



## **F10-02-MS                    Municipality Replaces Inaccurate Fee Estimate with Full Waiver**

The drafters of FIPPA wanted to preclude the possibility exorbitant fees being used as a *de facto* way of blocking access requests. They recognized as well that provision should be made for reasonable fees both to reflect the time and expense of responding to access requests and to guard against abuses of the right of access. FIPPA describes a middle ground that seems to work well for the most part.

Section 75 of FIPPA says that a public body cannot charge for the first three hours spent locating and retrieving a record or for the time spent severing information from a record, but can charge a reasonable amount for time spent locating and retrieving a record, in excess of three hours, and for basic costs of production and shipping. Section 7 of the FIPPA Regulation spells out specific costs for specific tasks—e.g., 25 cents per copy for photocopying records.

Public bodies that deal with a large number of access requests are usually quite familiar with the fee structure FIPPA permits. Understandably, many small public bodies are not. The fee disputes we're called upon to resolve are divided more or less equally between disputes about the amount of the fee estimate and rejected applications for fee waivers in the public interest.

In one such case, an organization that promotes the interests of architects asked a municipality for copies of records and drawings related to a recently approved resort development project. When the municipality estimated a cost of \$1,000 to compile and copy the records, the organization requested a fee waiver, arguing that the municipality should exercise its discretion under section 75(5)(b) to waive the fee as the requested records related to a matter of public safety insofar as they had to do with building design and safety. The municipality denied the fee waiver request and the organization complained to us that the denial was unreasonable.

Our review of the municipality's fee calculations revealed several errors. The municipality had

- charged 50 cents a page to photocopy the records, doubling the maximum allowed by section 7 of the FIPPA Regulation,
- charged \$50 per copy of a plan drawing when the maximum allowable is \$1 a square metre,
- estimated \$300 dollars for staff wages without providing a breakdown,
- included GST in the fee estimate and
- charged for the first three hours of search time, contrary to the FIPPA requirement not to do so.

When we pointed out its errors, the municipality decided to waive the fee in its entirety.