

February 8, 2021

Ministry of Municipal Affairs and Housing

17th Floor, 777 Bay Street
Toronto, ON
M7A 2J3

Attention: The Hon. Steve Clark

Re: Advocacy for Reform – MFIPPA Legislation

At the Township of Guelph/Eramosa's Regular Meeting of Council held on Monday February 1, 2021, the following resolution was put forward and passed:

Be it resolved that the Council of the Township of Guelph/Eramosa has received Clerk's Department Report 21/03 regarding Advocacy for Reform – MFIPPA Legislation; and

That that the following motions be passed in support of a request to review and reform of the Municipal Freedom of Information and Protection of Privacy Act:

WHEREAS the Municipal Freedom of Information and Protection of Privacy Act R.S.O. 1990 (MFIPPA) dates back 30 years;

AND WHEREAS municipalities, including the Township of Guelph/Eramosa, practice and continue to promote open and transparent government operations, actively disseminate information and routinely disclose public documents upon request outside of the MFIPPA process;

AND WHEREAS government operations, public expectations, technologies, and legislation surrounding accountability and transparency have dramatically changed and MFIPPA has not advanced in line with these changes;

AND WHEREAS the creation, storage and utilization of records has changed significantly, and the Municipal Clerk of the Municipality is responsible for records and information management programs as prescribed by the Municipal Act, 2001;

AND WHEREAS regulation 823 under MFIPPA continues to reference antiquated technology and does not adequately provide for cost recovery, and these financial shortfalls are borne by the municipal taxpayer;

AND WHEREAS the threshold to establish frivolous and/or vexatious requests is unreasonably high and allows for harassment of staff and members of municipal councils, and unreasonably affects the operations of the municipality;

AND WHEREAS the Act fails to recognize how multiple requests from an individual, shortage of staff resources or the expense of producing a record due to its size, number or physical location does not allow for time extensions to deliver requests and unreasonably affects the operations of the municipality;

AND WHEREAS the name of the requestor is not permitted to be disclosed to anyone other than the person processing the access request, and this anonymity is used by requesters to abuse the MFIPPA process and does not align with the spirit of openness and transparency embraced by municipalities;

AND WHEREAS legal professionals use MFIPPA to gain access to information launch litigation against institutions, where other remedies exist;

AND WHEREAS there are limited resources to assist administrators or requestors to navigate the legislative process;

AND WHEREAS reform is needed to address societal and technological changes in addition to global privacy concerns and consistency across provincial legislation;

BE IT RESOLVED THAT the Ministry of Government and Consumer Services be requested to review the MFIPPA, and consider recommendations as follows:

1. That MFIPPA assign the Municipal Clerk, or designate to be the Head under the Act;
2. That MFIPPA be updated to address current and emerging technologies;
3. That MFIPPA regulate the need for consistent routine disclosure practices across institutions;
4. That the threshold for frivolous and/or vexatious actions be reviewed, and take into consideration the community and available resources in which it is applied;
5. That the threshold for frivolous and/or vexatious also consider the anonymity of requesters, their abusive nature and language in

requests to ensure protection from harassment as provided for in Occupational Health and Safety Act;

6. That the application and scalability of fees be designed to ensure taxpayers are protected from persons abusing the access to information process;
7. That administrative practices implied or required under the Act, including those of the IPC, be reviewed and modernized;
8. That the integrity of the Act be maintained to protect personal privacy and transparent governments.

Please accept this for your information and any necessary action.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jenni Spies', with a stylized, cursive script.

Jenni Spies
Deputy Clerk

Cc. Ted Arnott, MPP Wellington-Halton Hills
Michael Chong, MP Wellington-Halton Hills
Minister of Consumer Services
Information and Privacy Commissioner of Ontario
Association of Municipalities of Ontario
Association of Clerks and Treasurers of Ontario
Ontario Clerks