Information and Privacy
Commissioner/Ontario
Commissaire à l'information
et à la protection de la vie privée/Ontario

ORDER MO-2414

Appeal MA09-16

Regional Municipality of Durham

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NATURE OF THE APPEAL:

The Regional Municipality of Durham (the Region) received a number of requests under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) from a requester. Five of the requests, received on the same day, read as follows:

1. …copies of all documents of any nature, correspondence and agreements between [the Region] and the Durham Region Non-Profit Housing Corporation.

2. …a listing of and copies of all documents for all Non-Profit Housing projects from 1975 until 2008 that were transferred to another party including but not limited to documents transferred to the Durham Region Non-Profit Housing Corporation.

3. …a listing and copies of all documents relating to all Non-Profit Housing projects from 1975 until 2008 that were transferred to [the Region] from the Ministry of Municipal Affairs and Housing or any other provincial entity of any nature that relates to the funding and/or any other matters regarding non-profit housing, including any agreements, correspondence and documents between the parties.

4. …a listing of and copies of all documents, correspondence, agreements, etc, between [the Region] from the Municipality of Municipal Affairs and Housing or any other provincial entity of any nature from 1975 until 2008 that relate to any matters regarding non-profit housing, including but not limited to any agreements, correspondence and documents between the parties.

5. …all documents for all Non-Profit Housing projects from 1975 until 2008 relating to the construction of Non-Profit housing.

The requester also submitted an earlier request (the sixth request), which the Region transferred to the Durham Non-Profit Housing Corporation. That request and decision resulted in appeal MA08-456, which was closed when Order MO-2393 was issued. The Region indicated that it would be dealing with that request separately.

In response to the five requests set out above, the Region issued a decision letter in which it identified the five separate requests made by the requester, and then stated:

> Access has been denied under subsection 4(1)(b) of the *Act*. … After reviewing your five new requests and your previous requests, it is our opinion that the requests are part of a pattern of conduct that amounts to an abuse of the right of access and would interfere with the operations of [the Region].
>
> These requests are considered frivolous and vexatious for the following reasons:
>
> - You have requested records without waiting for the records requested in your original request to us, dated November 23rd and forwarded to Durham Region Non Profit Housing Corporation on December 4th to see if it contains the information you want.

> - Regarding [requests] (1) (3) and (4). These requests are overly broad and the work involved in retrieving, reviewing and applying applicable exemptions and severing of records for such a large volume of records would interfere with the operation of the Region. These requests were also made in bad faith and for a purpose other than to obtain access. Specifically, you have now made numerous requests for what appears to be the same records, have not waited for a response to one request before filing another and have made requests so broad so as to contain no meaning whatsoever. The fees associated with these requests would obviously be quite costly and the time and staff resources required to respond would be prohibitive for the Region.
>
> - Regarding [request] (2), by definition we do not have records that may have been "transferred" to another institution.

The Region's decision letter also stated:

> If there are specific records that you are looking for or if we can be of help in narrowing the scope of your request please call [the Records and Information Management Analyst] and she would be happy to help you reformulate your requests.

The requester, now the appellant, appealed the Region's decision.

During mediation the appellant modified request 5, which originally was for:

> …all documents for all Non-Profit Housing projects from 1975 until 2008 relating to the construction of Non-Profit housing.

The narrowed request now reads as follows:

> …records of all construction contract documents for all Non-Profit Housing projects contracted by the Regional Municipality of Durham from 1975 until 2008 relating to the contractual construction of Non-Profit Housing.

Also during mediation, the Region reaffirmed its position that it would not process any of the five requests, including the modified request.

Mediation did not resolve this appeal, and it was transferred to the inquiry stage of the process. I sent a Notice of Inquiry identifying the facts and issues in this appeal to the Region, initially, inviting the Region to provide representations on the issues. The Region provided representations in response to the request.

In the circumstances, I decided that it was not necessary to hear from the appellant prior to issuing this order.

DISCUSSION:

Introduction

Several provisions of the *Act* and Regulations are relevant to the issue of whether a request is frivolous or vexatious. These provisions read as follows:

Section 4(1)(b) of the *Act*:

> Every person has a right of access to a record or a part of a record in the custody or under the control of an institution unless, ...
>
> > the head is of the opinion on reasonable grounds that the request for access is frivolous or vexatious**.**

Section 20.1(1) of the *Act*:

> A head who refuses to give access to a record or a part of a record because the head is of the opinion that the request for access is frivolous or vexatious, shall state in the notice given under section 19,
>
> > (a) that the request is refused because the head is of the opinion that the request is frivolous or vexatious;
> >
> > (b) the reasons for which the head is of the opinion that the request is frivolous or vexatious; and
> >
> > (c) that the person who made the request may appeal to the Commissioner under subsection 39(1) for a review of the decision.

Section 5.1 of Regulation 823:

> A head of an institution that receives a request for access to a record or personal information shall conclude that the request is frivolous or vexatious if,
>
> > (a) the head is of the opinion on reasonable grounds that the request is part of a pattern of conduct that amounts to an abuse of the right of access or would interfere with the operations of the institution; or
> >
> > (b) the head is of the opinion on reasonable grounds that the request is made in bad faith or for a purpose other than to obtain access.

In Order M-850, former Assistant Commissioner Mitchinson stated:

> In January 1996, the Legislature amended section 4 of the *Act*, thereby providing institutions with a summary mechanism to deal with requests which the institution views as frivolous or vexatious. These legislative provisions confer a significant discretionary power on institutions which can have serious implications on the ability of a requester to obtain information under the *Act*. In my view, this power should not be exercised lightly.
> …
>
> Section 42 of the *Act* places a burden on institutions to demonstrate the application of exemptions. It does not offer specific guidance on the burden of proof regarding decisions that a request is frivolous or vexatious. However, the general law is that the burden of proving an assertion falls on the party making the assertion. On this basis, I find that an institution invoking section 4(1)(b) of the *Act* has the burden of proof.

Representations

The Region begins by identifying that the Region and a company owned by the appellant are involved in a court action concerning the construction of housing, which also involves the Durham Region Non-Profit Housing Corporation (the DRNPHC). The Region provides some information about the court action and the background to it, and then states:

> The claims in the above referenced litigation relate only to [an identified development]. Accordingly, [the appellant is] not entitled to disclosure of documents which are not relevant to that development. [The Region and the DRNPHC] have and will continue to refuse to disclose any documents requested by [the appellant] in those proceedings which are not relevant to those proceedings. [The appellant] has available to him the remedy of challenging that decision by way of a motion under the Rules of Civil Procedure.
>
> It is [the Region's] position in the within appeal that [the appellant's] only interest in these documents is in relation to the pending civil action. While it is not strictly relevant to these proceedings, it is [the Region's] position that these documents are not relevant to the litigation and would only have the effect of needlessly increasing the costs and complexity of that matter. Being unable to obtain these documents in the course of the litigation, [the appellant] now seeks to subvert the Rules of Civil Procedure and abuse the processes available under [the *Act*] in order to obtain these documents.

The Region also provides copies of the pleadings in the identified court action in support of its position.

The Region then provides additional information in support of its position that the requests are frivolous and vexatious. It states that the appellant made another request (the sixth request – referred to above) on November 23, 2008 for the following:

> … records of all construction contracts entered into by the [Region] for all non-profit housing projects from 1975-2008.

The Region indicates that this request was made to the Region, but the Region transferred the request to the DRNPHC as the records were in the DRNPHC's possession. That decision was appealed and, during the processing of that appeal this office (in a separate ruling – Order MO-2393) ruled that the Region was required to respond directly to the request. The Region identifies that it has now responded to the request with a decision letter, and the Region provides a copy of its response.

The Region identifies that the five requests which are the subject of this appeal were made during the interim time that the appeal of the above request was being processed by this office.

The Region then states:

> It should be noted that the November 23, 2008 request asking for records of all construction contracts for Non-Profit Housing between 1975 and 2008 would include the correspondence and all other documents associated with those contracts. Those records would include any correspondence relating to those projects between either [the Region] or DRNPHC and Municipal Affairs or any other provincial entity involved in the non-profit housing project. Therefore, it is [the Region's] position that the 5 subsequent requests are asking for information which is identical to the information contained in the November 23, 2008 request which has already been replied to by the Region of Durham. Further, these subsequent requests for the same information and documents are frivolous.
>
> In addition, it is [the Region's] position that by asking in 6 separate requests for the same information without waiting for a response to previous requests is vexatious. By making 6 requests without waiting for the response to the November 23, 2008 request or any of the 5 subsequent requests it is clear that the purpose of these requests is not to actually obtain access to the information but rather to harass [the Region and/or the DRNPHC]. Further, the intention and effect of these requests will be to seriously interfere with the ability of [the DRNPHC's] operations. As compared to [the Region] the DRNPHC is a small institution and is the caretaker of these records. Assisting [the Region] in responding to 6 requests for the same very broad set of documents will place an undue burden on the staff of the DRNPHC.

The Region then provides information regarding the number of staff at the DRNPHC and their responsibilities and functions, and takes the position that very few would actually be able to assist in responding to the requests.

The Region also provides representations in support of its position that the nature and scope of the requests are unreasonably broad. The Region states:

> The scope of the documents requested span 33 years from 1975-2008. The requests include "every document" related to all non-profit housing projects, involving in some cases numerous parties and unnamed entities for this entire period. The requester has made no effort to identify a more relevant time period, a specific type of document, a specific project or projects. The volume of documents involved in these requests is unknown but expected to be vast. It is not possible from the scope of the request to identify in advance the nature of each of the likely millions of documents included in the request and therefore each document would have to be reviewed to determine whether or not it could be released. This process would be costly and time consuming. The request … is simply unreasonable in its scope and no effort has been made [by the appellant] to narrow that scope. In fact, every attempt has been made in making 6 identical requests to broaden the scope of the request.

Analysis and findings

Preliminary observations

The decisions giving rise to this appeal and the Region's representations are set out above; however, based on my review of this information, I wish to clarify some of the circumstances giving rise to this appeal.

Firstly, the Region indicates that the five requests which are the subject of this appeal were made "during the interim time that the appeal of the [sixth] request was being processed". However, the Region's initial response to the sixth request was to transfer that request to the DRNPHC. Accordingly, at the time the Region issued its decision resulting in this appeal, none of the six requests were being processed by the Region.

Secondly, although the Region transferred the sixth request to the DRNPHC, due to the decision in Order MO-2393, the Region eventually did provide a decision letter to the appellant. The Region provided a copy of that decision letter with its representations. In that decision, dated March 10, 2009, the appellant is advised by the Region that the time to respond to the decision is extended by 90 days, that access to most of the records would likely be granted, but that exemptions apply to some of the records, and that the estimated fee for the records is $41,869.92. That decision is currently under appeal with this office.

Thirdly, I have carefully reviewed the Region's decision letter in which it takes the position that the five requests are frivolous and vexatious, as well as their representations. I note that in its representations the Region states that the five subsequent requests "are asking for information which is identical to the information contained in the November 23, 2008 request which has already been replied to by [the Region]". However, in its decision letter on the five requests, the Region identifies that at least one of the requests (request #2) is for records which the Region would not be in possession of. This appears to contradict the Region's view that all of these requests are for identical information.

With this additional background, I will now review the issue of whether the requests are frivolous or vexatious.

In its representations, the Region identifies a number of different components of section 5.1, but to a degree, the representations and evidence on one component overlap with that on another component. Although, below, I treat sections 5.1(a) and 5.1(b) separately, as well as different elements within those subsections, I have considered the applicability of all of the representations and evidence offered to all of the issues raised by these sections.

Section 5.1(a) - Pattern of conduct that amounts to an abuse of the right of access or would interfere with the operations of an institution

As set out above, the Region takes the position that section 5.1(a) of Regulation 823 applies, and appears to rely on four reasons for taking this position: a) that the requests were made at the same time; b) that the requests overlap with each other; c) that the requests are overly broad; and d) that the processing of the requests would interfere with the operations of the DRNPHC.

Previous orders have established that the following factors may be relevant in determining whether a pattern of conduct amounts to an "abuse of the right of access":

- Number of requests (Is the number excessive by reasonable standards?)
- Nature and scope of the requests (Are they excessively broad and varied in scope or unusually detailed? Are they identical to or similar to previous requests?)
- Purpose of the requests (Are the requests intended to accomplish some objective other than to gain access? - i.e.: for their "nuisance" value or to harass government or burden the system?)
- Timing of the requests (is the timing of the requests connected to the occurrence of some other related event, such as court proceedings?)

In addition to the above, other factors particular to the case can also be relevant in deciding whether a pattern of conduct amounts to an abuse of the right of access. The focus should be on the cumulative nature and effect of a requester's behaviour. In many cases, ascertaining a requester's purpose requires the drawing of inferences from his or her behaviour because a requester seldom admits to a purpose other than access. [See Orders M-618, M-850, MO-1782]

Pattern of conduct

The Region received the five requests at issue in this appeal from the appellant on the same day. Earlier, the Region had also received another request (the sixth request) from the appellant, and had responded to that request by transferring it to what it thought was another institution. With respect to the five requests, the Region stated that they were "frivolous and vexatious" and otherwise refused to respond to them. The basis for this decision, as set out above, is the Region's view that these five requests, made at the same time, because of their breadth and overlapping nature, are frivolous and vexatious.

Based on the circumstances of this appeal, and with reference to the above orders, I find that the requests made by the appellant are not of such a volume or nature that they amount to a "pattern of conduct" within the meaning of section 5(1)(a) of the Regulation. Making five requests on one day does not, in these circumstances, constitute an "excessive number". In addition, although the wording of the requests is quite broad, and the requests overlap in some respects, in my view, the appellant appears to be attempting to ensure that all records relevant to the subject matter of the requests are captured. In these circumstances, I am not satisfied that this establishes a "pattern of conduct" such that the appellant's access rights under the *Act* are restricted.

Abuse of the right of access

Also having regard to the findings and conclusions in the above orders, I am not convinced that the representations of the Region establish that the appellant's conduct amounts to an "abuse of the right of access" within the meaning of section 5(1)(a).

In my view, these five requests, even combined with the earlier request (the sixth request) do not establish an "excessive volume" of requests and appeals. Although the actual number of requests and appeals is not determinative of this issue (it has been found to apply to 28 requests, and not to apply to hundreds - see Orders MO-1782 and MO-2289), in my view the five requests (or six, if the request which was responded to is included) do not constitute an "excessive volume".

The Region also relies on what it characterizes as the broad and unreasonable scope of the requests. On my review of the requests, set out above, I agree that they are quite broad in scope. However, the appellant has narrowed one of his requests (request #5) and for another of the requests (request #2), the Region seems to take the position that these records are not in their possession.

The Region has also referred to the overlapping nature of the requests. However, it is clear from the discussion above that portions of some of the requests cover material not covered in others. Furthermore, previous orders of this office have determined that the fact that previous requests may overlap with each other will not, on its own, establish that these requests are part of such a pattern (See Orders M-947, MO-1488). In addition, previous orders have established that there

is nothing inherently improper in having the same records subject to overlapping requests. For example, although Order MO-1532 dealt with an appeal of a fee decision, that decision also reviewed the impact of overlapping requests. In that Order former Adjudicator Liang stated:

> It should be noted that it is entirely possible to have the same records be the subject of overlapping requests, even by the same requester, and there is nothing inherently improper in this. Although such a circumstance introduces some complexity, the creation of detailed indexes by an institution will assist in ensuring consistent decision-making by both the institution and this office. In the case before me, I note that the Town has now created a detailed index in Appeal MA-010064-1, which should permit it to compare the records at issue in that appeal with those at issue in this appeal with relative ease.

I agree with the analysis and discussion from these previous orders. In my view, the possibility that portions of these five requests overlap with each other, or with an earlier request, does not result in an abuse of the right of access in the circumstances of this appeal.

I conclude therefore, on balance, that the circumstances of this appeal do not establish a "pattern of conduct" that amounts to an "abuse of the right of access".

Interference with the operation of the institution

The Region submits that, by asking in five (or six) separate requests for the same information without waiting for a response to previous requests, the intention and effect of these requests will be to seriously interfere with the DRNPHC's operations. The Region states:

> As compared to [the Region] the DRNPHC is a small institution and is the caretaker of these records. Assisting [the Region] in responding to 6 requests for the same very broad set of documents will place an undue burden on the staff of the DRNPHC.

The Region also provides information regarding the number of staff at the DRNPHC and their responsibilities and functions, and takes the position that very few would actually be able to assist in responding to the requests.

A similar argument was considered and rejected in Order MO-1505. In that order, Adjudicator Cropley reviewed a decision of Le Conseil scolaire public de district du Centre-Sud-Ouest (Le Conseil), in which Le Conseil submitted that responding to the identified requests would unreasonably interfere with its operations. Adjudicator Cropley reviewed a number of orders in some detail in deciding against Le Conseil. The relevant portion of Order MO-1505 reads:

> Le Conseil takes the position that it exists and operates to serve the needs of French-language children. Noting that it has limited staff and resources allocated to deal with matters pertaining to the *Act*, that it serves "a jurisdiction twice the

size of Belgium", and that the appellant's requests do not relate to its primary mandate, Le Conseil submits that to respond to the appellant's requests would unreasonably interfere with its operation.

In Order M-850, Assistant Commissioner Mitchinson stated:

> ... in my view, a pattern of conduct that would interfere with the operations of an institution is one that would obstruct or hinder the range of effectiveness of the institution's activities.
>
> It is not possible to establish a finite set of criteria that will demonstrate "interference with the operations" as used in section 5.1(a). It is important to bear in mind that interference is a relative concept which must be judged on the basis of the circumstances a particular institution faces. For example, it may take less of a pattern of conduct to interfere with the operations of a small municipality than with the operations of a large provincial government Ministry, and the evidentiary onus on the institution would vary accordingly.

Recently, Adjudicator Liang had occasion to comment on an institution's assertions that responding to the appellant's request would interfere with its operations (Order MO-1427):

> The District states that this request is a "major interference" with its operations. It states that it is a relatively small municipality engaged in the provision of a variety of services, and that its resources are stretched to the limit. It is concerned about the resources which will be required to deal with this request.
> …
>
> [I]t should be noted that the *Act* provides for certain measures which relieve the burden on an institution faced with an apparently onerous request. These are found in section 45 of the *Act* (fees) and the related provisions in the Regulations, and the interim access decision and fee estimate scheme described in Order 81 (which permit, in certain cases, the postponement of the majority of the work required to respond to a request until a deposit has been received). In some circumstances, a time extension under section 20(1) may also provide relief, although where the process described in Order 81 is adopted, such a time extension may only be claimed once the appellant pays any deposit which may be required: see Order M-906.

> In this case, I conclude that the District cannot rely on "interference with operations" as a ground for finding the request "frivolous or vexatious". The request is in reality much narrower than the District asserts and, in any event, I am satisfied that the *Act* would provide meaningful relief from the burden of responding to the request.

In Order M-1071, former Adjudicator Marianne Miller, also referring to comments made by former Adjudicator Higgins in Order M-906 relating to alternative measures that are available under the *Act* to relieve an institution faced with a request which may, on the surface, appear likely to interfere with its operations noted that:

> Denying a requester his right of access under the *Act* is a serious matter. In my view, the interference complained of must not be of a nature for which the *Act* or the jurisprudence (Order 81) provides relief.

With respect to the "massive" nature of the appellant's request, Le Conseil states that "the requester, seeks, in effect, records of every financial and payment record of [Le Conseil] since its start-up".

In my view, the comments from previous orders referred to above are equally applicable in the circumstances of this appeal. I am not persuaded that the relief provided by the *Act* would not be sufficient to address Le Conseil's concerns in this regard, and I conclude that Le Conseil has not established that this request constitutes a pattern of conduct that would interfere with its operations.

I am satisfied that the reasoning in Order MO-1505, set out above, applies with equal force to the appeal before me. I find that it has not been established that these six requests are part of a pattern of conduct that would interfere with the operations of the Region. In addition, I note that the Region, in its ultimate response to the one request which it did respond to, has used both the interim fee estimate and time extension measures referred to in Order MO-1505. Furthermore, although the Region's representations refer to the DRNPHC and its size in support of its position, Order MO-2393 has established that the Region, which has significant resources, is the institution that must respond to the requests.

Accordingly, I am not convinced that these five (or six) requests are part of a pattern of conduct that would interfere with the operations of the Region.

Section 5.1(b) - Request is made in bad faith or for a purpose other than to obtain access

In addition to its overall representations on the actions of the appellant, including the nature, scope and timing of the request, the Region's representations, in support of its view that the

requests are an "abuse of process," refer to the litigation the appellant is involved in with both the Region and the DRNPHC. The Region argues that the appellant is not entitled to the requested documents through the litigation process, and states:

> … [the appellant's] only interest in these documents is in relation to the pending civil action.…. Being unable to obtain these documents in the course of the litigation, [the appellant] now seeks to subvert the Rules of Civil Procedure and abuse the processes available under [the *Act*] in order to obtain these documents.

Senior Adjudicator John Higgins considered a similar argument in Order MO-1924. In that appeal, the institution argued that the intention by the requester to use requested documents in litigation was "for a purpose other than to obtain access". The institution denied an access request on the basis that the requester was attempting to "expand" the discovery process in the pending civil litigation by requesting access under the *Act*, and claimed that this amounted to an improper purpose and was frivolous or vexatious. In MO-1924, Senior Adjudicator Higgins stated:

> The [institution] also suggests that the objective of obtaining information for use in litigation with the [institution] or to further the dispute between the appellant and the [institution] was not a legitimate exercise of the right of access.
>
> This argument necessitates a discussion of whether access requests may be for some collateral purpose over and above an abstract desire to obtain information. Clearly, such purposes are permissible. Access to information legislation exists to ensure government accountability and to facilitate democracy (see *Dagg v. Canada (Minister of Finance)*, [1997] 2 S.C.R. 403). This could lead to requests for information that would assist a journalist in writing an article or a student in writing an essay. The *Act* itself, by providing a right of access to one's own personal information (section 36(1)) and a right to request correction of inaccurate personal information (section 36(2)) indicates that requesting one's personal information to ensure its accuracy is a legitimate purpose. Similarly, requesters may also seek information to assist them in a dispute with the institution, or to publicize what they consider to be inappropriate or problematic decisions or processes undertaken by institutions.
>
> To find that these reasons for making a request are "a purpose other than to obtain access" would contradict the fundamental principles underlying the *Act*, stated in section 1, that "information should be available to the public" and that individuals should have "a right of access to information about themselves". In order to qualify as a "purpose other than to obtain access", in my view, the requester would need to have an improper objective above and beyond a collateral intention to use the information in some legitimate manner.

Order MO-1924 includes a review of previous orders of this office and the courts on this issue, and then states:

> I note that records protected by litigation privilege are subject to the solicitor-client privilege exemption at section 12. In addition, section 51 expressly addresses the relationship between the *Act* and the litigation process. This section states:
>
> 1. This Act does not impose any limitation on the information otherwise available by law to a party to litigation.
>
> 2. This Act does not affect the power of a court or a tribunal to compel a witness to testify or compel the production of a document.
>
> The Legislature clearly considered the relationship between the *Act* and the litigation process, and could have chosen to go beyond the section 12 exemption to limit the application of the *Act* where the requester is engaged in litigation with an institution. It did not do so. In my view, the [institution]'s argument on this point is entirely without merit.

Order MO-1924 went on to review other decisions that reject the idea that requests under the *Act* are not permissible where there is related litigation.

In my view, the analysis in MO-1924 is equally applicable here. The appellant is entitled to make an application for access to the records at issue and, even if the Region is correct in asserting that his intention is to use those records in a civil proceeding, this would not constitute a "purpose other than to obtain access" as those words are used in section 5.1(b) of Regulation 823.

In summary, I am not satisfied that the Region has established that these requests are frivolous and vexatious for the purpose of section 4(1) of the *Act*, and I will order the Region to respond to the requests in accordance with the requirements of the *Act*.

Additional matter

As identified by former Assistant Commissioner Mitchinson in Order M-850, the legislative provisions in section 4 provide institutions with a significant discretionary power to deal with requests which it views as frivolous or vexatious. The use of this power can have serious implications on the ability of a requester to obtain information under the *Act*, and this power should not be exercised lightly. I have found, above, that the Region has not provided sufficient evidence to establish that the requests are frivolous and vexatious. However, on my review of the five requests which are the subject of this appeal, I note that the wording of these requests is somewhat confusing, and it is not always clear exactly what records the appellant is seeking. In that regard, the Region's offer in its decision letter to work with the appellant to clarify the

requests is commendable, and accords with section 17(2) of the *Act*. However, by using the summary mechanism in the *Act* to claim that the requests are frivolous and vexatious, the Region thereby denies the appellant the opportunity to avail himself of that provision (see section 17(1.1) of the *Act*).

ORDER:

1. I do not uphold the Region's decision that the requests are frivolous and vexatious.

2. I order the Region to make access decisions in response to the appellant's requests, in accordance with the requirements of sections 19, 21 and 22 of the *Act*, treating the date of this order as the date of the requests.

Original signed by: April 30, 2009
Frank DeVries
Adjudicator