

[This section 43 decision was issued December 19, 1997. It has been severed to remove all third party identifying information.]

In the Case of an Application for Authorization to Disregard Requests from [the Respondent] under Section 43 of the *Freedom of Information and Protection of Privacy Act* (the Act) by the Law Society of British Columbia

I have had the opportunity of reviewing the application by the Law Society of British Columbia under section 43 of the *Freedom of Information and Protection of Privacy Act* (the Act) for authorization to disregard section 5 requests made by [the respondent] (hereafter referred to as the respondent).

Section 43 gives me the power to authorize a public body to disregard requests under section 5 that, because of their repetitious or systematic nature, would unreasonably interfere with the operations of the public body, in this case the Law Society of British Columbia.

Since the purpose of the Act is to make public bodies more accountable to the public by giving them a right of access to records, authorization to disregard must be given sparingly and only in obviously meritorious cases. Granting section 43 requests should be the exception to the rule and not a routine option for public bodies to avoid their obligations under the legislation.

Based on a detailed review of the submissions of the Law Society of British Columbia and the response of, and the procedural objections raised by, the respondent, the following factors have led me to decide that:

1. The Law Society submits that the respondent's requests, due to their nature and frequency, are unreasonably interfering with its operations and duties to uphold and protect the public interest in the administration of justice.
2. The Law Society submits that the comprehensive nature and the increasing frequency of the respondent's requests are placing an unreasonable burden on the Law Society and, in particular, impinging upon its ability to deal with other applicants' information requests and to fulfill its other statutory duties to the public.
3. The Law Society submits that the increasing frequency and the nature of the respondent's requests have made it apparent that [the respondent] is not using the Act for the purpose for which it was intended.
4. The Law Society submits that the respondent has submitted eleven access to information requests to it since September 1996, mostly in connection with [the respondent's] various complaints against twelve lawyers. This incidence of requests comprises 26 percent of the total number of requests received by the Law Society during this time period. The respondent has made five requests since September 11, 1997: "The fact supports the Law Society's view that the respondent is employing the Act as a tool of harassment."
5. The Law Society further submits that the broad scope of the respondent's requests has generated a substantial amount of work, involving the review of voluminous files and detailed attention to time-consuming line-by-line severing.

In the course of processing the Respondent's requests, and during reviews [involving my Office], the Law Society has consulted eighteen third parties and written approximately 90 letters and faxes to third parties, the Respondent, and other parties relevant to the requests. This number of letters does not include those written to or by the Law Society's counsel.

6. The Law Society submits that until it indicated that it would apply for a section 43 authorization, the respondent had, without exception, requested reviews by my Office of all of the Law Society's responses to [the respondent's] requests:

One request for review, indicative of the Respondent's unreasonable use of the Act, was for a review of the Law Society's decision to take a time extension under section 10. This demonstrates the manner in which the Respondent uses the Act to harass and interfere with the Law Society.

The Law Society is thus continually responding to the respondent's requests for review of its decisions under the Act. It questions [the respondent's] motives and notes the financial and logistical burden that the respondent has placed on the Law Society because of [the respondent's] persistence in claiming that all information in its records should be released.

7. The Law Society estimates, conservatively, that it has exceeded approximately 145 hours in responding to the respondent's requests, excluding time involved consulting with Law Society counsel or counsel's time.

8. The Law Society submits that the respondent has consistently, habitually, systematically, and predictably requested access to the records concerning complaints that [the respondent] has raised with it about specific members. [The respondent] has now begun to request records from its Professional Liability Insurance Department and information concerning staff remuneration in the Complaints and Insurance departments.

In summary, I find that the access requests of the respondent to the Law Society are repetitious, systematic, and unreasonably interfere with the operations of the public body.

Therefore, having carefully considered the submissions of the Law Society and the reply submission of the respondent, including its *in camera* portions, I authorize the Law Society to disregard the following:

- a) **All outstanding requests for records by [the respondent].**
- b) **All requests of any kind by [the respondent] for a period of one year.**

December 19, 1997

David H. Flaherty
Commissioner