

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER ATIA2026-AEI-03

June 12, 2026

Transportation and Economic Corridors

Case File Number 043199

Office URL: www.oipc.ab.ca

Summary: Transportation and Economic Corridors (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, ATIA2026-AEI-01

I. BACKGROUND

[para 1] Transportation and Economic Corridors (the Public Body) received an access request from the Applicant on February 20, 2026. A fee estimate was issued to the Applicant by the Public Body on March 4, 2026. On March 18, 2026, a fee waiver that was requested by the Applicant was denied. After further communications, the Public Body proposed a revised scope to assist the Applicant with the fees; however, on April 10, the Applicant rejected the revised

scope and informed the Public Body that they “will be seeking a review.”

[para 2] Despite the Applicant’s response to the Public Body that they would be seeking a review, on April 20, 2026, the Public Body informed the Applicant that it was declaring the request abandoned because it had not received a response to its request to pay a fee. On April 24, 2026, the Applicant submitted a request for review to the Office of the Information and Privacy Commissioner (OIPC) regarding the fee issue, and on May 4, 2026, the Applicant submitted a request for review regarding the decision made by the Public Body to declare the request abandoned.

[para 3] The matter regarding the abandonment of the request 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: 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 4] 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 5] The Public Body provided a copy of Ministerial Order 19/24 which outlines the delegation of authorities set out under the repealed *Freedom of Information and Protection of Privacy Act* (FOIP). In previous Orders¹, 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

¹ See, for example: Orders ATIA2026-TEI-01, ATIA2026-TEI-02 and ATIA2026-TEI-03.

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.

[para 6] 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 7] While I agree that the FOIP delegations set out in Ministerial Order 19/24 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 over one year, the Public Body should consider updating its written delegations to be consistent with current legislation.

[para 8] 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 May 8, 2026. The Applicant did not make a submission in this inquiry, and were they required to do so.

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

[para 9] 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 10] In Order ATIA2026-AEI-01, I provided an overview of section 10 and how it relates to the purposes of ATIA and a public body's duty to assist.² I incorporate that discussion herein.

² Order ATIA2026-AEI-01 at paras 9 – 11.

[para 11] Under section 96(1) of ATIA, the head of a public body may require an applicant to pay fees for services as provided for in the ATIA Regulations.³ 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 12] 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 13] 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.⁴

[para 14] In this matter, the Public Body received the access request on February 20, 2026 and issued a fee estimate to the Applicant on March 4, 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 15] 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. The Applicant was advised they could ask the Commissioner for a review.

[para 16] The Applicant requested a fee waiver, which was subsequently denied by the Public Body on March 18, 2026. The Public Body stated to the Applicant: “If you fail to respond to this notice within 30 business days your access to information request will be declared abandoned.” The Applicant was again advised they could ask the Commissioner for a review.

[para 17] The head of a public body may declare a request abandoned only in the event that an applicant fails to respond to the head of the public body, as requested by the head, within 30 business days. In this case, after the fee waiver request was denied, the Applicant and the Public Body engaged in discussions regarding the fees. During the discussions, on April 10, 2026,

³ Order ATIA2026-01 at paras 7 – 45.

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

the Public Body sent the Applicant a proposed revised scope to the access request. The Public Body stated the proposed revised scope was provided “to avoid a fee estimate; however, it may be further amended should a fee estimate still be required.”

[para 18] On the same date, which was within 30 business days of receiving the Public Body’s fee estimate, the Applicant responded by rejecting the revised scope and stated they “would be seeking a review”. This was a response to the Public Body’s fee waiver denial and the Public Body’s proposed revision of the scope of the request. As the Applicant had rejected the revised scope, the Public Body’s original fee estimate still applied. The Applicant notified the Public Body that they did not agree to pay a fee and would be seeking a review and did, in fact, submit a request for review of the fee issue on April 24, 2026.

[para 19] Despite having received the Applicant’s April 10, 2026 response to the Public Body’s request to pay a fee (that they intended to seek a review), the Public Body declared the request abandoned on April 20, 2026.

[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, within the 30 business days, the Applicant responded to the Public Body by stating they would be seeking a review.

[para 21] Therefore, the issue now before me is whether, despite being notified within 30 business days by the Applicant that they intend to request a review of a fee issue, the Public Body is permitted to declare the request abandoned under ATIA section 10(1). I find that it is not permitted because the head of 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 issue within 30 business days, by informing the Public Body that they intended to seek a review, thus indicating they did not agree to pay a fee. By informing the Public Body that they would be requesting a review, the Applicant did not fail to respond to the Public Body after being contacted to pay a fee or to agree to pay a fee.

[para 22] As the Public Body was aware that the Applicant responded to their fee request by notifying the Public Body they intended to seek a review instead of agreeing to pay a fee, 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.

Anima Kotowski
Adjudicator – Expedited Inquiries