

**In the Case of an Application by the Public Service Employee Relations Commission
(PSERC) for Authorization to Disregard Requests from
[the respondent] under Section 43 of the *Freedom of Information and Protection of
Privacy Act* (the Act)**

I have reviewed the application of the Public Service Employee Relations Commission under section 43 of the *Freedom of Information and Protection of Privacy Act* (the Act) for authorization to disregard requests made by [the respondent] under section 5 of the Act.

Section 43 gives me the power to authorize a public body to disregard requests under section 5 that, because of their repetitious or systematic nature, would unreasonably interfere with the operations of the public body, in this case the Public Service Employee Relations Commission.

Since the purpose of the Act is to make government bodies more accountable to the public by giving the public a right of access to records, authorization to disregard should be given sparingly and only in obviously meritorious cases. Authorizations under section 43 should not be seen as a routine option for public bodies to avoid their obligations under the legislation.

I have carefully reviewed the submissions of the Public Service Employee Relations Commission and the response of [the respondent], as well as the series of requests which led PSERC to make the application, and find as follows:

1. The Commissioner of PSERC wrote to me on May 15, 1997 requesting the application of section 43 of the Act to [the respondent]. He provided copies of a series of requests from the applicant to the Minister of Finance and PSERC, and commented specifically about one dated April 26, 1997:

Since the beginning of 1996, this Commission has received eight similarly lengthy letters from [the respondent], within which [the respondent] makes obscure references to the Act and its potential remedies for present and past crimes [he/she] alleges have been committed by various public bodies against [him/her]. The applicant appears unable to accept the responses provided to [him/her] by this public body and each subsequent correspondence or telephone call from the applicant merely reiterates the same accusations of fraud and allegations of wrongdoing by this public body.

The letters referred to by the Commissioner for PSERC comprise over 400 separate pages and reinforce for me the accuracy of his observation.

2. The Commissioner of PSERC further submitted that:

. . . I am aware of no deliberate attempts by public servants, in the ethical conduct of their duties, to cause [the respondent] harm or deny [him/her] any due process. Our agency has been working with representatives of the B.C. Government and Service Employees' Union (BCGEU) to resolve [the respondent]'s grievances humanely and responsibly.

PSERC advises that these efforts at resolution are continuing and I note, from my review of its letters of response to the [respondent], that PSERC has gone out of its way to provide the [respondent] with information as well as copies of records.

3. PSERC advises that since the Commissioner's May 15, 1997 letter to me, it has received another 218 pages of correspondence in four (separate) letters from [the respondent]: "The [respondent] is unable to accept the forthright responses that have been provided to [him/her], despite the considerable efforts of staff to decipher what specific records actually exist." Based on my own review of this recent correspondence and of [the respondent]'s submissions to me, I find that [the respondent]'s requests are "repetitious" in the sense that the same information has been requested again and again.

4. I have reviewed a submission of 394 single-spaced pages from [the respondent] in connection with this section 43 application, approximately 50 pages of which were submitted *in camera*. [His/Her] primary goal, [he/she] states, is to expose PSERC's cover-up of an "extremely serious problem of corruption and huge huge waste of taxpayers' money that do exist in the" Commission. (p. 4) The documents that [the respondent] has not received in response to [his/her] requests for [his/her] own information under the Act, [he/she] submits, will document this point. Whatever the merits of an argument that additional records must exist or that statutory exceptions should not be used to withhold information, the reality is that [the respondent]'s multiple problems cannot be solved on the basis of repetitive requests for access to information under the Act. I find also that the requests are "systematic" in the sense that they focus methodically, indeed obsessively, on certain labour relations issues between the [respondent] and PSERC.

5. PSERC submits that the "[respondent] is seeking to redress a perceived injustice, not [to correct] records. For the most part, communication with [the respondent] is beyond the scope of the Act." Based on my review of the correspondence and submissions of PSERC and [the respondent], I concur in this judgment. In my view, [the respondent] is seeking redress under the Act for a labour relations issue (which began on November 21, 1991) that should be settled elsewhere (if at all possible) in accordance with existing procedures for unionized government staff. It is clear to me that PSERC cannot address [his/her] various grievances under the *Freedom of Information and Protection of Privacy Act*.

6. I also agree that the considerable time and effort needed to identify requests for access which might be contained within hundreds of pages of correspondence is not reasonable, especially when such additional access requests appear to duplicate those previously made. I accept that even though PSERC is a significant public body, it is relatively small and has only one staff person to deal half-time with all access and privacy matters. I find that the time and effort which would be required to analyze and respond to [the respondent]'s voluminous, repetitious and systematic requests would, in all the circumstances, unreasonably interfere with PSERC's operations.

Therefore, I authorize the Public Service Employee Relations Commission to disregard requests from [the respondent] for records dealing with [his/her] labour relations issues since 1991.

August 18, 1997

David H. Flaherty
Commissioner