

# ALBERTA

## OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

### ORDER ATIA2026-AEI-01

June 4, 2026

#### Public Safety and Emergency Services

Case File Number 042773

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

**Summary:** Public Safety and Emergency Services (the Public Body) made a decision to declare the Applicant's access request abandoned under section 10 of the *Access to Information Act* (ATIA or the Act). The Adjudicator found that the Public Body did not properly declare the access request abandoned.

**Statutes Cited: AB:** *Access to Information Act*, S.A. 2024, c. A-1.4, *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, C.F-25, *Interpretation Act*, RSA 2000.

**Authorities Cited: AB:** Orders ATIA2026-TEI-01, ATIA2026-TEI-02, ATIA2026-TEI-03, ATIA2026-01.

#### I. BACKGROUND

[para 1] Public Safety and Emergency Services (the Public Body) received an access request from the Applicant on February 9, 2026. A fee estimate was issued to the Applicant by the Public Body on February 24, 2026. On February 27, 2026, a corrected fee estimate was sent to the Applicant due to an administrative error in the scope of the access request. On March 31, 2026, the Applicant submitted a request for review to the Office of the Information and Privacy

Commissioner (OIPC) regarding the fee estimate. On April 17, 2026, the Public Body informed the Applicant that it was declaring the request abandoned because they had not received a response to its request to pay a fee.

[para 2] On April 20, 2026, a request for review was submitted to the OIPC by the Applicant, who objected to the Public Body declaring the access request abandoned. The matter proceeded directly to inquiry without mediation or investigation as is the OIPC's practice under ATIA when reviewing a public body's decision to declare a request abandoned under section 10.

## II. ISSUE

### 1. Did the head of the Public Body properly declare the request abandoned as permitted by section 10 of the Act?

## III. DISCUSSION OF ISSUE

### *Preliminary Issue – Delegation of Authority*

[para 3] Section 10 of ATIA authorizes the head of a public body to declare an access request abandoned. Upon reviewing supporting documents provided by the Public Body, it was confirmed that the section 10 decision was not made by the head of the Public Body, but by the Access to Information Coordinator. As the section 10 decision was not made by the head, I had to confirm that the decision-maker had the properly delegated authority to make the decision pursuant to ATIA section 87, which states:

*87(1) The head of a public body may delegate to any person any power, duty or function of the head under this Act, except the power to delegate under this section.*

*(2) A delegation under subsection (1) must be in writing and may contain any conditions or restrictions the head of the public body considers appropriate.*

[para 4] The Public Body provided a copy of Ministerial Order M.O. PSES 5/2023 which outlines the delegation of authorities set out under the repealed *Freedom of Information and Protection of Privacy Act* (FOIP). In previous Orders<sup>1</sup>, I noted that under section 20(6) of the *Interpretation Act*, if an act is repealed and delegations remain substantially the same as the time the delegations were made, they remain in effect until such time that they are rescinded. I also referred to section 36(1)(a) of the *Interpretation Act* which states every person acting under a repealed act shall continue to act as if appointed under the new enactment until such time someone new is appointed.

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<sup>1</sup> See, for example: Orders ATIA2026-TEI-01, ATIA2026-TEI-02 and ATIA2026-TEI-03.

[para 5] For the same reasons outlined under the preliminary issue in those previous Orders, pursuant to sections 20 and 36 of the *Interpretation Act*, the FOIP delegations remain in effect and proper delegations were in place at the time the section 10 decision under ATIA was made in this matter.

[para 6] While I agree that the FOIP delegations set out in Ministerial Order M.O. PSES 5/2023 remain in effect, given the fact that ATIA has similar but not identical powers, duties and functions, and has been governing access to information rights for almost one year, the Public Body should consider updating its written delegations to be consistent with current legislation.

[para 7] Having dealt with the preliminary issue outlined above, I can now address the issue that is before me in this inquiry as stated in the Notice of Inquiry dated April 24, 2026.

**Issue: Did the head of the Public Body properly declare the request abandoned as permitted by section 10 of the Act?**

[para 8] The head of a public body's authority to declare an access request abandoned is set out in section 10 of ATIA, which states:

*10(1) Where the head of a public body contacts an applicant in writing respecting the applicant's request, including*

*(a) seeking further information from the applicant that is necessary to process the request, including but not limited to a request for further information under section 7(3), or*

*(b) requesting the applicant to pay a fee or to agree to pay a fee,*

*and the applicant fails to respond to the head of the public body, as requested by the head, within 30 business days after being contacted, the head of the public body may, by notice in writing to the applicant, declare the request abandoned.*

*(2) A notice under subsection (1) must state that the applicant may ask for a review under Part 3.*

[para 9] Section 10(1)(b) is identical to section 8(1)(b) of the repealed FOIP Act.<sup>2</sup>

[para 10] The purposes of ATIA in section 2(a) – (c) generally create a right of access to the records in the custody or under the control of a public body subject to limited and specific exceptions as set out in the Act and provide for independent reviews of decisions made by public bodies. Access to information is the general default, unless a limited and specific

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<sup>2</sup> The wording of ATIA s.10(1)(a) is different than FOIP s.8(1)(a) and ATIA refers to business days rather than calendar days.

exception applies. ATIA also permits public bodies to declare an access request abandoned as set out in section 10(1).

[para 11] In the scheme of ATIA, what a public body must do when it receives an access request is set out by its duty to assist in section 12(1):

*12(1) Subject to the regulations, the head of a public body must make every reasonable effort to assist applicants and to respond to each applicant openly, accurately and completely, and in accordance with the regulations.*

[para 12] Under section 96(1) of ATIA, a public body may require an applicant to pay fees for services as provided for in the ATIA regulations.<sup>3</sup> If an applicant is required to pay fees under section 96(1), the public body must give the applicant an estimate of the total fee before providing the services, as stated in section 96(3).

[para 13] As outlined in ATIA Regulations section 15(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. If an applicant fails to respond to the head of the public body within 30 business days after being contacted about the fees, the head of the public body may declare the request abandoned under section 10(1)(b) of ATIA after the 30 business days have expired.

[para 14] However, under section 58(1) of ATIA, an applicant may ask the Commissioner to review any decision, act or failure to act of the head that relates to the request. The issuing of a fee estimate is a decision related to a request and is reviewable by the Commissioner.<sup>4</sup>

[para 15] In this matter, the Public Body issued a fee estimate to the Applicant on February 24, 2026. The Public Body explained that the Applicant had “20 days” to accept the fee estimate or modify the request to change the amount of fees assessed. This is an error, and section 15(4) of the ATIA Regulations actually states an applicant has up to 30 business days, not 20 days, to respond to a fee estimate.

[para 16] In its fee estimate, the Public Body went on to state to the Applicant, “If you fail to respond to this notice within 30 days your access request will be declared abandoned.” The Public Body again erred, as ATIA section 10(1) actually states that if an applicant fails to respond to the head of the public body, as requested by the head, within 30 *business* days after being contacted, the head of the public body may, by notice in writing to the applicant, declare the request abandoned.

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<sup>3</sup> Order ATIA2026-01 at paras 7 – 45.

<sup>4</sup> Part of the Commissioner’s order-making powers includes confirming or reducing a fee under ATIA section 64(3)(c).

[para 17] The Public Body then sent a corrected fee estimate on February 27, 2026 due to an administrative error on the scope of the access request; however, the same errors in the required time to respond were made in the corrected fee estimate. In both fee estimates, the Applicant was advised they could ask the Commissioner for a review.

[para 18] As stated above, following receipt of the Public Body's fee estimate on February 24, 2026 and the corrected fee estimate on February 27, 2026, the Applicant submitted a request for review of the Public Body's fee estimate to the OIPC on March 31, 2026. The Applicant submitted this request for review within 30 business days of receiving the fee estimate letters. In compliance with section 59(1) of ATIA, the Applicant delivered the written request for review of the fee estimate to the Commissioner and a delegate of the head of the Public Body.

[para 19] Despite receiving the Applicant's request for review of the fee estimate, the Public Body declared the access request abandoned on April 17, 2026, as it stated the Applicant did not respond to its fee estimate letters.

[para 20] Section 10(1)(b) of ATIA states the head of a public body may declare an access request abandoned if an applicant fails to respond within 30 business days after being contacted to pay a fee or to agree to pay a fee. In this case, however, the Applicant submitted a request for review of the Public Body's fee estimate within 30 business days and during the inquiry, the Public Body confirmed it had received a copy of the Applicant's request for review of the fee estimate.

[para 21] Therefore, the issue before me is whether, despite being notified of the Applicant's request for review of the fee estimate within 30 business days, the Public Body is permitted to declare the request abandoned under ATIA section 10(1). I find that it is not permitted because a public body may only declare a request abandoned if an applicant fails to respond within 30 business days after being contacted. The Applicant in this matter responded to the fee estimate by requesting a review by this office and notified a delegate of the head of the Public Body that a review had been requested, within 30 business days.

[para 22] As the Public Body was aware a request for review was submitted by the Applicant in response to their fee estimate, the Public Body did not properly declare the request abandoned. The access request remains active and the fee issue is currently under review by the OIPC as a separate matter.

#### **IV. ORDER**

[para 23] I make this Order under section 64(3)(a) of the ATIA.

[para 24] I find the Public Body did not properly declare the access request abandoned under ATIA section 10. The Public Body is required to continue processing the request.

[para 25] I further order the Public Body to notify me in writing, within 50 days of receiving a copy of this Order, that it has complied with the Order.

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Anima Kotowski  
Adjudicator – Expedited Inquiries