

Information and Privacy Commissioner,  
Ontario, Canada



Commissaire à l'information et à la protection de la vie privée,  
Ontario, Canada

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## ORDER MO-4761

Appeal MA24-00299

The Corporation of the City of Brantford

February 6, 2026

**Summary:** This appeal considers whether an access request made to the City of Brantford (the city) is frivolous or vexatious under the *Municipal Freedom of Information and Protection of Privacy Act*.

In this order, the adjudicator finds that the city has established that the request is frivolous or vexatious under section 4(1)(b) of the *Act* and upholds the city's decision to deny access on that basis. He imposes conditions on the appellant's current and future requests and appeals with the city by limiting the type and number of requests that can be submitted by the appellant to the city as well as the number of active appeals involving the appellant and the city.

**Statutes Considered:** *Municipal Freedom of Information and Protection of Privacy Act*, RSO 1990, c M.56, as amended, section 4(1)(b); General, RRO 1990 Reg 823, section 5.1(a).

**Orders Considered:** Orders M-618, M-850, M-947, MO-4101, MO-4300 and MO-4649.

**Related Order:** Order MO-4760.

### BACKGROUND:

[1] The *Municipal Freedom of Information and Protection of Privacy Act* (the *Act* or *MFIPPA*) and its regulations contain provisions that provide institutions with a straightforward way of dealing with frivolous or vexatious requests.

[2] In this appeal the City of Brantford (the city) takes the position that a request

made by the appellant for access to information regarding his request for the city solicitor to recuse himself from involvement in his access to information requests is frivolous or vexatious under section 4(1)(b) and section 5.1(a) of Regulation 823, made under the *Act*.

[3] The request provided as follows:

I request all emails, text messages, telephone conversations, letters and any other form of communication between [named city Freedom of Information Coordinator] and the Freedom of Information Office and [named city solicitor] in requests for [named city solicitor] to recuse himself from all FOI requests involving [the appellant] for the period of February 1, 2024 and February 28, 2024 because of alleged wrongdoings involving [the appellant].

[4] Relying on section 4(1)(b) of the *Act*, the city refused to process the request on the basis it was frivolous or vexatious. In its decision letter, the city set out three reasons for its claim<sup>1</sup>, as follows:

#### Reason 1

This request is part of a pattern of conduct that amounts to an abuse of the right of access. The first issue is the number of requests. On December 19, 2022, the Information and Privacy Commission of Ontario imposed a restriction on the number of requests you could submit to the City, namely you were permitted one active request at a time and each request could have no more than two parts. Under this restriction, the City of Brantford was able to complete the 3 requests you submitted from December 19, 2022-December 19, 2023, the latter date being when the restriction expired. While no restrictions have been imposed on your son yet, the City still only received a total of 4 requests from [a corporation], yourself, or your son during the period in which the restrictions imposed by the IPC were in force.

Upon the expiration of the restrictions, however, you have submitted 11 requests to the City from December 20, 2023 to March 26, 2024. This is equivalent to 20% of all requests the City has received since the restrictions expired. That value increases to 30.9% when you factor in the 6 requests submitted by your son in the same time period. The number of requests made by a requester is by itself a factor the IPC will consider to determine if one or more requests is frivolous and vexatious. The fact that these requests have been submitted within a 3-month period indicates that many

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<sup>1</sup> The three reasons cited by the city in its decision letter reflect three of the situations, under section 5.1 of Regulation 823, where a head may conclude that the request is frivolous or vexatious. Section 5.1 of Regulation 823 is set out below.

of your requests are frivolous and vexatious. Further still in support of this application, 4 of the requests submitted by both you and your son were submitted within one week. The City's position in this regard is supported by decisions of the IPC including a recent decision regarding your conduct.

#### Reason 2

This request was made in bad faith. The requests are unusually detailed, singling out one individual in a pattern that is a burden to the system. In addition, this request follows many e-mails in which you question [the city solicitor's] character and competence. Taken together, this request reveals an intention to harass and embarrass [the city solicitor]. The City has explained, on multiple occasions, the role that [the city solicitor] has in both responding to FOI requests, as well as the role they play in responding to your questions about your property. [The city solicitor's] involvement with your inquiries is neither unexpected nor inappropriate. Despite this, you have continued to frequently email [the city solicitor] directly, sent emails to other departments that call their character and conduct into question, and attempt to dictate the City's FOI process by suggesting that sharing your requests with certain individuals is a breach of your privacy. Your continued focus on [the city solicitor] demonstrates this request was made in bad faith.

#### Reason 3

This request was made for a purpose other than to obtain access. You have repeated the type of information related to [the city solicitor] that you seek, changing only the date range but still overlapping with other requests. That is, the information requested in this FOI request resembles the information requested in other FOI requests. This results in you receiving records of which you are already in possession. It is not the purpose of the FOI process to consolidate your records for you. In addition to this, requests by your son also duplicate information you have already requested in other FOIs. Actively seeking repeated information indicates that this request was made for a purpose other than to obtain access.

[5] The appellant appealed the city's decision to the Information and Privacy Commissioner of Ontario (the IPC) and it was assigned to a mediator to assist the parties in resolving the matter.

[6] As mediation did not resolve the appeal it was moved to the adjudication stage of the appeals process where an adjudicator may conduct an inquiry.

[7] I decided to conduct an inquiry and sought and received representations from the

city and the appellant on the facts and issues set out in a Notice of Inquiry.<sup>2</sup>

[8] In this order, I find that the city has established that the request at issue in this appeal is frivolous or vexatious within the meaning of section 4(1)(b) of the *Act*. I uphold the city's denial of access on that basis. I also find that the circumstances demonstrate that this is a suitable situation to impose conditions on the appellant's current and future access requests and appeals with the city by limiting the type and number of requests that can be submitted by the appellant to the city as well as the number of active appeals involving the appellant and the city.

## **DISCUSSION:**

[9] The sole issue to be determined in this appeal is whether the request at issue is frivolous or vexatious under the *Act*.

[10] As set out above, the frivolous or vexatious provisions set out in the *Act* provide institutions with a straightforward way of dealing with frivolous or vexatious requests. Orders under the *Act* and its provincial equivalent, the *Freedom of Information and Protection of Privacy Act (FIPPA)*, have stated that an institution has the burden of proof to substantiate its decision that a request is frivolous or vexatious.<sup>3</sup>

[11] Section 4(1)(b) of the *Act* reads:

Every person has a right of access to a record or a part of a record in the custody or under the control of an institution unless,

the head is of the opinion on reasonable grounds that the request for access is frivolous or vexatious.

[12] Section 5.1 of Regulation 823 made under the *Act* elaborates on the meaning of the phrase "frivolous or vexatious":

A head of an institution that receives a request for access to a record or personal information shall conclude that the request is frivolous or vexatious if,

(a) the head is of the opinion on reasonable grounds that the request is part of a pattern of conduct that amounts to an abuse of the right of access or would interfere with the operations of the institution; or

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<sup>2</sup> Portions of the city's representations and accompanying affidavit were withheld from the appellant as they met sections 6(a) and/or 6(b) of the criteria for withholding representations in *Practice Direction 7*.

<sup>3</sup> See, for example, Order M-850.

(b) the head is of the opinion on reasonable grounds that the request is made in bad faith or for a purpose other than to obtain access.

[13] In other words, under the *Act*, the head of an institution is required to conclude that a request for access is frivolous or vexatious if he or she is of the opinion on reasonable grounds that it fits into one or more of the following categories:

- it is part of a pattern of conduct that,
  - amounts to an abuse of the right of access, or
  - would interfere with the operations of the institution, or
- it is made in bad faith, or
- it is made for a purpose other than to obtain access.

[14] The city claims that the appellant's request is frivolous or vexatious under the *Act* because it is part of a pattern of conduct that amounts to an abuse of the right of access and would interfere with the city's operations.<sup>4</sup> The city also asserts that the appellant's purpose for making the request is other than to obtain access and that it has been submitted in bad faith.

[15] I find that the appellant's access request is part of a pattern of conduct that amounts to an abuse of the right of access and therefore, is frivolous or vexatious under section 4(1)(b) and section 5.1 of Regulation 823 made under the *Act*.

### **Previous related matters before the IPC**

[16] This is not the first time that the city's decision that a request made by the appellant or his son is frivolous or vexatious request has been considered by the IPC.

[17] For example, in Order MO-4300, I found that three requests made by the appellant were frivolous or vexatious and upheld the city's denial of access on that basis. In Order MO-4649, the adjudicator found that a request made by the appellant's son was frivolous or vexatious because it was part of the same pattern of conduct of the father that I discussed in Order MO-4300.<sup>5</sup> The city submits in this appeal that the appellant and his son are acting in concert.

### **The city's representations on the appellant's requests**

[18] The city submits that the appellant's rights of access are subject to the restrictions

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<sup>4</sup> Although the city did not expressly state in its decision that processing the request would interfere with its operations, it makes such a claim in its representations submitted in support of its position in this appeal.

<sup>5</sup> Additionally, Appeal MA24-00116, which is also currently before me addresses the city's decision to claim that an access request by the son is frivolous or vexatious. I address that request in Order MO-4760.

set out in Order MO-4300, which were established based on his pattern of conduct up to November 2022. The city submits that as set out in the affidavit of its Commissioner of Corporate Services, this pattern of conduct has continued and, in some cases, worsened.

[19] The city takes the position that the appellant has submitted an unreasonably high volume of access to information requests. The city submits that as set out in the affidavit of its Commissioner of Corporate Services, the appellant submitted 114 access requests to the city between 2021 and 2024.<sup>6</sup> The city submits in particular that after Order MO-4300 was issued, the appellant submitted only 3 access to information requests in 2023 to the city but then submitted 30 access to information requests in 2024.

[20] The city submits that many of the requests are repetitive and highly detailed and overlap each other in terms of the type of information, the time periods involved, and the city staff the appellant requests information about or from.

[21] The city also submits that the appellant's pattern of conduct has interfered with the city's ability to process access to information requests in a timely manner and has interfered with the ability of its Supervisor of Records, Print & FOI Services (the FOI Supervisor) to perform their full complement of job duties.

[22] The city submits that:

The city employs one individual that is responsible for processing all access requests received under [the *Act*]. The employee is required to receive the request for records, review the request, coordinate the receipt of responsive records, review and compile responsive records, collect appropriate fees, respond to inquiries regarding the city's FOI services and apply appropriate exemptions to responsive records. The Supervisor of Records, Print & FOI services also carries out a supervisory role and has other non-FOI related job functions that must be carried out.

[23] The city takes the position that the totality of the appellant's conduct demonstrates that the appellant's requests were made in bad faith, submitting that:

[The appellant] has sent excessive volumes of email to city staff, in particular at least 900 messages in 2023 and 5,591 messages in 2024, as well as 50 formal written complaints between July 2023 and March 2025, the general tone of which has been aggressive, hostile, insulting, and threatening;

He has regularly and routinely posted printed posters in locations around the city which name certain city staff members who have been the subject of his access requests and accuse them of various forms of malfeasance and public corruption. Many of these posters have been posted near City

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<sup>6</sup> The city included in this total a request it received on January 2, 2025.

Hall, which is or was the workplace of many of those named on them, and similar to his emails, they have been aggressive, hostile, insulting and threatening in tone;

He has regularly attended at city council meetings and its committees and engaged in conduct towards elected officials and staff that has resulted in his removal from meetings and the issuance, over a period of weeks, of several notices to him under the *Trespass to Property Act*<sup>7</sup> prohibiting his attendance at city council meetings and later, City Hall;

Despite these notices, he continued to attend which resulted in at least two physical confrontations between him, city security staff and police which resulted in his removal from City Hall and his arrest;

As a result of these incidents as well as his various communications, he faces several criminal charges, including assaulting and criminally harassing the City's Director of By-law and Security, criminally harassing the City's Director of Legal Services and City Solicitor, causing a public disturbance, and breaching the conditions of a release undertaking [...]

[24] The city submits that the tenor and tone of the appellant's communications with the city demonstrate that the appellant is engaged in a campaign against the city in connection with the actions of the city and its staff that he finds objectionable. Relying upon the Commissioner of Corporate Services' affidavit the city submits that the appellant has advised the city that he will pursue this campaign for the rest of his life.

[25] The city submits that its position is also supported by the pattern of access to information requests submitted by the named corporation to the city. The city submits that the appellant submitted multiple requests on behalf of the corporation, all of which the city says cover substantially the same subject matter as requests made by the appellant in his own name. The city submits that five of the requests specifically requested records pertaining to the appellant's conduct or correspondence.

### **The city's representations on the appellant's son's requests**

[26] The city takes the position that the appellant and his son are acting in concert. It submits that in the request underlying the other appeal before me<sup>8</sup> the son only seeks information pertaining to the appellant or to the named corporation. The city submits that the appellant is one of the directors of the corporation and the appellant and son "are understood to be shareholders of [that corporation]."

[27] The city submits that the request at issue in the other appeal before me was received by the city on January 23, 2024, and is an effective duplicate of a request

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<sup>7</sup> *Trespass to Property Act*, RSO 1990, c T.21.

<sup>8</sup> Appeal MA24-00116, being the subject of Order MO-4760.

submitted by the appellant to the city on January 22, 2024. The city submits that the son's request also overlaps significantly with three prior requests submitted by the appellant to the city.

[28] Furthermore, the city submits that as set out in the affidavit of its Commissioner of Corporate Services the appellant corresponded with the city regarding one of his own requests in which he challenged the city's decision that some of his son's requests were frivolous or vexatious. The city's Commissioner of Corporate Services states that the appellant wrote that, "He [the son] can submit as many [access to information] requests as he wants for whatever reason he wants."

[29] The city submits that in all the circumstances it is reasonable to infer that the request at issue in the other appeal before me was submitted by, or in the name of the son, to circumvent the application of the limitations in Order MO-4300 that were applicable to the appellant and the corporation.<sup>9</sup>

[30] In support of its position that the appellant and his son are acting in concert, the city relies upon the Commissioner of Corporate Services' affidavit which states that after Order MO-4300 was issued the requests made by the son increased with the son making a total of eight requests in 2023 and 2024. The city states that of those eight requests made by the son, seven of them either directly repeat or overlap in whole or in significant part with requests first made by the appellant.<sup>10</sup> The city submits that the remaining request was made first, with the appellant making a substantially similar request afterward. The city adds that five of the son's requests seek records specifically related to the appellant's conduct or correspondence related to the appellant.

[31] The city submits that there is a clear pattern of engagement of the son in the larger pattern of requests made by the appellant, a pattern which is intended to interfere with city operations and bully and intimidate city staff and as such represents an abuse of the right of access.

### **The appellant's representations**

[32] The appellant takes issue with the city's evidence and provides representations setting out concerns about the city's actions in relation to the appellant and his son as well as the city's services in relation to the property. This includes allegations that:

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<sup>9</sup> In Order MO-4300, I found that three requests made by the appellant were frivolous or vexatious and upheld the city's denial of access on that basis. I also imposed conditions on current and future access requests submitted by the appellant to the city as well as on any appeals from the city's decisions. In that regard, I allowed the appellant only one active request and appeal at a time. The remedy I granted in Order MO-4300 provided that after the conclusion of one year from the date of my order, either of the parties could make an application to seek to vary its terms, failing which it would continue in effect.

<sup>10</sup> One of those requests was the subject of Order MO-4733. In that order I upheld the city's decision, finding that a responsive record contained labour relations or employment related information that was excluded from the scope of the *Act* under section 52(3)3.

- the city failed to properly investigate a complaint that the appellant made against the city solicitor and an allegation that the city solicitor interfered with the appellant's access to information requests. The appellant also submits that the city solicitor has also attempted to undermine the appellant's character and reputation and is now attempting in this appeal to manipulate the IPC to restrict access to any information related to the city's solicitor's abuse of authority.
- the city's access to information office has abused its function and the appeal process to circumvent the purposes of the *Act*.

[33] The appellant also takes issue with the city's decision to issue trespass notices against him and to issue a Notice of Application for Vexatious Litigant Order against him and the corporation. The appellant states that because of the conduct of the city and its staff, complaints have been made and civil and criminal actions have been commenced against the city and the city solicitor.

[34] In response to the city's assertion that his request is frivolous or vexatious because it is an abuse of process the appellant asserts that his actions were justified because of limits on his communications improperly imposed by the city. The appellant alleges that this resulted in all the emails that he sent being directed to a special mailbox established under the communication controls, which mailbox he says was improperly established and controlled by the city solicitor. As a result, he says the intended recipients never received the emails and access to information requests went unaddressed.

[35] With respect to the volume of requests submitted by the appellant and his son, the appellant submits:

The [city] suggests that the number of requests for [access to information] has been abusive and overloading. I do not dispute that fact that I tried to utilize [access to information] because of major issues related to [the city] and its employees discriminating against my family for the purpose of legal services, and most recently related to the criminal conduct of [the city's Director of Bylaw Compliance and Security] and [the city solicitor] and the abuse of power by [the Head of the city's legal department].

### **The parties' representations regarding correspondence sent directly to the city during adjudication**

[36] During adjudication the appellant sent an email directly to the city referencing his son, stating:

I am not his legal representative. I represent him as his father, and we are also business partners in that we jointly own properties which have been adversely impacted by wrongdoing by municipal employees.

[37] The city submits that this statement reveals a partnership which includes both the

father and son through which they pursue a common goal or interest. The city submits that evidence of such a partnership supports its request for relief against the son and an order prohibiting the appellant from representing other persons in the access to information process. The city adds that the email also demonstrates the appellant's intention to make statements collectively for himself and his son.

[38] The appellant views the email as supporting the allegation that the city has engaged in improper conduct and validating his position.

### **Analysis and finding on a pattern of conduct that amounts to an abuse of the right of access**

[39] Section 5.1(a) of Regulation 823 made under the *Act* sets out that one way that a request can be determined to be frivolous or vexatious is if the institution establishes reasonable grounds for concluding that the request forms part of a pattern of conduct that amounts to an abuse of the right of access or would interfere with its operations. What constitutes "reasonable grounds" requires an examination of the specific facts of each case.<sup>11</sup>

#### ***Pattern of conduct***

[40] A pattern of conduct must be found to exist, prior to determining whether that pattern of conduct amounts to either an abuse of the right of access or would interfere with the operations of the institution.

[41] Previous IPC orders have addressed the meaning of the phrase "pattern of conduct." For example, in Order M-850, former Assistant Commissioner Tom Mitchinson stated:

[I]n my view, a "pattern of conduct" requires recurring incidents of related or similar requests on the part of the requester (or with which the requester is connected in some material way).

[42] The reasoning in Order M-850 has been considered in many subsequent orders issued by the IPC, which have also established that the cumulative nature and effect of a requester's behaviour may be relevant in the determination of the existence of a "pattern of conduct".<sup>12</sup>

[43] The former Assistant Commissioner also pointed out in Order M-850 that, in determining whether a pattern of conduct has been established, the period over which the behaviour occurs is a relevant consideration.

[44] Prior IPC orders have also considered conduct of individuals connected to a

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<sup>11</sup> Order MO-3292.

<sup>12</sup> See, for example Order MO-2390.

requester as a relevant factor in determining whether a request is frivolous or vexatious. Orders M-618, M-850 and M-947 support a conclusion that conduct of individuals connected to a requester could be relevant to determining whether there is a "pattern of conduct" or whether a request forms part of a "pattern of conduct." In Order M-850, former Assistant Commissioner Tom Mitchinson defined "pattern of conduct" as requiring "recurring incidents of related or similar requests on the part of the requester (*or with which the requester is connected in some material way*)."<sup>13</sup>

[45] In MO-4649, the adjudicator found that the son's request was part of the same pattern of conduct of the appellant that I discussed in Order MO-4300. At paragraph 27 of her Order the adjudicator summarized the son's representations on the interests he shares with the appellant as follows:

The son concedes that he has common business interests with his father. I understand from the son's representations that he and his father co-own a property which is owned by the specified company. The property is near the specified street. In addition to being a co-owner, the son is a property manager of the property. The son has also submitted an application with his father for a development of an adjacent lot.

[46] In her findings on the appeal, she wrote the following regarding the similarity between the request made by the son at issue before her and requests of the father that I found to be frivolous or vexatious in Order MO-4300<sup>14</sup>:

First, the October request is materially the same as the September request. Both requests are for correspondence of a specified city employee. While the requests slightly differ with respect to the applicable time period, there is a consistency in the time period across the requests. Further, the style of the requests is virtually identical.

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Second, the October request is overall similar to the father's requests that were found by Adjudicator Faughnan in Order MO-4300 to constitute a "pattern of conduct." [...] The October request seeks access to similar type of information as the father's requests that are part of a "pattern of conduct" and is similarly duplicative of prior requests.

Third, the timing of the October request further supports a conclusion that the October request is part of the father's pattern of conduct. The son concedes that he was aware of the city's decision to deem the September

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<sup>13</sup> Order M-850.

<sup>14</sup> At paragraphs 43 to 48.

request to be frivolous or vexatious. The son filed the October request shortly after the city's decision.

Fourth, I am not persuaded by the son's assertion that he submitted the October request to obtain information about the specified street. Given the events preceding the October request, the son would have already had access to most of the information that the October request seeks. Prior to the September request, the father made a request to the city for very similar information and received responsive records. I understand from the son's representations that he and his father share the same business interests and concerns about the specified street. It is also evident that they discuss their shared interests and concerns. Therefore, it is reasonable to conclude that the father would have shared with the son records he received from the city in response to his similar request.

[47] In my view, the access requests of the appellant and his son, including the one before me, continue to share a common wording, theme and style. They all deal with concerns and complaints about city services or staff, the treatment of the appellant and the issues relating to the corporation and the property it owns. In my view the request before me is part of a recurring incident of related or similar requests on the part of the appellant and his son or with which the appellant and son are connected in some material way. As a result, I find that the requests of the appellant and his son, who in my view are acting in concert, separately and jointly form part of a pattern of conduct as contemplated by section 5.1(a) of Regulation 823.

[48] As I have found that the request at issue in this appeal forms part of a pattern of conduct, I will now consider whether that pattern of conduct amounts to an abuse of the right of access.

*Pattern of conduct that amounts to "an abuse of the right of access"*

[49] Once it has been established that a request forms part of a pattern of conduct, it must be determined whether that pattern of conduct amounts to "an abuse of the right of access." In making that determination, institutions may consider a number of factors, including the cumulative effect of the number, nature, scope, purpose and timing of the requests.<sup>15</sup> Other factors, particular to the case under consideration, can also be relevant in deciding whether a pattern of conduct amounts to an abuse of the right of access.<sup>16</sup>

[50] Previous orders have stated that the focus should be on the cumulative nature and effect of a requester's behaviour because, in many cases, ascertaining a requester's purpose requires the drawing of inferences from their behaviour.<sup>17</sup>

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<sup>15</sup> Orders M-618, M-850 and MO-1782.

<sup>16</sup> Order MO-1782.

<sup>17</sup> Order MO-1782.

[51] In Order M-618, the conduct of an individual other than the appellant was relevant to determining the appellant's intent in filing access requests. Former Commissioner Tom Wright found that the appellant filed access requests with intent to burden the system because he was acting in concert with an individual who publicly admitted that his goal was to harass government and burden or break down the system.

[52] The IPC may also consider an institution's conduct when reviewing a "frivolous or vexatious" finding. However, an institution's misconduct does not necessarily mean that it was wrong in concluding that the request was "frivolous or vexatious."<sup>18</sup>

[53] Previous orders have found an intention by the requester to take issue with a decision made by an institution, or to take action against an institution, is not sufficient to support a finding that a request is "frivolous or vexatious."<sup>19</sup>

[54] In Order MO-4300, I found that the appellant's pattern of conduct amounted to an abuse of their rights of access. In reaching that conclusion, I found the number of requests made by the appellant were excessive by reasonable standards. I also found that the nature and the scope of the appellant's requests were excessively broad and the appellant submitted the requests for the purpose of burdening the system. In MO-4649, the adjudicator found that the son's request was part of the same pattern of conduct as that I attributed to the appellant in Order MO-4300. She found that the son's request at issue before her was an abuse of the right of access.

[55] As set out in the Commissioner of Corporate Services' affidavit the number of requests made by the appellant and his son for similar information has now increased substantially. In that regard, the number of requests made by the son, that I have found to be part of a pattern of conduct above, increased considerably after I issued Order MO-4300 and demonstrates a continued pattern of the appellant and his son working in concert to circumvent the conditions I imposed on the appellant in Order MO-4300.

[56] The evidence before me demonstrates that they have continued to make an excessive number of requests in concert, many of which are duplicative and submitted to burden the system. I find that the sum total of the requests made by the appellant, his son and the corporate entity they control, however counted, is sufficiently high to be considered a factor weighing heavily in favour of a finding that the pattern of conduct amounts to an abuse of the right of access.

[57] Additionally, I have considered the purpose of the requests, including the request at issue in this appeal, and whether they are intended to accomplish some other objective than to gain access to records. I am satisfied that there is sufficient evidence for me to conclude that by their pattern of conduct the appellant and his son are acting in concert to attempt to burden the system with their access requests, including the request at issue before me in this appeal. Even if it could be argued that it is not the appellant's intent to

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<sup>18</sup> Order MO-1782.

<sup>19</sup> Orders MO-1168-I and MO-2390.

burden the system with their access requests, the effect is the same - these repetitive and numerous requests, collectively, amount to an abuse of the right of access.

[58] In the circumstances of this appeal, I find the impact of this pattern of conduct amounts to an abuse of the right of access.<sup>20</sup> I say this while acknowledging that the appellant is not prevented from making an access request to obtain information relating to litigation or to further a complaint against the city.<sup>21</sup>

[59] Finally, I have also considered the appellant's suggestion that there has been bad faith on the part of the city, or its solicitor, in responding to their access requests or in imposing the communication controls and in commencing court proceedings. Despite their view that the city's actions should be a factor considered in determining whether their requests are frivolous or vexatious, in my view, and considering all the circumstances, the appellant has failed to provide sufficient evidence to support those assertions.

[60] For the reasons set out above, I find that the city has provided me with sufficient evidence to establish that the appellant's request forms part of a pattern of conduct that amounts to an abuse of the right of access under section 5.1(a) of Regulation 823 made under the *Act*. Therefore, I find that the city has established reasonable grounds for finding that the appellant's request is frivolous or vexatious under section 4(1)(b) of the *Act* and I uphold its decision to deny it on that basis.

## **Remedy**

[61] I will now consider whether I should impose conditions such as limiting the number of active requests or appeals the appellant may have in relation to the city.<sup>22</sup>

[62] I invited representations from the parties on the appropriate remedy in the event that I upheld the city's decision to declare the request frivolous or vexatious. The city responded by taking the following position:

- a. that the terms of paragraph 3 of Order MO-4300 be varied to remove the exception with respect to the son, with the result that Order MO-4300 shall apply to any request or appeal the son makes on behalf of or at the direction of the appellant;<sup>23</sup>

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<sup>20</sup> See in this regard the discussion in Order MO-3763.

<sup>21</sup> See in this regard section 51(1) of the *Act* which states:

This Act does not impose any limitation on the information otherwise available by law to a party to litigation.

<sup>22</sup> Order MO-1782.

<sup>23</sup> The remedy I granted in Order MO-4300 provided that after the conclusion of one year from the date of my order, either of the parties could make an application to seek to vary its terms, failing which it would continue in effect. Although in the appeal that gave rise to Order MO-4300, the city requested that conditions be imposed upon the son, in Order MO-4300 I decided that this would not be a part of the

- b. an order prohibiting the appellant from representing any person in any FOI request made to the city or in any appeal to the IPC in respect of any decision made by the city or deemed to have been made by the city. The city provided extensive legal argument in support of this relief.

[63] The appellant asserted that Order MO-4300 was improperly determined and in all the circumstances, especially in light of the appellant's view that the city has abused the access to information processes and misled this office, the order should be varied or set aside to remove any limitations on requests or on any appeals from the city's decisions.

[64] In Order MO-4649, the adjudicator was asked by the city to impose conditions on access to information requests and appeals made by the son. In denying the remedy sought by the city, she wrote the following at paragraph 65:

I acknowledge the city's concerns that without the remedy it seeks, the son may continue to submit requests that are duplicative of his father's requests in an attempt to circumvent city's decisions with respect to father's requests. In my view, there is insufficient evidence before me for me to reasonably conclude that the son will act in this manner. While the son references future requests in his representations, it would be improper for me to rely on a speculation to impose a remedy that would restrict the son's right of access at this time. However, there is nothing to preclude the city from seeking the same remedy in the future.

[65] The future is now. I found above that by their pattern of conduct the appellant and his son are acting in concert to attempt to burden the system with their access requests, including the appellant's request at issue before me in this appeal. In my view, given the appellant's pattern of conduct, he should be restricted from submitting an excessive number of similar requests or similar requests that are excessively broad and unusually detailed. I am also of the view that the appellant should be limited in his appeals with the city before the IPC. I set out the conditions applicable to the appellant in the order provisions below.

[66] I also find that it is not necessary for me to modify or vary Order MO-4300 to include relief against the appellant's son. This is because I have decided on the facts before me that a just order in the circumstances is that the appellant be restricted to having no more than one active request and one active appeal with the city at any given time for one calendar year starting from the date of this order. This will include a request or appeal made by an individual, corporation, organization or entity controlled by the appellant or acting on his behalf or under his direction. I have made the same order against the son in Order MO-4760 (which relates to Appeal MA24-00116).

[67] The city also requests an order prohibiting the appellant from acting for his son in

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remedy. My determination in this respect was based on the fact the issue of whether the request made by the son was frivolous or vexatious was the subject of another appeal which resulted in Order MO-4649.

any access to information request made to the city or in any appeal to the IPC. However, in my view, it is not necessary to impose a limitation on who can act for the son before the IPC.

[68] There is no evidence before me that the appellant has acted for any person other than his son or the named corporation, and the conditions that I impose in this order as well as in the related Order MO-4760, are in my view, sufficient to address the city's concerns about the appellant acting as representative for other parties in the context of access to information requests or before the IPC.

[69] If it appears that the appellant has multiple ongoing access requests with the city, he is to identify for the city the active request he wishes to pursue now.

### **ORDER:**

1. I uphold the city's decision to deny the access request at issue in this appeal on the basis that it is frivolous or vexatious under section 4(1)(b) of the *Act*. As a result, this appeal is dismissed, without prejudice to the appellant's right to submit a new request for information in accordance with the conditions as set out in provision 2 below.
2. I impose the following conditions on the appellant's access requests to the city or appeals involving the city:
  - a. For a period of one calendar year from the date of this order, I am imposing a one, single-part, request limit on the number and type of requests submitted by the appellant under the *Act* that may proceed at any given point in time, including any requests that are outstanding as of the date of this order. I also limit the appellant to one active appeal with the IPC involving the city that may proceed at any point in time for a period of one calendar year from the date of this order.
  - b. Subject to the one-request limit described in provision 2(a), if the appellant wishes any part of his requests that currently exist with the city to proceed to completion, the appellant shall notify the city and to advise as to which matter he wishes to proceed.
  - c. Pending this notification, any outstanding requests with the city are stayed.
3. The terms of this order shall apply to any requests made by the appellant or by an individual, corporation controlled by the appellant or any organization or entity acting on his behalf or under his direction but excluding the appellant's son who is the subject of Order MO-4760.

Original Signed by: \_\_\_\_\_

February 6, 2026 \_\_\_\_\_

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Steven Faughnan  
Adjudicator