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**Submission to the ATIPPA Statutory Review Committee
Review of the Access to Information and Protection of Privacy Act, 2015**

I appreciate the opportunity to provide feedback as part of the statutory review of the *Access to Information and Protection of Privacy Act, 2015*.

I am providing these comments from my perspective as the Town Clerk and ATIPP Coordinator for the Town of Clareville. My comments are based specifically on my experience as the person responsible for coordinating and processing ATIPP requests for the Town and are not a representation of Council.

I fully support the importance of openness, accountability and public access to municipal records. However, administering the legislation has also shown me some challenges for smaller municipalities where ATIPP is only one of many responsibilities assigned to an employee.

Over the past year, the Town has experienced a significant increase in the number and size of ATIPP requests, with the majority coming from one applicant. Many requests contain several parts, require records from multiple departments and involve hundreds of pages. We have also experienced overlapping requests and new large requests being submitted shortly after a previous request has been completed.

While each request may appear reasonable on its own, I believe there needs to be greater consideration of the cumulative impact of multiple requests from the same applicant. Looking at every request separately does not always give a true picture of the administrative resources being required of the public body.

I believe consideration should be given to a cumulative approach to fees where multiple requests are received from the same applicant within a defined period. Rather than applying the free search allowance separately to each new request, there could be a cumulative allowance over a reasonable period, such as a calendar year. This would still provide applicants with reasonable access to information while recognizing the overall resources required when numerous requests are submitted by the same individual.

I also believe consideration should be given to the number of active requests one applicant may have with a public body at the same time. In a smaller municipality, having several large requests from one applicant active at once can quickly become unmanageable and create significant delays in other municipal work. A reasonable limit on concurrent active requests, with appropriate flexibility for urgent or exceptional circumstances, could allow requests to be processed in a more manageable order without preventing an applicant from continuing to exercise their right of access.

Similarly, there should be clearer options for consolidating related or overlapping requests and dealing with patterns that become unduly repetitive, systematic or vexatious. Appropriate safeguards should remain in place so these provisions cannot be used simply because a request is inconvenient, critical of the public body or time-consuming.

Municipalities do not necessarily have employees dedicated solely to ATIPP. I am the Town Clerk and Procurement Coordinator, as well as the ATIPP Coordinator, and processing access requests is only one part of my position. Large requests can require considerable coordination with other departments, followed by hours of reviewing records, determining responsiveness, applying exceptions, making redactions and preparing documents for release. During this time, my regular responsibilities continue.

The process of requesting an extension can also add to this workload. When an extension is needed because of the size of a request or available resources, additional time must then be spent preparing and supporting the extension request. I understand the need for oversight, but I believe there should be a simpler process where the need for additional time can be clearly demonstrated by the volume of records, number of departments involved, concurrent requests and available staffing.

One of my biggest concerns is that the current fee structure does not reflect where most of the work involved in a large ATIPP request actually occurs. Searching for records is often only a small part of the process. Once records are located, they still have to be individually reviewed, assessed under the Act, redacted where necessary, organized and prepared for release.

A recent request I processed took approximately 50 hours in total and involved hundreds of pages of records. I estimate that only about five hours were actually spent searching for records. The remaining approximately 45 hours were spent reviewing, assessing, redacting and preparing the records. This reflects only my time as the Coordinator and does not include the time spent by other employees involved in locating and gathering the records. This shows what I believe is a significant weakness in the current fee structure. Search time alone does not accurately reflect the resources required to process a large request.

I fully support keeping access affordable and do not believe applicants should be charged simply because a request requires some staff time. However, there is a considerable difference between a routine request and one involving hundreds of pages and an entire work week or more of staff time.

I believe consideration should be given to allowing some review, severing and preparation time to be included in fees for exceptionally large or complex requests, after an appropriate amount of free processing time. I also believe that where the same applicant submits multiple requests within a relatively short period, the fee structure should recognize the cumulative amount of work rather than restarting the free allowance with every new request. Appropriate safeguards could ensure that fees do not become a barrier to reasonable access.

Another significant issue we have experienced is the amount of correspondence that can continue after a request has been completed. Following disclosure, we have received lengthy emails containing pages of questions, analysis and feedback based on the records provided. This has included the applicant's observations regarding the Town's administrative and financial practices, suggestions for changes, and even proposed or revised versions of Town policies.

This creates a particular challenge for me because reviewing and updating existing Town policies, developing new policies, and assisting with the Town's administrative processes are also part of my regular responsibilities. Feedback received following ATIPP disclosures can include suggestions that particular policies, procedures or financial practices should be changed or reviewed. These are the applicant's observations and recommendations based on their interpretation of the records provided and do not necessarily indicate that the Town's existing policies or practices are deficient.

Regardless of whether changes are ultimately considered necessary or appropriate, reviewing these suggestions takes time. At the same time, the volume of ATIPP requests and related follow-up correspondence can reduce the time available for the regular policy review, administrative work and other responsibilities already assigned to my position.

An applicant is certainly entitled to review the records, form their own opinions and provide feedback. The difficulty is the amount of additional staff time required when there is an expectation that municipal staff will review and respond to each issue raised.

There have also been situations where, if additional explanations are not provided, another ATIPP request may be submitted relating to the same matter. This can result in an ongoing cycle of requests, disclosure, extensive follow-up correspondence and further requests. I believe clearer guidance is needed regarding where the ATIPP process ends. There should be a clearer distinction between the right to access existing records and an expectation that staff will provide ongoing explanations, research or analysis, or participate in an ongoing review of municipal practices after the records have been provided.

This would not prevent applicants from providing feedback or submitting legitimate requests for additional records. It would simply provide clearer expectations for both applicants and public bodies once an access request has been completed.

I fully support the purpose of ATIPPA and the public's right to access government information. My concern is that the legislation also needs to recognize the practical realities faced by smaller public bodies. For a municipality with limited administrative staff, one large request can require a significant amount of time. Multiple requests from the same applicant, particularly when they are active at the same time or submitted one immediately after another, combined with extensive follow-up correspondence, can have a real impact on the ability of staff to carry out their regular municipal responsibilities.

I encourage the review to consider a more practical approach to cumulative requests and fees, reasonable limits on the number of concurrent requests from one applicant, clearer options for addressing repetitive or overlapping requests, a simpler extension process, and a fee structure that better reflects the actual work involved in exceptionally large requests. I also believe clearer guidance is needed regarding a public body's responsibilities once the requested records have been provided.

These changes would not take away an applicant's right of access. Rather, I believe they would help create a better balance between that right and the ability of smaller public bodies to continue providing their regular services and carrying out the work that residents expect of them.

Thank you for your time and the opportunity to express my thoughts and opinions on this matter.

Sincerely,

TOWN OF CLARENVILLE



Erin Dicks
Town Clerk