

Section III – Items for the Information of the Board

TO: Chair and Members of the Board of Directors
Meeting #5/19, Friday, May 24, 2019

FROM: Michael Tolensky, Chief Financial and Operating Officer

RE: **FREEDOM OF INFORMATION REQUESTS – 2018 SUMMARY**

KEY ISSUE

Provide a summary of requests received by TRCA in 2018 under the *Municipal Freedom of Information and Protection of Privacy Act*.

RECOMMENDATION

WHEREAS TRCA reports on Freedom of Information Act requests on an annual basis.

IT IS RECOMMENDED THAT the Freedom of Information Requests report be received.

BACKGROUND

Toronto and Region Conservation Authority (TRCA) is subject to the *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)*, hereinafter referred to as *the Act*. TRCA is also subject to the provisions of the federal *Personal information Protection and Electronic Documents Act (PIPEDA)*.

Requests under *the Act* are processed by the Corporate Records Team and vetted by the Clerk and Manager, Policy, who is designated as TRCA's Information and Privacy Officer. Staff reports to the Information and Privacy Commission annually on the number and type of applications received each year.

TRCA is legislated to respond to a written Freedom of Information (FOI) request within 30 calendar days. Failure to comply with MFIPPA can result in significant fines and reputational damage to TRCA.

TRCA's [Records Management](#) and [Freedom of Information and Privacy](#) policies guide processing of the access requests under *the Act*, and are available on TRCA's website. Both policies will be reviewed by staff in 2019. Additional procedures and guidelines are available to staff to assist with records management and FOI requests.

RATIONALE

In 2018 TRCA received 39 new FOI requests under *the Act*; 32 requests were completed in 2018 and the remaining 7, received in late November – December, were completed in 2019. Two appeals from 2016 are still in the adjudication stage, and three appeals from 2017 are still open, as further detailed on the following page.

All requests related to "general records" as opposed to "personal information". Of the 32 requests completed, 17 requests were received from individuals/public, 13 from businesses, one from government (all levels) and one from an educational institution. These are designations prescribed for under *the Act*.

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Of the 32 requests completed in 2018:

- 24 were processed in 30 days or less;
- 6 were processed in 31-60 days due to a duty to consult a Third Party, required if the information requested can reasonably affect interests of a Third Party;
- 1 was processed in 61-90 days; and
- 1 request was processed in 91 days or longer.

In response to the 32 requests, the following was disclosed:

- all information was disclosed in 2 cases;
- information was disclosed in part in 21 cases;
- no information was disclosed in 0 cases;
- no responsive records existed in 5 cases;
- request was withdrawn, abandoned or non-jurisdictional in 4 cases.

As an example, the decision to withhold information in one of the cases was due to a Third-Party request to withhold the information, honoured by TRCA's Information and Privacy Officer, as disclosure could reasonably be expected to:

- prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization; and
- result in undue loss or gain to any person, group, committee or financial institution or agency.

When partial information was disclosed, the exemptions used for non-disclosure were as follows, and for the illustrated number of requests:

- Law Enforcement – 3
- Third Party Information – 5
- Economic/Other Interests – 3
- Solicitor-Client Privilege - 3
- Personal Information (Third Party) – 15
- Information soon to be published – 1

The Act provides the requester and affected Third Party with the right to appeal TRCA's decisions to the Information and Privacy Commissioner of Ontario. There are three stages in an appeal: Intake, Mediation and Adjudication. TRCA received 2 appeals in 2018, both resolved at the Mediation stage. An appeal can have a quick resolution or can take several months to years to resolve depending on the complexity of each case.

The Act requires that a \$5 fee be included with each application. Additionally, *the Act* allows TRCA to charge for activities including, but not limited to, photocopies, and search and preparation time. In 2018 the fees collected totaled \$1,335.00.

Relationship to Building the Living City, the TRCA 2013-2022 Strategic Plan

This report supports the following strategy set forth in the TRCA 2013-2022 Strategic Plan:

Strategy 9 – Measure performance

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DETAILS OF WORK TO BE DONE

Corporate Records Team will be reviewing and updating TRCA's Records and Information Management and Freedom of Information and Privacy policies to provide better guidance to TRCA staff and to streamline the processing of FOI requests.

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