIPPA.³⁰

[44] Unlike the circumstances in Order F24-39, the related court proceeding in this matter has not reached a stage where the extent of disclosure is known, nor have the parties exchanged any records. Having considered what the parties say about the respondent's petition proceeding, it is unclear to me whether the respondent's petition will lead to any disclosure at all.

[45] There are more circumstances that distinguish the present matter from Order F24-39. In F24-39, the applicant requested access for the sole purpose of pursuing a civil claim in court.³¹ In the present matter, the respondent requested access in the context of a broader dispute that is not limited to litigation in court.

[46] Furthermore, I am not persuaded by AIBC's argument that the requested records are accessible because the respondent could commence a new civil claim to compel their disclosure. In my view, the mere possibility that a party could commence an action that might lead to some overlapping disclosure in the future is not sufficient to establish that the disputed records are accessible from another source.

²⁶ Supreme Court Civil Rules, BC Reg 168/2009; *Judicial Review Procedure Act*, RSBC 1996, c 241, at s. 10.

²⁷ AIBC's initial submission at paras 5.1-5.4.

²⁸ *Ibid.* at para 5.3, referring to Order F24-39, 2024 BCIPC 47 (CanLII) at paras 29-30.

²⁹ Respondent's submission at paras 52-54.

³⁰ Order F24-39, 2024 BCIPC 47 (CanLII) at paras 22-24 and 28-30.

³¹ Order F24-39, 2024 BCIPC 47 (CanLII) at paras 2, 7, and 25.

[47] For the reasons discussed above, I am not persuaded that the requested records have already been disclosed to the respondent or that they are accessible by the respondent from another source. Therefore, I find that s. 43(b) does not apply to the respondent's access request.

Unreasonable interference with a public body's operations – s. 43(c)

[48] Section 43(c)(i) allows the Commissioner to authorize a public body to disregard an access request where responding to the request would unreasonably interfere with the operations of the public body because that request is excessively broad.

[49] Section 43(c)(i) has two parts and AIBC must prove both. First, the request must be excessively broad. Second, responding to the request must unreasonably interfere with AIBC's operations.³²

Parties' Positions, s. 43(c)(i)

[50] AIBC says that the request is excessively broad and that responding to the request would unreasonably interfere with its operations.³³

[51] AIBC argues that responding to the request would require at least 60 to 70 hours of planning, seeking, collecting, and assessing records. AIBC also explains that the request is written in such a way, that AIBC must search through a large amount of records to determine whether any responsive records exist that contain the statements or information described in the request.³⁴ Finally, AIBC says that it is a small public body without a dedicated privacy department which means that responding would cause "considerable dislocation" in the schedules of its manager of compliance and general counsel, pulling these employees from "numerous other matters, including time-sensitive professional conduct and illegal practice files."³⁵

[52] AIBC provides affidavit evidence from its manager of regulatory compliance. This evidence outlines the manager's duties, which include acting as the sole coordinator for information access requests. In her affidavit, the manager estimates that responding to the access request would require 67 hours of her time and that doing so would "have a significant impact on [her] ability to carry out the other core regulatory functions [she] has at AIBC."³⁶

³² Order F22-59, 2022 BCIPC 67 (CanLII) at para 42; Order F23-98, 2023 BCIPC 114 (CanLII) at para 32.

³³ AIBC's initial submission at paras 6.0 and 6.5.

³⁴ AIBC's initial submission at paras 6.1 to 6.3.

³⁵ AIBC's initial submission at para 6.4.

³⁶ Affidavit #1 of MS at paras 4 to 9.

[53] In response, the respondent argues that AIBC’s inability to process the request without taking staff away from other work is a failure to ensure there are adequate resources to comply with AIBC’s obligations under FIPPA.³⁷ I understand this argument to be that any unreasonable interference with AIBC’s operations would not be caused by the breadth of the access request but instead because AIBC made certain operational and staffing decisions. The respondent also argues that the time and effort AIBC placed into this application must have taken at least as much time as the time it estimates it would spend responding to the request.³⁸

Is the respondent’s access request excessively broad?

[54] The first part of the s. 43(c)(i) analysis requires AIBC to establish that the access request is excessively broad.

[55] In Order F23-98, an OIPC adjudicator interpreted the term “excessively broad” in the context of the purpose of s. 43, which is to curb abuse of the right of access and give all access applicants a fair opportunity to have their request processed. With this principle in mind, the adjudicator decided that a request is excessively broad if the request generates a volume of responsive records that can be fairly characterized as “overwhelming” or “inordinate”.³⁹ I agree with this approach.

[56] Turning to the access request in this matter, I can see that most of the 25 paragraphs in the request follow a similar structure by asking for “any” records of communications, drafts, or documents relating to communications, between AIBC employees and other entities, where those communications discuss certain topics or contain certain statements. Given that some paragraphs contain multiple sub-parts, I can see 39 distinct topics, statements, or types of records in the access request.

[57] Some paragraphs in the request only list a few entities that purportedly communicated with AIBC, such as a few named individuals, professional associations, or other regulatory bodies. Other paragraphs ask for records of AIBC’s communications with an open-ended list of entities or documents exchanged with those entities. For example, such open-ended lists include “professional engineers or engineering firms other than [the respondent]”, “any representative of the Government of British Columbia” and “any other agency, municipality, building official, public body, professional association, or trade association”.

³⁷ Respondent’s submission at paras 51 and 63 to 66.

³⁸ Respondent’s submission at para 65.

³⁹ Order F23-98, 2023 BCIPC 114 (CanLII) at para 38.

[58] The topics and statements in the requested communications generally relate to the Architects Regulation, AIBC's transition under the PGA, or AIBC and its employees' activities as a professional regulator under that legislation. The request clarifies that the requested records are not limited to a specific type of record, so they include emails, presentations, handwritten notes, and other formats. Most parts of the request are for records dated within a four-year period.

[59] By using multiple open-ended conditions, the access request is clearly capable of generating a large number of responsive records. It seems to me that the access request, when considered in its entirety, is effectively a request for records of everything AIBC ever said or did about its transition under the PGA and Architects Regulation during a four-year period, plus some employee-specific and internal policy records.

[60] AIBC's manager of regulatory compliance explains that the request covers a period of time during which AIBC was transitioning under new legislation and was updating its bylaws, procedures, and standards for the profession of architecture. For this reason, AIBC argues that the volume of records from this period which AIBC would need to consider is "potentially massive".⁴⁰

[61] I accept that AIBC engaged in an abnormally high volume of communications with other entities during the period contemplated by the access request. It is reasonable to draw this conclusion because AIBC was transitioning its operations under the PGA and Architects Regulation during that time. Furthermore, these matters are fundamental to AIBC's authority and operations, so I have no doubt that AIBC discussed these matters extensively with many other entities.

[62] A few paragraphs in the request may not generate any responsive records if AIBC denies the respondent's claim that AIBC made some of the purported statements. However, there are so many aspects of the respondent's access request that I am satisfied it would generate an inordinate number of responsive records even if some of the 25 categories produce no relevant records.

[63] Taking the circumstances discussed above into consideration, I find that the access request would generate an inordinately large number of responsive records. Therefore, I conclude that the respondent's access request is excessively broad.

Would responding unreasonably interfere with AIBC's operations?

[64] Based on the way the access request is written, it is immediately clear to me that preparing a response would consume a substantial amount of AIBC's time and resources. For example, the request asks for records of discussions

⁴⁰ AIBC's initial submission at para 6.1; Affidavit #1 of MS at para 7.

about multiple subjects, across multiple years, and between multiple parties. Many parts of the request specify that these discussions may be between any AIBC officers, employees, and representatives. Consequently, AIBC must search through all of its records of correspondence that occurred within the specified four years and then determine whether each recorded discussion is about any of the subjects listed in the access request.

[65] Furthermore, the form of the requested records sharply increases the complexity of AIBC's response. Most aspects of the request specify that the respondent seeks "any record, or record relating to," certain topics. Some parts of the request specify that the types of records sought include emails, typed notes, audio/video recordings, letters, PDF files, Microsoft Word files, PowerPoint presentations, and draft documents with embedded comments. The expansive nature of the request leaves me with no doubt that AIBC cannot complete its response without conducting an extensive record-by-record review of potentially responsive records.

[66] Finally, I have also considered the fact that there are 25 categories of records in the request. A fulsome response would require at least 25 different searches and 25 sets of responsive records to review and prepare for disclosure. In light of the many categories of requested records, I find that AIBC's time estimate of 60 to 70 hours is extremely conservative and that the actual time required to respond is likely far higher.

[67] As supported by the affidavit evidence provided by AIBC, the two AIBC employees who are responsible for responding to information access requests have other duties to perform, including time-sensitive illegal practice and professional misconduct matters. Some diversion of these resources is obviously necessary because AIBC does not maintain a separate privacy department. However, I accept AIBC's evidence that responding to the request would interfere with these employee's ability to perform their other duties.

[68] The respondent's argument is essentially that there would be no interference with AIBC's operations if AIBC allocated more resources to FIPPA matters, so any interruption arising from its request should not be considered "unreasonable". I agree that the fact AIBC assigns its FIPPA duties to employees who have other responsibilities is not enough on its own to establish that responding to the request would unreasonably interfere with AIBC's operations.

[69] The respondent's access request is so large that I find it would take an exceptional amount of time and effort to respond to it notwithstanding AIBC's decision to allocate other duties to the employees that perform its FIPPA functions. The fact that AIBC is a relatively small public body with time-sensitive public safety functions indicates that processing excessively broad requests would meaningfully and negatively affect its operations.

[70] For the reasons discussed above, I find that responding to the respondent's access request would unreasonably interfere with AIBC's operations.

Conclusion, s. 43(c)(i)

[71] I find that responding to the respondent's access request would unreasonably interfere with AIBC's operations because the request is excessively broad. Therefore, I find that s. 43(c)(i) applies.

What is the appropriate remedy?

[72] Having determined that s. 43(c)(i) applies, I must now determine the appropriate remedy.

[73] In its initial s. 43 application, AIBC asked for authorization to disregard the current access request and "any further requests from the [respondent] related to the same or similar subject matter."⁴¹ On the other hand, AIBC says in its submission for this application that it does not consider it appropriate to prevent the respondent from making "other legitimate requests".⁴²

[74] In order to prevent an unreasonable interference with AIBC's operations, I find it appropriate to authorize AIBC to disregard the respondent's current access request.

[75] However, I recognize that alone will not suffice. I expect the respondent still wants access to the requested records, so it is possible he will split the current 25-part request into multiple, separate requests. I have no doubt that responding to all of those requests at once would unreasonably interfere with AIBC's operations, defeating the relief this order is intended to provide.

[76] In my view, an appropriate remedy is to authorize AIBC to disregard all access requests made by the respondent over and above a single access request at a time, for a period of two years. This approach addresses the excessive consumption of AIBC's resources while preserving the respondent's ability to reasonably exercise its access rights.

[77] Finally, this remedy should not be circumvented by the respondent including multiple categories of requested records in a single letter because doing so is, in substance, making multiple access requests at the same time. Therefore, I find that it is appropriate to give AIBC the discretion to determine what constitutes a single access request.

⁴¹ AIBC's s. 43 application at para 2.1.

⁴² AIBC's initial submission at para 8.1.

CONCLUSION

[78] I make the following authorizations under s. 43:

1. AIBC is authorized to disregard all of the respondent's outstanding access requests that it received up to the date of this authorization.
2. AIBC is authorized, for a period of two years from the date of this authorization, to disregard all access requests that the respondent submits, or that are made on his behalf, over and above a single access request at a time.
3. AIBC is authorized to determine, in light of its s. 6(1) duties to the respondent, what constitutes a single access request for the purposes of the authorization granted under item #2 above.

June 19, 2025

ORIGINAL SIGNED BY

Alexander R. Lonergan, Adjudicator

OIPC File No.: F25-00436