

Information and Privacy Commissioner,  
Ontario, Canada



Commissaire à l'information et à la protection de la vie privée,  
Ontario, Canada

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## ORDER MO-3422

Appeal MA15-383

City of Brampton

March 29, 2017

**Summary:** The City of Brampton (the city) received a request for access to information pertaining to Brampton Interim Auditor General's investigation into the city's Southwest Quadrant Renewal Plan. Remaining at issue at the close of mediation was the fee estimate for an ongoing search and whether portions of certain responsive records that were located in a completed search qualified for exemption under section 12 (solicitor-client privilege) or are not accessible under the *Act* by virtue of section 53(1). In this order, the adjudicator upholds the city's fee estimate for an ongoing search and finds that information in certain records qualifies for exemption under section 12 of the *Act* or is not accessible under the *Act* by virtue of section 53(1).

**Statutes Considered:** *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, sections 12, 45(1) and 53(1); Regulation 823, sections 6, 7(1) and 9; *City of Toronto Act, 2006*, S.O. 2006, c. 11, Sched. A., section 181; *Municipal Act, 2001*, S.O. 2001, c. 25, sections 223.20 and 223.22.

**Orders Considered:** MO-2439, MO-2629-R and MO-3053.

**Case Considered:** *Ontario (Public Safety and Security) v. Criminal Lawyers' Association*, [2010] 1 SCR 815, 2010 SCC 23.

### OVERVIEW:

[1] The City of Brampton (the city) received a request under the *Municipal Freedom*

*of Information and Protection of Privacy Act (the Act or MFIPPA)* for access to information pertaining to Brampton Interim Auditor General's investigation into the city's Southwest Quadrant Renewal Plan, which the city describes as a plan for "a mixed-use development, with several new features including new administrative, parking and retail space, and a pedestrian-friendly cityscape" that opened to the public in 2015.

[2] The city states that it appointed the Interim Auditor General to investigate "the process and administration" of the project. It states that the Interim Auditor General's investigation focused on issues such as "the decision by the City to lease-to-own, rather than build the project itself; the utilization of the Competitive Dialogue approach; the fairness of the procurement process; perceived secrecy throughout the Southwest Quadrant Renewal Plan; and the respective roles played in the process by Council and staff." The city states that the Interim Auditor General found no wrongdoing on the part of the city but that the Southwest Quadrant Renewal Plan is the subject of ongoing civil litigation between the city and private parties<sup>1</sup>.

[3] The request read:

I am requesting all correspondence between Brampton Council Members and the Chief Administrative Officer [CAO] or Staff (in CAO's office), regarding Interim Auditor General [named individual] and the investigation into the Southwest Quadrant project from Aug. 1, 2014 and April 17, 2015. I am also requesting all correspondence between Brampton Council members and CAO's office regarding [named individual], purchasing consultant, from Aug. 1, 2014 to April 17, 2015.

[4] The city's preliminary decision and fee estimate provided, amongst other things, as follows:

The search for responsive records required the use of two separate and distinct methods:

- i) Where staff members are currently employed by the city or where elected officials currently hold office, a search was conducted by the record holder; and,
- ii) Where staff members are no longer employed by the city or where elected officials no longer hold office, a search was conducted by the person who now has custody of the records or by Information Technology staff.

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<sup>1</sup> The city states that this litigation relates to the RFP processes reviewed by the Interim Auditor General.

The search that employed the first method is now complete. Records responsive to your request have been located and these records have been prepared for disclosure. The responsive records are itemized in the enclosed index and details are provided below under the heading "Completed Search".

The search that employed the second method is incomplete. A fee estimate is provided below under the heading "Ongoing Search". The search is suspended unless and/or until you indicate a willingness to proceed by providing a fee deposit.

[5] As set out in the preliminary decision letter, the Completed Search was conducted by 16 individuals and produced 101 pages of responsive records. The city took the position that portions of the responsive records located by the Completed Search would not be accessible under the *Act* by virtue of section 53(1) of *MFIPPA*, as a result of the confidentiality provision in section 223.22 of the *Municipal Act, 2001*<sup>2</sup> or qualify for exemption under sections 12 (solicitor-client privilege) or 14(1) (personal privacy) of the *Act*. Accompanying the preliminary decision letter was an index of responsive records located as a result of the Completed Search setting out a description of the responsive records and the exemptions that the city claimed were applicable.

[6] The city advised that its fee for processing the Completed Search was the sum of \$539.70 calculated as follows:

<u>Item</u>	<u>Permitted Fees</u>	<u>Quantity</u>	<u>Amount</u>
Manual records search	\$7.50/15mins (\$30/hr)	15.25 hours	\$457.50
Preparing records for disclosure	\$7.50/15mins (\$30/hr)	1.75 hours	\$52.50
Photocopying	\$0.20/page	101 pages	\$20.20
Shipping	actual cost	next day courier	\$9.50
Total			\$539.70

[7] The letter required payment in the amount of \$539.70 prior to the release of the information that the city was prepared to disclose.

[8] With respect to the search conducted by the second method, which the city

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<sup>2</sup> S.O. 2001, c. 25.

described as an Ongoing Search, it advised

To date, Information Technology staff has spent 21 hours on the search for responsive records. This time was spent executing electronic searches using multiple keyword combinations and de-duplicating search results. The electronic search produced more than 1,000 files (each file could contain multiple pages) that are possibly responsive to your access request. Unfortunately, electronic searches are imprecise. Each file must now be manually reviewed to determine responsiveness to your request. It is estimated that an additional 10 hours will be required to complete the search process. Responsive records would then need to be indexed and prepared for disclosure (i.e. any exemptions to disclosure would need to be applied and documented). From the review of a random sample, I believe it is unlikely that the volume of responsive records produced from the search will exceed 100 pages.

[9] Based on locating 100 pages of responsive records, the city estimated the following fees for completing the access request:

<u>Item</u>	<u>Permitted Fees</u>	<u>Quantity</u>	<u>Amount</u>
Manual records search	\$7.50/15mins (\$30/hr)	31 hours	\$930.00
Preparing records for disclosure	\$7.50/15mins (\$30/hr)	2 hours	\$60.00
Photocopying	\$0.20/page	100 pages	\$20.00
Shipping	actual cost	next day courier	\$9.50
Total			\$1,019.50

[10] The city advised that if the requester wished to proceed with this search a deposit of one half of the estimated fee would be required. The city also wrote:

Please note that the exemptions to disclosure that apply to responsive records located through the Completed Search ... are likely to apply to portions of the responsive records that will be identified should the Ongoing Search be completed. It is estimated that access will be granted in whole or in part to 90% of the responsive records located through the Ongoing Search.

[11] The city then exchanged emails with the requester and met with him to discuss reducing the fees. After the meeting the city sent the appellant a letter stating:

I am writing further to my correspondence of [specified date] where I provided an interim decision on access and requested fees related to [the access request]. Subsequent to this correspondence we met in person and exchanged emails to discuss reducing the fees associated with your request.

I am writing to confirm the outcome of our discussions:

1. The city has agreed to reduce the fees owing for the portion of the record search that is completed by ten percent (fees are reduced from \$539.70 to \$485.73). You have agreed to this proposal. The records are prepared for disclosure and are available upon receipt of payment of \$485.73.

...

2. The fees associated with the ongoing search remain payable in full. Please note that should you wish to proceed with the ongoing search, a fee deposit of \$509.75 is payable in advance (the deposit represents 50 percent of total estimated fees). The balance of fees would be payable prior to the release of responsive records.

[12] The requester (now the appellant) appealed the fee estimate for the Ongoing Search and the city's decision to apply sections 12 and 53(1) of the *Act* to information in the responsive records that resulted from the Completed Search.

[13] At mediation, the appellant confirmed that he was not challenging the fee for processing the request for records pertaining to the Completed Search. He also advised that he was no longer interested in seeking access to the information that the city relied on section 14(1) to withhold. Accordingly, that information, and the application of section 14(1) of the *Act*, are no longer at issue in the appeal.

[14] As the appeal could not be fully resolved at the mediation stage, the appeal was moved to the adjudication stage of the appeals process where an adjudicator conducts an inquiry under the *Act*.

[15] I commenced my inquiry by sending the city a Notice of Inquiry setting out the facts and issues in the appeal. The city provided responding representations. The city requested that an affidavit it provided with its representations not be shared with the appellant due to confidentiality concerns. I then sent the appellant a Notice of Inquiry along with a copy of the city's non-confidential representations. The appellant provided responding representations which were then shared with the city. The city provided representations in reply.

[16] In this order, I uphold the city's decision and dismiss the appeal.

**RECORDS:**

[17] Remaining at issue in this appeal is the following information:

Record	Page Numbers	Description	Exemption(s)
Record 1	17 to 18, 22 to 23	Email strings	12
Record 2	37 to 40	Email strings	53(1)
Record 2	41 to 42	Email strings	12
Record 7	91 to 101	Email strings	53(1)
Record 7	96	Email strings	12

**ISSUES:**

- A. Should the fee be upheld?
- B. Does the discretionary exemption at section 12 apply to the information for which it is claimed?
- C. Is information on pages 37-40 of Record 2 and on pages 91 to 101 of Record 7 not accessible under *MFIPPA* by virtue of section 53(1) of *MFIPPA*, as a result of the confidentiality provision in section 223.22 of the *Municipal Act, 2001*?

**DISCUSSION:**

**Issue A: Should the fee be upheld?**

[18] Section 45(1) requires an institution to charge fees for requests under the *Act*. That section reads:

A head shall require the person who makes a request for access to a record to pay fees in the amounts prescribed by the regulations for,

- (a) the costs of every hour of manual search required to locate a record;
- (b) the costs of preparing the record for disclosure;
- (c) computer and other costs incurred in locating, retrieving, processing and copying a record;

- (d) shipping costs; and
- (e) any other costs incurred in responding to a request for access to a record.

[19] More specific provisions regarding fees are found in sections 6, 7(1) and 9 of Regulation 823. Those sections read:

6. The following are the fees that shall be charged for the purposes of subsection 45(1) of the *Act* for access to a record:

1. For photocopies and computer printouts, 20 cents per page.
2. For records provided on CD-ROMs, \$10 for each CD-ROM.
3. For manually searching a record, \$7.50 for each 15 minutes spent by any person.
4. For preparing a record for disclosure, including severing a part of the record, \$7.50 for each 15 minutes spent by any person.
5. For developing a computer program or other method of producing a record from machine readable record, \$15 for each 15 minutes spent by any person.
6. The costs, including computer costs, that the institution incurs in locating, retrieving, processing and copying the record if those costs are specified in an invoice that the institution has received.

7. (1) If a head gives a person an estimate of an amount payable under the *Act* and the estimate is \$100 or more, the head may require the person to pay a deposit equal to 50 per cent of the estimate before the head takes any further steps to respond to the request.

9. If a person is required to pay a fee for access to a record, the head may require the person to do so before giving the person access to the record.

[20] This office may review an institution's fee and determine whether it complies with the fee provisions in the *Act* and Regulation 823.

[21] Although set out as an issue in the Notice of Inquiry sent to the parties, neither party provided representations in support of or to challenge the city's fee estimate. I note that in the preliminary decision letter, however, the city sets out in detail the basis

for its fee estimate, which included both the Completed Search<sup>3</sup> and Ongoing Search and provided an additional explanation for the basis of its fee during the course of mediation.

[22] On my review of the information provided by the city in support of its fee estimate, and in the absence of representations on this issue from the appellant, I accept the basis for the city's fee estimate for completing the ongoing search as set out in its decision letter in the sum of \$1,019.50 and I uphold it.

**Issue B: Does the discretionary exemption at section 12 apply to the information for which it is claimed?**

[23] The city submits that section 12 applies to the emails strings at Record 1 - pages 17 to 18, pages 22 to 23, Record 2 - pages 41 to 42 and Record 7 - page 96.

[24] Section 12 states as follows:

A head may refuse to disclose a record that is subject to solicitor-client privilege or that was prepared by or for counsel employed or retained by an institution for use in giving legal advice or in contemplation of or for use in litigation.

[25] Section 12 contains two branches. Branch 1 ("subject to solicitor-client privilege") is based on the common law. Branch 2 ("prepared by or for counsel employed or retained by an institution...") is a statutory privilege. The institution must establish that one or the other (or both) branches apply.

***Branch 1: common law privilege***

[26] At common law, solicitor-client privilege encompasses two types of privilege: (i) solicitor-client communication privilege; and (ii) litigation privilege.

*Solicitor-client communication privilege*

[27] Solicitor-client communication privilege protects direct communications of a confidential nature between a solicitor and client, or their agents or employees, made for the purpose of obtaining or giving professional legal advice.<sup>4</sup> The rationale for this privilege is to ensure that a client may freely confide in his or her lawyer on a legal matter.<sup>5</sup> The privilege covers not only the document containing the legal advice, or the request for advice, but information passed between the solicitor and client aimed at

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<sup>3</sup> Which it ultimately agreed to reduce.

<sup>4</sup> *Descôteaux v. Mierzwinski* (1982), 141 D.L.R. (3d) 590 (S.C.C.).

<sup>5</sup> Orders PO-2441, MO-2166 and MO-1925.



keeping both informed so that advice can be sought and given.<sup>6</sup>

[28] The privilege may also apply to the legal advisor's working papers directly related to seeking, formulating or giving legal advice.<sup>7</sup>

[29] Confidentiality is an essential component of the privilege. Therefore, the institution must demonstrate that the communication was made in confidence, either expressly or by implication.<sup>8</sup> The privilege does not cover communications between a solicitor and a party on the other side of a transaction.<sup>9</sup>

### ***The city's representations***

[30] The city takes the position that section 12 applies to information in pages 17-19 and 22-23 of Record 1, pages 41-42 of Record 2, and page 96 of Record 7. Relying on the content of the confidential affidavit of the city clerk, which describes in some detail the nature of the information that the city claims is subject to section 12<sup>10</sup>, the city submits that disclosing the severances at issue would reveal privileged communications between the city and its lawyers. It submits that disclosure of the withheld portions of the email correspondence would reveal what issues the city sought legal advice on and what that legal advice was and that due to their content, "these emails must be severed in their entirety". The city further submits that it considered whether waiving section 12 was appropriate in the circumstances and determined it was not. In support of this submission it relies on the contents of the confidential affidavit of the city clerk, which sets out the considerations regarding its exercise of discretion not to disclose the information at issue to the appellant.

### ***The appellant's representations***

[31] The appellant submits that based on the information that it received:

... , [the information] did not appear to fall under solicitor/client privilege. These are emails between politicians and city staff. ....

...

Based on the information provided, it does not appear that the correspondence requested was between a client and solicitor.

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<sup>6</sup> *Balabel v. Air India*, [1988] 2 W.L.R. 1036 at 1046 (Eng. C.A.).

<sup>7</sup> *Susan Hosiery Ltd. v. Minister of National Revenue*, [1969] 2 Ex. C.R. 27.

<sup>8</sup> *General Accident Assurance Co. v. Chrusz* (1999), 45 O.R. (3d) 321 (C.A.); Order MO-2936.

<sup>9</sup> *Kitchener (City) v. Ontario (Information and Privacy Commissioner)*, 2012 ONSC 3496 (Div. Ct.).

<sup>10</sup> Which could not be shared as it would reveal the content of the solicitor-client communication that the city claims qualifies for exemption under section 12.

This is a matter of public interest and there is a presumption that our government is open and transparent.

***The city's reply representations***

[32] In reply, the city submits that its earlier representations support the application of the section 12 exemption. The city adds:

The evidence and representation previously provided have already established and addressed this very point. As noted in paragraphs 12-13 of the city's representations, the severed emails are between the city and its legal counsel. This is also evident from the un-severed portions of the record which clearly show that the severed correspondence is between [named city solicitor] and members of Brampton City Council. The Representations establish at paragraph 13 that the severed portions of the record contain actual legal advice.

These assertions are supported by the sworn evidence of [the city clerk], found at paragraphs 8 through 11 of the confidential affidavit. [The city clerk] reviewed all the records in question and confirms that they are between the city and its counsel and that the content specifically relates to legal advice or legal strategy.

The city notes that it has embodied the purposes of *MFIPPA* and access to information and severed the minimal amount of the records as possible. It took a purposeful approach to section 12 and only severed the emails where actual legal advice was given or strategy discussed. It has broadly disclosed the remainder of the exchange, including emails where [named city solicitor] was copied but not offering legal advice.

[33] The city submits that prior IPC decisions have consistently held that these kinds of communication between a city solicitor and city council members are protected by section 12 and common law legal privilege<sup>11</sup>.

***Analysis and finding***

[34] I find, based on the evidence provided by the city, the description of the records at issue, and the confidential affidavit sworn by the city clerk, the information at issue that is claimed to be subject to section 12, falls within the scope of section 12 of the *Act*. This is because disclosure of this information would reveal the nature of confidential communications provided in the context of a confidential solicitor-client relationship or would reveal the substance of the confidential communication or legal advice provided. I am satisfied that no waiver of privilege has occurred with respect to

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<sup>11</sup> In support of this submission the city refers to Orders MO-1801 and MO-2865.

this information. Accordingly, I find that this information qualifies for exemption under section 12 of the *Act*.

[35] Finally, considering the nature of the information that I have determined to qualify for exemption under section 12, the overall circumstances of the matter and the content of the confidential affidavit of the city clerk, I am satisfied that the city properly exercised its discretion not to disclose the information that I have found to be exempt under section 12.

[36] Although I have considered the arguments of the appellant that disclosing the information would be in the public interest and that the city should be open and transparent in the context of its exercise of discretion, I pause to note that in *Ontario (Public Safety and Security) v. Criminal Lawyers' Association*<sup>12</sup> the Supreme Court of Canada held that the legislature's decision not to make documents found to be exempt under section 19 of the *Freedom of Information and Protection of Privacy Act* subject to the section 23 public interest override does not violate the right to free expression guaranteed by s. 2(b) of the *Canadian Charter of Rights and Freedoms*.<sup>13</sup> As section 12 of *MFIPPA* is analogous to section 19 of *FIPPA*, the same analysis applies and the public interest override at section 16 of *MFIPPA* does not apply to section 12.

**Issue C: Is information on pages 37-40 of Record 2 and pages 91 to 101 of Record 7 not accessible under *MFIPPA* by virtue of section 53(1) of *MFIPPA*, as a result of the confidentiality provision in section 223.22 of the *Municipal Act, 2001*?**

[37] Section 53(1) of *MFIPPA* states:

This Act prevails over a confidentiality provision in any other Act unless the other Act or this Act specifically provides otherwise.

[38] Section 223.20 of the *Municipal Act, 2001* sets out the duties regarding providing information to an Auditor General. It reads:

(1) The municipality, its local boards and the municipally-controlled corporations and grant recipients referred to in subsection 223.19 (3) shall give the Auditor General such information regarding their powers, duties, activities, organization, financial transactions and methods of business as the Auditor General believes to be necessary to perform his or her duties under this Part.

(2) The Auditor General is entitled to have free access to all books, accounts, financial records, electronic data processing records, reports,

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<sup>12</sup> [2010] 1 SCR 815, 2010 SCC 23.

<sup>13</sup> Part 1 of *The Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.

files and all other papers, things or property belonging to or used by the municipality, the local board, the municipally-controlled corporation or the grant recipient, as the case may be, that the Auditor General believes to be necessary to perform his or her duties under this Part.

(3) A disclosure to the Auditor General under subsection (1) or (2) does not constitute a waiver of solicitor-client privilege, litigation privilege or settlement privilege.

[39] Section 223.22 of the *Municipal Act, 2001* sets out the duty of confidentiality to which the Auditor General, and every person acting under their instructions, are bound. It reads:

(1) The Auditor General and every person acting under the instructions of the Auditor General shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her duties under this Part.

(2) Subject to subsection (3), the persons required to preserve secrecy under subsection (1) shall not communicate information to another person in respect of any matter described in subsection (1) except as may be required,

(a) in connection with the administration of this Part, including reports made by the Auditor General, or with any proceedings under this Part; or

(b) under the *Criminal Code* (Canada).

(3) A person required to preserve secrecy under subsection (1) shall not disclose any information or document disclosed to the Auditor General under section 223.20 that is subject to solicitor-client privilege, litigation privilege or settlement privilege unless the person has the consent of each holder of the privilege.

(4) This section prevails over the *Municipal Freedom of Information and Protection of Privacy Act*.

### ***The city's representations***

[40] The city submits that the application of the Auditor General confidentiality provision has been addressed in prior IPC decisions, both in the context of the *Municipal Act, 2001* and the identical provision at section 181 of the *City of Toronto Act, 2006*<sup>14</sup>

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<sup>14</sup> 2006, S.O. 2006, c. 11, Sched. A.

(*COTA*). The city adds that Order MO-3053 further emphasized the importance of the secrecy provision for the independence of the Auditor General<sup>15</sup>.

[41] The city submits that in Reconsideration Order MO-2629-R, Adjudicator John Higgins found that this could also apply to records in the hands of individuals acting under an Auditor General's instructions, writing that:

In the hands of the Auditor General or anyone acting under his instructions, such a [record], if it existed, would be subject to the confidentiality provision in section 181 of the *COTA*, which in combination with section 53(1) of [*MFIPPA*] means that it would not be accessible under [*MFIPPA*].

[42] It submits that Adjudicator Higgins further indicated that "[s]ection 181 of the *COTA* states that if applicable, it 'prevails over' the Act with the result that records falling within its terms are not accessible through an access request" and that in this appeal, based on the same reasoning and that section 181 of *COTA* and section 223.22 of the *Municipal Act, 2001* are virtually identical, "all of the [Interim Auditor General's] records and those of other persons acting on his instruction cannot be the subject of an access request".

[43] The city submits that Order MO-2439<sup>16</sup>, which dealt with section 181 of *COTA*, gives an example of when city staff may be acting "under instructions" of the Auditor General:

... in addition to the Auditor General's own staff, other city staff who are required to give information to the Auditor General in relation to the information listed in [section 179(1) of *COTA*, which is virtually identical to section 223.20 of the *Municipal Act, 2001*] act under the Auditor General's "instructions" for the purposes of section 181.

[44] The city submits therefore that section 223.22 applies to information on pages 37-40 of Record 2 and on pages 91 to 101 of Record 7 for the following reasons:

- The records severed in this appeal are excluded as they relate to the Auditor General's investigation of the SWQ Project;
- The records clearly relate directly and solely to the Auditor General's work and were created by the Auditor General or his staff at his direction during his review of the SWQ Project;

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<sup>15</sup> The city refers to paragraphs 37 and 38 of the decision.

<sup>16</sup> This is another order involving the City of Toronto. The city notes that the Order reconsidered in MO-2629-R was MO-2439, which was largely overturned.

- Or the records are prime examples of records created or held by city staff "who are required to give information to the Auditor General".

[45] In support of its submissions the city relies on the confidential affidavit of the city clerk which describes the content of the records that the city claims are captured by the wording of section 223.22 of the *Municipal Act, 2001*.<sup>17</sup>

[46] The appellant provided no submissions on this issue.

### ***Analysis and finding***

[47] The issue I must determine is whether information on pages 37-40 of Record 2 and on pages 91 to 101 of Record 7 are captured by the wording of section 223.22 of the *Municipal Act, 2001* and the application of section 53(1) of *MFIPPA*. If they are, then the confidentiality provision of the *Municipal Act, 2001* prevails over the access rights provided to the appellant under *MFIPPA*.

[48] Sections 223.22(1) and (4) of the *Municipal Act, 2001* read:

(1) The Auditor General and every person acting under the instructions of the Auditor General shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her duties under this Part.

(2) This section prevails over the *Municipal Freedom of Information and Protection of Privacy Act*.

[49] Based on the city's representations and the content of the confidential affidavit of the city clerk, I am satisfied that the information on the pages of the records at issue fit within the wording of subsection (1) of section 223.22, because it consists of information pertaining to matters that came to the Interim Auditor General's knowledge in the course of performing his duties under Part V.1 of the *Municipal Act* or was created or received under the instructions of the Interim Auditor General and came into the knowledge of the Interim Auditor General's staff or city staff in the course of their duties under Part V.1 of the *Municipal Act, 2001*. As a result, I find that information on pages 37-40 of Record 2 and on pages 91 to 101 of Record 71 are captured by the wording of section 223.22 of the *Municipal Act, 2001* and that section 53(1) of *MFIPPA* applies. Therefore, the confidentiality provision of the *Municipal Act, 2001* prevails over the access rights provided to the appellant under *MFIPPA*. Accordingly, this information is not accessible under the *Act*.

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<sup>17</sup> Which could not be shared as it would reveal the content of the records that city claims to captured by the wording of section 223.22 of the *Municipal Act, 2001*.

**ORDER:**

1. I uphold the city's fee estimate for completing the ongoing search in the sum of \$1,019.50.
2. I uphold the city's decision to apply section 12 to the information for which it is claimed.
3. I uphold the city's decision that information on pages 37-40 of Record 2 and on pages 91 to 101 of Record 71 is captured by the wording of section 223.22 of the *Municipal Act, 2001* and that section 53(1) of *MFIPPA* applies and that this information is not accessible under the *Act*.
4. The appeal is dismissed.

Original Signed by: \_\_\_\_\_  
Steven Faughnan  
Adjudicator

\_\_\_\_\_ March 29, 2017