



OFFICE OF THE
INFORMATION & PRIVACY
COMMISSIONER
— for —
British Columbia

Order F09-05

LAW SOCIETY OF BRITISH COLUMBIA

Celia Francis, Senior Adjudicator

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Summary: The applicant requested a variety of records dating back five years. The Law Society issued fee estimates totalling just over \$117,000 for responding to the requests. The applicant complained to this Office about the amounts of the fee estimates and about the Law Society's "delay" in responding. Mediation led to the consolidation of the requests and a revised fee estimate of \$11,000. The applicant paid the estimated fee and the Law Society disclosed records in phases over ten months. The final processing costs were about \$27,000. The applicant remained dissatisfied with the amount of the fee and with the pace of disclosure and these matters proceeded to inquiry. The applicant was found to be a "commercial applicant". The Law Society was found to have included certain charges which were not allowable under FIPPA or its Regulation and was ordered to re-calculate the fee. The revised fee was reduced by 20% because, among other things, the Law Society did not take steps earlier to expedite processing of the request.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, ss. 6(1), 7(1), 7(4), 7(5), 58(3)(c), 75(1), 75(2), 75(4), 75(6), 76(2)(j), 77(c), *Freedom of Information and Protection of Privacy Regulation* (B.C Reg. 293/2003).

Authorities Considered: **B.C.:** Order 02-31, [2002] B.C.I.P.C.D. No. 31; Order F05-21, [2005] B.C.I.P.C.D. No. 29; Order F05-22, [2005] B.C.I.P.C.D. No. 30; Order F05-23, [2005] B.C.I.P.C.D. No. 31; Order F06-16, [2006] B.C.I.P.C.D. No. 23; Order 00-19, [2000] B.C.I.P.C.D. No. 22; Order 01-47, [2001] B.C.I.P.C.D. No. 49; Order No. 157-1997, [1997] B.C.I.P.C.D. No. 15.

1.0 INTRODUCTION

[1] In January 2006, FCT Insurance Company Ltd., doing business as First Canadian Title (“FCT”), submitted two requests under the *Freedom of Information and Protection of Privacy Act* (“FIPPA”) to the Law Society of British Columbia (“Law Society”) for access to records for the last five years on the following topics: title insurance; FCT; and complaints about any Law Society member regarding residential real estate practice. It also requested records from the last three years related to academic papers by a named individual.

[2] In early March 2006, the Law Society issued two separate fee estimates for responding to these requests, \$43,283 and \$68,887. The Law Society acknowledged that FCT had a deadline of April 7, 2006 for making submissions to the Law Society’s task force on title insurance (the “task force”) but said it did not have the resources to respond to FCT’s requests by that deadline. The Law Society said that, if FCT wished to narrow its requests to “a manageable number of records”, it would make every effort to respond within FIPPA’s timelines but would likely require a time extension due to the breadth of FCT’s requests.

[3] FCT complained soon after to this Office and to the Law Society about the fee estimates and the Law Society’s “continuing delay” in responding to its requests. Among other things, FCT argued that the Law Society’s fee estimates exceeded what were reasonable and included fees for services not contemplated by FIPPA and the Freedom of Information and Protection of Privacy Regulation¹ (“Regulation”), made under FIPPA, including “Consult with staff about the contents of specific boxes of files”, “Obtaining legal advice on disclosure issues” and “Severing the record”. FCT also argued that the Law Society had not met its legislated timelines under FIPPA for responding to its requests.

[4] Mediation by this Office on the complaints resulted in FCT narrowing the scope of its requests and the consolidation of the two requests. The Law Society’s revised fee estimate for the consolidated request was \$11,000, although it did not provide a detailed breakdown of this estimate. It did however say that it did not include fees for outside legal counsel.² The Law Society estimated that it would take four to six weeks to retrieve and prepare the responsive records for disclosure. Further discussions between FCT and the Law Society did not lead to a narrowing of the scope of the request or a lowering of the estimated fees.

¹ B.C. Reg. 323/93.

² The Law Society took the position that though it had the right to do so it was not including the legal fees in its charges and that this represented a compromise on its part. I note here that the Commissioner said in Order 02-31, [2002] B.C.I.P.C.D. No. 31, at para. 28, that the “[fee] schedule does not list a lawyer’s services as a permitted service”, which I take to include providing legal advice.

[5] FCT paid the estimated fee of \$11,000 and the Law Society proceeded with work on the request, disclosing records in stages from January to October 2007. FCT remained dissatisfied with the amount of the fee and with the timeliness of the Law Society's response to the request and asked that these matters be dealt with in an inquiry. In December 2007, the Law Society told FCT that the final fee was \$26,945.31 and asked that FCT pay the balance owing of \$15,945.31. The following month, this Office issued a notice of written inquiry to FCT and the Law Society. I have reproduced the relevant FIPPA provisions in an appendix to this order.

2.0 ISSUES

[6] The issues before me in this case are as follows:

1. Whether the fee is appropriate under s. 75(1) of FIPPA.
2. Whether appropriate circumstances exist under s. 58(3)(c) to confirm, excuse or reduce the fee or order a refund of the fee.

[7] Section 57 of FIPPA, which establishes the burden of proof for inquiries, is silent respecting fee matters. Previous decisions have held that in such cases, as a practical matter, it is in the interests of each party to present argument and evidence to justify its position.

3.0 DISCUSSION

[8] **3.1 Background**—FCT is an insurance company that offers a number of products and services including title insurance for residential and commercial real estate transactions. At the Law Society's annual general meeting in 2005, members of the Law Society passed two resolutions regarding title insurance matters which, FCT said, touched directly on its business interests. The Law Society created a task force to investigate and consider the Law Society's position on title insurance and its response to the resolutions.³ The task force received various submissions and oral presentations, including from FCT, and issued a report in July 2007.⁴ The Law Society Benchers considered the report in November 2007 and adopted its recommendations with a minor modification.⁵

[9] **3.2 Preliminary Matters**—In its reply, the Law Society objected to what it called inaccurate summaries of some of its letters attached as exhibits to FCT's affidavit evidence. It added that some of FCT's "commentary" was

³ Paras. 3-10, FCT's initial submission.

⁴ http://www.lawsociety.bc.ca/publications_forms/report-committees/docs/TitleInsTF.pdf.

⁵ Para. 33, Law Society's reply submission.

“argument in the guise of evidence”.⁶ I have considered the wording in the letters themselves and the Law Society’s comments in arriving at my decision.

[10] The Law Society also objected to FCT’s arguments that it had no choice but to make its presentation to the task force without the records and that the delay in receiving the records adversely affected its ability to make a submission. It also objected to some of FCT’s evidence on the grounds that it was opinion and hearsay.⁷ I have borne the Law Society’s objections in mind when assessing FCT’s submissions.

[11] **3.3 Are the Fees Appropriate?**—I will first decide whether FCT is a “commercial applicant” under the *Freedom of Information and Protection of Privacy Regulation* (“Regulation”). I will then consider whether the Law Society calculated the fees properly under s. 75 of FIPPA and s. 7 of the Regulation. In arriving at my decision, I have taken the approach set out in previous relevant orders.⁸

Is FCT a “commercial applicant”?

[12] Section 1 of the Regulation defines this term as follows:

“commercial applicant” means a person who makes a request for access to a record to obtain information for use in connection with a trade, business, profession or other venture for profit

[13] The Law Society argued that FCT is a “commercial applicant” for the purposes of s. 1 of the Regulation and that it is therefore appropriate for the Law Society to calculate the fees on the basis of “actual costs”.⁹ FCT is a “business” operating a “venture for profit”, it argued, and FCT sought the records to participate in the task force, in order to protect its business interests against a “perceived regulatory threat from the Law Society”. In the Law Society’s opinion, FCT’s own correspondence to the Law Society supports the Law Society’s position and this case is indistinguishable from Order 02-31 in which Commissioner Loukidelis found that the applicant, a construction contractor, was a “commercial applicant”.¹⁰

[14] FCT disputed the Law Society’s characterization of FCT as a “commercial applicant”. FCT conceded that it has a business interest in the continuation of

⁶ Para. 2, Law Society’s reply.

⁷ Paras. 2-12, Law Society’s reply.

⁸ See, for example, Order 02-31, [2002] B.C.I.P.C.D. No. 31, Order F05-21, [2005] B.C.I.P.C.D. No. 29, Order 00-19, [2000] B.C.I.P.C.D. No. 22, Order 01-47, [2001] B.C.I.P.C.D. No.29, and Order No. 157-1997, [1997] B.C.I.P.C.D. No. 15.

⁹ As I discuss below, the Schedule of Maximum Fees in the Regulation allows public bodies to charge commercial applicants the “actual cost” of providing certain services.

¹⁰ Paras. 6-17, Law Society’s initial submission.

title insurance and that any recommendations the task force made to the Law Society Benchers could have affected its business interests. FCT said it did not however make the request in connection with a “venture for profit”. It submitted that its only purpose in requesting the records was to help it “prepare for and deal with the task force” and to “defend itself in a circumstance where the Law Society has indicated that it will be inquiring into a subject touching upon [FCT’s] business”.¹¹ This was evidenced, FCT argued, by the fact that it continued its request beyond the issuance of the task force report and the date set for comments on the report.¹²

[15] In my view, FCT’s request was “for information for use in connection with ... a business” or “venture for profit”, that is, FCT’s continued ability to offer insurance products and services. While FCT may have requested the records to assist it in preparing to deal with the task force,¹³ this was because, as FCT itself acknowledged, the Law Society “had raised issues touching upon the business interests of First Canadian”. I have no hesitation in concluding that FCT was a “commercial applicant” for the purposes of this request. This means that the Law Society was entitled to charge FCT for the “actual cost” of each service set out in section 1 of the Schedule of Maximum Fees (“Schedule”), which forms part of the Regulation.

Allowable fees

[16] A public body may, but does not have to, charge an applicant fees for responding to a request. It may not charge an applicant for the first three hours spent locating, retrieving and producing a record nor for severing a record (s. 75(2)). In addition, it may require applicants to pay fees only for “services” listed in s. 75(1) of FIPPA:

- (a) locating, retrieving and producing the record;
- (b) preparing the record for disclosure;
- (c) shipping and handling the record;
- (d) providing a copy of the record.

[17] Section 77(c) of FIPPA authorizes a local public body (such as the Law Society) to “set any fees the local public body requires to be paid” under s. 75. Under s. 77, this must be done by “bylaw or other legal instrument by which the local public body acts”. The Law Society’s submissions do not say if it adopted s. 7 of the Regulation or its own bylaw on fees, or did neither. However, its submissions address fees chargeable to a “commercial applicant” under the Regulation. In the absence of evidence that the Law Society has set other fees as permitted under s. 77 of FIPPA, the Regulation applies here.

¹¹ FCT’s letter of May 25, 2006 to the Law Society, Exhibit “R”, Tsang affidavit.

¹² Paras. 46-56, FCT’s initial submission.

¹³ FCT’s letter of January 31, 2006 to the Law Society.

[18] The Schedule sets out the “maximum fees for services provided to different categories of applicants”.¹⁴ Section 1 of the Schedule lists fees for various “services” for which “applicants other than commercial applicants” may be charged. Section 2 of the Schedule states that a public body may charge a “commercial applicant” the “actual cost of providing [each] service” listed in s. 1. Thus, a public body may (but does not have to) charge a commercial applicant the actual costs of providing the services of locating and retrieving a record, producing a record manually and so on. It may not however charge more than the actual cost for each service.¹⁵

[19] FIPPA’s fee scheme is not designed to allow public bodies to recover most or all of their costs associated with processing requests. This is evident from the exhaustive list in s. 75(1) and from the fact that FIPPA expressly prohibits charging fees for certain things (ss. 75(2) and (3)). Previous orders support this view.¹⁶

[20] The “services” listed in s. 75(1) are tasks or activities directly connected to providing applicants with records. Similarly, the wording of s. 7 of the Regulation, “services provided to ... applicants”, suggests that public bodies are limited to charging fees for services directly related to providing records to applicants. I do not read either provision as authorizing public bodies to charge fees for activities arising from their own internal needs, procedures or processes, or for carrying out their general responsibilities and duties under FIPPA (including a decision to seek legal advice respecting a request).

[21] I will consider the parties’ arguments with these principles in mind.

Did the Law Society calculate the fee properly?

[22] FCT acknowledged that the Law Society is entitled to charge for certain services, such as providing copies of records to an applicant. In its view, however, the 25¢ per page photocopying charge was too high, what it called a “windfall rate”.¹⁷

[23] FCT also argued that the Law Society charged for activities that FIPPA and its regulation do not allow for, as follows:

- the first 3 hours of time spent locating and retrieving a record
- time spent on third-party consultations, telephone discussions with third parties and preparing documents for third-party consultations

¹⁴ Section 75(6) of FIPPA says that prescribed categories of applicants may be required to pay different fees from those other applicants pay but that these fees may not be greater than the actual costs of the services.

¹⁵ Paras. 26-28, Order 02-31.

¹⁶ See Order 00-19, at p. 8.

¹⁷ Para. 62, FCT’s initial submission.

- time spent to review the records for, and to remove, duplicate copies of records
- time spent reviewing records to determine whether exceptions applied and to list exceptions
- time spent on meetings between various staff members, in some cases duplicate charges for the same meetings, which FCT said likely included providing legal advice on disclosure issues
- time spent giving and receiving instructions concerning documents reviewed and to be disclosed, and in training and supervising temporary staff
- time spent reviewing, preparing or drafting correspondence and preparing, updating or revising the fees and costs and fees charged in order to update time logs on the response
- time spent photocopying records, both to prepare working copies and copies for disclosure
- working copies of responsive records
- multiple copies of records¹⁸

[24] The Law Society said that it did not charge for the first three hours of search time, for providing legal advice or for time its staff spent physically severing excepted information from the records. The Law Society argued that the fees FCT said should be eliminated were a “substantial part” of the time its staff spent processing the request and the remaining fees would amount to only a fraction of the “actual costs” of processing the requests.¹⁹

[25] In the Law Society’s view, it was entitled under FIPPA to charge actual costs for providing certain services, as follows:

- activities involved in third-party consultations
- time spent reviewing records for duplicates and removing duplicates
- time spent reviewing records and determining disclosure issues
- meetings between staff members
- time spent instructing staff and temporary staff regarding disclosure (which it termed “production and preparation of records”)
- time spent preparing correspondence, number stamping records and preparing disclosure reports
- time spent photocopying
- making working copies of records
- making copies of records for disclosure to FCT²⁰

¹⁸ Paras. 58-65, FCT’s initial submission.

¹⁹ Para. 4, Drozdowski affidavit #2.

²⁰ Paras. 30-36, Law Society’s initial submission; para. 21, Drozdowski affidavit #1; para. 38, Pickard affidavit #1; paras. 7-8, Hoskins affidavit #1; paras. 19-21 & 47-88, Law Society’s reply submission; paras. 5-12, Drozdowski affidavit #2; paras. 5-6, Hoskins affidavit #2; para. 4, Pickard affidavit #2.

[26] I discuss below the Law Society's detailed explanations of the fees to which FCT objected, along with my findings. References to "staff" include temporary staff, where applicable. References to "copies" are to photocopies or computer printouts, as applicable.

Making copies of records for disclosure and as working copies

[27] The Law Society said it made a total of 24,470 copies of records while processing this request, including 17,262 made from June 22 to October 31, 2007. The Law Society said approximately 4,000 of these 17,262 copies were made for disclosure to FCT²¹ and the rest were made for use as "working copies", that is, to mark the copies with highlighters or white severing tape for severing and further copying. (It is not entirely clear if the copies the Law Society made for use in its third-party consultations are included in the "working copies" but it appears so.) The Law Society argued that making working copies is essential when processing access requests, as it is not appropriate to number stamp or highlight original records.²²

[28] I accept that it will generally be preferable for public bodies to work with copies of records rather than originals. I do not however consider that a public body is providing a "service" to an applicant under s. 75(1) or s. 7 of the Regulation when it makes working copies of records. Rather it is doing so because of a choice to preserve its original records, as well as part of its routine responsibilities under FIPPA. It was not in my view appropriate for the Law Society to charge FCT a per-page fee for making working copies of records. It may only charge FCT for copies of records made for disclosure to FCT.

[29] As an aside, I observe that the Law Society did not discuss the feasibility of working with and disclosing some or all of the responsive records in electronic form, rather than printing or copying them all. For example, the Law Society said that it printed out approximately 6,500 pages of a named staff member's electronic files.²³ The Law Society also did not say whether it was feasible to scan paper records and work with them in electronic form. There is also no mention of whether it offered FCT the opportunity to view the records that had been reviewed for disclosure and then select those of which it actually wished copies, thus reducing copying charges to FCT. I acknowledge that it is up to

²¹ The Law Society's table of final costs shows that it made 7,208 copies from January to June 2007. I could find no mention of how many of these were made for disclosure to FCT.

²² Paras. 85-88, Law Society's reply submission; para. 10, Drozdowski affidavit #2.

²³ Para. 21, Drozdowski affidavit #1. It appears from the Law Society's letter of November 30, 2006 to FCT that it printed all 6,500 of these records and then determined which ones were responsive to FCT's request, although this is not clear. It is similarly unclear whether the Law Society initially copied or printed all the other records it retrieved, and then determined which ones were responsive, or if it copied or printed only the responsive ones.

a public body to determine its own internal processing methods, but I encourage public bodies always to explore the most efficient and cost-effective methods available to process and disclose records, while also minimizing chargeable costs to applicants.

[30] The Law Society said it incurred one charge of \$56.05 for having 455 copies made at a print shop when Law Society staff and photocopiers were otherwise engaged.²⁴ Its table of final costs²⁵ indicates that this was to photocopy severed records.²⁶ If this charge was to make copies for disclosure to FCT, then I accept this fee. If some or all of this cost was for making working copies, it must exclude the appropriate amount from the revised total fee I discuss below.

Per-page copying cost

[31] The Law Society said it tracked the number of copies it made for the request using the counter on its photocopier and recorded them as a cost for this request.²⁷ It added this:

In response to the assertion that \$0.25 per page is in excess of the actual cost to the LSBC of producing a photocopy, it is true that the LSBC does not undertake the detailed and expensive task of determining this number, which would be based on factors that are continually changing such as the cost of paper, the amount of depreciation, the costs of maintenance and other supplies necessary for each copy machine at the offices of the LSBC. Rather, the LSBC uses the maximum cost chargeable to non-commercial applicants as a guide to a number that is reasonable. I understand that the Registrar of the Supreme Court of British Columbia permits law firms to charge \$0.25 for photocopies, in most cases.²⁸

[32] I do not find persuasive the Law Society's reasons for not calculating the "actual cost" of the paper copies it made. The costs of paper, toner and other items may indeed have fluctuated during the processing of this request (although the Law Society provided no evidence of this). I fail to see however why it would not be feasible for the Law Society, as part of its general request-processing responsibilities under FIPPA, to calculate the "actual cost" of making paper copies for use in its requests involving "commercial applicants". I also note that the Law Society provided no evidence to show whether or not the 25¢ per page copying fee it charged was more than the "actual cost" of providing copies of the records to FCT.

²⁴ Para. 21, Drozdowski affidavit #1.

²⁵ Attachment to the Law Society's letter of December 7, 2007, Exhibit "U", Drozdowski affidavit #1.

²⁶ See p. 6 of table.

²⁷ Para. 21, Drozdowski affidavit #1; para. 10, Drozdowski affidavit #2.

²⁸ Para. 6, Hoskins affidavit #2.

[33] Public bodies to which the Regulation applies must choose either the Schedule or the “actual cost” (whatever it is) in calculating fees. It is not open to them to pick and choose, à la carte fashion, among the fees payable by “commercial” and “other” applicants. Having determined that FCT was a “commercial applicant”, the Law Society had then to charge FCT the “actual cost” of providing services. It could have charged less than the “actual cost”, but it could not charge more. The Law Society must, using appropriate factors, calculate the “actual cost” of making paper copies for disclosure to FCT.

Charging for time spent making copies

[34] The Law Society said it charged for staff time spent making photocopies and printing out electronic records.²⁹ Its submissions and table of final costs indicate that it charged for staff time spent making both working copies and copies for disclosure.

[35] Previous orders have allowed fees for staff time spent making photocopies of records for the following tasks:

- for disclosure to applicants³⁰
- where an applicant has asked to view original records, but this is not possible because records must be severed³¹ (this does not appear to be the case here)

[36] I have already found that the Law Society is not permitted to charge copying fees for making working copies of records. For the same reasons, I conclude that it was not appropriate for the Law Society to charge fees for the time staff spent making working copies. It may however charge for staff time spent making copies for disclosure to FCT.

[37] Here and below, where I accept that the Law Society may charge fees for staff time for providing allowable services, it is appropriate for it to use the hourly rates of staff involved in these activities, derived from their salaries and benefits.³²

Time spent severing the records

[38] Public bodies may not charge for staff time spent severing records, that is, physically removing excepted information from records using, for example, black markers, white tape or severing software. FCT questioned whether

²⁹ Para. 11, Drozdowski affidavit #2.

³⁰ See Order No. 157-1997, pp. 4-5, and Order 01-47 at paras. 52-54.

³¹ See Order No. 157-1997, at p. 5.

³² See para. 29, Order 02-31.

the Law Society charged for severing the records³³ but the Law Society provided evidence that it did not.³⁴ I accept the Law Society's evidence on this point.

Duplicates

[39] The Law Society said it charged for time spent reviewing the records to locate and remove duplicate records, an extremely time-consuming task that it argued was allowed under s. 75(1)(a) of FIPPA. It said it had to consider whether it was more expensive to spend chargeable time reviewing the records to identify and remove duplicates or to "let them go" (*i.e.*, provide and charge for copies of the duplicates). In addition, the Law Society said it considered that it might be important to an applicant to know which individuals possessed certain records. Moreover, processing took place over several months and staff might not have recognized duplicates among the large volume of records. The Law Society acknowledged that it had charged for duplicates and noted that FCT's calculation for duplicate copies was \$341 out of the total of \$6,059.80 charged for copies.³⁵

[40] In my view, the Law Society took a reasonable approach to this issue. I agree these tasks are "services" to the applicant under s. 75(1)(a) and I decline to interfere with its decision to charge for the time spent identifying and removing duplicates. The Law Society may charge FCT for staff time spent on these tasks, as well as for providing copies of duplicates.

Time spent "reviewing" records and in meetings and consultations

[41] The Law Society said it calculated the costs for time spent by staff to "review" records at the hourly salary rate (plus benefits) of the individual Law Society staff involved in the particular activities. The only external staff cost it charged for was the outside administrative help it hired to speed completion of the request, done with the agreement of the parties. It acknowledged that it had charged for time spent reviewing records, both to determine whether they were responsive to the request and to determine "disclosure issues". I understand determining "disclosure issues" to mean determining whether exceptions applied. In the Law Society's view, fees for both kinds of activities are allowable under s. 75(1)(a).³⁶

[42] The Law Society's table of final costs shows that it included a number of fees for "reviewing" records, variously referred to as "retrieving and reviewing

³³ Para. 16, FCT's reply submission.

³⁴ Paras. 27-29, Law Society's initial submission; para. 38, Pickard affidavit; para. 23, Drozdowski affidavit #1. The table of final costs supports the Law Society's position.

³⁵ Paras. 6 & 12, Drozdowski affidavit #2; para. 4, Pickard affidavit #2.

³⁶ Paras. 69 & 76, reply submission; paras. 7 & 8, Drozdowski affidavit #2; para. 4, Pickard affidavit #2.

records”, “review documents” and “review records, identify exceptions”. There is no breakdown showing whether each “review” was to determine if records were responsive to the request, to determine if exceptions applied or both. (It appears the “review” sometimes also related to third-party consultations. I deal with this below.)

[43] The Law Society’s materials also indicate that it charged fees for staff meetings or consultations to discuss searches done and records retrieved, and to determine whether records were responsive to the request. It also appears these meetings and consultations included time spent determining whether records could be disclosed (*i.e.*, whether exceptions applied). As with its “reviewing” charges, the Law Society took the position that all of these activities are allowable under s. 75(1)(a).

[44] I agree with the Law Society that it is appropriate under s. 75(1)(a) to charge fees for staff time spent, whether in reviews, meetings and consultations, to locate and retrieve responsive records, including determining if records are responsive. Staff time spent on determining if exceptions apply is not, however, a s. 75(1)(a) “service” to an applicant but rather part of a public body’s routine responsibilities under FIPPA. It was therefore not appropriate to charge FCT for staff time spent, whether in the form of reviews, meetings or consultations to determine whether exceptions applied, including “identifying exceptions” or determining “disclosure issues”.

Third-party consultations

[45] The Law Society argued that third-party consultations are statutorily required, time-consuming and integral to processing an access request. In its view, fees for staff time spent in such consultations and for associated copying fees are allowed under ss. 75(1)(a) and (b) of FIPPA. It said it had to identify records involving third parties, prepare notices, copies of records and related correspondence to send to the third parties, deal with their telephone calls and process their written responses, which included determining whether to disclose the particular records.³⁷

[46] Public bodies are not of course “required” to send third-party notifications except where they intend to disclose records to which they have reason to believe s. 21 or s. 22 of FIPPA applies in whole or in part. If they determine that one of these exceptions applies and thus decide not to disclose, there is no obligation to send third-party notices. If the Law Society is arguing that FIPPA somehow implicitly requires third-party consultations in other instances, the

³⁷ Paras. 4 & 5, Drozdowski affidavit #2; par. 4, Pickard affidavit #2.

specific, explicit duty in relation to ss. 21 and 22 makes such an argument untenable.³⁸

[47] The Law Society did not explain why it engaged in third-party consultations or what they entailed, but FCT did not dispute that they occurred. Whether or not the consultations were permitted, or appropriate, is not relevant. Neither the activities associated with these consultations nor the related copying charges are allowable fees for “services” to applicants under ss. 75(1)(a) and (b) of FIPPA. This includes staff time spent on these activities and any associated per-page copying charges. Consultations with others, whether explicitly required or permitted under FIPPA or otherwise, are not “services” to applicants. Rather, these activities are part of a public body’s responsibilities under FIPPA and they are not properly the subject of fees.

Preparation for disclosure

[48] The Law Society included several tasks in this category: number-stamping and listing records, preparing correspondence and “disclosure reports”,³⁹ listing records and exceptions, updating time logs, revising the fees and chart (apparently its table of final costs), putting records in chronological order, marking sources on documents and giving instructions to temporary staff on production and preparation of records. It considers these activities to be “inherent in or ancillary to” activities listed in ss. 75(1)(a), (b) and (d) of FIPPA.

[49] As part of “preparing records for disclosure”, I agree that it is appropriate, bearing in mind the s. 6(1) duty to assist applicants, for a public body to package records for disclosure in an orderly manner, to avoid creating confusion or even unintelligibility in a response.⁴⁰ It was thus appropriate to charge FCT fees for staff time spent numbering records, stapling and collating them in chronological order and, in this case at least, identifying the sources of documents.

[50] I do not however agree that it is appropriate to charge fees for carrying out routine responsibilities under FIPPA (including a public body’s duties under ss. 6 and 8 of FIPPA) or related to a public body’s own internal processing and procedural needs. These are not “services” to applicants under ss. 75(1)(a), (b) and (d) and moreover are not directly related to preparing the records for disclosure. It was therefore not appropriate for the Law Society to charge FCT fees for carrying out activities such as these: preparing correspondence or

³⁸ This is not to say that voluntary third-party consultations are never permitted. There may be cases where such consultations are desirable, even necessary, to properly respond to access requests, as long as this is done without delaying disclosure beyond the time limits FIPPA allows.

³⁹ The “disclosure reports” are tables listing the responsive records by number and date, whether they were disclosed or withheld, and any exceptions applied.

⁴⁰ See Order 00-19.

“disclosure reports”; updating and revising fees, charts and time logs; listing records and exceptions; giving instructions to staff.

Conclusion on the fee calculation

[51] I found above that it was not appropriate for the Law Society to charge FCT fees for some activities but that it may charge FCT for providing certain services. I also mentioned that the Law Society lumped together in its table of costs fees for a number of activities and services. The lack of a breakdown of these fees means I cannot undertake the task of determining which individual fee is allowable and which is not. The Law Society must therefore revise the total allowable fees it may require FCT to pay, guided by my findings in this order. It must then give me a breakdown of the revised total fee for my approval, before issuing a final statement of fees to FCT.

[52] For clarity, the Law Society must not include fees for the following things:

- the cost of making working copies
- staff time spent making working copies
- staff time spent severing records, that is, (physically or electronically) removing excepted information from records
- staff time (including “reviews”, meetings and consultations) spent determining if exceptions applied to the responsive records, including “identifying exceptions” or determining “disclosure issues”
- activities involved in the third-party consultations for this request, including staff time spent on these activities and any related per-page copying charges
- staff time spent carrying out routine responsibilities under FIPPA (including the Law Society’s duties under ss. 6, 8, 23 and 24 of FIPPA) and related to its own internal processing and procedural needs, such as these: preparing correspondence or “disclosure reports”; updating and revising fees, charts and time logs; listing records and exceptions; giving instructions to staff

[53] In calculating the revised total allowable fee, the Law Society may require FCT to pay the “actual cost” of providing the following services:

- making copies of responsive records for disclosure to FCT, including duplicates, calculated according to my directions at para. 33 above
- staff time spent making copies of responsive records for disclosure to FCT
- staff time (including “reviews”, meetings and consultations) spent locating, retrieving and producing responsive records, including identifying and removing duplicates

- staff time spent preparing the records for disclosure, such as numbering the records, stapling and collating them in chronological order and identifying the sources of documents

[54] I offer the following additional guidance for the Law Society's use in calculating the revised total fee:

- it may not charge more than the "actual cost" of providing the allowable services listed just above
- in calculating the "actual cost" of staff time for providing the allowable services, it may use hourly rates for the staff involved in these activities, derived from their salaries and benefits
- if the charge of \$56.05 for external printing was to make copies for disclosure to FCT, then it may include this cost in the copying fees; if some or all of this \$56.05 cost was for making working copies, it must exclude the appropriate amount from the total copying fees

[55] **3.4 Do Appropriate Circumstances Exist under Section 58(3)(c)?**— FCT complained that the Law Society delayed responding to its requests throughout the request, complaint and inquiry processes and otherwise frustrated FCT's attempts to get records, for example, by initially assessing huge fees. In its view, the Law Society failed to comply with its duty under s. 6(1) and appropriate circumstances exist to refund the \$11,000 fee it has already paid and excuse the balance, under s. 58(3)(c).⁴¹ I summarize below its detailed submissions on these points:

- the Law Society waited until the initial 30-day legislated response time limits for the requests had almost expired to issue its "unreasonable" and "inappropriate" fee estimates
- the Law Society provided certain statistical information, which it knew FCT wanted for use in its presentation to the task force, three hours after FCT's presentation had taken place
- FCT acted reasonably in narrowing its requests a number of times with the goal of lowering the fees, but the Law Society refused to lower the final revised fee estimate of \$11,000 for the consolidated request and did not start processing the request until FCT had paid the full estimated fee⁴²

⁴¹ Para. 66, FCT's initial submission.

⁴² The Law Society responded that it was under no obligation to start processing the request until FCT had paid the deposit; para. 36, Law Society's reply submission. I agree with the Law Society here. Under s. 75(4)(a), a public body must give an applicant a written estimate of the total fee "before providing the service". As noted elsewhere, the 30-day response timeline is suspended under s. 7(4) once a public body issues a fee estimate and a public body is under no obligation to start work on the request while fee issues remain outstanding.

- the Law Society said it could respond within, at most, two months to the consolidated, more “manageable” request; it nevertheless took eleven months to disclose records in phases, with gaps of up to two months between disclosures
- the Law Society failed to extend the 30-day time limit for responding and thus far exceeded the allowable time lines
- the Law Society allocates “very modest resources” to responding to FIPPA requests in comparison to its financial resources
- the Law Society knew that FCT wanted the records to prepare for the task force; its “purposeful delay” in disclosure adversely affected FCT’s ability to fully participate in the task force and denied it the opportunity to use records that it eventually received⁴³

[56] The Law Society argued that it did “everything it reasonably could do” to work with FCT to narrow FCT’s “extraordinarily broad” requests, lower the fees and produce records as quickly and efficiently as possible. Referring to factors set out in Order F05-21⁴⁴ for assessing whether fees should be reduced or waived under s. 58(3)(c), the Law Society argued that there should be no fee reduction or waiver in this case. I outline below its detailed arguments on these matters:

- the Law Society issued the initial fee estimates within the first 30-day legislated time limits
- time limits were suspended under s. 7(4) of FIPPA, pending payment of the fee estimates, and also under s. 7(5), once FCT complained to this Office about the fees
- although FCT later paid the fee deposit, it maintained its complaint about the fees⁴⁵ and so time lines remained suspended under s. 7(5), pending a decision by this Office on the fee complaints; there was thus no need to take any time extensions
- during mediation on the complaint, the parties proceeded according to an agreement on the narrowed request, with no fixed deadline for response and under no statutory time limits⁴⁶

⁴³ Paras. 11-43 & 66- 101, FCT’s initial submission; paras. 68-73, Tsang affidavit; paras. 3-12 & 4-25, FCT’s reply submission.

⁴⁴ [2005] B.C.I.P.C.D. No. 29.

⁴⁵ See FCT’s letter of January 8, 2007 to this Office (Exhibit “G”, Hoskins affidavit #1) in which FCT said it did not consider the fee complaint settled and it wanted this Office’s file to remain open.

⁴⁶ FCT responded that it did not consent to the Law society breaching its duty to respond without delay and taking over ten months to complete work on the request; para. 33, FCT’s reply submission.

- the Law Society revised its fee estimates downwards more than once and also provided statistical data without charge within 30 days of receiving FCT's request for them
- the Law Society made suggestions aimed at simplifying the request or prioritizing disclosure which met with a late or no response
- after FCT complained about the timeliness of the Law Society's response in August 2007, the Law Society agreed to divert resources from other activities and, with FCT's agreement, bring in outside help; the parties agreed on a deadline of October 31, 2007 for completing the response, which the Law Society met⁴⁷
- 60% of one person's time is allotted to processing FIPPA requests which is normally sufficient to meet demand; it should not have to resource this function to meet an extraordinary one-time demand
- the Law Society has already incurred many unrecoverable costs; excusing, waiving or refunding the fee would shift an unreasonable burden onto the Law Society, while FCT, whose parent company is a publicly traded "Fortune 500" company, has resources and ought to pay all allowable costs for its request
- the Law Society made best efforts to calculate the fee estimates; it acknowledges that it underestimated the amount of time it would require and that final costs significantly exceeded the revised estimate; however, it was difficult to estimate the number of records and time required to respond, given the unprecedented breadth and complexity of the request, the number of people involved in the processing and the number of third parties involved
- the Law Society's information and privacy officer was not aware of the date on which FCT would make its submission to the task force and FCT did not follow up with this officer on the status of its request for statistics; the delivery of the statistical information after FCT had made its presentation to the task force was an "unfortunate coincidence"
- the task force process was not rigid; FCT had opportunities to provide the statistics to the task force after it received them and did not do so; FCT also made a written submission on the task force report to the Law Society Benchers in October 2007 after it had received most of the records
- given the enormous breadth of the requests, it would have been impossible for the Law Society to process the requests in time for FCT's submission to the task force, even if FCT had paid the deposits in March 2006; the Law Society took many months to process even the narrowed request and time extensions would have been necessary⁴⁸

⁴⁷ FCT did not agree that this deadline was set by agreement; para. 40, FCT's reply submission.

⁴⁸ Paras. 37-85, Law Society's initial submission; paras. 3-6, Hoskins affidavit #1; paras. 4-42, Pickard affidavit #1; paras. 3-24, Drozdowski affidavit #1; paras. 2-46, Law Society's reply submission; para. 10, Newell affidavit.

[57] I have considered the parties' arguments on s. 58(3)(c) bearing in mind relevant factors set out in previous orders.⁴⁹

Did the Law Society comply with section 7 timelines?

[58] FCT's two requests are dated January 23, 2006 and January 30, 2006. The Law Society's letters on the fee estimates are dated March 6, 2006 and March 9, 2006, respectively 30 and 28 days after the dates of the requests.⁵⁰ The Law Society thus met the 30-day deadlines in s. 7 for responding. Under s. 7(4) of FIPPA, the 30-day response timelines were suspended with the issuance of the fee estimates until one of the events in ss. 7(4)(a) to (c) occurred. FCT complained to this Office about the fee estimates in a letter of March 10, 2006, triggering a second suspension under s. 7(5) of FIPPA of the 30-day timelines, pending resolution of the fee complaint.

[59] The parties' submissions show that, with this Office's assistance, they communicated about the fee issues over the ensuing months and that the Law Society issued a revised fee estimate of \$11,000 for processing the consolidated request on October 26, 2006. In a letter of November 3, 2006 to the Law Society the FCT still disputed the fee, calling it "exorbitant". The Law Society held firm in its letter of November 30, 2006 and FCT paid the total estimated fee with its letters of December 8 and 13, 2006. However, FCT's letter of November 21, 2007 to this Office shows that it considered the fee issue unresolved and that it wished an inquiry on the total costs and the timeliness of the Law Society's response. FCT's letter of January 8, 2008 to this Office reiterated that the fee matter was not resolved and that it wished this Office to keep its file open. This Office sent out the notice of inquiry on these issues in mid-January 2008 and the inquiry proceeded.

[60] Although FCT paid the full fee deposit in December 2006, satisfying one of the conditions in s. 7(4), FCT was and continues to be dissatisfied with the amount of the fee and the Law Society's processing of the request. The 30-day timelines have thus been suspended under s. 7(5) since FCT made its complaint, up to the date of this order. There was therefore no need for the Law Society to take or seek an extension. The Law Society has of course completed its response in the meantime.

[61] I therefore find that the Law Society complied with FIPPA's s. 7 timelines in its processing of the request. Whether it complied with its s. 6(1) duties during its processing of the request is another matter, which I consider below.

⁴⁹ See for example, Order F05-21.

⁵⁰ "Day" means a business day; see the definition in the appendix to this order.

Other factors

[62] I am satisfied from the parties' submissions that both sides worked in a co-operative manner throughout the request and complaint phases. Both made reasonable efforts to narrow the request, lower the fees and keep up communication.

[63] FCT questioned the Law Society's good faith in its processing of the request, suggesting, for example, that the Law Society knowingly provided information and records too late for FCT to use them in its submissions to the task force. The Law Society denied this⁵¹ and I accept its evidence on these points. I also accept the Law Society's evidence that it could not in any event have processed the requests in time, that the task force process was not rigid and that FCT had opportunities to provide the task force with information and records after it received them.

[64] As for FCT's arguments that the Law Society deliberately inflated the fees with inappropriate charges, the Law Society gave evidence that it believed the charges were appropriate.⁵² Although I found above that the Law Society should not have charged for certain things, there is no evidence that the Law Society did so with a view to inappropriately inflating fees and frustrating FCT's access to the records.

Did the Law Society make reasonable efforts to process the request in a timely way?

[65] The Law Society's submissions and disclosure reports show that it disclosed 2,005 records, comprising thousands of pages from the files of a number of individuals and departments, and that it consulted a number of third parties. Its table of final costs shows that it took from January to October 2007 and approximately 652 hours of staff time to process the requests.⁵³ This works out to about 93 working days or 43% of one person's time over ten months, a significant amount of time. I therefore accept the Law Society's argument that this request was broad, complex and time-consuming to process.

[66] I also accept that the Law Society normally finds that 60% of one person's time suffices to fulfil its duties under FIPPA. I do however consider that a public body should deal in a timely way with unanticipated demands on its information and privacy functions, rather than letting processing drag on.⁵⁴

⁵¹ Para. 3, Pickard affidavit #2; para. 7, Hoskins affidavit #2.

⁵² Para. 6, Pickard affidavit #2.

⁵³ This includes 147 hours (21 days) of temporary help performing clerical tasks, for which the Law Society charged, and about 34.5 hours (almost five days) severing time, for which it did not charge.

⁵⁴ See Order F05-21 at para. 36 where I made a similar remark.

[67] The material before me indicates that it was not until August 2007, over eight months after it had received the fee deposit and after FCT complained to this Office about the delay, that the Law Society allotted more resources to this request, by obtaining temporary help for its information and privacy officer and authorizing her to devote more than 60% of her time to her FIPPA duties. The Law Society's decision letters and table of costs suggest that the pace and volume of disclosure accelerated from late August through October 2007, from which I infer that the additional resources expedited completion of the request.

[68] I have some sympathy for the challenges the Law Society faced in processing the request. I also accept that the enormity of the task only became clear as time went on. There were however indications as early as April 2007 that processing was not proceeding as quickly as anticipated, due to workload and the need for consultations with other staff and third parties.⁵⁵ The Law Society does not say why it waited until August 2007 to allocate more resources to this request and then apparently only after FCT complained to this Office about the slow pace of disclosure.

[69] In addition, while I recognize the Law Society said its information and privacy officer had other FIPPA requests to process throughout this time,⁵⁶ it did not say how many she was dealing with, what the volume of records was or the extent of related activities involved. It also did not explain any detrimental effects responding to FCT's request may have had on her ability to process these other requests.

[70] The Law Society argued that excusing some or all of the fee would shift an unreasonable burden on it from FCT. It did not however explain how this might be so. It provided no financial particulars to support its assertion except to say that it is funded by its members while FCT is, it says, a well-resourced company.

Conclusion on section 58(3)(c)

[71] In Order F05-21, the public body responded many months after receiving the request and had already waived 60% of the fee, apparently due to the fact that it was late. I considered the lengthy delay in concluding that appropriate circumstances existed to excuse the remaining 40%. I also took into account the public body's failure to satisfactorily explain these things: why its consultations took so long; why it did not take more vigorous steps to obtain a timely response from the other public bodies; why it did not disclose the records in stages; and why it did not seek a further extension. I also noted that the public body had not invited the applicant to narrow the request. I commented further that public

⁵⁵ See para. 35, Pickard affidavit #1.

⁵⁶ See para. 42, Pickard affidavit #1.

bodies should resource their information and privacy functions properly and take timely steps to deal with unexpected demands on those functions. I took similar factors into account in Orders F05-22⁵⁷ and F05-23⁵⁸ in ordering complete refunds of the fees paid.

[72] Order F06-16⁵⁹ was a case involving a lengthy delay and the disclosure of 13,000-15,000 pages of records. Months into the processing time, the Ministry hired external help to speed processing. In that case, Commissioner Loukidelis ordered a 50% refund of fees already paid, taking into account these things: the fact that the Ministry's processing time was long and well beyond the allowed time limits in FIPPA; the Ministry's failure to comply with the terms of a time extension this Office granted; its failure to seek a further time extension from this office; and the fact that it did not disclose any records at all for the first eight months. A "further serious consideration" was the extent to which (for over six months) the Ministry processed the request outside the accountability framework in FIPPA:

... it is not fair to expect applicants for public bodies to take unilateral, very long, *de facto* time extensions that sidestep the explicit mechanism in the Act for the scrutiny of extensions of time to respond to access requests. While I acknowledge that those administering the Act—including this Office—can at times find it challenging to meet the Act's timelines, it is not open to a public body to sail ahead in disregard of an express and specifically applicable accountability provision in the legislation, in this case s. 10.⁶⁰

[73] The Law Society faced similar challenges with this request. The evidence shows that the Law Society spent hundreds of hours processing the request, including locating and reviewing voluminous records, carrying out a number of consultations and preparing a large quantity of records for disclosure.

[74] However, unlike the other cases, there are many factors present here that weigh in favour of confirming the revised fee. The Law Society made reasonable efforts to work co-operatively with FCT to narrow the requests, lower the fees and communicate with FCT. It also provided statistical information at no charge and disclosed records in several stages from January to October 2007. In addition, FCT was ultimately satisfied with the quality and extent of the disclosure.⁶¹ FCT's status as a "commercial applicant" is also relevant.

[75] I acknowledge that the 30-day response timeline was suspended (as noted above) and there was thus no need to seek or take an extension. This did not however relieve the Law Society of its s. 6(1) duty to respond without

⁵⁷ [2005] B.C.I.P.C.D. No. 30.

⁵⁸ [2005] B.C.I.P.C.D. No. 31.

⁵⁹ [2006] B.C.I.P.C.D. No. 23.

⁶⁰ Para. 67

⁶¹ FCT's letter of November 21, 2007 to this Office.

delay. The fact remains that it took the Law Society over ten months to complete work on this request once FCT had paid the fee deposit and, even though there were signs early on that processing was taking longer than anticipated, it did not take steps to expedite processing until several more months had passed and FCT had complained to this Office. The Law Society's failure to take earlier steps to expedite processing of the request by allocating more resources, and the other factors discussed above, do not assist its position on s. 58(3)(c). I acknowledge the Law Society's argument that it had difficulties estimating the fee but it is also clear that the final costs were more than twice the revised estimated fee of \$11,000. These factors weigh in favour of reducing the revised fee.

[76] Having considered the relevant factors and previous relevant orders such as those outlined above, I conclude that the factors in this case in favour of confirming the fee do not entirely outweigh those favouring a reduction. I find that appropriate circumstances exist to reduce the total revised fee by 20%.

4.0 CONCLUSION

[77] Under s. 58 of FIPPA, I make the following orders:

1. The Law Society must perform its duty under s. 58(3)(a) to calculate the revised allowable fees it requires FCT to pay under s. 75 of FIPPA and s. 7 of the Regulation, in accordance with my directions set out in paras. 52-54 above.
2. I confirm under s. 58(3)(c) that appropriate circumstances exist to excuse 20% of the revised fees that the Law Society calculates under para. 1 above and that, depending on whether this amount is more or less than the \$11,000 deposit FCT has already paid, the Law Society may require FCT to pay the difference or must refund the difference to FCT, as the case may be.
3. As conditions under s. 58(4), I specify the following:
 - (a) the Law Society is to submit to me for approval, with a concurrent copy to FCT, a statement of the revised fee that it has calculated under para. 1 above, with a breakdown demonstrating how it arrived at this revised fee, within 25 days of the date of this order, as FIPPA defines "day", that is, on or before May 22, 2009.
 - (b) the Law Society is to provide FCT and me with evidence of its compliance with paras. 1 and 2 of this order within 30 days of the date of this order, as FIPPA defines "day", that is, on or before May 29, 2009.

-
- (c) the parties are at liberty to apply to me with respect to any issues arising from this order or the Law Society's compliance with it.

April 16, 2009

ORIGINAL SIGNED BY

Celia Francis
Senior Adjudicator

OIPC File Nos. F06-28371 & F06-28372

Appendix

Duty to assist applicants

- 6(1) The head of a public body must make every reasonable effort to assist applicants and to respond without delay to each applicant openly, accurately and completely.

Time limit for responding

- 7(1) Subject to this section and sections 23 and 24 (1), the head of a public body must respond not later than 30 days after receiving a request described in section 5 (1).

...

- (4) If the head of a public body determines that an applicant is to pay fees for services related to a request, the 30 days referred to in subsection (1) do not include the period from the start of the day the head of the public body gives the applicant a written estimate of the total fees to the end of the day one of the following occurs:
- (a) the head of the public body excuses the applicant from paying all of the fees under section 75 (5);
 - (b) the head of the public body excuses the applicant from paying part of the fees under section 75 (5), and the applicant agrees to pay the remainder and, if required by the head of a public body, pays the deposit required;
 - (c) the applicant agrees to pay the fees set out in the written estimate and, if required by the head of a public body, pays the deposit required.
- (5) If an applicant asks the commissioner under section 52 (1) to review a fee estimate or a refusal to excuse the payment of all or part of the fee required by the head of the public body, the 30 days referred to in subsection (1) do not include the period from the start of the day the applicant asks for the review to the end of the day the commissioner makes a decision.

Commissioner's orders

...

- 58(3) If the inquiry is into any other matter, the commissioner may, by order, do one or more of the following: ...
- (c) confirm, excuse or reduce a fee, or order a refund, in the appropriate circumstances, including if a time limit is not met;

Fees

- 75(1) The head of a public body may require an applicant who makes a request under section 5 to pay to the public body fees for the following services:
- (a) locating, retrieving and producing the record;
 - (b) preparing the record for disclosure;
 - (c) shipping and handling the record;
 - (d) providing a copy of the record.

- (2) An applicant must not be required under subsection (1) to pay a fee for
 - (a) the first 3 hours spent locating and retrieving a record, or
 - (b) time spent severing information from a record....
- (4) If an applicant is required to pay a fee for services under subsection (1), the head of the public body
 - (a) must give the applicant a written estimate of the total fee before providing the service, and
 - (b) may require the applicant to pay a deposit in the amount set by the head of the public body....
- (6) The fees that prescribed categories of applicants are required to pay for services under subsection (1) may differ from the fees other applicants are required to pay for them, but may not be greater than the actual costs of the services.

Power to make regulations

- 76(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows: ...
- (j) limiting the fees that different categories of persons are required to pay under this Act; ...

Power to make bylaws

- 77 A local public body, by bylaw or other legal instrument by which the local public body acts, ...
- (c) may set any fees the local public body requires to be paid under section 75.

Definitions

“**commercial applicant**” means a person who makes a request for access to a record to obtain information for use in connection with a trade, business, profession or other venture for profit;

“**day**” does not include a holiday or a Saturday;

Freedom of Information and Protection of Privacy Regulation

[includes amendments up to B.C Reg. 293/2003]

Fees

- 7 The maximum fees for services provided to different categories of applicants are set out in the Schedule to this regulation.

Schedule of Maximum Fees

- 1 For applicants other than commercial applicants:
- | | |
|---|--|
| (a) for locating and retrieving a record | \$7.50 per 1/4 hour after the first 3 hours, |
| (b) for producing a record manually | \$7.50 per 1/4 hour, |
| (c) for producing a record from a machine readable record | \$16.50 per minute for cost of use of central mainframe processor and all locally attached devices plus \$7.50 per 1/4 hour for developing a computer program to produce the record, |
| (d) for preparing a record for disclosure and handling a record | \$7.50 per 1/4 hour, |
| (e) for shipping copies | actual costs of shipping method chosen by applicant, |
| (f) for copying records | |
| (i) photocopies and computer printouts | \$.25 per page (8.5"x11", 8.5"x14") |
| (ii) floppy disks | \$.30 per page (11"x17"),
\$10.00 per disk, |
| (iii) computer tapes | \$40.00 per tape, up to 2400 feet, |
| (iv) microfiche | \$10.00 per fiche, |
| (v) 16 mm microfilm duplication | \$25.00 per roll, |
| (vi) 35 mm microfilm duplication | \$40.00 per roll, |
| (vii) microfilm to paper duplication | \$.50 per page, |
| (viii) photographs - (colour or black and white) | \$5.00 to produce a negative
\$12.00 each for 16"x20"
\$9.00 each for 11"x14"
\$4.00 each for 8"x10"
\$3.00 each for 5"x7", |
| (ix) photographic print of textual, graphic or cartographic record (8"x10" black and white) | \$12.50 each, |
| (x) hard copy laser print, B/W, 300 dots/inch | \$.25 each, |
| (xi) hard copy laser print, B/W, 1200 dots/inch | \$.40 each, |
| (xii) hard copy laser print, colour | \$1.65 each, |
| (xiii) photomechanical reproduction of 105 mm cartographic record/plan | \$3.00 each, |
| (xiv) slide duplication | \$.95 each, |
| (xv) plans | \$1.00 per square metre, |
| (xvi) audio cassette duplication | \$10.00 plus \$7.00 per 1/4 hour of recording, |

(xvii) video cassette (1/4" or 8 mm) duplication	\$11.00 per 60 minute cassette plus \$7.00 per 1/4 hour of recording; \$20.00 per 120 minute cassette plus \$7 per 1/4 hour of recording
(xviii) video cassette (1/2") duplication	\$15.00 per cassette plus \$11.00 per 1/4 hour of recording, and
(xix) video cassette (3/4") duplication	\$40.00 per cassette plus \$11.00 per 1/4 hour of recording.
2 For commercial applicants for each service listed in item 1	the actual cost of providing that service.