
SENT VIA EMAIL

May 5, 2021

Re: Advocacy for Reform

Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)

Please be advised that the Council of The Corporation of the Municipality of Leamington, at its meeting held Tuesday, April 27, 2021 enacted the following resolution:

No. C-119-21

Re: Advocacy for Reform - MFIPPA Legislation

BE IT RESOLVED that the Council of the Municipality of Leamington has received Clerk's Department Report LLS-15-21 regarding Advocacy for Reform of Municipal Freedom of Information and Protection of Privacy Act ("MFIPPA"); and

That that the following motion be passed in support of a request to review and reform of MFIPPA:

WHEREAS MFIPPA dates back 30 years;

AND WHEREAS municipalities, including the Municipality of Leamington, 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 MFIPPA 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 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 MFIPPA, including those of the Information and Privacy Commissioner, be reviewed and modernized;
8. That the integrity of MFIPPA be maintained to protect personal privacy and transparent governments.

Carried

Sincerely,
Brenda M. Percy, Clerk

cc: Rick Nicholls, MPP Chatham Kent - Leamington
Dave Epp, MP Chatham Kent - Leamington
Minister of Consumer Services
Information and Privacy Commissioner of Ontario
Association of Municipalities of Ontario
Association of Clerks and Treasurers of Ontario
Ontario Clerks