

April 05, 2023

FOI No: 2023-17

Redacted S. 22

Email: **Redacted S. 22**

Dear **Redacted S. 22**,

Re: Request for Records
Freedom of Information and Protection of Privacy Act

The City of White Rock has reviewed your request for access to the following records pursuant to the Freedom of Information and Protection of Privacy Act (the "Act"):

- *Emails between staff and council and council and outside parties regarding the FOIR fee which will take effect after the fourth reading passed next regular council meeting*

Enclosed are all responsive records to this request.

Please contact me at tarthur@whiterockcity.ca or 604-541-2212 if you have any questions in this regard.

Sincerely,



Tracey Arthur
Director of Corporate Administration
Att.

Corporate Administration
P: 604.541.2212 | F: 604.541.9348

City of White Rock
15322 Buena Vista Avenue, White Rock BC, Canada V4B 1Y6

WHITE ROCK
City by the Sea!

www.whiterockcity.ca

If you believe that the City of White Rock has been unreasonable in its handling of your request, you may ask the Information and Privacy Commissioner to review our response. You have 30 days from receipt of this notice to request a review by writing to:

Office of the Information and Privacy Commissioner
3rd Floor, 756 Fort Street
Victoria BC V8W 1H2

Should you decide to request a review, please provide the Commissioner's office with:

1. your name, address, and telephone number;
2. a copy of this letter;
3. a copy of your original request sent to the City of White Rock; and
4. the reasons or grounds upon which you are requesting the review.

Tracey Arthur

From: Guillermo Ferrero
Sent: Friday, February 24, 2023 8:59 AM
To: Elaine Cheung; Mayor and Council
Cc: Tracey Arthur
Subject: RE: bring a motion for staff to bring the report on charging for FOI

Yes we will bring the report back for consideration to the March 13th meeting

G.

GUILLERMO FERRERO

Chief Administrative Officer, City of White Rock
15322 Buena Vista Avenue, White Rock, BC V4B 1Y6
Tel: 604.541.2133 | www.whiterockcity.ca



"An impossibility is only a possibility that you don't understand"

From: Elaine Cheung <echeung@whiterockcity.ca>
Sent: February 23, 2023 5:56 PM
To: Guillermo Ferrero <GFerrero@whiterockcity.ca>; Mayor and Council <MayorandCouncil@whiterockcity.ca>
Subject: bring a motion for staff to bring the report on charging for FOI

Hi G.,

I would like to bring a motion for staff to bring the report back to council Re charging for FOI requests. Thank you.

ELAINE CHEUNG

Councillor, City of White Rock

15322 Buena Vista Avenue, White Rock, BC V4B 1Y6

Cell: 778-222-3972 | Email: echeung@whiterockcity.ca

www.whiterockcity.ca

Tracey Arthur

From: Tracey Arthur
Sent: Friday, February 24, 2023 9:00 AM
To: Guillermo Ferrero
Subject: RE: FOI Fee Report

Yes it is on my radar. I got pulled over the coals last March on this one but yes I will try and get up to speed on it for March 13

TRACEY ARTHUR, CMC
Director of Corporate Administration
15322 Buena Vista Avenue, White Rock, BC V4B1Y6
Tel: 604-541-2212 | www.whiterockcity.ca



Information transmitted, including attachments, is intended only for the individual(s) or entity(ies) to which it is addressed and may contain information that is confidential and/or privileged or exempt from disclosure under applicable law. Any copying, review, retransmission, dissemination or other use of, or taking of any action in reliance upon this information by individual(s) or entities other than the intended recipient is strictly prohibited. If you have received this information in error, please notify the City of White Rock and destroy any copies of this information. Thank you.

From: Guillermo Ferrero <GFerrero@whiterockcity.ca>
Sent: Friday, February 24, 2023 8:58 AM
To: Tracey Arthur <TArthur@whiterockcity.ca>
Subject: FW: FOI Fee Report

we need to bring this back please

G.

GUILLERMO FERRERO
Chief Administrative Officer, City of White Rock
15322 Buena Vista Avenue, White Rock, BC V4B 1Y6
Tel: 604.541.2133 | www.whiterockcity.ca



"An impossibility is only a possibility that you don't understand"

From: Guillermo Ferrero
Sent: February 10, 2023 8:41 AM
To: Elaine Cheung <echeung@whiterockcity.ca>
Cc: Mayor and Council <MayorandCouncil@whiterockcity.ca>; Tracey Arthur <TArthur@whiterockcity.ca>
Subject: RE: FOI Fee Report

No problem, staff will bring the report back for council discussion.

Thanks,
G.

GUILLERMO FERRERO

Chief Administrative Officer, City of White Rock
15322 Buena Vista Avenue, White Rock, BC V4B 1Y6
Tel: 604.541.2133 | www.whiterockcity.ca



"An impossibility is only a possibility that you don't understand"

From: Elaine Cheung <echeung@whiterockcity.ca>
Sent: February 9, 2023 3:52 PM
To: Guillermo Ferrero <GFerrero@whiterockcity.ca>; Mayor and Council <MayorandCouncil@whiterockcity.ca>
Subject: Re: FOI Fee Report

Hi G.,

I would like to have this bylaw brought back for discussion with council. Also perhaps to add in it, what would be the recommended hourly fee AFTER the first 3 hours? Thanks.

Elaine

Get [Outlook for iOS](#)

From: Guillermo Ferrero <GFerrero@whiterockcity.ca>
Sent: Thursday, February 9, 2023 3:38:28 PM
To: Mayor and Council <MayorandCouncil@whiterockcity.ca>
Subject: Fwd: FOI Fee Report

As requested
G

Get [Outlook for Android](#)

From: Tracey Arthur <TArthur@whiterockcity.ca>
Sent: Thursday, February 9, 2023 3:27:07 PM
To: Guillermo Ferrero <GFerrero@whiterockcity.ca>
Subject: FOI Fee Report

At the March 28, 2022 meeting the attached report was received and direction was given to staff to come forward with a bylaw in regard to an application fee.

When the requested bylaw was brought forward at the April 25, 2022 meeting it was defeated.

8.1 BYLAWS

8.1.a BYLAW 2421 - WHITE ROCK FREEDOM OF INFORMATION BYLAW, 2022, NO. 2421

Bylaw 2421 - A new bylaw in regard to White Rock Freedom of Information (to add in an application fee component). The bylaw was on the agenda for consideration of first, second and third reading.

Note: Further information was provided in regard to the legislation amendments and the potential fees:

- Excerpt from Bill 22, passed 2021-11-26
- BC Reg 298/2021, passed 2021-11-26
- BC Reg 155/2012 (FIPPA Regulation) Consolidated as of 2021-11-26

Motion Number: 2022-183 It was **MOVED** and **SECONDED**

THAT Council give first, second and third reading to "White Rock Freedom of Information Bylaw, 2022, No. 2421."

Voted in the negative (3): Councillor Johanson, Councillor Kristjanson, and Councillor Trevelyan

Motion DEFEATED (3 to 3)

The third attachment notes the \$10. As the maximum fee and the bylaw was drawn up so the City could charge the maximum fee and if the legislation permitted more at some point the City would not need to amend the bylaw for that purpose.

The final attachment is information that noted a fee may now be charged and how it would apply (there are still stipulations as what you are permitted to charge for). First three (3) hours of working on the application cannot be charged for.

TRACEY ARTHUR, CMC

Director of Corporate Administration

15322 Buena Vista Avenue, White Rock, BC V4B1Y6

Tel: 604-541-2212 | www.whiterockcity.ca



Information transmitted, including attachments, is intended only for the individual(s) or entity(ies) to which it is addressed and may contain information that is confidential and/or privileged or exempt from disclosure under applicable law. Any copying, review, retransmission, dissemination or other use of, or taking of any action in reliance upon this information by individual(s) or entities other than the intended recipient is strictly prohibited. If you have received this information in error, please notify the City of White Rock and destroy any copies of this information. Thank you.

Tracey Arthur

From: Guillermo Ferrero
Sent: Friday, February 10, 2023 8:41 AM
To: Elaine Cheung
Cc: Mayor and Council; Tracey Arthur
Subject: RE: FOI Fee Report

No problem, staff will bring the report back for council discussion.

Thanks,
G.

GUILLERMO FERRERO

Chief Administrative Officer, City of White Rock
15322 Buena Vista Avenue, White Rock, BC V4B 1Y6
Tel: 604.541.2133 | www.whiterockcity.ca



"An impossibility is only a possibility that you don't understand"

From: Elaine Cheung <echeung@whiterockcity.ca>
Sent: February 9, 2023 3:52 PM
To: Guillermo Ferrero <GFerrero@whiterockcity.ca>; Mayor and Council <MayorandCouncil@whiterockcity.ca>
Subject: Re: FOI Fee Report

Hi G.,

I would like to have this bylaw brought back for discussion with council. Also perhaps to add in it, what would be the recommended hourly fee AFTER the first 3 hours? Thanks.

Elaine

Get [Outlook for iOS](#)

From: Guillermo Ferrero <GFerrero@whiterockcity.ca>
Sent: Thursday, February 9, 2023 3:38:28 PM
To: Mayor and Council <MayorandCouncil@whiterockcity.ca>
Subject: Fwd: FOI Fee Report

As requested
G

Get [Outlook for Android](#)

Tracey Arthur

From: Guillermo Ferrero
Sent: Thursday, February 9, 2023 3:38 PM
To: Mayor and Council
Subject: Fwd: FOI Fee Report
Attachments: 2022-03-28 White Rock Freedom of Information Bylaw, 2022, No. 2421.docx; Bylaw 2421 White Rock Freedom of Information Bylaw 2022.docx; 2021-11-26 BC Reg 298, 2021 (FIPPA Reg Amendment).pdf; 2021-11-26 Excerpt from Bill 22 - FIPPA Amendment Act, 2021.pdf

As requested
G

[Get Outlook for Android](#)

From: Tracey Arthur <TArthur@whiterockcity.ca>
Sent: Thursday, February 9, 2023 3:27:07 PM
To: Guillermo Ferrero <GFerrero@whiterockcity.ca>
Subject: FOI Fee Report

At the March 28, 2022 meeting the attached report was received and direction was given to staff to come forward with a bylaw in regard to an application fee.

When the requested bylaw was brought forward at the April 25, 2022 meeting it was defeated.

8.1 BYLAWS

8.1.a BYLAW 2421 - WHITE ROCK FREEDOM OF INFORMATION BYLAW, 2022, NO. 2421

Bylaw 2421 - A new bylaw in regard to White Rock Freedom of Information (to add in an application fee component). The bylaw was on the agenda for consideration of first, second and third reading.

Note: Further information was provided in regard to the legislation amendments and the potential fees:

- Excerpt from Bill 22, passed 2021-11-26
- BC Reg 298/2021, passed 2021-11-26
- BC Reg 155/2012 (FIPPA Regulation) Consolidated as of 2021-11-26

Motion Number: 2022-183 It was **MOVED** and **SECONDED**

THAT Council give first, second and third reading to "White Rock Freedom of Information Bylaw, 2022, No. 2421."

Voted in the negative (3): Councillor Johanson, Councillor Kristjanson, and Councillor Trevelyan
Motion DEFEATED (3 to 3)

The third attachment notes the \$10. As the maximum fee and the bylaw was drawn up so the City could charge the maximum fee and if the legislation permitted more at some point the City would not need to amend the bylaw for that purpose.

The final attachment is information that noted a fee may now be charged and how it would apply (there are still stipulations as what you are permitted to charge for). First three (3) hours of working on the application cannot be charged for.

TRACEY ARTHUR, CMC

Director of Corporate Administration

15322 Buena Vista Avenue, White Rock, BC V4B1Y6

Tel: 604-541-2212 | www.whiterockcity.ca



Information transmitted, including attachments, is intended only for the individual(s) or entity(ies) to which it is addressed and may contain information that is confidential and/or privileged or exempt from disclosure under applicable law. Any copying, review, retransmission, dissemination or other use of, or taking of any action in reliance upon this information by individual(s) or entities other than the intended recipient is strictly prohibited. If you have received this information in error, please notify the City of White Rock and destroy any copies of this information. Thank you.

THE CORPORATION OF THE
CITY OF WHITE ROCK
CORPORATE REPORT



DATE: March 28, 2022
TO: Mayor and Council
FROM: Tracey Arthur, Director, Corporate Administration
SUBJECT: White Rock Freedom of Information Bylaw, 2022, No. 2421

RECOMMENDATION

THAT Council receive for information this corporate report dated March 28, 2022, from the Director of Corporate Administration, titled “White Rock Freedom of Information Bylaw, 2022, No, 2421” and endorse an update to the White Rock Freedom of Information practice that will introduce an FOI application fee in White Rock.

INTRODUCTION/BACKGROUND

This corporate report informs Council of recent amendments by the province to the *Freedom of Information and Protection of Privacy Act* (the “Act”) and the *Freedom of Information and Protection of Privacy Regulation* (the “Regulation”) (together, FIPPA Legislation) have made it possible for public bodies to now charge a prescribed application fee for Freedom of Information (“FOI”) access requests. Council is being asked to consider endorsing an update to the White Rock Freedom of Information Bylaw that will introduce an application fee for FOI access requests in White Rock.

The City’s Administration Department processes FOI access requests pursuant to the requirements of FIPPA Legislation. Through the FOI process, the public can gain access to City records that are not routinely available or readily accessed through other means.

The City receives and processes a number of FOI access requests each year:

Year	FOI Requests
2021	53
2020	58
2019	51
2018	78
2017	96

Many requests received require significant staff resources to clarify and respond to. An application fee will encourage FOI applicants to be clearer with their requests and treat the FOI process less casually.

An as example, one applicant, who is not a member of the media, made 19 of the City's 53 access requests in 2021 (≈ 36%). This equates to a significant amount of staff resources dedicated to the interests of one (1) person.

Other public bodies are considering the implementation of an FOI application fee. The Province of British Columbia, the City of Surrey, and the City of Pitt Meadows have already implemented or indicated an *intention* to implement an FOI application fee. However, it is expected that some public bodies will decide not to implement an application fee for this service.

This is something that each municipality has the ability to consider in what will work for their community.

FINANCIAL IMPLICATIONS

An FOI application fee will help offset a portion of the costs associated with processing FOI access requests. Until recently, the Act prohibited the charging of an application fee for FOI access requests except in limited circumstances (ex: for locating and retrieving a record \$7.50 per ¼ hour after the first three (3) hours). In practice, the City has rarely charged such fees.

Staff are proposing the implementation of an FOI application fee pinned to the rate described in the Regulation. This rate is currently set at \$10.00 per request (maximum permitted charge brought in by the recent amendments to the legislation).

LEGAL IMPLICATIONS

The implementation of an FOI application fee will require an update to the *White Rock Freedom of Information Bylaw, 2010, No. 1922*. Staff are proposing that this bylaw be repealed and replaced with a newly created *White Rock Freedom of Information Bylaw, 2022, No. 2421*. The proposed replacement bylaw includes some updated wording and pins all of the City's FOI fees to those set by the Province of British Columbia in the Regulation.

COMMUNICATION AND COMMUNITY ENGAGEMENT IMPLICATIONS

If supported by Council, the Freedom of Information page on the City website will be updated with information about the FOI application fee and include the new Bylaw.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS

If supported by Council, the Information Technology Department will be involved in the creation of a new online FOI access request form that will assist with the collection of FOI application fees.

The Finance Department will be tasked with accounting related to the FOI application fees collected.

OPTIONS / RISKS / ALTERNATIVES

The following options are available for Council's consideration:

1. Endorse the newly presented *White Rock Freedom of Information Bylaw, 2022, No. 2421* as circulated, thereby directing the implementation of an FOI application fee be applied in White Rock.
2. Take no action, thereby preserving the City's FOI process in its current state.
3. Provide alternative direction.

CONCLUSION

Recent amendments to FIPPA Legislation have made it possible for public bodies to charge a prescribed application fee for FOI access requests. City staff recommend that Council endorse an update to the White Rock Freedom of Information practice that will introduce an FOI application fee in White Rock. The fee is proposed to be pinned to the rate described in FIPPA Legislation, which is currently set at \$10.00 per request.

Respectfully submitted,



Tracey Arthur
Director of Corporate Administration

Comments from the Chief Administrative Officer

I concur with the recommendations of this corporate report.



Guillermo Ferrero
Chief Administrative Officer

Appendix A: Draft "*White Rock Freedom of Information Bylaw, 2022, No. 2421*"

**THE CORPORATION OF THE
CITY OF WHITE ROCK
BYLAW 2421**



**A Bylaw for the administration of the Freedom of
Information and Protection of Privacy Act**

Whereas the Freedom of Information and Protection of Privacy Act, RSBC 1996, Chapter 165, as amended, states that a local public body, i) must designate by bylaw a person or group of persons as the head of the local public body for the purposes of the Act, and ii) may set by bylaw any fees the local public body requires to be paid under Section 75 of the Act;

The Council of the Corporation of the City of White Rock, in public meeting, enacts as follows:

1. This Bylaw may be cited as "*White Rock Freedom of Information Bylaw, 2022, No. 2421*".

Definitions

2. (a) The definitions contained in the Act will apply to this Bylaw except where the context requires otherwise.

(b) In this Bylaw:

"Act" means the Freedom of Information and Protection of Privacy Act, RSBC 1996, Chapter 165, as amended, or any successor legislation to the same general intent and effect.

"City" means the Corporation of the City of White Rock.

"Head" means the person designated as the City's head for the purposes of the Act in accordance with Section 77 of the Act.

"Regulation" means the Freedom of Information and Protection of Privacy Regulation, BC Reg 155/2012, OC 491/2012, as amended, or any successor legislation to the same general intent and effect.

Administration

3. The Director of Corporate Administration is designated as the Head.

4. The Head may delegate any of the Head's duties under the Act to City staff within their office.

Fees

5. An applicant making an access request will pay to the City a non-refundable application fee at the prescribed rate described in the Regulation. The City will not begin processing an access request until payment is received in full.
6. The fee described in Section 5 does not apply to an applicant's first request within a calendar year. Any disagreement about the application of this section will be resolved at the discretion of the Head.
7. An applicant making a request will pay to the City fees at the maximum rates described in the Regulation for:
 - (a) locating, retrieving, and producing a record;
 - (b) preparing a record for disclosure;
 - (c) shipping and handling a record; and
 - (d) providing a copy of a record.
8. The fees described in Sections 5 and 7 do not apply to a request for an applicant's own personal information.

Repeal

9. "*White Rock Freedom of Information Bylaw, 2010, No. 1922*" and amendments is hereby repealed.

RECEIVED FIRST READING on the	th	day of	April, 2022
RECEIVED SECOND READING on the	th	day of	April, 2022
RECEIVED THIRD READING on the	th	day of	April, 2022
ADOPTED on the	___	day of	_____, 2022

MAYOR

DIRECTOR OF CORPORATE ADMINISTRATION

Volume 64, No. 23
298/2021

The British Columbia Gazette, Part II
November 30, 2021

B.C. Reg. 298/2021, deposited November 26, 2021, under the **FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT** [section 76 (2)]. Order in Council 644/2021, approved and ordered November 26, 2021.

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that section 13 of the Freedom of Information and Protection of Privacy Regulation, B.C. Reg. 155/2012, is amended

(a) by renumbering the section as section 13 (1), and

(b) by adding the following subsection:

(2) The application fee under section 75 (1) (a) of the Act is \$10.

— L. BEARE, *Minister of Citizens' Services*; G. HEYMAN, *Presiding Member of the Executive Council*.

Government Bill

Second Session, Forty-second Parliament
70 Elizabeth II, 2021
Legislative Assembly of British Columbia

BILL 22

**FREEDOM OF INFORMATION AND
PROTECTION OF PRIVACY
AMENDMENT ACT, 2021**

Honourable Lisa Beare
Minister of Citizens' Services

Explanatory Notes

SECTION 1: *[Freedom of Information and Protection of Privacy Act, section 2]* makes a minor amendment for consistency.

SECTION 2: *[Freedom of Information and Protection of Privacy Act, sections 3 and 4]*

- amends and reorganizes provisions respecting the application of the Act;
- makes a minor amendment for consistency;
- amends the provision respecting information access rights.

BILL 22 – 2021

**FREEDOM OF INFORMATION AND
PROTECTION OF PRIVACY AMENDMENT ACT, 2021**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

1 Section 2 (1) (c) of the Freedom of Information and Protection of Privacy Act, R.S.B.C. 1996, c. 165, is amended by striking out "rights" and substituting "right".

[...]

44 Section 75 is repealed and the following substituted:

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 the following:
- (a) a prescribed application fee;
 - (b) prescribed fees for the following services:
 - (i) locating and retrieving the record;
 - (ii) producing the record;
 - (iii) preparing the record for disclosure, except for time spent severing information from the record;
 - (iv) shipping and handling the record;
 - (v) providing a copy of the record.
- (2) Subsection (1) (b) (i) does not apply to the first 3 hours spent on a request.
- (3) Subsection (1) does not apply to a request for the applicant's own personal information.
- (4) If an applicant is required to pay fees for services under subsection (1) (b), the head of the public body
- (a) must give the applicant a written estimate of the total fees before providing the services, and
 - (b) may require the applicant to pay a deposit in an amount set by the head of the public body.

- (5) If the head of a public body receives an applicant's written request to excuse payment of all or part of the fees required under subsection (1) (b), the head of the public body may excuse payment, if, in the head of the public body's opinion,
 - (a) the applicant cannot afford the payment or for any other reason it is fair to excuse payment, or
 - (b) the record relates to a matter of public interest, including the environment or public health or safety.
- (6) The head of a public body must respond to a request under subsection (5) in writing and within 20 days after receiving the request.
- (7) The fees that prescribed categories of applicants are required to pay for services under subsection (1) (b) may differ from the fees other applicants are required to pay for the services but may not be greater than the actual costs of the services.

[...]

Tracey Arthur

From: [REDACTED]
Sent: Thursday, March 9, 2023 2:11 PM
To: White Rock Council
Cc: Guillermo Ferrero; Tracey Arthur; Clerk's Office
Subject: Voters Remorse Anyone?

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello

<https://www.peacearchnews.com/opinion/letters-taxation-of-white-rock-multi-family-dwellings-lopsided/>

Now you want to implement a very "PETTY" and "Hypocritical"\$10 per request for FOIRs.

The FOI Manager has approximately \$66,000 of their salary allotted to answer FOIRs. In 2021 they used up approximately \$4,600 of their salary answering FIORs. Why do we pay someone such huge amounts to do a job when FOIRs responses that do not equal the salary paid. Not even close. Factor in benefits and the fact that there about \$300,000 in other salaried positions that are supposed to share in FOIR's duties and you have to ask yourself where is teh common sense in a \$10 petty fee? Looking at the report it states you want to discourage people from submitting any FOIRs and because why?

Is it accurate to say that this Council is discussing and deciding on Budget Items and Strategic Priorities "In Camera" other than land ,legal and personal? That would be contrary to the Community Charter section 90.1.1.

<https://www.surreynowleader.com/news/privacy-training-advised-for-white-rock-leaders/>

<https://www.oipc.bc.ca/audit-reports/2260>

<https://www.peacearchnews.com/news/oipc-audit-says-white-rocks-handling-of-foi-requests-offer-serious-issues-of-concern/>

Regards
[REDACTED]