

Section III – Items for the Information of the Board

TO: Chair and Members of the Board of Directors
Friday, April 30, 2021 Meeting

FROM: Michael Tolensky, Chief Financial and Operating Officer

RE: **2020 FREEDOM OF INFORMATION REQUEST SUMMARY**

KEY ISSUE

A summary of access to information requests completed by Toronto and Region Conservation Authority (TRCA) in 2020 under the *Municipal Freedom of Information and Protection of Privacy Act*.

RECOMMENDATION

WHEREAS TRCA is subject to an annual reporting requirement under the *Municipal Freedom of Information and Protection of Privacy Act*;

IT IS RECOMMENDED THAT 2020 Freedom of Information Request Summary report, be received.

BACKGROUND

TRCA is considered an "institution" as defined by section 2(1) of the *Municipal Freedom of Information and Protection of Privacy Act (the Act)* and is therefore subject to the requirements of the Act.

Under subsection 26(1) of the Act, the institution is required to submit an annual access to information statistical report to the Information and Privacy Commissioner of Ontario (IPC). This report provides a summary of statistics included in the TRCA 2020 annual report to the IPC, which was submitted on March 25, 2021.

Under the Act, TRCA reports on two types of information requests: requests for general records and requests for personal information. The former captures requests for information about someone else, while the latter is concerned with requests for "own personal information", requested by an individual or their agent.

All requests must be completed within 30 calendar days, with the exception of cases when a Notice of Extension or a Notice to Affected Person is issued, which extends the request processing timeline by an additional 30-60 days.

RATIONALE

In 2020 TRCA received forty-three (43) new requests for information under the Act. Thirty-eight (38) of these requests were completed, while five (5) were carried forward to 2021 because the requests were received and entered in late November/December and therefore had automatic legislative deadlines that extended into the following year. Additionally, two (2) requests carried over from 2019, were completed in 2020.

Of the forty (40) completed requests, thirty-seven (37) were related to "general records" and three (3) were related to "personal information".

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Nineteen (19) of these requests were received from individuals/public, 15 from businesses, 4 from an agent representing an individual, and 2 from associations/groups.

Of the 40 requests completed in 2020, 37 requests, or 92.5% were completed within the legislated timelines, while 3 requests were completed late due to COVID-19 related delays and IPC closures. Overall, the requests were processed as follows:

In response to the 40 requests, the following was disclosed:

- all information in 7 cases;
- partial information in 18 cases;
- no information disclosed in 3 cases;
- no responsive records existed in 5 cases;
- request was withdrawn, abandoned or non-jurisdictional in 7 cases.

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

- Section 7 – Advice or Recommendation: 2
- Section 8 - Law Enforcement: 5
- Section 9 – Relations with Governments: 1
- Section 10 - Third Party Information: 4
- Section 11 - Economic/Other Interests: 2
- Section 12 - Solicitor-Client Privilege: 8
- Section 14 - Personal Privacy (Third Party): 14
- Section 15 - Information soon to be published: 1
- Section 52(3) – Labour Relations & Employment Related Records: 2

The Act provides the requester and affected third parties with the right to appeal TRCA's decisions to the IPC. There are three stages in an appeal: intake, mediation and adjudication. There are currently five (5) open appeals. Three (3) TRCA decisions were appealed to the IPC in 2020. Two (2) of the appeals are currently in the mediation phase, while one (1) is currently being reviewed by the IPC analysts and has not entered the mediation stage. One (1) outstanding appeal from 2019 and one (1) outstanding appeal from 2018 are currently in the mediation stage.

In addition, in accordance with the provisions of *Municipal Freedom of Information and Protection of Privacy Act*, provincial *Freedom of Information and Protection of Privacy Act*, and federal *Privacy Act*, other institutions regularly consult TRCA prior to issuing a decision related to TRCA's records in their custody or control (so-called third party records). In 2020 TRCA responded to six (6) such consultation notices recognizing the legislated timeframes of those Acts.

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

FINANCIAL DETAILS

Section 45 of the Act and section 6 of Regulation 823 prescribe fees associated with the processing of requests. A requestor is required to pay an initial, mandatory application fee of \$5, with the possibility of additional fees depending on the nature of the request. These fees may be charged for photocopying, search, and preparation time. In 2020, TRCA collected a total of \$12,478 in such fees. In keeping with the spirit of the Act to make records accessible to the public, TRCA does not charge fees for requests that take under half an hour to process, or in other

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circumstances where a fee waiver may be considered appropriate. A total of \$85.40 of fees were waived accordingly.

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