



Order F26-30

TOWNSHIP OF ESQUIMALT

Denise Eades
Adjudicator

April 21, 2026

CanLII Cite: 2026 BCIPC 38
Quicklaw Cite: [2026] B.C.I.P.C.D. No. 38

Summary: Under the *Freedom of Information and Protection of Privacy Act* (FIPPA) an individual (complainant) complained to the Office of the Information and Privacy Commissioner (OIPC) about the Township of Esquimalt’s (Town) decision not to grant him a full fee waiver under s. 75(5)(b) (public interest fee waiver) for records related to stormwater source control. The adjudicator found that the complainant did not establish that a further fee waiver was warranted under s. 75(5)(b) and confirmed the Town’s decision to excuse the complainant from paying 50 percent of the fee.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, RSBC 1996 c 165, ss. 58(3)(c), 75(5)(b).

INTRODUCTION

[1] Under the *Freedom of Information and Protection of Privacy Act* (FIPPA)¹, an individual (complainant²) asked the Township of Esquimalt (the Town) for access to records relating to the Capital Regional District’s (CRD) Source Control Program (1995-present), including information on municipal storm water and sanitary infrastructure, contaminant data, monitoring and enforcement, planning, governance, and correspondence with other levels of government.³

[2] The Town issued a fee estimate of \$16,796.98 to locate, retrieve, and produce the records responsive to the access request.⁴ The complainant requested a full fee waiver under s. 75(5)(a) (fair to excuse payment) and (b)

¹ From this point forward, unless otherwise specified, whenever I refer to section numbers, I am referring to sections of *FIPPA*.

² As this inquiry concerns a fee complaint, I use the term “complainant” in this order rather than “applicant.”

³ Investigator’s Fact Report dated December 9, 2025 at para 1.

⁴ Town’s fee estimate dated October 8, 2025 at p. 2.

(public interest fee waiver).⁵ The Town granted the complainant a 50 percent fee waiver and reduced its fee estimate to \$8,398.49.⁶

[3] The complainant complained to the Office of the Information and Privacy Commissioner (OIPC) about the Town's decision to deny him a full fee waiver under s. 75(5)(b).⁷ Mediation did not resolve this issue, and the matter proceeded to this inquiry.

PRELIMINARY MATTER

[4] In the complainant's submissions in the inquiry, he alleges that the Town's fee estimate is unreasonable.⁸ This issue (which is typically addressed under s. 75(1)(b), not s. 75(5)(b)) is not set out in the OIPC Investigator's Fact Report or the Notice of Inquiry. Accordingly, the complainant is raising a new issue.

[5] Both the OIPC's Notice of Inquiry in this matter and its *Instructions for Written Inquiries*, which were provided to the parties at the start of this inquiry, clearly state that parties may not add new issues without the OIPC's prior consent.⁹ To allow otherwise would undermine the effectiveness of the OIPC's mediation process which exists, in part, to assist the parties in identifying, defining and crystallizing the issues prior to inquiry.¹⁰

[6] The complainant did not request permission to add s. 75(1)(b). Further, he did not explain why he did not raise this issue prior to the inquiry or point to any exceptional circumstances that would justify doing so at this late stage. Last, in the complainant's initial submission, he expressly acknowledged that s. 75(5)(b) was the only issue in dispute in this inquiry.¹¹

[7] For these reasons, I decline to add s. 75(1)(b) as an issue in this inquiry and I will not consider it further.¹² As a result, I have focused my discussions

⁵ Complainant's request for fee waiver dated October 9, 2025.

⁶ Town's fee waiver decision dated October 22, 2025 at p. 2.

⁷ Investigator's Fact Report dated December 9, 2025 at para 4.

⁸ Complainant's reply submission at para 26 and Complainant's reply email dated April 9, 2026 to the Town's response dated March 25, 2026 to Adjudicator letter to PB. I note that although the complainant's April 9, 2026 response was unsolicited, I have reviewed it and confirmed that the Town was copied on it. However, I did not seek the Town's reply to this letter because, having read it, I found its content to be outside the scope of the issue in dispute in this inquiry.

⁹ Notice of Inquiry dated January 8, 2026 at p. 1 and *Instructions for Written Inquiries* at p. 3 (Available at: <https://www.oipc.bc.ca/documents/guidance-documents/1658>).

¹⁰ Order F15-15, 2015 BCIPC 16 (CanLII) at para 10.

¹¹ Complainant's initial submission at para 5 ("The issue is whether the Township's decision to deny a full fee waiver (and instead grant only a partial waiver) was proper under s. 75(5) of FIPPA, with the focus here on s. 75(5)(b)."). See also para 2 ("I understand that this inquiry is limited to the Township's decision on the fee waiver.").

¹² For a case with similar reasoning, see Order F24-09, 2024 BCIPC 12 at para 3.

below only on the evidence and submissions relevant to deciding the s. 75(5)(b) issue.

ISSUE, AUTHORITY, AND BURDEN OF PROOF

[8] The sole issue to be decided in this inquiry is whether the Town's reduced fee estimate of \$8,393.49 should be waived, in whole or in part, under s. 75(5)(b).

[9] Under s. 58(3)(c) of FIPPA, I have the authority, as the commissioner's delegate, to confirm, excuse, or reduce the disputed fee in the appropriate circumstances. The jurisdiction conferred by s. 58(3)(c) is broad and enables me, in appropriate cases, to substitute my decision for that of the public body.¹³

[10] FIPPA does not expressly set out who has the burden in inquiries about fee waiver disputes under s. 75(5). However, previous OIPC orders have established that the burden is on the complainant.¹⁴ I will follow that approach here.

DISCUSSION

Background

[11] The complainant is a founder of the Veins of Life Watershed Society, which he explains is a non-profit environmental organization based in Greater Victoria.¹⁵ He submits that the Veins of Life Watershed Society has been engaged in watershed restoration, shoreline monitoring, and stormwater advocacy for over 30 years.¹⁶

[12] The complainant submitted an access request to the Town for the following:

1. Diversion of waste streams

Records, memos, or enforcement files documenting instances where landowners, businesses, or institutions diverted waste stream (e.g., wash water, chemicals, oily discharges) from sanitary sewers into storm drains or onto roads, following implementation of the CRD Source Control Program (1995-present).

¹³ Order F22-18, 2022 BCIPC 20 (CanLII) at para 14, citing Order F21-10, 2021 BCIPC 14 (CanLII) at para 28 and Order F20-14, 2020 BCIPC 16 (CanLII) at para 14.

¹⁴ For example, see: Order F25-90, 2025 BCIPC 106 (CanLII) at para 4; Order F24-19, 2024 BCIPC 25 (CanLII) at para 5; and Order F21-48, 2021 BCIPC 56 (CanLII) at paras 6-10.

¹⁵ Complainant's complaint to OIPC dated October 22, 2025 at s. 1.

¹⁶ *Ibid.*

2. Quantification of contaminant shifts

Internal reports, studies, or briefing notes estimating contaminant load “shifts” from sanitary sewers into stormwater systems since the start of the Source Control Program.

3. Cross-connections and infrastructure

Current inventories of storm-sanitary cross-connections within each municipality, including inspection and repair schedules.

Correspondence between the CRD and municipalities (2010-present) on storm-sanitary cross-connection identification and remediation.

4. Stormwater monitoring and exceedances

Datasets and reports on stormwater solids and aqueous contaminants collected in the Core Area (2010-present), including Rock Bay outfalls 626/626A/627, Cecelia Creek, Banfield Park, and other priority outfalls.

Technical notes or communications documenting stormwater contaminant exceedances of CCME/BC guidelines and subsequent source-tracing or corrective actions.

5. Integration of data

Records showing how Rock Bay stormwater source-tracing (2018-2023) and Cecelia Creek exceedances data have been integrated into regional contaminant budgets or load models.

6. Enforcement and regulatory response

Policies, procedures, or enforcement case files describing how storm water contaminant exceedances are addressed: under municipal bylaws, CRD Source Control, or both.

7. Utility and governance discussions

Reports, studies, or correspondence since 2015 discussing the establishment of a combined sanitary + stormwater utility for the Core Area, modeled on King County, Washington or other regional wet-weather utilities.

8. Historical correspondence with senior governments

Correspondence between CRD or municipal staff and Transport Canada, BC Ministry of Environment, or Environment and Climate Change

Canada regarding recontamination of Rock Bay sediments from municipal stormwater outfalls post-remediation.¹⁷

[13] The Town issued a fee estimate of \$16,796.98 to process the complainant's access request.¹⁸ Due to the amount of the estimate, the Town also requested the complainant provide a 50 percent deposit of \$8,398.49 before it would begin processing his request.¹⁹

[14] The complainant requested a full fee waiver from the Town under ss. 75(5)(a) (fair to excuse payment) and (b) (public interest fee waiver).²⁰ His reasons in support of this request were as follows:

...We are a small, volunteer-driven NGO with over 30 years of service protecting local waters.

The records sought relate directly to environmental health, public accountability, and compliance. On that basis, we require a full fee waiver under s. 75 of FOIPPA (public interest and financial hardship).²¹

[15] A few days after requesting a full fee waiver, but before receiving a decision from the Town, the complainant submitted a second, similarly worded access request to the Town for the following:

1) Program status (yes/no + how it works)

Please provide records that establish whether Esquimalt operates a source control program for the storm drainage system. If so, provide documents that describe:

- Program scope and objectives.
- Organizational responsibility (division/roles), SOPS, and workflows.
- Triggers and decision logic (e.g., spill-triggered, complaint-driven, or proactive investigations such as CCTV, smoke/dye testing, outfall screening, catch basin inspections).

2) Methods and findings (last 10 years)

For Jan 1, 2015-present, please provide:

¹⁷ Complainant's FOI Request dated September 20, 2025.

¹⁸ Town's fee estimate dated October 8, 2025 at p. 2.

¹⁹ *Ibid.*

²⁰ Complainant's fee waiver request dated October 9, 2025.

²¹ *Ibid.*

- Annual or periodic program reports, internal memos, Council/Committee staff reports, and presentations summarizing methods (CCTV, smoke/dye tests, outfall screening, sampling) and findings.
- Field logs or summaries of illicit discharge investigations, cross-connection investigations, and corrective actions.
- Sampling plans/data for stormwater/outfalls (including lab reports and metadata where available).
- Contractor deliverables supporting storm source control (CCTV reports, smoke test summaries, flow monitoring results, GIS shapefiles/feature classes, and any dashboards).
- Budgets/expenditures specific to stormwater source control (O&M and capital) including any cost-recovery memos or charge-backs.
- Correspondence with CRD (and, where held by the Township, with ECCC/DFO/BC ENV) concerning stormwater pollution sources, outfall issues, or corrective actions.
- Any public education/industry materials tied to storm source control.

3) Triggers vs. proactive work (30-year context)

Going back as far as records exist (ideally to 1995):

- Records showing whether Esquimalt's source control activities were primarily triggered by reported spills/complaints or if the Township conducts proactive source tracing in response to water/sediment issues documented in CRD stormwater and harbour reports.
- Indexes, memos, or summaries that map specific CRD-noted pollution concerns to Esquimalt investigations/actions (e.g., outfall screening, tracing, enforcement, capital fixes).

4) Spills related to storm drains (if held by Esquimalt)

For Jan 1, 2015-present:

- Spill reports, response logs, cleanup invoices/costs, internal external correspondence, and End-of-Spill submissions where the storm drainage system was involved (receiving or conveyance), including any cost recovery actions taken by the Township.

5) Helpful pointers for your search

Please search Engineering & Public Works, Corporate Services, and Bylaw/Compliance repositories, including:

- Council/committee reports and attachments (including pre-Legistar archives prior to late 2014)
- Shared drives/project folders for CCTV/smoke testing/outfall screening
- Asset management systems (storm network), GIS layers, and related metadata²²

[16] At the end of this request, the complainant requested a fee waiver on the following grounds:

“Fees and public-interest waiver: We are a non-profit that has worked on this issue for over 30 years. Given the strong public interest in human health, fisheries, wildlife, and environmental protection, we request a waiver of fees under FOIPPA s.75.”²³

[17] The Town explains that after receiving this second request it contacted the complainant by phone and email to ask him to clarify if his intention was for this new request to modify, replace, or be in addition to his original request.²⁴ The Town submits that attempts to clarify the complainant’s intent were unsuccessful, and as a result, the Town advised the complainant that it would treat his second request as a rephrasing of his original request.²⁵

[18] After considering the complainant’s fee waiver request, the Town granted the complainant a 50 percent fee waiver.²⁶ Its reasons for granting a 50 percent waiver were as follows:

Responding to your request under the current parameters involves a high volume of records and significant related staff time to process it at considerable cost and disruption to the operations of multiple municipal departments. Staff suggestions to narrow the scope of the request to further reduce the fees payable have not been effective. As such the Township does not agree to a full waiver of the fees as requested.

²² Complainant’s FOI request dated October 11, 2025.

²³ *Ibid.*

²⁴ Page 3 of Exhibit A (Affidavit of Kristine Anderson dated January 28, 2026) to Town’s response submission.

²⁵ *Ibid.* There is no indication in the materials before me that the complainant objected to this approach.

²⁶ Town’s fee waiver decision dated October 22, 2025 at p. 2.

While your revised request may include more records than your original submission, we are aware that you have already received records within the parameters of the years including 2000 to 2018. You received approximately 569 pages of documents as part of your previous request FOI-18-06 related to Sewage/ Storm Sewers and Drains that flow into the Gorge Waterway and a further estimated 35 staff reports from the Engineering and Public Works department between the period of 2000-2018 which you picked up later in the year.

After careful consideration of the fee waiver request and of the costs to the municipality to process the request, I am prepared to partially reduce the fees by 50% with the new fees totalling \$8,398.49 as outlined in Table 1 below. A reduction in fees is supportable as this current request encompasses records previously provided in 2016 and 2018 FOI responses to you and/or Veins of Life Watershed Society. Further, the Township recognizes our mutual interests in environmental, social, and economic sustainability and shared concerns with climate change and water quality. As you are likely aware, staff are currently developing master plans to address some of these areas of concern.²⁷

[19] The complainant then submitted a complaint to the OIPC about the Town's decision not to grant him a full fee waiver under s. 75(5)(b).²⁸

Section 75(5)(b) – public interest fee waiver

[20] FIPPA authorizes public bodies to require applicants to pay fees for access to information, subject to certain exceptions. FIPPA also authorizes public bodies to waive fees in certain circumstances. The relevant provisions state:

75 (1) The head of a public body may require an applicant who makes a request under section 5 [how to make an access request] to pay to the public body the following:

- (a) a prescribed application fee;
- (b) prescribed fees for the following services:
 - (i) locating and retrieving the record;
 - (ii) producing the record;
 - (iii) preparing the record for disclosure, except for time spent severing information from the record;
 - (iv) shipping and handling the record;
 - (v) providing a copy of the record.

...

(5) If the head of a public body receives an applicant's written request to excuse payment of all or part of the fees required under subsection (1)(b), the head of a public body may excuse payment, if, in the head of the public body's opinion,

²⁷ *Ibid.*

²⁸ Complainant's complaint to OIPC dated October 22, 2025.

...

(b) the record relates to a matter of public interest, including the environment or public health or safety.

[21] Previous orders have established a two-part test for determining if a public interest fee waiver is appropriate. This test asks:

- 1) Do the records relate to a matter of public interest?
- 2) If so, should the complainant be excused from paying all or part of the estimated fee?²⁹

[22] Past orders have also set out a non-exhaustive list of factors to consider when applying each part of the test.

[23] I will apply this test to the records and circumstances at issue in this inquiry in the following sections.

Step 1 – Do the records relate to a matter of public interest?

[24] The first step is to determine if the records relate to a matter of public interest. A public interest fee waiver requires that the requested records *themselves* relate to a matter of public interest.³⁰ A complainant's intention to use the records in a manner that relates to the public interest is not sufficient.³¹ Further, simply identifying public interest issues as the motivation for the access request also does not suffice.³²

[25] If a record "relates to" a matter that is of public interest, this branch of the test is satisfied.³³ The test is not whether a matter is "sufficiently" of public interest. There is no room under s. 75(5)(b) for a public body to assess the degree of public interest in a matter.³⁴

[26] Previous orders have set out the following non-exhaustive list of factors to consider when deciding whether the records relate to a matter of public interest:

- 1) Has the subject of the records been a matter of recent public debate?
- 2) Does the subject of the records relate directly to the environment, public health or safety?

²⁹ Order F25-90, *supra* note 14 at para 8; Order F25-95, 2025 BCIPC 111 (CanLII) at para 11; Order F24-19, *supra* note 14 at para 15.

³⁰ Order F25-95, *supra* note 29 at para 12.

³¹ *Ibid.*

³² *Ibid.*

³³ Order F24-19, *supra* note 14 at para 17.

³⁴ *Ibid.*

- 3) Could dissemination or use of the information in the records reasonably be expected to yield a public benefit by:
 - a) disclosing an environmental concern or a public health or safety concern? or
 - b) contributing to the development or public understanding of, or debate on, an important environmental or public health or safety issue? or
 - c) contributing to public understanding or debate about an important policy, law, program or service?
- 4) Do the records disclose how the public body is allocating financial or other resources?³⁵

[27] It is not necessary for all of these factors to be present in order for a record to relate to a matter of public interest.³⁶

Parties' submissions

[28] The complainant submits that the records relate to a matter of public interest under s. 75(5)(b).³⁷ In support of this, the complainant says:

- The request concerns how stormwater and sanitary-source control is implemented, monitored, enforced, and governed, and how containment pathways are tracked and addressed. These are environmental and public-health matters because stormwater discharges and cross-connections can transport contaminants to receiving waters, shorelines, and nearshore habitats, and can affect human recreational exposure.³⁸
- This topic is also a clear matter of public interest because it concerns how a municipality manages contaminant pathways and whether public resources and programs are being used effectively to prevent pollution entering waterways.³⁹
- Stormwater contamination, nearshore sediment contamination, source control and recontamination risk are long-running issues in the Core Area and continue to be the subject of current public attention, particularly where stormwater outfalls, contaminated sediments, and remediation/maintenance intersect.⁴⁰

³⁵ Order F24-19, *supra* note 14 at para 16; Order F25-95, *supra* note 29 at para 14; Order F21-48, *supra* note 14 at para 20; F19-09, 2019 BCIPC 11 (CanLII) at para 15.

³⁶ Order No. 332-1999, 1999 CanLII 4202 (BCIPC) at s. 3.3 Applicable Principles.

³⁷ Complainant's initial submission at s. 5.

³⁸ *Ibid* at para 14.

³⁹ *Ibid* at para 15.

⁴⁰ *Ibid* at para 17.

- The requested records are expected to contribute to public understanding of how the Township’s programs, policies, budgets, monitoring, enforcement and intergovernmental coordination address these issues.⁴¹
- Records showing how stormwater contamination and source-control failures are being prevented (or not prevented) ... go to the public’s ability to understand and address major ecological and policy issues affecting endangered species, habitat, and human-use shorelines.⁴²

[29] The Town says that it agrees with the complainant that the requested records relate to a matter of public interest under s. 75(5)(b), including the environment and public health or safety.⁴³

Analysis and findings

[30] This part of the test can be addressed fairly quickly in this case. In essence, the complainant submits, and the Town concedes, that the records responsive to this request relate to a matter of public interest.

[31] I agree with the parties. The complainant is seeking records regarding how the Town controls contamination of its stormwater drainage system, including “policies, procedures, budget, source tracing, data collection, clean up, reporting, and public education and industry outreach.” I am satisfied that this request would produce records related to matters of public interest within the meaning of s. 75(5)(b).

[32] Specifically, I am satisfied that some of the records responsive to this request will relate to the environment and potentially to public health, as they concern water quality.⁴⁴ Additionally, other records can reasonably be expected to contribute to the public’s understanding of, and/or debates about, the effectiveness of the Town’s stormwater management practices, including how it monitors and responds to stormwater contaminant incidents.⁴⁵ Finally, as the complainant is seeking records regarding the Town’s budgets/expenditures on stormwater source control, some responsive records can be expected to shed light on how the Town is allocating financial resources.

⁴¹ *Ibid* at para 18.

⁴² *Ibid* at para 21.

⁴³ Town’s response submission at p. 4, para 3 and at p. 5, para 5.

⁴⁴ For cases with similar findings, see: Order F26-21, 2026 BCIPC 25 (CanLII) at para 48, citing Order F05-36, 2005 CanLII 46569 (BC IPC) at para 67 and Order 01-35, 2001 CanLII 21589 (BC IPC) at paras 31-33 and 37. See also: Order PO-1953-F, 2001 CanLII 26150 (ON IPC) at Fee Waiver Findings section and Order No. 03-001, 2003 CanLII 52558 (PE IPC) at *Does the record relate to a matter of public interest?*

⁴⁵ For similar reasoning, see: Order F26-21, *supra* note 44 at para 66.

[33] For all of these reasons, I am satisfied that records responsive to this request will relate to matters of public interest within the meaning of s. 75(5)(b).⁴⁶ Accordingly, I find that the first part of the test is satisfied and I will proceed to the second step.

Step 2 – Should the complainant be excused from paying the fee?

[34] Since I have found that the requested records can reasonably be expected to relate to matters of public interest, I must now consider whether the complainant should be excused from paying all or part of the estimated fee.

[35] Previous orders have considered the following non-exhaustive list of factors at this stage of this test:

- 1) Is the complainant's primary purpose for making the request to use or disseminate the information in a way that can reasonably be expected to benefit the public, or is the primary purpose to serve a private interest?
- 2) Is the complainant able to disseminate the information to the public?
- 3) Did the public body meet legislated time limits in responding to the request?
- 4) The manner in which the public body attempted to respond to the request (including in light of the public body's duties under s. 6 of FIPPA).
- 5) Did the complainant, viewed reasonably, co-operate or work constructively with the public body, where the public body so requested during the processing of the access request, including by narrowing or clarifying the access request where it was reasonable to do so?
- 6) Has the complainant unreasonably rejected a proposal by the public body that would reduce the costs of responding to the access request? It will almost certainly be reasonable for a complainant to reject such a proposal if it would materially affect the completeness or quality of the public body's response.
- 7) Would waiver of the fee shift an unreasonable cost burden for responding from the complainant to the public body?⁴⁷

⁴⁶ Though without seeing them, I am unable to determine which records specifically.

⁴⁷ Order F24-19, *supra* note 14 at para 27; Order F21-48, *supra* note 14 at para 50; Order F19-09, *supra* note 35 at para 36.

[36] I will consider these factors in the sections below.

Complainant's purpose in making request

[37] This factor asks whether the complainant's primary purpose for making the request is to disseminate the information in a way that can reasonably be expected to benefit the public, or whether the purpose is to serve a private interest.

[38] The complainant submits that his purpose in seeking these records is to support public-interest environmental protection work through the Veins of Life Watershed Society.⁴⁸ Specifically, he submits that he will use the records to inform a public report evaluating stormwater source control and contaminant trends.⁴⁹ He states that he is not seeking these records for any private purpose.⁵⁰

[39] The Town did not dispute the complainant's submissions regarding his purpose for making the request or allege that the complainant intends to use the records to serve or advance a private interest.⁵¹

[40] Based on the submissions before me, I am satisfied that the complainant's primary purpose for making the request is to use or disseminate the information in a way that could reasonably be expected to benefit the public. There is no indication in the materials before me that he made the request to serve or advance a private interest. Accordingly, this factor weighs in favour of waiving the fee.

Complainant's ability to disseminate information

[41] This factor asks whether the complainant is able to disseminate the information to the public.

Parties' submissions

[42] The complainant submits that he is able to disseminate information to the public. In support of this, he says:

- VOLWS has established channels for dissemination (community partners, briefings, public outreach, and publication platforms). This

⁴⁸ Complainant's initial submission at para 22.

⁴⁹ Complainant's complaint to OIPC dated October 22, 2025 at s. 1.

⁵⁰ Complainant's initial submission at para 23.

⁵¹ Rather, the Town disputes that the complainant has the ability to disseminate information to the public, which I address in the next section.

includes preparing plain-language summaries and evidence packages for regulators and the public.⁵²

- Exhibit D provides examples of VOLWS’s past dissemination and public-interest work product (reports, briefing materials, presentations, webpages or similar).⁵³

[43] I have reviewed the complainant’s Exhibit D and can confirm it consists of the following:

- A link to a webpage referencing two reports that were “prepared for” the Veins of Life Watershed Society, including *Cleaning Up CRD Beaches and Waterways* and *Re-inventing Rainwater Management in the Capital Region*⁵⁴
- A link to the CRD’s 2024 Core Area Stormwater Quality Report⁵⁵
- A 2018 news article about the complainant running for mayor of Esquimalt⁵⁶
- A 2017 news article about the contamination of Esquimalt’s Gorge Creek, which references and quotes the complainant⁵⁷
- A link to a Google drive containing dozens of PDFs and word documents.⁵⁸

[44] The Town submits that the complainant has not provided satisfactory evidence about how he will communicate the information in the records to the public, nor demonstrated a clear track record of disseminating information to the public.⁵⁹

[45] With respect to Exhibit D, the Town submits that it does not support the complainant’s claims about his ability to disseminate information.⁶⁰ The Town submits that Exhibit D contains information from other organizations without establishing a direct link to the complainant and contains more than 200

⁵² *Ibid* at para 25.

⁵³ *Ibid* at para 24.

⁵⁴ Available online at: [Check-up Report: Stormwater Management in the Capital Region - Environmental Law Centre](#).

⁵⁵ Available online at: <https://www.crd.ca/government-administration/data-documents/2024-core-area-stormwater-quality-program-report>.

⁵⁶ Available online at: [‘Gorge Guy’ hangs his hat on mayoral race in Esquimalt | Victoria News](#).

⁵⁷ Available online at: [Esquimalt’s Gorge Creek may need multimillion dollar fix | CBC News](#).

⁵⁸ Exhibit D to Complainant’s initial submission.

⁵⁹ Town’s response submission at p. 6-7.

⁶⁰ *Ibid* at p. 6.

documents in a Google drive that appears to be a repository of private records rather than a set of documents prepared for public release.⁶¹

[46] The Town further submits that it conducted its own research on the complainant's public dissemination abilities and provided this research to me via an exhibit to its response submission.⁶² This exhibit consists of content that the Town gathered from the complainant's website (www.salishsea.ca), a screen shot showing how many times this website was crawled by an internet archiving service, and a link to a website traffic checker.⁶³ Based on this research, the Town submits that "the content included in the Veins of Life Watershed Society website is rudimentary and significantly out of date."⁶⁴

[47] In reply to the Town's submissions on his ability to disseminate information, the complainant submits the following:

- Veins of Life Watershed Society is a long-standing non-profit organization engaged in watershed and marine ecosystem protection, public education, and evidence-based regulatory advocacy.⁶⁵
- Veins of Life Watershed Society routinely analyzes and disseminates technical and governance information to members of the public, media outlets, elected officials, regulators, and community and stewardship organizations.⁶⁶
- The requested records will be disseminated through public reports and briefing documents, online publication and document repositories, submissions to regulatory and oversight bodies, media briefings and explanatory materials, and community and public interest forums. Dissemination will focus on stormwater and drainage governance, source-control practices, regulatory compliance, and impacts on receiving waters and nearshore habitat.⁶⁷
- In 2017, the complainant ran for Mayor of Esquimalt on issues directly related to stormwater management, environmental protection, and municipal accountability. During that election period, the Township delayed release of requested information, requiring intervention by both

⁶¹ *Ibid.*

⁶² *Ibid.*

⁶³ Exhibit C (Research on Complainant's Public Dissemination Abilities) to Town's response submission.

⁶⁴ Page 2 of Exhibit B (Debra Hopkins Affidavit dated January 28, 2026) to Town's response submission.

⁶⁵ Complainant's reply submission at para 9.

⁶⁶ *Ibid* at para 10.

⁶⁷ *Ibid* at paras 12-13.

the OIPC and the Chief Electoral Officer, after which disclosure was ordered. This history demonstrates the complainant's ability to translate records into public discourse, the relevance of the requested information to democratic decision-making, and a proven link between disclosure and public understanding.⁶⁸

Analysis and findings

[48] For the reasons that follow, I find the information and evidence provided by the complainant on his ability to disseminate information to be thin. I will address each piece of evidence provided by the complainant on this factor below.

[49] First, the complainant provided a link to two published reports on stormwater management that are identified as having been "prepared for" the Veins of Life Watershed Society. These reports include i) *Re-inventing Rainwater Management: A Strategy to Protect Health and Restore Nature in the Capital Region*, and ii) *Cleaning up CRD Waterways and Beaches: Update of Reinventing Rainwater Management*. However, the complainant did not explain in his submissions how he or the Veins of Life Watershed Society were involved in developing, publishing, or disseminating these reports to the public. Additionally, these reports were published in 2010 and 2019 respectively, and thus are not recent examples of the complainant's ability to disseminate information to the public.⁶⁹

[50] Second, the complainant provided links to two news articles that reference him. However, having read these, it is unclear to me how they demonstrate the complainant's ability to disseminate information to the public. One article discusses the complainant running in a mayoral race in Esquimalt in 2018, and the other includes a quote from him about contaminants in the Gorge Waterway in 2017. While both of these articles mention the complainant in relation to stormwater management issues, they are written about him, not by him, and thus do not provide any insight into *his* ability to disseminate information to the public.

[51] Likewise, I do not see, nor did the complainant explain, how the CRD's 2024 Core Area Stormwater Report speaks to the complainant's ability to disseminate information. Additionally, I also do not see how the complainant's submission that he ran for mayor of Esquimalt in 2018 on issues related to stormwater management, environmental protection, and municipal accountability is relevant to demonstrating his ability to disseminate information to the public in 2026.

⁶⁸ *Ibid* at paras 15-17.

⁶⁹ I made a similar finding in Order F26-21, *supra* note 44 at para 93.

[52] Turning next to the complainant's submission that a past disclosure of records from the Town to him demonstrates his ability to "translate records into public discourse," it is unclear to me what public discourse the complainant is referring to here and, in any event, he did not present any evidence to substantiate this claim.

[53] Last, with respect to the information in the Google drive, the complainant did not identify which of the dozens of materials in this drive are relevant to his ability to disseminate information to the public or explain why. Accordingly, I have not considered them here. It is the complainant's responsibility to clearly explain the relevance of any materials he includes in his submissions to the applicable factors under the s. 75(5)(b) test. In the case of the Google drive, this explanation was lacking.

[54] Taking all of this together, I accept that the complainant likely has some ability to disseminate information to the public given his involvement with Veins of Life Watershed Society, which is engaged in watershed activism, and its association with published reports on water quality and stormwater management issues in the past. However, in the absence of more fulsome evidence from the complainant demonstrating an up-to-date ability to disseminate information to the public, I assign this factor minimal weight.

Legislated time limits for responding

[55] This factor asks whether the public body met the legislated time limits in responding to the complainant's access request.

[56] The complainant did not address this factor in his submissions. The Town submits, and I accept, that it met all statutory time limits in responding to the complainant's access request.⁷⁰ Accordingly, this factor does not weigh in favour of granting the fee waiver.

Manner of public body's attempt to respond

[57] This factor involves a consideration of the manner in which the public body attempted to respond to the request, including in light of the public body's duties under s. 6(1) of FIPPA. Section 6(1) of FIPPA requires public bodies to "make every reasonable effort to assist complainants and to respond without delay to each complainant openly, accurately and completely."

⁷⁰ Town's response submission at p. 7, para 10(ii).

[58] The complainant did not directly address this factor in his submissions.⁷¹ The Town submits that it fulfilled its duties under s. 6 of the Act, and that this is demonstrated by its timely communications to the complainant throughout the request process⁷², which it outlined in greater detail in an exhibit to its response submission. This exhibit describes the various steps the Town took to respond to the complainant's access and fee waiver request, including reaching out to him on multiple occasions in effort to discuss and clarify his request.⁷³ The complainant did not specifically dispute any of the information provided by the Town about the steps it took to respond to his requests.

[59] Based on the uncontradicted evidence before me about the Town's response to the complainant's access and fee waiver requests (which I describe in greater detail below), I find that the Town responded reasonably to his requests. Accordingly, this factor does not weigh in favour of waiving the fee.

Complainant's co-operation

[60] This factor asks whether the complainant, viewed reasonably, co-operated or worked constructively with the public body, where the public body so requested during the processing of the access request, including by narrowing or clarifying the access request where it was reasonable to do so.

Parties' submissions

[61] The complainant did not address this factor in his initial submission. In the Town's response submission, it submits that the complainant "refused to work collaboratively with staff to narrow the scope and therefore reduce the fees and further submitted a subsequent request on the same topic and refused to clarify the intentions of this request or how it differed from the original request."⁷⁴

[62] In support of this, the Town submitted a detailed timeline of events⁷⁵, which included the following information and evidence about the interactions between the parties from the time the complainant submitted his access request to the Town to time he submitted a complaint to the OIPC about the Town's fee waiver decision (none of which was specifically disputed by the complainant):

⁷¹ Though the complainant raised s. 6(1) in his reply submission (at para 26), he raised it in the context of alleging that the Town's fee estimate is unreasonable (which is outside the scope of this inquiry), not that the Town acted unreasonably in responding to his access or fee waiver request. For that reason, I did not repeat his submissions on this point here.

⁷² Town's response submission at p. 7, para 10(ii).

⁷³ Exhibit A (Affidavit of Kristine Anderson) to Town's response submission.

⁷⁴ Page 2, para vi of Exhibit B (Affidavit of Debra Hopkins) to Town's response submission.

⁷⁵ Exhibit A (Affidavit of Kristine Anderson) to Town's response submission.

- On September 22, 2025, the Town received the complainant's access request. On the same date, the Town sent a letter to the complainant acknowledging his request.⁷⁶ In this letter, the Town stated:

...We have completed a preliminary review of your request. As the request is currently quite broad and spans a substantial time frame, it is anticipated that this will result in a significant estimate of fee required to process it.

In order to serve you as best as we can and to reduce the cost to you to receive the records you require, we are asking that you consider revising your request to: 1) specific locations within the Township of Esquimalt; and 2) tighten the timeframe for the records you would like as some of your requests span 30 years. With a tighter request, the time and cost to process will be reduced... Please advise as soon as possible if you would like to modify your request to reduce the costs of accessing the records you need.⁷⁷

- On September 26, 2025, the Town called the complainant to confirm if he received its correspondence and to clarify the nature of his request.⁷⁸ During this phone call, the Town submits that complainant stated "that he was not interested in revising the scope of the request, and he would proceed with the legal process as he had done in the past."⁷⁹
- On October 8, 2025, the Town sent a fee estimate to the complainant.⁸⁰ In this letter, the Town states:

On September 26, 2025, we reached out by telephone to ensure you had received our previous correspondence of September 22, 2025 and clarify the nature of your request... During that telephone call on September 26, 2025, you confirmed that you were not interested in narrowing the scope of the records that you are requesting.

...

Due to the extent of the topics covered and the time frame of 1995 to present, I am providing an estimate of fees and charges to conduct a thorough review of the relevant records of the Township, dealing with all matters included in your formal request. This requires a thorough search of the records in eight departments of the Township.

...

⁷⁶ *Ibid* at p. 1.

⁷⁷ Page 2 of Exhibit 3b to Exhibit A (Affidavit of Kristine Anderson) to Town's response submission.

⁷⁸ Pages 1-2 of Exhibit A (Affidavit of Kristine Anderson) to Town's response submission.

⁷⁹ *Ibid* at p. 2.

⁸⁰ *Ibid*.

By narrowing the scope of your request, you may reduce the fees payable. Please contact me if you would like to discuss this option further.⁸¹

- On October 9, 2025, the complainant requested a full fee waiver from the Town.⁸² Less than an hour later, the complainant submitted a complaint to the OIPC alleging, in part, that the Town was engaging in stall tactics intended to delay disclosure of records and that the Town had failed to properly consider his fee waiver request.⁸³ The Town submits that this complaint was premature as it had not yet had time to respond to his request for a fee waiver.⁸⁴
- On October 11, 2025, the complainant submitted a second, similarly worded access request to the Town.⁸⁵ At the end of the request the complainant stated:

If any portion of this request is unclear or would benefit from narrowing for efficiency, I'm happy to discuss scope promptly.⁸⁶

- On October 16, 2025, the Town called the complainant and left a voicemail asking him to clarify the intent of his October 11, 2025 email.⁸⁷ The complainant responded by email shortly after, stating "You had left a message on my phone, and mentioned an email sent. I still have not received."⁸⁸ The Town replied as follows:

I was calling to ask you about the email you sent to the Township of Esquimalt on Saturday, October 11, 2025... I have questions as to how I should proceed with the October 11, 2025 email given your previous email of September 20, 2025...

In reviewing the details of the October 11, 2025 email, I see some overlaps with the September 20, 2025 email for the records we could be providing to you given that they both include Esquimalt's role in Stormwater Source Control. We don't want to over burden you with the same documents twice. I realized that I am not clear as to what your

⁸¹ Town's fee estimate dated October 8, 2025 at pp. 1-2.

⁸² Complainant's fee waiver request dated October 9, 2025.

⁸³ Pages 1-2 of Exhibit 8 to Exhibit A (Affidavit of Kristine Anderson) to Town's response submission.

⁸⁴ Page 1 of Exhibit A (Affidavit of Kristine Anderson) to Town's response submission.

⁸⁵ Exhibit 9 of Exhibit A (Affidavit of Kristine Anderson) to Town's response submission.

⁸⁶ *Ibid.*

⁸⁷ Page 2 of Exhibit A (Affidavit of Kristine Anderson) to Town's response submission.

⁸⁸ Page 2 of Exhibit 12 to Exhibit A (Affidavit of Kristine Anderson) to Town's response submission.

intent was in sending the October 11, 2025 email in relation to the September 20, 2025 email.

Can you please clarify for me what your intention was in sending the October 11, 2025 email. Was your intention to:

- modify the request of September 20, 2025 as we suggested in our letter of September 22, 2025 and our letter of October 8, 2025; or
- replace the request of September 20, 2025; or
- be in addition to the request of September 20, 2025.

Clarifying your intention with the October 11, 2025 email will then clarify how the Township can respond to you so that you are able to get the documents you are wanting.⁸⁹

- On October 16, 2025, the complainant responded to the Town via email stating “Thank you for the follow-up. I trust Esquimalt will use its discretion and better judgment in screening for any duplicate or already published materials as you prepare the response. I recognize that some references may link to reports or minutes already available on the Township’s website. That said, the current Council minutes and meeting-document system can be difficult to navigate, and reports cited within those minutes are not always easily located online. For clarity and completeness, please include any referenced reports that cannot be readily accessed through the Township’s public site.”⁹⁰
- On October 22, 2025, the Town issued its fee waiver decision to the complainant, in which it offered a 50 percent fee reduction and informed the complainant it would treat his October 11, 2025 request as a rephrasing of his original request.⁹¹ The Town also advised as follows:

We have consulted with all departments with records responding to this modified request and find that while this email helps to clarify which records you are interested in specific to the Township of Esquimalt, the scope of the request remains similar to the original request in terms of volume and format of included records, although there may be some additional records that are responsive to the revised request.

...

⁸⁹ *Ibid* at pp. 1-2.

⁹⁰ *Ibid* at p. 1.

⁹¹ Town’s fee waiver decision dated October 22, 2025 at pp. 1-2.

If you wish to narrow the scope of your request to reduce the fees payable, staff remain committed to assisting. Please contact me if you would like to discuss this option further.⁹²

- On October 22, 2025, the complainant submitted a complaint to the OIPC about the Town's fee waiver decision.⁹³ The Town submits that at this point, "it was clear that the process had become frustrated and that the Complainant wished for OIPC participation essentially closing the door for any further communications or progress on the matter."⁹⁴

[63] In reply to the Town's submissions on this factor, the complainant disputes that he did not cooperate with the Town. He submits that he "expressly indicated" that "true duplicates could be excluded" and that "records publicly available need not be re-produced if referenced or linked."⁹⁵ He submits that these statements were made to reduce processing burden and reflect good-faith cooperation.⁹⁶ He further submits that meaningful narrowing was constrained by the Town's own systems, including "council minutes referencing reports that are not readily accessible, fragmented record keeping across departments, and lack of consistent indexing and cross-referencing."⁹⁷

[64] Based on my review of the submissions and evidence provided by the parties, I determined that I needed clarification from the Town on whether it considered certain communications from the complainant to be attempts to narrow or clarify his access request. Accordingly, I wrote to the Town and asked it to clarify if it considered the complainant's October 11, 2025 and October 16, 2025 communications to be a clarification and/or narrowing of his access request.⁹⁸

[65] The Town provided the following information in response:

- The Township did consider the additional communications; however, the Complainant did not provide any significant clarification or specific narrowing of scope.⁹⁹
- On October 11, 2025, the Complainant stated that if "some records are already public, a list of URL items suffices for those items." These records were not considered in the estimates provided so this did not change the scope of the request.¹⁰⁰

⁹² *Ibid* at pp. 2-3.

⁹³ Complainant's complaint to the OIPC dated October 22, 2025.

⁹⁴ Town's response submission at p. 7, para 10(iii).

⁹⁵ Complainant's reply submission at para 21.

⁹⁶ *Ibid* at para 22.

⁹⁷ *Ibid* at para 23.

⁹⁸ Adjudicator letter to PB dated March 23, 2026 at p. 2.

⁹⁹ Page 3 of Town's response dated March 25, 2026 to Adjudicator letter to PB.

¹⁰⁰ *Ibid*.

- The FOI & Privacy Team initiated communication to ascertain whether the Complainant meant to replace the original request, to augment the request, or submit a separate request. On October 16, 2025, the Complainant replied that he “trust[s] Esquimalt will use its discretion and better judgment in screening for any duplicate or already published materials as you prepare the response.” Duplicates or publicly available materials were not included in the revised estimates provided and still did not materially change the scope of the request.¹⁰¹
- Although the fees were reduced, it is unlikely to materially reduce staff workloads on this request since the time period and associated volume of records remains extensive and each record needs to be reviewed to ensure that all responsive records are captured, including the records previously released to ensure that those records are true duplicates. It is staff’s opinion that to fulfill the request as submitted, that all records must be located, retrieved, and reviewed to meet the Township’s statutory obligations.¹⁰²
- The second request focused on Esquimalt’s records and removed areas where the Township would likely not have responsive records from the original [September 20], 2025 request. The second request did not materially impact the scope and related workload since it did not significantly limit the time frame of the records included and the corresponding volume of records, nor the complexity and overly broad nature of the request. Despite the Complainant’s subsequent request which further increased the scope of the first one, the Township opted not to issue a revised increased fee estimate to the Complainant.¹⁰³

Analysis and findings

[66] Based on the information before me, for the reasons that follow, I am unable to find that the complainant co-operated or worked constructively with the Town during its processing of his access or fee waiver request.

[67] Past OIPC fee waiver Orders have noted that communication on an access request is a two-way street and that both applicants and public bodies bear a responsibility to discuss a request and fee estimate (particularly large ones) early in the process to ensure that applicants receive the records they need and that public bodies do not do unnecessary work.¹⁰⁴

[68] In this case, it appears that communication between the parties on the issue of clarification and narrowing was mostly a one-way street from the Town

¹⁰¹ *Ibid* at pp. 3-4.

¹⁰² *Ibid* at p. 3.

¹⁰³ *Ibid* at p. 4.

¹⁰⁴ For example, see: F07-08, 2007 CanLII 14571 (BC IPC) at para 35 and Order F07-01, 2007 CanLII 773 (BC IPC) at para 103.

to the complainant. I make this assessment based on the following uncontradicted information provided by the Town:

- When the Town first reached out to the complainant to discuss and clarify his request, the complainant stated that he was not interested in revising the scope of the request and would proceed with the legal process as he had done in the past.¹⁰⁵ The complainant does not dispute having said this.
- The Town reached out to the complainant multiple times, through phone call, email, and letter, to encourage him to clarify and/or narrow his access request given its large scope.¹⁰⁶ Despite this, there is no indication in the record before me that the complainant made any meaningful attempts to discuss his request with the Town in order to determine if it could be potentially narrowed or clarified while still meeting his needs.

[69] For clarity, an access applicant is not obliged to narrow their request if doing so would result in the responsive records not meeting their information needs. The issue here is not that the complainant did not narrow or clarify his request, but rather, that he does not appear to have taken reasonable steps to work collaboratively with the Town to explore if/how he could do so, despite the Town's attempts to engage with him on this point.

[70] In addition to the above, the complainant engaged in other conduct that, in my view, does not demonstrate cooperation on his part or a genuine effort to work constructively with the Town during its processing of his request, including:

- Less than one hour after requesting a fee waiver from the Town, the complainant submitted a complaint to the OIPC alleging, in part, that the Town had failed to properly consider his request for a fee waiver, despite the fact that the Town had not yet had time to respond to his request.¹⁰⁷
- While the Town was still processing the complainant's request for a fee waiver for his September 20, 2025 access request, the complainant submitted a second, similarly worded access request to the Town that was largely duplicative of his first one.¹⁰⁸ The Town then reached out to the complainant to clarify if this second request was meant to modify,

¹⁰⁵ Page 2 of Exhibit A (Affidavit of Kristine Anderson) to Town's response submission.

¹⁰⁶ *Ibid* at pp. 1-3.

¹⁰⁷ Page 2 of Exhibit 8 to Exhibit A (Affidavit of Kristine Anderson) to Town's response submission.

¹⁰⁸ Exhibit 9 to Exhibit A (Affidavit of Kristine Anderson) to Town's response submission.

replace, or be in addition to his original one, but the complainant did not provide a clear response to this question.¹⁰⁹ Additionally, the Town submits that this second request was larger in scope than his first one.¹¹⁰

[71] I note that, to the extent that complainant's second request was intended to clarify his first, it is unclear to me why he chose to submit an entirely new request to the Town rather than simply discussing his original request with them. In my view, submitting a second, similar access request to the Town while it was still processing his first one introduced unnecessary confusion and led to additional work on the Town's end. In particular, it required the Town to seek clarification regarding the complainant's intentions and, in absence of clear direction from the complainant, to then compare the two requests in order to determine how best to proceed.

[72] Further, though I acknowledge that the complainant feels that he narrowed the scope of his request by indicating that duplicates and already publicly available materials could be excluded, I accept the Town's submission that this did not materially change the scope of the request or the resources it would take to respond because, in my view, the Town is best positioned to assess the impact of these refinements.

[73] Taking all of the above into account, I find that the information and evidence before me does not support a conclusion that the complainant cooperated or worked constructively with the Town during its processing of his request. This factor therefore does not weigh in favour of waiving the fee.

Unreasonable rejection of proposal

[74] Neither party directly addressed this factor in their submissions. In absence of submissions from the parties on this factor, I decline to make a finding on it.

Shifting of unreasonable cost burden

[75] This factor asks whether a fee waiver would shift an unreasonable cost burden from the complainant to the public body.

Parties' submissions

[76] The complainant did not address this factor in his initial submission.

¹⁰⁹ Page 1 of Exhibit 12 to Exhibit A (Affidavit of Kristine Anderson) to Town's response submission and Page 2, para vi of Exhibit B (Affidavit of Debra Hopkins) to Town's response submission.

¹¹⁰ Page 4 of Town's response dated March 25, 2026 to Adjudicator letter to PB.

[77] The Town submits that a further waiver of the fees in this case would shift an unreasonable cost burden for responding to the request from the complainant to the Town.¹¹¹ It made several submissions in support of this position and its decision not to waive the full fee, including the following:

- The actual costs of providing access to records is significantly higher than the fee estimate due to the broad nature of the request, the high volume of records, the paper-based record management system requiring transport from off-site storage, the lengthy timeframe included in the request, and the significant staff time required to locate, retrieve, and make copies of records for release, many of which will be duplications of information previously provided through historical requests for access.¹¹²
- The public body is a lean organization and the significant staff time required to respond to the request would unreasonably impact operations in multiple municipal departments, in some cases more than 500 hours.¹¹³
- To conduct the search, 14 staff from four municipal departments are required to undertake activities supporting the response.¹¹⁴
- The Township's records are still contained largely within physical paper records and Esquimalt does not have an electronic document and record management system (EDRMS). Even with a functioning EDRMS, the request spans multiple decades and would span the analogue gap requiring that a significant number of records stored offsite be brought back and manually searched. Boxes containing records need to be reviewed by staff to ensure a comprehensive search for responsive records which takes a large amount of administrative time.¹¹⁵
- Between 2018-2023, the public body has previously provided the complainant records on this matter and matters adjacent without fees, including records routinely available (staff reports, minutes from open meetings).¹¹⁶
- There is no evidence submitted that the Complainant has conducted individual research into the public body's publicly available information and used that to reduce the scope and impact of the repetitious access

¹¹¹ Town's response submission at p. 8, para (v).

¹¹² Pages 1-2 of Exhibit B (Affidavit of Debra Hopkins) to Town's response submission.

¹¹³ *Ibid* at p. 2.

¹¹⁴ Page 1 of Town's response dated March 25, 2026 to Adjudicator letter to PB.

¹¹⁵ *Ibid* at p. 1.

¹¹⁶ Town's response submission at p. 7.

requests...rather than requesting records “going back as far as records exist” which may include more than 110 years of records.¹¹⁷

- The applicant refused to work collaboratively with staff to narrow the scope and therefore reduces the fees and further submitted a subsequent request on the same topic and refused to clarify the intentions of this request or how it differed from the original request.¹¹⁸
- Past disclosures to the applicant (both the individual and the Veins of Life Watershed Society) have not resulted in notable community education programs, or publications in which the complainant or the Veins of Life Watershed Society were acknowledged as contributors, or advancing public understanding or discourse.¹¹⁹

[78] The Town submits that for all of these reasons, it did not accept that a full fee waiver was appropriate in this case.¹²⁰

[79] In reply to this, the complainant submits that the Town’s fee estimate “relies heavily on asserted staff search and research time,” and that these estimates “are unreasonable within the meaning of section 75(4) and inconsistent with the duty to assist under section 6(1).”¹²¹ He also submits that his ability to conduct research is limited due to deficiencies in the Town’s website and record systems.¹²² Finally, he reiterates that he has demonstrated an ability to disseminate information to the public, and that he disagrees with the Town’s position that he did not cooperate with them.¹²³

Analysis and findings

[80] After carefully considering the parties’ submissions on this factor, I agree with the Town that a further fee waiver in this case would shift an unreasonable cost burden for responding to the request from the complainant to the public body.

[81] I make this finding based on the following factors:

- According to the Town’s fee estimate, it will take it approximately 555.4 hours to respond to the complainant’s access request and cost

¹¹⁷ Town’s response submission at p. 8.

¹¹⁸ Page 2 of Exhibit B (Affidavit of Debra Hopkins) to Town’s response submission.

¹¹⁹ *Ibid.*

¹²⁰ *Ibid.*

¹²¹ Complainant’s reply submission at paras 25-26.

¹²² *Ibid* at paras 27-29.

¹²³ *Ibid* at sections D and E.

- \$16,796.98 in billable services under FIPPA.¹²⁴ This is a considerable amount of time and expense. Further, the Town submits that the actual cost to the Town of responding to the request is much higher than this.¹²⁵
- The Town has already taken the public interest in the records into account in its decision to waive 50 percent of the fees.¹²⁶
 - Due to granting a 50 percent fee waiver, the Town will already be absorbing over \$8,000 of its assessed costs for responding to this request.
 - The information presented by the Town indicates that a large volume of records (approximately 7,700), many of which are stored off-site, will have to be located, retrieved, and produced by multiple Town departments and employees in order to respond to the request.
 - The complainant was advised by the Town that his access request was broad and would result in substantial fees.¹²⁷ Despite this, he does not appear to have availed himself of the opportunity to discuss if/how he could narrow his request in order to reduce the fees, either prior to Town issuing its fee estimate or afterwards.
 - Despite the Town's assessment that the complainant's second access request was larger in scope than his first one, the Town chose not to increase its fee estimate,¹²⁸ meaning that the Town will be absorbing the costs associated with the increase in scope.

[82] For all of these reasons, I find that granting a further fee waiver would shift an unreasonable cost burden onto the Town for responding to the request. Accordingly, this factor does not weigh in favour of granting a further fee waiver.

[83] For completeness, I acknowledge that the complainant takes issue with the Town's fee estimate and believes it is unreasonable. However, as set out above, the reasonableness of the Town's estimate is not before me in this inquiry. Though I requested clarification from the Town on its fee estimate during the inquiry, this was solely to help me understand its calculation and to verify that that the Town was only charging for services it is authorized to charge for under

¹²⁴ Town's fee estimate dated October 22, 2025.

¹²⁵ Exhibit F (Estimate of projected actual staff costs) to Town's response submission.

¹²⁶ Town's fee waiver decision dated October 22, 2025 at p. 2.

¹²⁷ Page 2 of Exhibit 3b to Exhibit A (Affidavit of Kristine Anderson) to Town's response submission.

¹²⁸ Page 4 of Town response dated March 25, 2026 to Adjudicator letter to PB.

the Act (as this would have impacted my assessment of its cost burden submissions under this factor).¹²⁹

[84] Having reviewed the Town's fee estimate, I see no indication that, on its face, it included any charges that are not authorized under the Act. In my view, to go beyond this and begin evaluating the merits of the Town's underlying calculations would be outside the scope of this inquiry, which is solely concerned with whether the Town's fee estimate should be waived in whole or in part under s. 75(5)(b). To the extent that the complainant had concerns with how the Town calculated its fee estimate, the appropriate section under which to challenge this would have been s. 75(1)(b) (which looks at the appropriateness of a fee estimate), not s. 75(5)(b) (which looks at whether a fee should be waived on public interest grounds).

Conclusion re: s. 75(5)(b)

[85] Taking all of the above together, I confirm the Town's decision to waive 50 percent of its fee estimate.

[86] With respect to the first part of the test, I found, and the parties agreed, that records responsive to this request are reasonably likely to relate to matters of public interest. However, turning to the second part of the test, after weighing all of the above factors, I am not persuaded that the complainant should be excused from paying the remaining fee estimate. This is because the majority of the applicable factors (four out of the six) did not weigh in favour of doing so. These factors included that a further fee waiver would shift an unreasonable cost burden to the Town, the complainant did not satisfy me that he worked collaboratively with the Town during its processing of his request, the Town met all legislative timelines in responding to his request, and the Town responded reasonably to the request.

[87] Accordingly, for these reasons, the complainant has not met his burden of proving that he should be excused under s. 75(5)(b) from paying the remaining fee estimate and I uphold the Town's decision to grant a 50 percent fee waiver.

[88] I note that it remains open to the parties, if both are willing, to explore whether the complainant's request can be further narrowed or clarified in a manner that reduces the fee estimate and impact on the Town, while still meeting the complainant's information needs.¹³⁰ Given the large scope of the

¹²⁹ If a fee estimate, on its face, includes charges not authorized under the Act, this may be a relevant factor to consider when assessing a public body's argument that a fee waiver would unreasonably shift the cost of responding to the public body. For example, see Order 03-20, 2003 CanLII 49194 (BC IPC) at paras 29-31.

¹³⁰ Though for clarity, the parties are under no obligation to do so, and the Town is not required to initiate this.

request and the high fee estimate, it would be in the best interest of both parties to do so.

CONCLUSION

[89] For the reasons given above, under s. 58(3)(c), I confirm the decision of the Town to waive 50 percent of its fee estimate.

April 21, 2026

ORIGINAL SIGNED BY

Denise Eades, Adjudicator

OIPC File No.: F25-02186