



Order F25-49

BC HOUSING

Jay Fedorak
Adjudicator

June 23, 2025

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Summary: BC Housing requested authorization to disregard outstanding and future requests from the respondent under s. 43(a) and (c)(ii) of the *Freedom of Information and Protection of Privacy Act*. The adjudicator found that BC Housing had not established that the requests were frivolous or vexatious under s. 43(a) or repetitious or systematic under s. 43(c)(ii). The adjudicator declined to grant BC Housing authorization to disregard outstanding and future requests.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, RSBC 1996 c. 165, s. 43(a) and (c)(ii).

INTRODUCTION

[1] This inquiry decides an application by BC Housing under s. 43(a) and (c)(ii) of the *Freedom of Information and Protection of Privacy Act* (FIPPA) for authorization to disregard five access requests (the outstanding requests) made by an individual (the respondent). BC Housing had already responded to two of his earlier requests (the completed requests). All seven of the requests relate to applications, renewals and the administration of payments relating to BC Housing's membership in the Urban Development Institute (UDI), as well as a sponsorship agreement between the two organizations. BC Housing asks the Office of the Information and Privacy Commissioner (OIPC) for authorization under s. 43(a) and (c)(ii) to disregard the five outstanding requests and limit future requests from the respondent to one at a time and three per calendar year.

ISSUE

[2] The issues to be decided in this inquiry are:

1. Whether the respondent's five outstanding requests are frivolous or vexatious, for the purposes of s. 43(a);
2. Whether responding to the five outstanding requests would unreasonably interfere with the operations of BC Housing because the requests are repetitious or systematic in accordance with s. 43(c)(ii); and
3. If the answer to either is yes, what relief, if any, is appropriate?

[3] FIPPA does not assign a burden of proof in cases where public bodies request relief under s. 43. Past orders and decisions on s. 43 have placed the burden of proof on the public body.¹

DISCUSSION

Background

[4] The respondent has written a series of blog posts critical of BC Housing that he has published on a website entitled "CRD Watch". He has posted copies of records and descriptions of information that he has obtained through his FIPPA requests to BC Housing, as well as information about a BC Housing employee that he obtained from her LinkedIn profile.

The requests

[5] The applicant has made seven requests. The two completed requests are as follows:

1. On 7 October 2024, the applicant requested records indicating the expiration dates of three UDI memberships held by BC Housing, the initial purchase dates for those memberships and any plans to renew the memberships.
2. On 29 November 2024, he requested records of payments for memberships made on corporate purchasing cards over a two-year period and all communications regarding these payments.

[6] The five outstanding requests are as follows:

1. On 27 December 2024, he requested records indicating the method of payments and details of payments for the renewal of one of the UDI memberships.

¹ See for example, Order F23-38, 2023 BCIPC 46 (CanLII), para. 3.

2. On 27 December 2024, he requested records regarding the other two UDI memberships, including the setting up of the memberships and payment for the memberships.
3. On 27 December 2024, he requested records regarding sponsorship agreements between BC Housing and UDI.
4. On 26 March 2025, he requested records of the business decision to purchase one of the memberships with UDI.
5. On 28 March 2025, he requested records indicating how a particular employee became the “primary account admin” for BC Housing’s UDI memberships.

[7] BC Housing responded to the first three of these requests by issuing a fee estimate. The respondent requested reviews by the OIPC of these fee estimates, which remain in progress.²

SECTION 43

[8] Section 43 allows the Commissioner to grant the extraordinary remedy of limiting an individual’s right of access to information under FIPPA by authorizing a public body to disregard requests. The relevant parts of the provision read as follows:

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

- (a) The request is frivolous or vexatious
- ...
- (c) responding to the request would unreasonably interfere with the operations of the public body because the request
- ...
- (ii) is repetitious or systematic,

[9] As relief under s. 43 restricts an individual’s right to access information, the Commissioner grants s. 43 applications only after careful consideration and in exceptional cases.³

Section 43(a) – frivolous or vexatious

² Requests on hold as a result of a public body issuing fee estimates remain eligible for relief under s. 43. See Order F25-19, 2025 BCIPC 23 (CanLII), para. 10.

³ Order F22-08, 2022 BCIPC 8 (CanLII), para. 29.

[10] Requests that are frivolous or vexatious are an abuse of the right to access information under FIPPA. Both frivolous and vexatious requests are made for a purpose other than a genuine desire to access information.

[11] Frivolous requests include requests that are trivial or not serious. Past OIPC orders have found that requests were frivolous when the requested information was publicly available, the request was for documents that the respondent authored and sent to the public body, and because the respondent cancelled a large access request after the public body had spent significant time processing the request.⁴

[12] Vexatious requests include requests made in bad faith, such as for a malicious purpose or requests made for the purpose of harassing or obstructing the public body.⁵ Past orders have found requests to be vexatious because:

- 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 the public body or an employee of a public body.⁶

[13] The above share the distinction that the respondent had an ulterior motive unrelated to any genuine interest in accessing the information and that this motive was a central factor in finding that the requests were vexatious.

[14] BC Housing submits that the outstanding requests are frivolous and vexatious because the respondent is acting in bad faith in requesting additional information beyond what he received from the two completed requests. BC Housing notes that the respondent used the information obtained through his completed requests in a series of articles that target BC Crown Corporations. BC Housing describes these articles as “negatively interpreting, falsifying, and sensationalizing” the information he obtained through the completed requests. BC Housing accuses the respondent of undermining its credibility in his published articles.⁷

⁴ Order F22-08, *supra*, para. 82; Auth (s. 43) 02-02, 2002 BCIPC 57 (CanLII), para. 27; Order F17-18, 2017 BCIPC 19 (CanLII), para. 23; Order F13-18, 2013 BCIPC 25 (CanLII), para. 34; Order F18-09, 2018 BCIPC 11 (CanLII), para. 29.

⁵ Order F22-08, *supra*, para. 83.

⁶ Auth (s. 43) 02-02 *supra*, para. 27; Decision F08-10, 2008 BCIPC 57362 (CanLII), paras. 38-39; Order F13-16, 2013 BCIPC 20, para. 20; Order F13-18, 2013 BCIPC 25 (CanLII), para. 36; Decision F10-11, 2010 BCIPC 51 (CanLII); Order F16-24, 2016 BCIPC 20 (CanLII), para. 40; Order F20-15, 2020 BCIPC 17 (CanLII), para. 33; Order F19-44, 2019 BCIPC 50 (CanLII), para. 33.

⁷ BC Housing's initial submission, pp. 6-7.

[15] BC Housing also submits that the respondent is using the information that he received through his completed requests to target one of its employees in a disparaging way. He has published her LinkedIn profile, including her educational, employment, and volunteer experience. BC Housing suggests that the respondent's blog accuses the employee of being part of a conspiracy and invites his readers to harass and annoy her. BC Housing accuses the respondent of "doxing" the employee, which it defines as "to publicly identify or publish private information about (someone) especially as a form of punishment or revenge".⁸

[16] BC Housing also accuses the respondent of being engaged in a campaign of harassment against UDI and the organizations that are members of it. It cites a number of petitions against UDI and its members that the respondent has initiated and encouraged. BC Housing suggests that the respondent's motive is to persuade all organizations to sever their ties with UDI.⁹

[17] In summary, BC Housing submits that the respondent is using his FIPPA requests to facilitate a campaign of harassment against UDI and its associates.¹⁰

[18] The respondent denies that he has any vexatious intent. He submits that he has never had any direct contact with the employee that BC Housing accuses him of harassing and that he has had only two polite email exchanges with UDI. The respondent accuses BC Housing of conflating the lawful expression of opinion, including criticism of public institutions, with vexatious intent.¹¹

Analysis

[19] As BC Housing has not argued that the requests are frivolous, I discern that its position is that the requests are vexatious.

[20] BC Housing's submissions indicate that it has misconstrued how previous orders have interpreted the concept of vexatious in the context of s. 43(a). As indicated above, these orders have found requests to be vexatious where the respondents had no genuine interest in the requested information itself. In those cases, it was the act of making the requests that was vexatious. The respondents in those cases were attempting to cause the public bodies hardship, such as imposing an unreasonable administrative burden, by forcing them to process requests, where the respondent had no genuine interest in the information that the requests would produce. Those respondents were acting in bad faith because they were using their rights under FIPPA solely for the ulterior motive of

⁸ BC Housing's initial submission, pp. 7-8.

⁹ BC Housing's initial submission, p. 9.

¹⁰ BC Housing's initial submission, p. 10.

¹¹ Respondent's response submission, third page unnumbered.

causing harm to the public bodies through the request process itself, usually through voluminous or burdensome requests.

[21] In this case, it is clear that the respondent is genuinely interested in the content of the responses to his requests. He uses that content for the purpose of writing public commentary. The fact that BC Housing perceives this commentary to be harmful in some way to BC Housing, its employees or UDI does not mean the access requests are vexatious under s. 43(a). In my view, the respondent's public commentary is an indication that he has a genuine interest in obtaining the information in the records. I am not persuaded that the respondent's outstanding requests were motivated by bad faith and made to punish, harass or cause hardship.

[22] Therefore, I find that the respondent's two completed requests and the five outstanding requests are not vexatious under s. 43(a).

Section 43(c) – unreasonable interference

[23] Under s. 43(c), the Commissioner may authorize a public body to disregard a request that would unreasonably interfere with the operations of the public body because: (i) it is excessively broad; or (ii) is repetitious or systematic. BC Housing does not cite the broadness of the requests or claim s. 43(c)(i) as a reason for applying for relief. Instead, it relies on s. 43(c)(ii).

[24] Section 43(c)(ii) has two parts, and BC Housing must establish that both apply. First, the requests must be repetitious or systematic. Second, responding to the requests must unreasonably interfere with BC Housing's operations.

[25] I discern from its submissions that BC Housing believes that the respondent's access requests are both repetitious and systematic. I first will determine whether the requests at issue are repetitious or systematic and then, if they are, turn to whether responding to the request would unreasonably interfere with BC Housing's operations.

Are the requests repetitious?

[26] Previous orders have established that requests are repetitious, if they are made over again.¹² For example, requests which repeat a previous request to which the public body has already responded are repetitious.

[27] BC Housing submits that the respondent has been "repetitively submitting records requests". He uses information received in response to one request to

¹² Order F22-08, para. 37; Order F17-18, 2017 BCIPC 19 (CanLII), para. 7; Order F13-18, 2013 BCIPC 25 (CanLII), para. 15.

formulate follow up requests. It also submits that he has submitted repetitive questions about the content of the responses to his requests.¹³

[28] BC Housing submits that these requests are repetitious in that they are based on a similar topic, but they are escalated in scope and complexity, as the respondent seeks records that he believes were omitted from his first request. BC Housing anticipates that the respondent will make further requests and ask further questions because he will be dissatisfied with the responses to his five outstanding access requests.¹⁴

[29] The respondent does not make any submissions about whether his requests are repetitious.

Analysis

[30] The respondent has made seven requests. None of the requests explicitly duplicate previous requests. While most are related to the issue of BC Housing's memberships in UDI, they are for different records. For example, one request relates to expiration dates of memberships. Another request relates to the method of payment for the membership fees and communications regarding the payment of membership fees. A further request was for records indicating how a particular employee became "the primary account admin" for these memberships. BC Housing has submitted no evidence indicating that the outstanding requests ask for any of the records it already provided in response to the completed requests.

[31] The respondent submits that there are records that BC Housing should have, but did not, provide in response to his first request. Some of his subsequent requests have been for those records. While it may be possible that a portion of the records responsive to one request may also be responsive to other requests, it is evident that the respondent is seeking records that he has not yet received, rather than duplicates of records already received.

[32] Therefore, I find the requests are not repetitious under s. 43(c)(ii).

Are the requests systematic?

[33] 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. Previous orders have identified characteristics of systematic requests as:

- a pattern of requesting more records, based on what the respondent sees in records already received;

¹³ BC Housing's initial submission, pp. 10-13.

¹⁴ BC Housing's initial submission, p. 12.

- 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 taking those issues to review by OIPC;
- behavior suggesting that a respondent has no intention of stopping the flow of requests and questions, all of which relate to essentially the same records, communications, people and events; and
- an increase in frequency of requests over time.¹⁵

[34] BC Housing submits that the respondent engages in a pattern of behaviour, which it describes as follows:

He will submit an FOI request; once the FOI request is completed and the package is sent to the Requestor, he will engage in repeated emails and questioning, often with the subtext of accusing BC Housing of maliciously withholding records or information. He has developed and submitted subsequent requests based on the content that he received (or the content he believed was missing) in response to [the first two completed requests].¹⁶

[35] BC Housing adds that the respondent also acts systematically in submitting follow up questions, which it describes as a form of harassment.¹⁷

[36] The respondent refutes the allegation that he is acting systematically for the purpose of harassing BC Housing. He explains he made follow up requests to obtain information that he did not receive in response to prior requests. He gives an example of his first request, about which he complained to the OIPC. The finding of the OIPC, according to the respondent, was that some of the information that he was seeking was outside the scope of his original request. He states that, subsequently, he made a new and different request to obtain that information, which he [is] sincerely interested in reading.¹⁸

Analysis

[37] The respondent's requests are not systematic for the purposes of s. 43(c). He has made additional requests because he is genuinely seeking the information. He does not demonstrate a method or plan of acting that is organized or carried out in accordance with a set of rules or principles. His follow up requests do not result from information he obtained in his original request, but rather from information that he did not obtain.

¹⁵ Order F13-18, 2013 BCIPC 25 (CanLII), para. 23; Order F18-37, 2018 BCIPC 40 (CanLII), para. 26.

¹⁶ BC Housing's initial submission, p. 12.

¹⁷ *Ibid.*

¹⁸ Respondent's response submission, fourth unnumbered page.

[38] He has asked questions about the records that he has received and made complaints to the OIPC. There is no evidence of an ulterior motive, other than to obtain information that he believes is necessary to hold BC Housing accountable, in his opinion, for its relationship with UDI. In summary, I see nothing in the wording and frequency of the requests that would lead me to conclude that the requests are systematic.

[39] Therefore, I find that the requests are not systematic under s. 43(c)(ii).

Would responding to the request unreasonably interfere with BC Housing's operations?

[40] As I have found the requests to be neither repetitious nor systematic, I do not need to consider whether responding to them would unreasonably interfere with BC Housing's operations, and I decline to do so.

What relief would be appropriate?

[41] As I have found that neither s. 43(a) nor s. 43(c)(ii) apply, there is no need for a remedy.

CONCLUSION

[42] For the reasons given above, under s. 58 of FIPPA, I find that BC Housing has not proven that the respondent's five outstanding access requests are frivolous or vexatious in accordance with s. 43(a) or repetitious or systematic in accordance with s. 43(c)(ii). Therefore, ss. 43(a) and (c)(ii) do not apply, and I do not authorize BC Housing to disregard the five outstanding requests or any future requests from the respondent.

June 23, 2025

ORIGINAL SIGNED BY

Jay Fedorak, Adjudicator

OIPC File No.: F25-00767