

**ALBERTA**

**OFFICE OF THE INFORMATION AND PRIVACY  
COMMISSIONER**

**ORDER ATIA2026-11**

April 13, 2026

**WORKERS' COMPENSATION BOARD**

Case File Number 040686

**Office URL:** [www.oipc.ab.ca](http://www.oipc.ab.ca)

**Summary:** An individual (the Applicant) made an access request to the Workers' Compensation Board (the Public Body) under the *Access to Information Act* (ATIA) for certain information. The Public Body provided the Applicant with a fee estimate of \$162, which was for the time estimated to search for responsive records.

The Applicant requested a full fee waiver based on fairness and public interest grounds under sections 96(5)(a) and (b) of ATIA. The Public Body denied the fee waiver request. The Applicant asked the Commissioner to review the Public Body's calculation of fees and its refusal of the fee waiver request. Following the review, the Applicant requested an inquiry.

The Adjudicator found that the Public Body had properly estimated the fees and affirmed the Public Body's decision to deny the Applicant's fee waiver request.

**Statutes Cited:** **AB:** *Access to Information Act*, S.A. 2024, c. A-1.4, ss. 64, 96; *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 93.

**Regulations Cited: AB:** *Access to Information Act Regulation*, AR 133/2025, ss. 12 – 16, and Schedule 1, *Freedom of Information and Protection of Privacy Regulation*, AR 186/2008, ss. 10 – 14.

**Authorities Cited: AB:** Orders 99-012, F2006-032, F2013-01, FOIP2025-23.

## I. BACKGROUND

[para 1] On July 17, 2025, an individual (the Applicant) made an access request to the Workers' Compensation Board (the Public Body) for the following information:

Type of Request: Personal Request

Subject: Request for Records Generated in Response to Appeals Commission Decision No. 2019-0456

Scope of Request

This decision found that the opinion of WCB Medical consultant Dr. [Name] in a July 2013 memo was refuted by [the Doctor's] own co-authored, peer-reviewed article from September 2013 regarding the delayed onset of electrical injury symptoms. This request seeks to determine the WCB's internal response to this finding.

Records Requested:

All records, including but not limited to:

Internal emails, memoranda, and reports discussing Decision No. 2019-0456.

Minutes from any meetings where the decision and its implications for WCB's use of Dr. [Name]'s opinion or similar internal medical opinions were discussed.

Any subsequent reviews, analyses, or directives concerning the reliability of Dr. [Name]'s 2013 memo or the general topic of delayed onset in electrical injuries.

Any draft or finalized policy changes, or records of discussion about whether to implement policy changes, or records of discussion about whether to implement policy changes, resulting from this decision.

Time period:

This request covers the period from October 22, 2019 to the date of this request is processed.

[para 2] On June 11, 2025, the *Freedom of Information and Privacy Act*, R.S.A. 2000, c. F-25 (the FOIP Act) was repealed and replaced with the *Access to Information Act*, S.A. 2024, c. A-1.4

(ATIA or the Act). As the Applicant made their access request on July 17, 2025, their access request was subject to ATIA and not the FOIP Act.

[para 3] The Public Body assigned the access request the file number ATIA Request #2025-087.

[para 4] On August 22, 2025, the Public Body provided the Applicant with a fee estimate of \$162 under ATIA (the Fee Estimate Decision), which was for the time estimated to search for responsive records.

[para 5] The Public Body advised the Applicant that if they accepted this estimate, a deposit of fifty percent of the fee was required. It asked the Applicant to reply in writing within 20 days of receipt of the estimate indicating whether the Applicant accepted the estimate, and if so, to provide the deposit. It informed the Applicant that when it had received the Applicant's reply and deposit, processing of the Applicant's request would continue.

[para 6] The Public Body also stated:

If you think the fee estimate is prohibitively high or otherwise unfair, we would be happy to discuss the fee estimate with you. Section 96(5) of ATIA provides some limited situations in which fees can be reduced or waived entirely. If you cannot afford to pay, or if there are other reasons that justify excusing the fee, or you think that the record relates to a matter of public interest, Section 96 may apply. If you believe that one of these circumstances applies to you, please call me at [phone number] to discuss it.

[para 7] The Public Body further advised the Applicant that their request was now on hold, and that they had four options available to them:

- 1) You may choose to pay the required fees and we will complete processing your request for access to the records.
- 2) You may contact our Office to discuss ways that might be able to narrow the scope of your request to reduce the fees. Some narrowing options are:
  - a. Reducing the time frame of the request
  - b. Excluding historical records from the request
  - c. Narrowing the request to a specific record type "policies, procedures, presentations, etc.
- 3) You may submit a written request to apply for a fee waiver along with the necessary information (described in attachment). Section 96(5) of the ATIA provides some limited situations in which fees can be waived entirely. You will be advised of our decision regarding your request for a fee waiver within 30 business days.
- 4) You may take no action (provide no written response to this letter) and, after thirty business days from the date of this letter, your request will be closed. You will receive a notice advising you that your request has been closed and that a new request must be submitted to access your records.

[para 8] The Applicant did not contact the Public Body to narrow the scope of the Applicant's access request to reduce fees; instead, the Applicant requested a full fee waiver based on fairness and public interest grounds under sections 96(5)(a) and (b) of ATIA.

[para 9] On October 2, 2025, the Public Body denied the Applicant's fee waiver request stating:

1. Based on our review of the rationale provided in your fee waiver request. There was not enough information to support your submission to excuse the fee on the grounds of fairness.
2. Based on our review of the criteria established by the Office of the Information and Privacy Commissioner to determine public interest, and other relevant factors, we've determined the requested records do not relate to a matter of public interest.

[para 10] The Public Body informed the Applicant that their options were to pay the fees or take no action, in which case the request would be closed 20 business days from the date of the letter.

[para 11] The Public Body also informed the Applicant that under section 58 of ATIA, the Applicant could ask this Office to review any decision, act, or failure to act by the WCB that related to the Applicant's request, including its decision to deny the Applicant's fee waiver request.

[para 12] On October 2, 2025, the Applicant asked the Commissioner to review the Public Body's calculation of fees and its refusal of the fee waiver request. In their Request for Review Form submitted to this Office, the Applicant stated that they were not seeking to narrow the scope of their access request.

[para 13] The Commissioner assigned a Senior Information and Privacy Manager (SIPM) to investigate and mediate the matter.

[para 14] Following the SIPM's review, the Applicant requested an inquiry.

[para 15] The Commissioner agreed to conduct an inquiry and delegated her authority to conduct the inquiry to me.

## **II. RECORDS AT ISSUE**

[para 16] As this matter involves a review of the Public Body's fee estimate and its decision to deny the Applicant's fee waiver request, there are no records at issue.

### III. ISSUES

[para 17] The Notice of Inquiry dated January 16, 2026, set out the following issues for the inquiry:

1. Did the Public Body estimate the fees in accordance with section 96?
2. If the Public Body properly estimated the fees under section 96, is the Applicant entitled to be excused from paying all or part of a fee under section 96(5)?

### IV. DISCUSSION OF ISSUES

#### Preliminary Matter

[para 18] As a preliminary matter, I note that the Public Body referred to the findings of the SIPM in its submission.<sup>1</sup> Prior Orders of this Office under the FOIP Act have said that as an inquiry is a *de novo* process, the findings during the investigation and mediation phase are not considered in the inquiry (see, for example Order FOIP2025-23 at paragraphs 10 – 15). I find the same reasoning applies to inquiries conducted under ATIA and have therefore not considered the findings of the SIPM in reaching my conclusions herein.

#### 1. Did the Public Body estimate the fees in accordance with section 96?

[para 19] Section 96 of ATIA states:

*96(1) The head of a public body may require an applicant to pay to the public body fees for services as provided for in the regulations.*

*(2) Subsection (1) does not apply to a request for the applicant's own personal information, except for the cost of producing the copy.*

*(3) If an applicant is required to pay fees for services under subsection (1), the public body must give the applicant an estimate of the total fee before providing the services.*

*(4) An applicant may, in writing, request that the head of a public body excuse the applicant from paying all or part of a fee for services under subsection (1).*

*(5) The head of a public body may excuse the applicant from paying all or part of a fee if, in the opinion of the head,*

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<sup>1</sup> Public Body's submission on page 4 at paragraph 10, and Tab B. There are errors in the paragraph numbering in the Public Body's submission. I have reproduced the paragraph numbers herein exactly as they appear on the page number referenced in these footnotes.

*(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) If an applicant has, under subsection (4), requested the head of a public body to excuse the applicant from paying all or part of a fee, the head must give written notice of the head's decision to grant or refuse the request to the applicant within 30 business days after receiving the request.*

*(7) If the head of a public body refuses an applicant's request under subsection (4), the notice referred to in subsection (6) must state the applicant may ask for a review under Part 3.*

*(8) The fees referred to in subsection (1) must not exceed the actual costs of the services.*

[para 20] Sections 12 – 16 of the *Access to Information Regulation*, AR 133/2025 (the ATIA Regulation) address how fees are to be paid:

*12 Where an applicant is required to pay a fee for services, the fee is payable in accordance with sections 13 to 16.*

*13(1) This section applies to a request for access to a record that does not contain personal information of the applicant.*

*(2) An applicant is required to pay*

*(a) an initial fee of \$25 when a non-continuing request is made, or*

*(b) an initial fee of \$50 when a continuing request is made.*

*(3) An applicant must pay the initial fee before a public body begins processing the applicant's request.*

*(4) In addition to the initial fee, fees in accordance with Schedule 1 may be charged if the amount of the fees, as estimated by the public body responsible for responding to the request, exceeds \$150.*

*(5) Where the amount of the fees estimated by the public body exceeds \$150, the amount determined in accordance with Schedule 1 is to be charged by the public body.*

*(6) A fee may not be charged for the time spent in reviewing a record.*

*14(1) This section applies to a request for access to a record that contains the personal information of the applicant.*

*(2) Only fees for producing a copy of a record in accordance with items 3 to 6 of Schedule 1 may be charged by a public body and only if the amount of the fees, as estimated by the public body responsible for responding to the request, exceeds \$10.*

*(3) Where the amount of the fees estimated by the public body exceeds \$10, the amount determined in accordance with Schedule 1 is to be charged by the public body.*

*15(1) An estimate provided under section 96(3) of the Act must set out, as applicable,*

- (a) the time and cost to search for, locate and retrieve a record,*
- (b) the cost of converting a record into a redactable format,*
- (c) the cost of reformatting audiovisual files into a redactable format,*
- (d) the cost to produce a copy of the record,*
- (e) the time and cost for preparing and handling the record for disclosure,*
- (f) the time and cost to supervise an applicant who wishes to examine the original record, and*
- (g) the cost of shipping the record or a copy of the record.*

*(2) An estimate for access to a record of the personal information of the applicant must only include the cost of producing a copy of the record in accordance with section 14(2).*

*(3) In the case of a continuing request, the estimate is to include the total fees payable over the course of the continuing request.*

*(4) An applicant has up to 30 business days to accept the fee estimate or to modify the request to change the amount of fees assessed.*

*16(1) Processing of a request ceases once a notice of estimate has been forwarded to the applicant by the public body responsible for responding to the request and recommences immediately on the receipt by the public body of an agreement by the applicant to pay the fee and*

- (a) at least 50% of an estimate fee that exceeds \$150, and*
- (b) in the case of a continuing request if the estimate fee for the entire request exceeds \$150, at least 50% of the portion of the estimate applicable to the delivery of the first instalment of the request.*

*(2) Processing of a subsequent instalment of a continuing request may be commenced by a public body only on the receipt of at least 50% of the portion of the estimate applicable to the delivery of that instalment.*

*(3) The balance of a fee owing is payable at the time the information is delivered to the applicant.*

*(4) Fees, other than an initial fee, or any part of those fees will be refunded if the amount paid is higher than the actual required to be paid.*

[para 21] Schedule 1 of the ATIA Regulation sets out the fees that a public body may charge. In particular, section 2 of Schedule 1 states:

*1 For searching for, locating and retrieving a record \$6.75 per ¼ hr*

[para 22] Section 96 of ATIA is substantially the same as section 93 of the repealed FOIP Act. Sections 12 – 16 of the ATIA Regulation are substantially the same as sections 10 – 14 of the repealed *Freedom of Information and Protection of Privacy Regulation*, AR 186/2008 (FOIP Regulation).

[para 23] Consequently, Orders which this Office has issued considering fee estimates and fee waiver requests under the FOIP Act and FOIP Regulation provide guidance on determining whether a public body has properly estimated fees and properly made a decision regarding a fee waiver request under ATIA.

[para 24] At paragraph 65 of Order F2013-01, the adjudicator determined that when an applicant requests a review of a fee estimate, the public body has the burden of proof, as it is in the best position to explain the processes and standards that it used to calculate the fees for service. The adjudicator further stated:

... at the same time, it is in the applicant's best interest to provide arguments and evidence regarding the appropriateness of the fee estimate (Order 99-014 at paras. 9-11).

[para 25] I find the same burden of proof applies when an applicant requests a review of a fee estimate under ATIA.

[para 26] In its submission, the Public Body stated that the information requested by the Applicant was not personal information, as it related to general information concerning how the WCB weighs differing medical opinions and not information recorded about the Applicant themselves. Therefore, the Public Body stated, the WCB was entitled to require a fee for service.<sup>2</sup> I agree with this assessment.

[para 27] The Public Body further stated that it provided the applicant with a fee estimate of \$162 to search for records related to this request (the Fee Estimate Decision) and an explanation

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<sup>2</sup> Public Body's submission on page 6 at paragraph 18.

as to how the fee was calculated. The explanation indicated that the Public Body had estimated 6 hours to search for records at a rate of \$6.75 per ¼ hour.

[para 28] With respect to how it calculated its fee estimate, the Public Body made the following submission:<sup>3</sup>

19. The Fee Estimate Decision provided by the WCB set out:

- a. The time and cost to search for, locate and retrieve a record:
  - The WCB identified and worked with the responsible WCB program area to obtain the necessary information as to the time it would take to search for the responsive records.
  - The responsible WCB program area identified 6 individual locations which would need to be manually searched by staff: folders, emails, libraries, meeting minutes and two different types of training materials.
  - The WCB program area estimated the length of time staff would require for the search, which was 6 hours  
Exhibit 'C' to the Affidavit of [name], affirmed February 5, 2026  
[TAB A]
- b. The cost of converting a record into a readable format: Not estimated.
- c. The cost of reformatting audiovisual files into a redactable format: Not estimated.
- d. The cost to produce a copy of the record: Not estimated.
- e. The time and cost for preparing and handling the record for disclosure: Not estimated.
- f. The time and cost to supervise an applicant and handling the record for disclosure: Not estimated.
- g. The cost of shipping the record or a copy of the record: Not estimated.

20. Based on the time estimate provided by the WCB's Medical Services Department, the WCB issued the Fee Estimate Decision pursuant to section 13 of the *ATIA*, for 24 quarter hours (6 hours) at the maximum rate of \$6.75 per ¼ hour to search for, locate and retrieve a record.

21. The WCB did not include any other costs in the Fee Estimate Decision and does not require the Applicant to pay any other costs for the production or disclosure of the responsive records.

22. The Fee Estimate Decision was made in accordance with section 96 of the *ATIA* and *ATIA Regulation*, as it set out the only applicable fee – the estimated time and cost to search for, locate and retrieve the responsive records.

[para 29] The Applicant's access request was broad scope and spanned several years. I find the Public Body's explanation of the search that would need to be conducted and the estimated time to search for, locate and retrieve records to be reasonable.

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<sup>3</sup> Public Body's submission on pages 6 – 7.

[para 30] I find that the Public Body properly estimated the fees in accordance with ATIA and the ATIA Regulation.

**2. If the Public Body properly estimated the fees under section 96, is the Applicant entitled to be excused from paying all or part of a fee under section 96(5)?**

[para 31] In Order 99-012, former Commissioner Clark determined that the burden of proof where an applicant has requested a fee waiver, is on the applicant. At paragraph 26, former Commissioner Clark stated:

[para 26] I also note that in Order 96-002, I stated that an applicant has the burden of proof in a fee waiver application because an applicant is in the best position to argue as to why a fee waiver should be granted. As such, the Applicants have the burden of proof in this inquiry.

[para 32] The Applicant did not provide a submission in this inquiry; however, in their fee waiver request to the Public Body, the Applicant stated in part:

...

... This application is made pursuant to Section 96(5) of the *Access to Information Act* (ATIA), which grants the head of a public body the discretion to excuse payment where (a) it is fair to do so, and (b) the record relates to a matter of public interest.

This application will demonstrate that this request meets both criteria to an overwhelming degree. It will establish that:

- The records sought are of profound public interest, as they concern the fundamental integrity of the Workers' Compensation Board's (WCB) adjudicative process and its adherence to evidence-based principles.
- The imposition of any fee, regardless of its nominal amount, is fundamentally unfair in light of the WCB's documented, multi-year pattern of systemic obstruction and bad-faith conduct.

...

Part I: The Public Interest Mandate: Scrutinizing the Integrity of a Public Institution

The core argument of this section is that the records sought are not of mere private interest but are essential for public scrutiny of the WCB's decision-making processes, its response to formal rebukes, and its commitment to transparency and accountability, particularly concerning medically complex injuries.

A. The Subject Matter: Responding to a Crisis of Institutional Credibility

The request for records on the WCB's response to Decision No. 2019-0456 is directly linked to a documented institutional failure of the highest order. In this formal decision, the WCB's own final adjudicative body, the Appeals Commission, found that the opinion of WCB medical consultant Dr. [Name] was directly and unequivocally refuted by her own peer-reviewed article on the long-term sequelae of electrical injury.

The contradiction was stark. In a July 2013 memo, Dr. [Name] opined that "Electrical injury does not result in delayed symptomatology in this manner." Just two months later, in a September 2013 published article, [the Doctor] stated the exact opposite: "The appearance of these delayed consequences of electrical injury may be significantly delayed, with onset one to five more years after the electrical injury." The Appeals Commission formally recognized this discrepancy, placing "less weight" on the medical consultant's opinion. This constitutes a public rebuke of the WCB's internal medical advice, creating a matter of significant and urgent public interest.

The release of internal emails, memoranda, reports, and policy changes is the only mechanism through which the public can assess whether the WCB has taken corrective action to align its practices with modern science. This goes to the heart of the WCB's credibility and its fitness to adjudicate complex claims.

#### B. The Broader Context: Systemic Barriers for Vulnerable Claimants

The requested records are critical to understanding how the WCB adjudicates "invisible injuries," a systemic issue with broad public implications for thousands of Albertans. Electrical injuries are uniquely complex, defined by a dual mechanism of thermal and non-thermal damage that can produce a cascade of debilitating, delayed-onset neurological, psychological, and cognitive sequelae. As documented in a global analysis of electrical injuries, these symptoms often lack clear objective markers on standard medical tests, creating a "diagnostic dilemma" that can be used to deny or minimize claims.

Therefore, this request is not a "fishing expedition." It is a necessary and direct attempt to understand the internal rules and procedures governing the precise point of conflict created by the injury's pathophysiology. The public interest lies in understanding how the WCB handles the systemic challenges posed by these modern medical realities and ensuring its policies are not structured to systemically disadvantage claimants.

#### C. Fulfilling the Purpose of the Access to Information Act

The records will contribute to open, transparent, and accountable government by allowing the public to understand the non-public rules that govern WCB decision-making – a process that has a profound impact on the health, well-being, and financial stability of injured workers and their families across Alberta.

#### Part II: The Fairness Mandate: A Documented Pattern of Systemic Obstruction

It is a contravention of the principles of administrative fairness for the WCB to levy a fee in this context, particularly given its documented history of using the fee provisions of access legislation as a tool to frustrate information access and impede legitimate public scrutiny.

A. The Foundational Unfairness of “Paying to Prove a Foul”

The applicant is seeking records to assess the procedural fairness of the WCB’s adjudication process. For the WCB to then charge a fee for access to the very records needed to assess that fairness creates a profound and inequitable power imbalance. This practice is fundamentally unfair and has a significant “chilling effect,” deterring citizens from questioning potential irregularities for fear of incurring prohibitive costs to obtain the necessary evidence.

B. A Multi-Year Strategy of Adaptive Obstruction

The current \ \$162.00 fee estimate is not an isolated administrative decision but the latest evolution in a multi-year pattern of conduct that demonstrates institutional bad faith. This pattern is characterized by a calculated evolution in tactics, adapting to legal frameworks and applicant responses with the consistent objective of frustrating access to sensitive information.

- Tactic 1: The 2021 “Sledgehammer” (FOIP Request #21-G-34). The WCB issued a prohibitive fee estimate of \ \$5,400.00 for a single document, a crude, high-cost barrier designed to make a critical piece of evidence financially inaccessible.
- Tactic 2: The July 2025 “Scalpel” (ATIA Requests). The WCB shifted tactics, refusing to waive four \ \$25 application fees under the legally erroneous claim of “legal compulsion.”
- Tactic 3: The August 2025 “Bludgeon” (ATIA Request #2025-086). The WCB reverted to the high-cost barrier strategy, issuing a massive \ \$4,198.50 fee estimate for a related request, demonstrating that its objective – obstruction by financial means – has remained constant.

The nominal fee of \ \$162 for this request is the latest iteration of this strategy. It is a tactical legal maneuver designed to avert a formal appeal to the OIPC. By issuing a nominal, non-prohibitive fee, the WCB removes the financial barrier that would justify a fee waiver application and a subsequent appeal. This maneuver strategically denies the applicant a forum to formally document the systemic misconduct and deprives the OIPC of a formal vehicle to scrutinize and rule on the WCB’s conduct. In essence, the WCB is tactically conceding the fee to win a greater strategic victory: preventing a formal, public legal defeat and avoiding the creation of a negative precedent.

Conclusion and Formal Request for a Full and Unconditional Waiver

In summary, this application has established, with extensive documentary evidence, that a full fee waiver is not only justified but necessary.

- Public Interest: The records requested are of clear and compelling public interest, seeking to shed light on the WCB's adjudicative integrity in the wake of a formal, public finding by its own Appeals Commission that its internal medical advice was flawed and contrary to science.
- Fairness and Bad Faith: The imposition of any fee is fundamentally unfair, as it would require a citizen to pay the WCB for the ability to hold it accountable. This unfairness is magnified by the WCB's documented, multi-year pattern of adaptive obstruction, where fee provisions have been consistently weaponized to frustrate access.
- Unreasonableness: the fee estimate of \ \$162 is a tactical fee that represents an attempt to evade formal review of the WCB's conduct, and is, therefore, an unreasonable fee in the context of the ATIA's purpose.

Based on the overwhelming evidence that this request satisfies both the public interest and fairness grounds articulate in Section 96(5) of the *Access to Information Act*, a full and unconditional waiver of the entire estimated fee of \ \$162 is formally requested.

[para 33] In its submission, the Public Body provided the following general statements regarding fee waivers:<sup>4</sup>

23. A public body may grant a fee waiver to an applicant, if in the opinion of the head of a public body or their delegate, it is fair to do so, the applicant cannot afford the payment, or the record relates to a matter of public interest.

ATIA s 96(5)

24. A fee waiver shifts the cost of processing the request to the public and in this case, the WCB stakeholders. Therefore, it is the responsibility of the public body to determine whether the circumstances of the request and the records requested justify waiving an applicant's fees.

25. The WCB is the administrative body that has exclusive legislative authority to administer Alberta's *Worker's Compensation Act*, RSA 2000, c W-15. The workers' compensation system in Alberta is a system of no-fault compensation rooted in the "historic tradeoff":

This refers to the policy decision of establishing a no-fault compensation scheme for injured workers, funded by premiums paid by employers, and administered by a public agency . . . [A] key aspect is that workers have prompt access to benefits, irrespective of fault. In exchange, workers give up their right to sue their employers, and any other employer or worker covered by the [Act], for work-related injuries.

*Vujicic v Estate of Leona Donna MacEchern*, 2022 ABCA 263 at para 18 [Hyperlinked]

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<sup>4</sup> Public Body's submission on pages 7 – 8.

26. The WCB is responsible for ensuring that the workers' compensation system is "sustainable, affordable and fair in order to benefit workers and employers now and in the future". Thus, the WCB must carefully consider taking on the costs of processing a request under the *ATIA*.

*Workers' Compensation Act, RSA 2000, c W-15, Preamble* [Hyperlinked]

### ***Fairness***

[para 34] With respect to the Applicant's assertion that the fee ought to be waived in the interest of fairness, the Public Body advised that it reviewed the information provided by the Applicant and determined that a fee waiver was not appropriate because the Applicant had not supported that a fee waiver was required on the basis of fairness.<sup>5</sup>

[para 35] The Public Body correctly noted at page 8 in its submission that, as per the comments of the Director of Adjudication in Order F2006-032 at paragraph 44, in order for a fee waiver to be supported on the basis of fairness, consideration may be given to the following factors:

- a. If others have asked for similar records, have they been given at no cost?
- b. Would the waiver of the fee significantly interfere with the operations of the public body, including other programs of the public body?
- c. Are there less expensive sources of the information?
- d. Is the request as narrow as possible?
- e. Has the public body helped the applicant to define [their] request?

[para 36] The Public Body explained how it had considered these factors in arriving at its conclusion as follows:<sup>6</sup>

24. The WCB has not previously received a request for the same records requested in the July 17, 2025 Request re: Appeals Commission. Accordingly, there is no history of these records being given at no cost to other applicants.

25. There are less expensive sources of some of the information requested by the Applicant. The Applicant requested finalized policy changes and discussion regarding policy changes: current WCB Policies and many of the prior versions are publicly available online, and Board Meeting Minutes from 2017 to the present are publicly available online. At minimum, the public access to these documents may enable the Applicant to narrow the July 17, 2025 Request re: Appeals Commission, thereby reducing the cost. However, the Applicant has not narrowed [their] request.

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<sup>5</sup> Public Body's submission on page 8 at paragraph 21.

<sup>6</sup> Public Body's submission on page 8.

26. The WCB has offered to work with the Applicant to narrow the July 17, 2025 Request re: Appeals Commission. Nevertheless, the Applicant has not attempted to narrow the July 17, 2025 Request re: Appeals Commission. The scope of the July 17, 2025 Request re: Appeals Commission is broad, ranging from October 22, 2019 to July 2025 and encompasses significant records (emails, memoranda, meeting minutes, reviews, draft and final policies and discussions and draft and final policies).

Affidavit of [name], affirmed February 5, 2026, at para 6 [TAB A]

27. The Fee Estimate Decision was based solely on the scope of the July 17, 2025 Request re: Appeals Commission and the information given to the WCB by the relevant WCB program area that would be required to search for responsive records.

28. The Applicant made nine (9) requests under the *ATIA* in 2025. The WCB only assessed fees under section 13(4) of the *ATIA Regulation* in relation to two of those requests, and strictly in accordance with the relevant provisions of the *ATIA* and the *ATIA Regulation*. There is no evidence of systemic refusal to provide records by the Applicant, or at all.

[para 37] The Applicant did not present any evidence to support their assertion that the estimated fee of \$162 was an attempt by the WCB to “evade formal review of the WCB’s conduct”. This inquiry is in fact, a formal review of the WCB’s fee estimate and decision to deny the fee waiver request for this particular access request.

[para 38] I understand the Applicant to be alleging in their fee waiver request to the Public Body that the Public Body routinely issues large fee estimates to applicants in order to dissuade or prevent applicants from accessing information and that this is unfair.

[para 39] I understand the Applicant to be arguing that this allegation should be taken into account in determining whether the fee estimate in this case should be waived on the basis of fairness.

[para 40] Whether the Public Body is routinely issuing large fee estimates to applicants in order to dissuade or prevent applicants from accessing information as the Applicant has alleged, is outside the scope of this inquiry and my authority to determine.

[para 41] The issues in this inquiry are solely whether the Public Body properly estimated the fee for the information requested by the Applicant in this particular access request, and if so, whether the Public Body properly denied the Applicant’s fee waiver request in this specific case.

[para 42] If the Applicant made other access requests; received other fee estimates for those requests; and made other fee waiver requests to the Public Body, and was not satisfied with the Public Body’s responses and decisions, the Applicant had the same opportunity to request separate reviews of those responses and decisions by this Office.

[para 43] How the Public Body has estimated fees or responded to fee waiver requests by the Applicant with respect to *other* access requests the Applicant has made is not relevant to a determination as to whether the Public Body properly decided *in this case* to deny the Applicant's fee waiver request on the basis of fairness.

[para 44] In their Request for Review to this Office, the Applicant specifically stated that they did not wish to narrow the scope of their access request.

[para 45] The Applicant did provide a submission in this inquiry and did not address in their fee waiver request to the Public Body how any of the factors identified by the Director of Adjudication in Order F2006-032 referenced above, supported a waiver of the \$162 fee on the grounds of fairness.

[para 46] The Applicant themselves stated in their submission that the fee was "nominal" and "non-prohibitive".

[para 47] Having reviewed the Public Body's analysis of the factors identified by the Director of Adjudication in Order F2006-032, I find that the factors weigh against granting a fee waiver on the basis of fairness and that the Public Body properly refused to waive the fee based on fairness.

### **Public Interest**

[para 48] As noted above, the burden of proof where an applicant has requested a fee waiver, is on the applicant.

[para 49] The Applicant did not provide a submission in this inquiry; however, I have reviewed their arguments in their fee waiver request to the Public Body, part of which was reproduced above, and have considered their arguments in arriving at my conclusion.

[para 50] At paragraph 43 of Order F2006-032, the Director of Adjudication set out the following criteria for determining whether a record "relates to a matter of public interest":

1. Will the records contribute to the public understanding of, or to debate on or resolution of, a matter or issue that is of concern to the public or a sector of the public, or that would be, if the public knew about it? The following may be relevant:
  - Have others besides the applicant sought or expressed an interest in the records?
  - Are there other indicators that the public has or would have an interest in the records?
2. Is the applicant motivated by commercial or other private interests or purposes, or by a concern on behalf of the public, or a sector of the public? The following may be relevant:

- Do the records relate to a conflict between the applicant and government?
  - What is the likelihood the applicant will disseminate the contents of the records?
3. If the Records are about the process or functioning of government, will they contribute to open, transparent and accountable government? The following may be relevant:
- Do the records contain information that will show how the Government of Alberta or a public body reached or will reach a decision?
  - Are the records desirable for the purpose of subjecting the activities of the Government of Alberta or public body to scrutiny?
  - Will the records shed light on an activity of the Government of Alberta or a public body that have been called into question?

[para 51] The Public Body reviewed the above criteria and provided the following arguments as to why it was not in the public interest to waive the fee:<sup>7</sup>

30. The Fee Waiver Request submitted by the Applicant does not meet the requirements for a fee waiver in the public interest, based on the above-noted criteria. In denying the Applicant's fee waiver request as being in the public interest, the WCB determined that:

- To date, no other applicant to the WCB has requested these same records.

Affidavit of [name], affirmed February 5, 2026 at para 9 [TAB A]

- Based on the information provided by the Applicant, there is no other indicator that the public has or would have an interest in the responsive records.
- The Applicant has not indicated he has any intention, plan, platform or ability to share or to disseminate the records to any other members of the public.
- The WCB evaluates each claim on its own merits. The responsive records, while of interest to the Applicant, are not likely to be desirable by the public for scrutinizing the decisions made by the WCB as a whole.

*Workers Compensation Act, RSA 2000 c W-15, s17(4) [Hyperlinked]*

30. The Applicant's request itself fails to disclose a reason the July 17, 2025 Request re: Appeals Commission would be in the public interest. [Their] subsequent related correspondence discloses a personal interest in the records, specifically with respect to the adjudication of [their] WCB claim:

- In the Applicant's July 18, 2025 correspondence, [they] [write], "I am seeking these records to assess whether the WCB, a public body, afforded me a fair and impartial adjudication process."

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<sup>7</sup> Public Body's submission on page 10.

Exhibit 'B' to the Affidavit of [name] affirmed February 5, 2026 [TAB A}

31. There is no evidence to suggest that other members of the public are interested in this matter, that the responsive records are needed to contribute to open and transparent government, or that the Applicant intends to disseminate the responsive records.

32. While the records in question are of personal interest to the Applicant, there is no evidence to suggest that the records meet the criteria for consideration of a fee waiver in the public interest under section 96(5) of the ATIA.

[para 52] At paragraph 39 of Order F2006-032, the Director of Adjudication stated (my emphasis):

[para 39] Finally, I note the principle relative to fee waivers that was expressed in Order 96-002, that "the Act contains the principle that the user should pay". I take this to mean that an Applicant is to pay fees for record requests in the usual course, and waivers on the basis of "public interest" are to be granted only when there is something about the records that clearly makes it important to bring them to the public's attention or into the public realm. The Applicant has not persuaded me that this is so in this case, and thus I conclude a fee waiver is not justified.

[para 53] Having reviewed the arguments the Applicant made to the Public Body regarding the waiver of the fee being in the public interest, and the Public Body's assessment of the criteria set out by the Adjudicator in Order F2006-032, I agree with the Public Body's analysis and decision.

[para 54] Although the Applicant made assertions in their fee waiver request to the Public Body that the public would be interested in the records, there is no evidence before me to support this claim.

[para 55] While the Applicant undoubtedly has a personal interest in the records, the Applicant's arguments in their fee waiver request to the Public Body have not persuaded me that there is something about the records that clearly makes it important to bring them to the public's attention or into the public realm.

[para 56] Accordingly, I find that the Applicant should not be excused from paying the fee and affirm the Public Body's decision to deny the Applicant's fee waiver request.

## **V. ORDER**

[para 57] I make this Order under section 64 of the Act.

[para 58] I affirm the Public Body's fee estimate.

[para 59] I affirm the Public Body decision to deny the Applicant's fee waiver request.

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Carmen Mann  
Adjudicator