Order F25-74

DISTRICT OF SUMMERLAND

Elizabeth Vranjkovic
Adjudicator

September 25, 2025

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Summary: This is a court-ordered reconsideration of Order F24-15. The matter began when the District of Summerland (District) applied to the Office of the Information and Privacy Commissioner (OIPC) for authorization to disregard 10 of the respondent's access requests under ss. 43(a) (frivolous or vexatious request) and 43(c) (unreasonable interference with the public body's operations) of the *Freedom of Information and Protection of Privacy Act* (FIPPA). In this reconsideration, the adjudicator found that responding to eight of the respondent's access requests would unreasonably interfere with the District's operations because they were systematic (s. 43(c)(ii)). However, the adjudicator found the District did not meet its burden of proving that ss. 43(a) or 43(c) applied to the two remaining access requests. The adjudicator authorized the District to disregard the eight systematic requests and authorized the District to disregard all access requests from the respondent over and above a single access 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), 43(c), 43(c)(i) and 43(c)(ii).

INTRODUCTION

[1] This is a court-ordered reconsideration of Order F24-15. The matter began when the District of Summerland (District) requested authorization from the Office of the Information and Privacy Commissioner (OIPC) to disregard 10 access requests from an individual (the respondent) under ss. 43(a) (frivolous or vexatious request) and 43(c) (unreasonable interference with the public body's operations) of the *Freedom of Information and Protection of Privacy Act* (FIPPA).[1] The District also sought several forms of future relief, including

[1] From this point forward, whenever I refer to section numbers I am referring to sections of FIPPA.

authorization to respond to one request at a time from the respondent or any member of his family for a period of three years.

[2] In Order F24-15, the adjudicator found that responding to the respondent's 10 outstanding access requests (the outstanding requests) would unreasonably interfere with the District's operations because they were both systematic and excessively broad. The adjudicator authorized the District to disregard the outstanding requests. The adjudicator also authorized the District, for a period of three years, to process only one new access request at a time made "by the respondent or his family on his behalf," to determine what a request is, and to spend no more than eight hours responding to each request.

[3] The respondent applied to the BC Supreme Court for a judicial review of Order F24-15 on the basis that the order was procedurally unfair and/or unreasonable.

[4] The Honourable Justice Hardwick found that a duty of procedural fairness was owed to the respondent's family given the potential impact on their rights, privileges or interests, and that the duty of procedural fairness required notice to the respondent's family. As no notice had been given to the respondent's family, Justice Hardwick found that the respondent's family had been denied procedural fairness. In *obiter*, Justice Hardwick also found that the remedy granted to the District was unreasonable. Justice Hardwick disposed of the matter as follows:

> The Order is quashed, and the matter is remitted back to the OIPC for reconsideration based on these Reasons and after proper notice is provided to the [respondent's] "family".
>
> In the alternative, the Order is quashed in part and the issue of remedy is remitted back to the OIPC for reconsideration based upon these reasons.[2]

[5] Before commencing the reconsideration, the OIPC asked the parties for input on the process to be followed in the reconsideration.[3] The District responded that it was amenable to a full reconsideration and requested the reconsideration process following the standard OIPC inquiry procedure. The District also asked to either narrow or expand the scope of the relief sought, and in particular, to narrow the relief sought to exclude any relief against the respondent's family members.[4] The respondent submitted that the OIPC should allow the parties to provide additional material to supplement what was provided during the original inquiry.[5]

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[2] *Besler v British Columbia (Information and Privacy Commissioner)*, 2025 BCSC 662 at paras 112-113.
[3] OIPC's May 27, 2025 letter.
[4] District's June 10, 2025 letter.
[5] Respondent's June 10, 2025 submission.

[6] The OIPC decided that the best course was to reconsider the case as a whole, based on all the materials from the initial inquiry plus supplemental submissions. The OIPC did not permit the District to seek additional relief but advised the District that it did not require the OIPC's permission to not pursue relief against the respondent's family members.[6] The District subsequently confirmed it wished to narrow the relief sought by removing any references to the respondent's family members from that relief.[7] The OIPC then commenced this reconsideration. The District and the respondent both provided supplemental submissions to the OIPC.

ISSUES

[7] I must decide the following issues in this inquiry:

1. Are the outstanding requests frivolous or vexatious under s. 43(a)?
2. Would responding to the outstanding requests unreasonably interfere with the District's operations because the requests are excessively broad under s. 43(c)(i)?
3. Would responding to the outstanding requests unreasonably interfere with the District's operations because the requests are repetitious or systematic under s. 43(c)(ii)?
4. If the answer to any of the above questions is yes, what relief, if any, is appropriate?

[8] As the party applying for relief under s. 43, the District has the burden to prove that its s. 43 application should be granted.[8]

DISCUSSION

Background

[9] There is an extensive history between the District and the respondent. Briefly, the respondent is a resident of the District who runs a social media page on which he posts about local news and issues. He has on several occasions posted information obtained through access requests on his social media page with commentary about that information.

[10] The respondent has also complained to the District about one of his neighbours, is involved in litigation against the District, and has made many

[6] OIPC's June 25, 2025 letter.
[7] District's July 3, 2025 letter.
[8] Auth. (s. 43) 02-02, [2002] BCIPCD No 57 [*Auth (s 43) 02-02*]. Available at https://www.oipc.bc.ca/documents/decisions/160; Order F17-18, 2017 BCIPC 19.

access requests under FIPPA to the District, some of which have resulted in reviews by the OIPC.

Preliminary issue - other access requests

[11] In its initial submissions from the Order F24-15 inquiry, the District asks to respond to seven outstanding requests one at a time, before it starts work on any other requests, but it did not actually request authorization under s. 43 to disregard them or 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. In Order F24-15, the adjudicator found that those seven requests were not properly before her in the s. 43 application, so she did not consider or make any decision about them. Further, the judicial review decision did not say that these seven requests must be added into the reconsideration of Order F24-15. Therefore, I find those seven access requests are not before me and I will not consider or make any decision about them.

Outstanding requests

[12] The District has requested authorization under s. 43 to disregard the outstanding requests. Those requests are as follows:

1. All emails sent or received by [staff member A] from June 21 to July 2, 2022; and
   All emails sent or received by [staff member B] from June 21 to 30, 2022.[9]

2. All emails sent or received by [councillor A] from February 10 to 26, 2021; and
   All emails sent or received by [Mayor] from February 10 to 26, 2021.[10]

3. All communications sent or received by [Mayor, councillors A & B, staff members A, C & D] 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.[11]

4. All communications sent or received by [councillor A] in 2023 that include any of the following keywords: [respondent's initials], [councillor A's spouse], FOI and UBCM; and
   All communications sent or received by [staff members C & D] in 2023 that include the following keyword: [respondent's initials].[12]

[9] District's FOI number 2023-32 (Request 2023-32).
[10] District's FOI number 2023-33 (Request 2023-33).
[11] District's FOI number 2023-37 (Request 2023-37).
[12] District's FOI number 2023-38 (Request 2023-38).

5. All communications sent or received by [Mayor, councillors A & B, staff members C & D] 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.[13]

6. All emails sent or received by [councillor A] from January 1, 2018 to May 31, 2018 that include any of the following keywords: RDOS, [councillor A's spouse], husband, communications, hire, job or experience.

   All emails sent or received by [councillor A] from February 1, 2020 to July 31, 2020 that include any of the following keywords: [councillor A's spouse], husband, communications or coordinator.[14]

7. All emails sent or received by [staff members E, F, G, H & I] from May 22, 2019 to September 30, 2019 that include any of the following keywords: charges, charged, RCMP, arrest, arrested, arresting, harass, harassed, harassing, harassment, trespass, trespassing, trespassed, suing, sued, sue, lawsuit or 7.6.[15]

8. All emails sent or received by [former mayor, Mayor in his then-role as councillor, councillor A & four other councillors] from May 9, 2019 to October 15, 2019 that include any of the following keywords: charges, charged, RCMP, arrest, arrested, arresting, harass, harassed, harassing, harassment, trespass, trespassing, trespassed, suing, sued, sue, lawsuit, 7.6, or [respondent's first name].[16]

9. All emails sent or received by [Mayor & staff members C & J] from April 1, 2023 to August 29, 2023 that include any of the following keywords: [address], food, Hub, or ranch.[17]

10. All emails, including attachments, sent or received by [staff members J & K] 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.[18]

[13] District's FOI number 2023-39 (Request 2023-39).
[14] District's FOI number 2023-40 (Request 2023-40).
[15] District's FOI number 2023-45 (Request 2023-45).
[16] District's FOI number 2023-46 (Request 2023-45).
[17] District's FOI number 2023-48 (Request 2023-48).
[18] District's FOI number 2023-68 (Request 2023-68).

Section 43

[13] Section 43 allows the Commissioner to grant the extraordinary remedy of limiting an individual's right to access information under FIPPA. Public bodies do not have discretion to disregard access requests on their own; they must obtain permission to do so from the Commissioner.[19]

[14] Section 43 allows the Commissioner to authorize a public body to disregard a request, 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.

[15] Given that relief under this section curtails or eliminates a person's right to access information, s. 43 applications must be carefully considered.[20] According to former Commissioner Flaherty, granting s. 43 applications should be the "exception" and not a mechanism for public bodies "to avoid their obligations under FIPPA."[21]

[16] However, s. 43 serves an important purpose: to guard against abuses of the right of access.[22] 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.[23] In this way, s. 43 is an "important remedial tool in the Commissioner's armory to curb abuse of the right of access."[24]

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[19] Order F18-25, 2018 BCIPC 28 at para 14.
[20] Auth. (s. 43) 99-01 at page 3 [*Auth. (s. 43) 99-01*]. Available at https://www.oipc.bc.ca/decisions/170.
[21] Auth. (s. 43) (19 December 1997) at page 1. Available at https://www.oipc.bc.ca/decisions/168.
[22] Auth. (s. 43) 99-01, *supra* note 20 at page 7.
[23] *Ibid*.
[24] *Crocker v British Columbia (Information and Privacy Commissioner)*, 1997 CanLI 4406 at para 33 [*Crocker*].

Unreasonable interference, s. 43(c)

[17] 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 it: (i) is excessively broad; or (ii) is repetitious or systematic.

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

Are the outstanding requests systematic?

[19] 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.[25] 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 of requests and questions, all of which relate to essentially the same records, communications, people and events.[26]

[20] It is necessary to consider past requests when deciding whether an access request is systematic.[27]

Parties' submissions, systematic

[21] The District says the outstanding requests are systematic because:

- The respondent uses a consistent methodology in which he requests "all records" of certain individuals over certain periods of time, sometimes limited to records containing certain keywords;[28]

[25] Order F13-18, 2013 BCIPC 25 at para 23.
[26] Order F18-37, 2018 BCIPC 40 at para 26.
[27] Auth. (s. 43) 02-01 at para 24. Available at https://www.oipc.bc.ca/decisions/171.
[28] District's first supplemental submission at para 15.

- The respondent uses keywords to set out "as broad a net as possible" to "catch anything even loosely related to his inquiries" as well as unrelated information;[29]
- The respondent asks for information via email, which sometimes prompts him to submit an access request;[30]
- 31 of the respondent's access requests relate to his neighbour;[31] and
- Some of the respondent's access requests are based on records received in response to past access requests.[32]

[22] The District also provides a table of access requests submitted by the respondent and his family members from 2019-2023.[33]

[23] The respondent says he submits access requests with keywords because it is the most effective way to ensure the desired records are produced.[34] He says that the District has a history of providing him with incomplete response packages, so searching with keywords reduces the District's discretion to withhold records.[35]

[24] In response to the District's submission that some of the respondent's access requests are based on records received in response to previous requests, the respondent says, "[it] is important for the OIPC to carefully review those requests and consider them in the context of Order F20-34 and [a prior OIPC investigation]."[36]

[25] The respondent also explains that one of the outstanding requests, request 2023-33, was motivated at least in part by records received in response to a previous access request. He says that the records he seeks in request 2023-33 are in the public interest because they may relate to a solar project that cost taxpayers $1 million, and based on what he saw in an email obtained through a previous access request, they may contain unprofessional communications from District councillors.[37]

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[29] *Ibid* at para 19.
[30] District's initial submission at pages 7-8.
[31] Based on what I can see in the table of access requests included in the District's initial submission, 14 of those requests were made by the respondent's family.
[32] District's initial submission at page 5.
[33] Appendix A to the District's initial submission.
[34] Respondent's supplemental submission at para 43.
[35] Respondent's response submission at para 96.
[36] Respondent's supplemental submission at para 44.
[37] Respondent's response submission at paras 37-42, exhibit I to the respondent's response submission. District request 2023-33.

Analysis and findings, systematic

[26] The District says the outstanding requests are systematic because the respondent uses a consistent methodology of requesting "all records" of certain individuals over certain periods of time, sometimes limited to records containing certain keywords. I can see that many of the respondent's access requests are for all records, communications or emails of certain individuals over certain periods of time. In my view, this is a common method of formulating access requests and is insufficient, on its own, to establish that the outstanding requests are systematic.

[27] However, I am persuaded that eight of the outstanding requests are systematic for another reason. They are requests for all communications or emails between specific individuals over certain periods of time containing a number of keywords (the Keyword Requests).[38] Considering the respondent's explanation for using keywords, I find that the Keyword Requests are systematic because the respondent is clearly following a method of formulating requests with a number of keywords for the purpose of alleviating his concern that the District may withhold some of the responsive records.

[28] However, in the remaining two outstanding requests the respondent did not use the keyword approach. They are requests 1 and 2 described in paragraph 12 above. I will refer to these two requests as the Remaining Requests and for the reasons that follow, I find that they are not systematic.

[29] The District says the outstanding requests are systematic because: 1) many of the respondent's past access requests relate to his neighbour; and 2) the respondent asks for information via email, which sometimes prompts him to submit an access request. The Remaining Requests do not relate to the respondent's neighbour and nothing before me indicates that the Remaining Requests were prompted by the respondent asking the District for information via email, so I find they are not systematic on those grounds. However, even if the Remaining Requests were about the respondent's neighbour or were prompted by an email, the District does not adequately explain, and I do not see, how that would make them systematic.

[30] The District also says some of the respondent's requests are systematic because they are based on records received in response to past access requests. As set out above, the respondent acknowledges that request 2023-33, which is one of the Remaining Requests, is based in part on an email received in response to a previous access request. Previous orders have found that requests are systematic where the access applicant has a pattern of requesting records

[38] District requests 2023-37, 2023-38, 2023-39, 2023-40, 2023-45, 2023-46, 2023-48 and 2023-68.

based on what they saw in previous records already received.[39] Therefore, I must consider whether request 2023-33 is part of a pattern of the respondent requesting more records based on what he saw in records already received.

[31] The District says there is such a pattern because request 2023-35 was based on records received in response to request 2022-37.[40] However, there is no request 2022-37 in the table of access requests and the District does not explain anything further about how request 2023-35 was based on records received in response to that request. As a result, I am not satisfied that the respondent made request 2023-35 based on what he saw in records received in response to request 2022-37.

[32] The District also says there is such a pattern because two of the Keyword Requests, 2023-38 and 2023-40, are based on records received in response to request 2023-31.[41] The respondent explains that those records contained an email from councillor A's spouse to councillor A about hotels for a 2023 conference and councillor A's expenses for the same conference in 2022 were the subject of media attention.[42]

[33] Request 2023-38 seeks 2023 communications from councillor A about the conference. Considering the subject matter of that request and the respondent's explanation, I find that request 2023-38 was based on what the respondent saw in records received in response to request 2023-31. Request 2023-40 relates to councillor A and their spouse but does not relate to the conference. Because of the different subject matter of request 2023-40, I am not satisfied that the respondent made that request based on what he saw in records received in response to request 2023-31.

[34] The District does not say that any other access requests are based on what the respondent sees in records already received.

[35] Considering all of the above, I am not persuaded that there is a pattern of the respondent requesting records based on what he sees in records received in response to previous access requests. I found above that two of the respondent's access requests (2023-38 and one of the Remaining Requests) are based on what the respondent saw in records received in response to a previous access request. In my view, two instances are insufficient to establish a pattern of conduct that could be fairly called systematic. Therefore, I find that the Remaining Requests are not part of a pattern of conduct of the respondent requesting more records based on what he sees in records already received.

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[39] For example, Decision F06-12, 2006 CanLII 42644 (BC IPC) at paras 34-35.
[40] District's initial submission at page 5. Request 2023-35 is not one of the outstanding requests.
[41] District's initial submission at page 5. District requests 2023-38 and 2023-40.
[42] Respondent's response submission at paras 56-57.

[36] For these reasons, I find that the Remaining Requests are not systematic. As a result, I will go on to consider whether the Remaining Requests are repetitious or excessively broad. I will not consider whether the Keyword Requests are repetitious or excessively broad because I have already found they are systematic.

Are the Remaining Requests repetitious?

[37] Repetitious requests are requests made more than once.[43] The fact that an applicant makes numerous requests does not mean that the requests are repetitious, as long as they are not requesting essentially the same information.[44]

[38] The District says that in 2020, the respondent made several repetitious access requests for records provided in response to earlier access requests.[45] The District also says the respondent has used civil proceedings to obtain the same information that he seeks through access requests.[46]

[39] The respondent says the outstanding requests are not for information previously requested.[47] However, he admits that some of his other previous access requests were repetitious, but says they were necessary because the District was withholding information it should have disclosed in response to his access requests.[48] The respondent also says that documents obtained from access requests can be publicly disclosed, while documents obtained in civil proceedings are subject to an implied undertaking against disclosure.[49]

[40] The question is not whether any previous access requests may have been repetitious, but whether the Remaining Requests are repetitious. The District does not say that the Remaining Requests are repetitious, and having reviewed the Remaining Requests and the table of access requests, it does not appear that any of the respondent's previous requests sought access to the same records sought in the Remaining Requests.

[41] Additionally, the fact that an access request seeks the same records sought in civil proceedings does not mean that the access request is repetitious. The OIPC has consistently rejected the notion that court discovery processes displace the right of access under FIPPA.[50] As the respondent points out, there may be valid reasons for requesting the same records under FIPPA and in civil

[43] Decision F12-01, 2012 CanLII 22871 (BC IPC) at para 5.
[44] Order F23-37, 2023 BCIPC 44 at para 45.
[45] District's initial submission at page 5.
[46] *Ibid* at page 6.
[47] Respondent's response submissions at para 26.
[48] *Ibid* at paras 5-9.
[49] *Ibid* at para 100.
[50] Order P21-03, 2021 BCIPC 11 at paras 14-15; Order F17-40, 2017 BCIPC 44 at para 4.

proceedings because records obtained in civil proceedings are subject to an implied undertaking of confidentiality.

[42] For these reasons, I find that the Remaining Requests are not repetitious.

Are the Remaining Requests excessively broad?

[43] An excessively broad request under s. 43(c)(i) is an access request that would result in an "overwhelming" or "inordinate" volume of responsive records.[51] The focus is on the volume or number of responsive records that the request would likely generate and not on the amount of time and effort the public body would need to spend searching for the relevant records.[52]

[44] In some cases, a public body may need to do a preliminary search to provide evidence that demonstrates the access request at issue would likely result in an excessive volume of responsive records.[53] In other cases, the wording of the access request alone may be sufficient to prove that the access request would generate a significant and overwhelming number of responsive records. For example, the adjudicator in Order F23-98 was satisfied that an access request for "all emails to government" would generate an overwhelming and, therefore, excessive volume of responsive records.[54]

[45] The District says that the outstanding requests are excessively broad because many of the keywords are routinely used in its correspondence and likely to yield high volume results.[55] The District says the two Remaining Requests resulted in 1,661 and 2,584 pages of responsive records respectively and submits that an access request which results in over 1,000 pages of responsive records is excessively broad.[56]

[46] The respondent says that the District did not try to narrow the scope of the outstanding requests or issue fee estimates to encourage him to do so. He says that if the fee estimate was too high for a given access request, he would reduce the scope of that request.[57] He also says that he would have removed some keywords from two of the Keyword Requests had he known how many responsive records they would generate.[58]

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[51] Order F23-98, 2023 BCIPC 114 at para 39.
[52] *Ibid* at paras 38 and 42.
[53] *Ibid* at para 41.
[54] *Ibid* at para 40.
[55] District's initial submission at page 2.
[56] District's first supplemental submission at para 11.
[57] Respondent's supplemental submission at para 39.
[58] *Ibid* at paras 35-37.

Analysis and findings, excessively broad

[47] For the reasons that follow, I find that the Remaining Requests are not excessively broad.

[48] First, the wording of the Remaining Requests does not prove that they would generate an overwhelming or inordinate volume of responsive records because they are limited to short periods of time and seek communications to or from only four individuals.

[49] Second, I am not persuaded that the Remaining Requests are excessively broad because they result in more than 1,000 pages of responsive records. In support of that position, the District relies upon a decision from the Ontario Information and Privacy Commissioner, Order PO-4193, which concluded that an applicant's requests were excessively broad in part because they generated over 23,000 pages of responsive records over 23 multi-part requests, or an average of 1,000 pages per request.[59] The District says an OIPC adjudicator "approvingly cite[d]" that order in Order F23-98.[60]

[50] In Order F23-98, the adjudicator referred to Order PO-4193 in support of her finding that the key question in the first part of the s. 43(c)(i) test (whether a request is excessively broad) is whether the request is likely to result in an excessive volume of responsive records. The adjudicator did not say anything that suggests that she agreed that an access request that generates an average of 1,000 pages per request is excessively broad. In my view, 1,000 pages of responsive records is not an overwhelming or inordinate volume of responsive records.

[51] Finally, previous orders of this office have held that access requests are excessively broad where the public bodies estimated they would result in 10,000, 17,000, and 209,150 pages of responsive records.[61] I agree that those are volumes of responsive records that can fairly be characterized as overwhelming and inordinate. However, the volume of responsive records for each of the Remaining Requests, 1,661 and 2,584 pages, is significantly lower than those amounts and, in my view, cannot be fairly characterized as overwhelming or inordinate.

[52] For these reasons, I conclude that the Remaining Requests are not excessively broad.

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[59] Order PO-4193, *London Health Sciences Centre (Re)*, 2021 CanLII 98534 (ON IPC).
[60] District's first supplemental submission at para 11.
[61] Order F24-92, 2024 BCIPC 105 at para 22; Order F25-39, 2025 BCIPC 47 at para 24; Order F25-41, 2025 BCIPC 49 at paras 16-20.

Unreasonable interference

[53] I found the Keyword Requests are systematic, while the Remaining Requests are neither systematic, nor repetitious, nor excessively broad. Therefore, it is only necessary for me to determine whether responding to the Keyword Requests would unreasonably interfere with the District's operations.

[54] 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 operations.[62] In determining whether a request unreasonably interferes with the operations of the public body, past orders have considered what impact responding to the subject request will have on the rights of other access applicants.[63]

Parties' submissions, unreasonable interference

[55] The District says that responding to the outstanding requests would unreasonably interfere with its operations because keyword-based access requests result in "prevalent and abundant" duplicate emails and attachments.[64] It says that de-duplication, organization and line-by-line review and severing is exacerbated by the excessively broad scope of the requests.[65] The District also says that the responsive records for keyword-based access requests often contain records of third parties or other public bodies, with which the District must consult before deciding how to sever the records.[66]

[56] The District does not estimate how long it would take to respond to the outstanding requests but says that it spent 440 hours and $55,001 processing the respondent's requests in 2021 and 2023, which amounts to 47% of the District's time and expenses spent on access requests in those years.[67]

[57] The District also says that it is a small municipality, with three employees involved in processing, managing and responding to access requests.[68] It says that the increase in access requests has led the Deputy Corporate Officer/Corporate Services Coordinator to spend 100% of their time on FIPPA related matters and that it has had to hire an external consultant to meet legislative timelines. It says that it does not have the budget to continue to hire

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[62] *Crocker*, *supra* note 24 at para 37.
[63] Order F18-18, 2018 BCIPC 19 at para 40; Order F13-18, 2013 BCIPC 25 at para 31.
[64] District's initial submission at page 3.
[65] *Ibid*.
[66] *Ibid* at page 4.
[67] *Ibid* at pages 3-4, first supplemental submission at para 34. The District also provides statistics from 2022, but those numbers include access requests made by the respondent's family members, so I do not find those numbers relevant
[68] District's first supplemental submission at para 22.

the external consultant or hire a full-time dedicated FIPPA position.[69] It also says that the Deputy Corporate Office/Corporate Services Coordinator's capacity to facilitate the District's freedom of information process has become "extremely limited as a direct result" of the respondent's access requests.[70]

[58] The District's Chief Administrative Officer says that the respondent's access requests have overwhelmed staff and disproportionately consumed their time allocated to processing access requests.[71] He says that priority projects have had to be postponed because employees have had to focus the majority of their time and attention on access requests.[72] Finally, he says that he believes the respondents' requests consume a disproportionate share of the District's resources.[73]

[59] The respondent says that the employees responsible for access requests were also responsible for organizing a referendum, which is now over, so they have more time to process access requests. The respondent also says the District can use the external consultant to process access requests.[74]

[60] The respondent notes that public bodies in previous s. 43 applications provided the OIPC with estimates of the number of hours it would take to process the relevant access requests which allowed the OIPC to objectively determine if responding would unreasonably interfere with the public body's operations.[75] The respondent also questions the accuracy of the District's submissions about how long it took to process the respondent's past access requests.[76]

Analysis and findings, unreasonable interference

[61] To begin, I find some of the District's submission irrelevant where it refers to the impact of access requests generally or the impact of access requests of the respondent and his family members together. I only find the District's submission relevant where it relates to the impact of responding to the respondent's access requests.

[62] For the reasons that follow, I find that responding to the Keyword Requests would unreasonably interfere with the District's operations.

[63] First, I am satisfied from the language of the Keyword Requests that responding to them will require a considerable amount of work. These requests

[69] District's initial submission at page 4.
[70] *Ibid* at page 9.
[71] Chief Administrative Officer's affidavit at para 6.
[72] *Ibid* at para 10.
[73] *Ibid* at para 11.
[74] Respondent's response submission at paras 107-109.
[75] Respondent's supplemental submission at para 53.
[76] *Ibid* at paras 55-56.

are not, for example, requests for a small number of discrete identifiable records. Instead, they are for all communications or all emails sent or received by one to seven named individuals during certain time periods for four to 19 keywords. Some of the keywords are common words that might appear in numerous contexts, such as "food," "sick," and "job." As a result, I can see how these searches will likely result in a large number of records that, while technically responsive to the language of the Keyword Requests, do not relate to the actual purpose of the Keyword Requests. I understand from the respondent's submission that he has formulated the Keyword Requests in this manner because he does not trust the District will produce all responsive records. I find that requiring the District to process records which may not be responsive to the purpose of an access request, solely because the respondent does not trust the District will comply with FIPPA, would be an unreasonable use of the District's time and resources.[77]

[64] I also accept the Chief Administrative Officer's evidence that the respondent's access requests have disproportionately consumed staff time allocated to FOI requests. This is consistent with the District's submission that 47% of its time and expenses spent on access requests in 2021 and 2023 was spent on the respondent's access requests. Comparing the scope and number of the respondent's access requests in 2021 and 2023 with the Keyword Requests, I am satisfied that responding to the Keyword Requests will continue to disproportionately use the District's time and resources.

[65] I am mindful that the District is a relatively small public body and the respondent is not the only access applicant requiring the District's attention. The time spent responding to the respondent's access requests negatively impacts the rights of other access applicants and diminishes the amount of public resources available to respond to them.

[66] Considering the past amount of time and expenses spent on the respondent's access requests compared to other applicants, the limited resources of the public body, and the nature of the Keyword Requests, I conclude that responding to the Keyword Requests would unreasonably interfere with the District's operations.

Frivolous or vexatious, s. 43(a)

[67] Section 43(a) allows the Commissioner to authorize a public body to disregard an access request because the request is frivolous or vexatious. Because I found s. 43(c)(i) applies to the Keyword Requests, I will only consider whether the Remaining Requests are frivolous or vexatious.

[77] Section 6(1) requires the District to respond without delay to each applicant openly, accurately and completely. If the respondent is unsatisfied with the District's responses, he has the option of complaining to the OIPC that the District has not met its duty under s. 6(1).

[68] Requests that are frivolous or vexatious are an abuse of the right to access information under FIPPA.[78] Both frivolous and vexatious requests are made for a purpose other than a genuine desire to access information.

[69] The terms "frivolous" and "vexatious" are not defined in FIPPA. Frivolous requests include requests that are trivial or not serious.[79] One OIPC order found that a request was frivolous where the respondent cancelled a large access request after the public body had spent significant time processing the request.[80]

[70] Vexatious requests are made for a purpose other than a genuine desire to access information, such as those made in bad faith, for a malicious purpose, or for the purpose of harassing or obstructing the public body.[81] 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;[82]
- The respondent was motivated by a desire to harass the public body;[83]
- The intent of the requests was to express displeasure with the public body or to criticize the public body's actions;[84] and
- The requests were intended to be punitive or to cause hardship to an employee of a public body.[85]

[71] Additionally, in Auth. (s. 43) 02-02, former Commissioner Loukidelis said that the fact that one or more requests are repetitive may support a finding that a specific request is frivolous or vexatious.[86]

Parties' submissions, s. 43(a)

[72] The District says that "targeted word lists directed at public body staff and council" are frivolous.[87] It refers to several of the respondent's access requests as examples but does not further explain this position.

[78] Auth. (s. 43) 02-02, *supra* note 8 at para 25 and *Crocker*, *supra* note 24 at para 3.3.
[79] Auth. (s. 43) 02-02, *supra* note 8 at para 27.
[80] Order F18-09, 2018 BCIPC 11 at para 29.
[81] Order F22-08, 2022 BCIPC 8 at para 83.
[82] Decision F08-10, 2008 CanLII 57362 (BC IPC) at paras 38-39; Order F13-16, 2013 BCIPC 20 at para 20.
[83] Order F13-18, 2013 BCIPC 25 at para 36.
[84] Decision F10-11, 2010 BCIPC 51; Order F16-24, 2016 BCIPC 20 at para 40; Order F20-15, 2020 BCIPC 17 at para 22.
[85] Order F19-44, 2019 BCIPC 50 at para 33.
[86] Auth. (s. 43) 02-02, *supra* note 8 at para 27.
[87] District's initial submission at page 10.

[73] The District says the respondent's access requests are not intended to gain access to information, but instead are petty, harassing, and obstructive to the District and its staff.[88] The District says that the number of requests related to the respondent's neighbour "speaks to the dissatisfaction and vexatiousness of the applicant."[89] The District also says that many of the respondent's requests relate to specific topics or activities of the public body.[90]

[74] The District also argues that the outstanding requests are vexatious because the respondent is using them to fish for information which he will use for ulterior purposes. Specifically, the District says the respondent shares information obtained from access requests on social media to cast District staff, council members and their families in a bad light and uses "narrow instances of behaviour or communication" as evidence of the District acting in bad faith in court proceedings.[91]

[75] Finally, the District says that following its s. 43 application, the respondent filed a civil claim against the District, which it says is obviously without merit and is evidence that the respondent intends to use FIPPA in bad faith.[92] It also says that the respondent has filed six civil claims since this office issued Order F24-15, all of which include allegations of intentional wrongdoing by District staff. The District says this shows that the respondent intends to use FIPPA to assist "in his misguided crusade against the District."[93]

[76] The District's Chief Administrative Officer says that he "sincerely believe[s]" the respondent's requests are an abuse of the right of access under the Act and are therefore frivolous and vexatious.[94]

[77] The respondent says he did not make the outstanding requests to harass District staff, and instead says he has been using FIPPA as intended, to hold public bodies accountable.[95] The respondent says that he is a modern day journalist and his social media page is an information source for the community.[96] He also says that he is deeply involved in local politics and has invested significant time and resources to obtain information through access requests.[97]

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[88] *Ibid*.
[89] *Ibid*.
[90] *Ibid*.
[91] *Ibid* at pages 10-11, reply submission at para 6, and first supplemental submission at paras 37-41, 44 and 46-47.
[92] District's first supplemental submission at paras 37-39.
[93] *Ibid* at paras 44-46.
[94] Chief Administrative Officer's affidavit at para 12.
[95] Respondent's supplemental submission at para 29.
[96] *Ibid* at para 5.
[97] Respondent's response submission at para 113.

[78] The respondent says that the outstanding requests were made in good faith and from a genuine desire to access information.[98] The respondent explains that he made one of the Remaining Requests to understand why an individual's employment with the District was terminated. He explains that the individual filed a wrongful dismissal lawsuit, and the employee who fired them was previously involved in the wrongful firing of another District employee.[99]

[79] The respondent also explains that the other Remaining Request is for communications in a time period following an editorial published in the *Penticton Herald* questioning the District's transparency on a project. The respondent says disclosure of communications relating to that project is in the public interest because of the cost of the project. He also believes that the responsive records may include unprofessional communications like one he previously obtained in which councillor A mocked a former councillor for raising concerns about the same project.[100]

[80] With respect to the court proceedings, the respondent says that his access requests are not in bad faith or improper simply because some of the requested records may assist in his civil proceedings.[101] He says that there are live issues between him and the District and he has a genuine interest in the requested records.[102]

[81] The respondent also says that he has been respectful in communications with District staff regarding access requests and has accommodated the District's time extensions to process requests.[103]

[82] In reply, the District says that the respondent "is not a journalist in any real sense of that word."[104] It says that his intemperate and uncivil comments on his social media page indicate a lack of journalistic purpose and relies on screenshots of the social media page in support of this position, which it provided for me to see.[105]

Analysis and findings, s. 43(a)

[83] To begin, I am not persuaded that the Remaining Requests are frivolous. I do not see, and the District does not adequately explain, how they are frivolous. Nothing before me indicates that the Remaining Requests are trivial or

[98] Respondent's supplemental submission at para 3.
[99] Respondent's response submission at paras 28-35.
[100] *Ibid* at paras 37-42.
[101] Respondent's supplemental submission at para 11.
[102] *Ibid* at para 16.
[103] *Ibid* at para 21.
[104] District's second supplemental submission at para 26.
[105] *Ibid* at para 29.

unserious. I turn now to consider whether the Remaining Requests are vexatious.

[84] The District says the outstanding requests are vexatious because of the number of the respondent's access requests that relate to his neighbour. The Remaining Requests do not relate to the respondent's neighbour, so they are not vexatious on that basis.

[85] The District also says the outstanding requests are vexatious because many of the respondent's requests relate to specific topics or activities of the public body. It seems to me that this is a normal characteristic of access requests and is not, on its own, indicative of vexatiousness. The District does not adequately explain how this makes the Remaining Requests vexatious. Therefore, I find the Remaining Requests are not vexatious because they relate to specific topics or activities of the public body.

[86] I also understand the District to be arguing that the outstanding requests are vexatious because of what the respondent intends to do with the information he obtains from those requests. I accept that the respondent may publish some of the responsive records on social media, which could have the effect of casting District employees, the Mayor and councillor A in a bad light. However, I accept the respondent's explanations about why he made the Remaining Requests and find that he is genuinely interested in accessing the requested records. I am not persuaded that an access request is vexatious simply because an access applicant who is genuinely interested in accessing the requested records might share some information in those records on social media.

[87] I am also not persuaded that, as the District argues, the respondent made the Remaining Requests to fish for information to use as evidence of the District acting in bad faith in court proceedings. I accept the respondent's explanation of why he made the Remaining Requests, and his explanation does not suggest that he made those requests to fish for information to use against the District in court proceedings.

[88] Finally, I am not persuaded that the civil claims the respondent filed after the District's s. 43 application are "evidence" that the respondent intends to use FIPPA in bad faith. The District does not adequately explain how the respondent's civil claims are evidence of such intent.

[89] The respondent has explained the purpose for the Remaining Requests and I am satisfied that he is genuinely interested in accessing the requested records. Despite the District's concerns about his motives, and its evident frustration with the respondent's requests and behaviour, in my view, the Remaining Requests are neither trivial nor unserious, nor were they made in bad

faith or with an intent to harass or annoy the District. Therefore, I conclude that the Remaining Requests are not frivolous or vexatious.

What is the appropriate relief?

[90] Section 43 can be used to authorize a public body to disregard present and future FIPPA requests.[106] Any remedy under s. 43 must be proportional to the harm inflicted.[107] Previous orders have tailored remedies to the circumstances of each case and have considered factors such as:

- A respondent's right to her own personal information;
- Whether there are live issues between the public body and the respondent;
- Whether there are likely to be any new responsive records;
- The respondent's stated intentions;
- The nature of past requests; and
- Other avenues of obtaining information in the past and future available to the respondent.[108]

[91] The District seeks authorization to:

- Disregard the outstanding requests;
- Disregard all access made by the respondent over and above one access request at a time;
- Determine what a single access request is for the purposes of the authorization; and
- For a period of three years, disregard future requests from the respondent that are similar in scope to the outstanding requests.[109]

[92] In terms of relief, the respondent says Order F22-61 is "persuasive regarding relief for this matter" and that future relief would effectively deprive him of the right to make future access requests that are not vexatious.[110]

[93] In order to prevent an unreasonable interference with the District's operations, I find it appropriate to authorize the District to disregard the Keyword Requests.

[94] I also conclude that some future relief is appropriate in these circumstances. The s. 43 objective in any future relief that I authorize must be to

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[106] *Crocker*, *supra* note 24 at paras 40-43; *Mazhero v British Columbia (Information and Privacy Commissioner)*, 1998 CanLII 6010 at para 15.
[107] *Crocker*, *supra* note 20 at para 54.
[108] Order F20-15, 2020 BCIPC 17 at para 34.
[109] District's initial submission at page 12.
[110] Respondent's supplemental submission at para 72.

prevent systematic requests that would result in an unreasonable interference with the District's operations. Therefore, I find it appropriate to authorize the District 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 from the date of this authorization. This approach addresses the excessive consumption of the District's resources while preserving the respondent's ability to reasonably exercise his access rights.

[95] This remedy should not be circumvented by the respondent including multiple categories of requested records in a single request because doing so is, in substance, making multiple access requests at the same time.[111] Therefore, I find that it is also appropriate to give the District the discretion to determine what constitutes a single access request.

[96] It is important to recognize that other members of the public have an equal right to a share of the public resources allocated to respond to access requests. When an individual overburdens the FIPPA system, it has a negative impact on others who want to legitimately exercise their FIPPA rights. In my view, the respondent's behaviour reveals a failure on his part to recognize that the right of access to information under FIPPA comes with the responsibility to not abuse that right. Although the District was not entirely successful in this s. 43 application, this is largely because I found that the District did not meet its burden of proving that s. 43 applies to the Remaining Requests, not because of a lack of concern about the respondent's conduct to date. Nothing in this authorization precludes the District from applying under s. 43 to disregard a future request from the respondent.

CONCLUSION

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

1. The District is authorized under s. 43(c)(ii) to disregard the Keyword Requests, which are requests 2023-37, 2023-38, 2023-39, 2023-40, 2023-45, 2023-46, 2023-48 and 2023-68.

2. The District is not authorized under s. 43(a) or (c) to disregard the Remaining Requests. It is required to respond to the Remaining Requests in accordance with Part 2 of FIPPA.

3. The District is authorized, for a period of two years from the date of this authorization, to disregard all access requests that the respondent submits over and above a single access request at a time. To be clear, this authorization applies with respect to access requests submitted from the

[111] For a similar finding, see Order F25-47, 2025 BCIPC 55 at para 77.

date of this authorization. It does not apply to any access requests submitted before the date of this authorization.

4. The District is authorized to determine what constitutes a single access request for the purposes of the authorization granted under item 3 above.

September 25, 2025

ORIGINAL SIGNED BY

Elizabeth Vranjkovic, Adjudicator

OIPC File No.: F23-94884