

APPENDIX 1

Citizens' Usage of the B.C. *FOIPP Act*

¶ Beyond the FOI usage by opposition parties or the news media – who serve the public interest in their own way – we need to focus now on the average B.C. citizens, who can least afford the request application fees permitted in Bill 22 (passed in November) and would be most harmed, the innocent parties caught in the political crossfire.

The government assures us that no application fees will be charged for personal requests, just for non-personal “general” ones; one problem we have is that the NDP implies that because most of the public do not file general requests, the public interest would not be harmed by possible prohibitive fees. This assumption is simply wrong.

Premier John Horgan claimed that “there will be no fee for individuals looking for information.” Vaughn Palmer responded: “Not so. The only exemption announced to date is for individuals requesting information about themselves. Individuals seeking non-personal information — from government ministries, health regions, universities, school districts, crown corporations — would be subject to an application fee.” (It is now set at \$10.)

B.C. information and privacy commissioner Michael McEvoy told the *Vancouver Sun* about the fee: “It poses an obstacle to access and accountability, and not just for media,” he said. “It could be a parent group, for example, that finds itself making access to information requests to multiple health authorities and to the Ministry of Health and other ministries. You could see how that number could add up awfully quickly and be a deterrent to people making legitimate requests.”

CBC Alberta journalist Charles Rusnell wrote that his province’s FOI application fee has always posed a financial barrier in Alberta. “This is particularly true for independent researchers affiliated with environmental groups and other non-profits, mall and even large media outlets and private citizens most of all.”¹

Ken Rubin, Canada’s most expert FOI applicant and researcher for news media, noted: “From my experience, higher initial fees do act as a barrier: it turns people off who would apply (like citizen groups, people seeking to discover government effects on their health, income, environment, consumer products, etc.). Back in 1982-83, the feds began with a \$5 application fee but draft regulations that I found said it would be \$10. The publicity on this changed the application fee back to \$5. I have often wondered if the fee was \$10 (or up to the possible legal limit of \$25 – still a possibility), what would have been the effect on usage.”

David Cuillier, PhD, president of the U.S. National Freedom of Information Coalition, said on Bill 22 that such a fee puts many citizens at a disadvantage in interacting with their government. “Even worse, it differentially hurts the poor, widening the information gap in our society.... The

¹ Charles Rusnell, David Cuillier, Ken Rubin, correspondence with the author, Oct. 2021

public records request system is a way for citizens to interact with their government, and simply should be considered a cost of doing business. So why start making it harder for citizens to know what their government is up to on this front?"

We too often forget the public paid for the production of these records, millions of them, and so they are for that reason as much the public's property as are roads, schools, and bridges. The public hence should not have to pay for their production twice, through new FOI fees.

In 2019 I produced an Excel database of 2,000 B.C. news stories produced by FOI requests since 1993, to demonstrate the public value of the access law to skeptics.

See: <https://canadafoi.ca/british-columbia-foi/> There are 70 stories in Category 6 concerning records obtained by citizens. Because these stories are based only on records that the citizens chose to share with the media, there are likely many other examples that we never hear about.

Most importantly, some of these citizens (who may be too poor to pay fees) filed general requests for their whole community's benefit, above and beyond their own personal interests. The public had never been truly consulted about such planned fees in Bill 22. One might inquire of the Premier and cabinet members: is there any information in the stories below - if the FOI requests that revealed it had been blocked by application fees - that your constituents would be better off not knowing about?

30 samples of the fine usages of "general information" B.C. FOI requests by average citizens, aiding a larger community purpose

(Portions highlighting the citizens' applications I have placed in italics)

[1]

School's seismic safety rattles parents. By Jeff Rud, Victoria Times Colonist, April 8, 2003

Nobody knows for sure just how 109-year-old South Park elementary would fare if Greater Victoria experienced a major earthquake. But two engineering reports 12 years apart raising concerns about the safety of the popular James Bay school were enough for Alexander Galitzine to pull his two daughters from the school. The 2002 report results were *obtained by the South Park parent advisory council safety committee through the Freedom of Information Act*. It showed indications of a collapse hazard in even a moderate quake "with the probable complete loss of South Park elementary school." The Galitzines are one of four South Park families who had their children leave the school.

[2]

Removal of hospital beds opposed by own experts. By Don Harrison, The Province (Vancouver), Jan. 18, 2004

The Fraser Health Authority removed all but a handful of acute-care beds from Delta Hospital despite being warned by its own experts about such a move. FHA documents show the two medical committees it set up to look into the controversial downgrading of Delta Hospital to a sub-acute facility advised last February that it would either be difficult or impossible to find room as planned for Delta patients at already-crowded Richmond and Surrey hospitals. The waits for beds could potentially put acutely ill patients at risk. This revelation comes after *the people of Delta filed a FOI request* to examine their health authority's plans. The 14 months' worth of documents are as thick as a phone book, but according to Delta's mayor, fail to answer the big questions.

[3]

Losing track; Schools not taking ownership when struggling students leave traditional system early. By Janet Steffenhagen, Vancouver Sun. Apr. 5, 2010

A woman who was duped by a now-defunct company on contract with the College of the Rockies to recruit and help train nursing students has won a \$25,000 judgment in small claims court after a two-year battle with the public institution. The college, located in southeast B.C., has also settled out of court with two other students who said they were cheated by the company, PTI Online, between 2002 and 2007. The college cut ties with the company in October 2007 after discovering it had falsified documents for students seeking entry to the college's access to practical nursing program. *Unable to afford a lawyer, students used FOI to gather evidence and took their case to "the poor people's court,"* said a friend.

[4]

Woman launches class action suit after eardrum surgery. By Pamela Fayerman, Vancouver Sun, Apr. 25, 2006

A Vancouver woman who was shocked to learn she may have received infected donor tissue during reconstructive eardrum surgery in 1994 has launched what she hopes will be a class-action lawsuit against St. Paul's Hospital, the B.C. Ear Bank and a number of other defendants. *Her lawyer David Klein, who is asking the court to certify the case as a class action, said 70 pages of documents he obtained from the provincial government through FOI processes,* showed that when Health Canada conducted a review of the facility in late 2002, there were numerous health and safety concerns about the way materials like bones, membranes, and cartilage were being collected, stored and distributed.

[5]

Lyme disease recognized. By Barb Brouwer, Salmon Arm Observer, Aug. 6, 2013

Sheri and Rory Mahood know well the hell that can follow a tick bite. Both are suffering the debilitating effects of Lyme disease from tick bites they received on their own Sunnybrae property in the fall of 2009. *The couple has formed the Lyme Disease Association of B.C. Through a FOI request, the Mahoods got a copy of a 2010 report, Chronic Lyme Disease in British Columbia – a Review of Strategic and Policy Issues*, commissioned by the Provincial Health Services Authority and clearly marked, “Not for distribution.” Prepared by Brian T. Schmidt, retired senior vice-president of the provincial health authority, the report laid out the nature of the disease and offered several recommendations.

[6]

New windows in B.C. Housing apartments. Change not directly related to suicide of tenant three years ago. By Dan Hilborn, Burnaby Now, July 22, 2006

Three years after Harry Kierans leaped to his death out the windows of his 14th-floor suite in the Hall Towers at Kingsway and Edmonds, B.C. Housing is halfway through a \$4.6-million program of installing safer, smaller and more energy-efficient windows in the two highrise apartment buildings. *After filing a series of freedom of information requests to obtain their brother’s government records, Harry’s sisters received a stack of documents* measuring more than 22-cm thick including several memos that indicate Harry had made several requests to move out of the Hall Tower in the months leading up to his suicide.

[7]

Daycare inspection reports don’t mention losing kids. By Staff, CBC BC, Jan. 10, 2014

A Vancouver woman says she was shocked beyond belief to learn that daycare staff failed to notice when her two-year-old daughter wandered off and ended up alone outside in a parking lot. Rachel Garrick says young Henrietta had not been gone long when she wandered away from the Hastings Park Childcare Centre last November, but that fact is hardly comforting. When she could only find glowing licence reports and no mention of similar incidents, *she sent Vancouver Coastal Health, the licensing agency, a request under the B.C. FOI Act.* “I received that [response] last week and it was very upsetting to see in August, just a few months before Henrietta went missing, they lost track of another child.”

[8]

Abbotsford residents urge change in high-crash ‘Sumas Prairie Speedway.’ By Dustin Godfrey, Mission City Record, Dec. 1, 2018

A crash at the intersection of Dixon and Campbell roads left Camille Timmermans and her husband Nathan with long-lasting injuries, including a concussion and muscle issues. Joyce Verwoerd, who lives across the street from the Timmermans, adds grimly that an area resident only recently suffered that very fate. *Verwoerd recently filed a freedom of information request with the Abbotsford Police Department for the number of crashes and fatalities on the area’s*

roads. *The numbers are staggering*: 233 crashes in that time and seven deaths. That's two crashes per month and nearly one death per year.

[9]

No discussion on school sale. Letter by Linda Travers, Victoria resident, Victoria Times Colonist, Apr. 22, 2007

The Greater Victoria School District's decisions to close schools and sell taxpayers' property without a clear, transparent process are unconscionable. For months, I have been trying to get meaningful information about the January sale of Fairburn Elementary to a private developer. Starting with rumours last fall I eventually learned that a real estate company was directed in November 2006 to sell Fairburn without notification to taxpayers and nearby residents. *My Freedom of Information request* revealed there was no board meeting to change Fairburn's status from a three-year lease to a decision to sell — in direct contradiction to a May 13, 2003, district press release confirming that "schools slated for closure will not be sold." Parents and others from Lampson, Cloverdale, Richmond and other schools are doing their part by providing trustees with excellent information.

[10]

CSRD failed residents. Letter by Dale and Karen Van Male, Campbell River Courier – Islander, May 2, 2007

Re. your article "Dump trucks in school zone angers parents". The residents of the area are angry also. This has been an ongoing operation for four years with the last two years being the worst. Anyone living on Crawford or McLelan Road knows the magnitude of this operation.... One of the biggest blows to the residents was recently when *a copy of the Development Permit for the property in question was obtained, through the Freedom of Information Act*, and it became immediately obvious that the property owner was not living up to many of the terms and conditions as stated in the Development Permit and the Regional District was not enforcing it.

[11]

Surface lease review finally released to public. By Friedrich Hardy, Alaska Highway News (Fort St. John), June 8, 2007

Last week, northeast landowners and interest groups received a review of oil and gas surface leases contracted by the provincial government in 2005, but it's left them to wonder why it came two years late. A number of Peace residents were involved in the compilation of data through meetings and submissions, and at the time public policy consultant firm Perrin, Thorau and Associates said the report would be made public. But it wasn't until *resident Rick Koechl filed a FOI request on behalf of concerned landowners* that the final copy of the report "Availability of Information About Surface Access Leases" made its way into the region. The 43-page document reveals four recommendations that work towards providing landowners with sufficient information to negotiate surface lease agreements with oil and gas companies.

[12]

'Nuisance' gains privacy victory; School board will have to provide information about pedophile teacher. By Janet Steffenhagen, Vancouver Sun, March 17, 2008

School officials describe him as a nuisance, but the provincial privacy office has ruled that an Abbotsford parent who has doggedly asked questions about the handling of a pedophile teacher deserves answers. The decision is a victory for Greg Cross, who has been trying to get information from the Abbotsford board of education regarding Serge Lebedoff since 2001, when he reported disturbing behaviour by the teacher-on-call and was told by a school principal that an investigation was underway. Cross continued to ask questions. That prompted the board to appeal to the Information Commissioner for permission to ignore his requests, saying they were frivolous, vexatious, annoying and costly. But in a recent ruling, the office refused, saying Cross has a legitimate interest in the matter and the board must respond.

[13]

Residents call for pedestrian walkway. By Devon MacKenzie, Peninsula News Review (Sidney), Oct. 5, 2012

A group of Central Saanich residents are banding together to call for a pedestrian walkway to be put in along a section of West Saanich Road. "We want this path primarily for safety and accessibility," resident Barb Whittington said. "According to a freedom of information request we got from the municipality, when this stretch of road was monitored from the fall of 2011 to the early spring of 2012, 100 per cent of the vehicles traveling down it were speeding, even after the speed limit was changed from 50 to 40 kilometers an hour."

[14]

No easy answers: FOI requests 'overwhelm' City of White Rock; Residents question city's responses. By Melissa Smalley, Peace Arch News (White Rock), March 31, 2016

White Rock residents say they are getting little response from the city on FOI requests, some dating back more than a year and are questioning why the process of accessing information is difficult. *Ross Buchanan is one of several residents to file a handful of FOI requests with the city.* Buchanan's requests have covered a number of issues in the city over the past two years, including correspondence about the then-proposed addition of chloramine to the water supply, documentation of the city's research into joining the Greater Vancouver Water District and an untampered expense file for Mayor Wayne Baldwin for an 18-month period.

[15]

Suicide prompts call for changes; Coroner. By Cindy Harnett, Victoria Times-Colonist, May 4, 2013

A coroner's report is calling for the files of all students with a diagnosed mental illness to be flagged, after a Victoria student with an anxiety disorder committed suicide after being kicked out of her school's gifted program. The report is a sober portrait of how the school system failed Freya Milne – an artistic, sensitive 16-year-old with “exceptional abilities and needs.” An email *obtained by the family under FOI* shows the school's former co-ordinator of the gifted education program saw no compelling reason to give Freya “special treatment” because “she doesn't want to do an essay.”

[16]

***Motocross track illegal.* By Ray Chipeniuk, letter to editor, *Interior News* (Smithers), May 23, 2012**

About a year ago, I came to the Interior News office to complain to the editor of that era about the abundant coverage given to the Smithers Motocross Association (SMXA). The main grounds for my complaint were that motocross is an illegal use of the land base where the SMXA operates and the noise from illegal motocross events is a nuisance for residents up to three kilometres away. For verification of the statements I make in this letter about land use, zoning, and even the term “illegal,” *I encourage you to obtain the relevant documents from the RDBN. I did, through Freedom of Information, and I am not a reporter.*

[17]

***DNV developments flagged over traffic concerns; MLA cautions putting brakes on housing is no traffic fix.* By Brent Richter, *North Shore News*, Dec. 7, 2018**

The Ministry of Transportation and Infrastructure has flagged the District of North Vancouver, raising concern about the pace of development. The sentiments were spelled out in a series of letters from the ministry to district staff sent during the rezoning processes for a 150-unit townhouse project in Lions Gate and for the 411-unit Emery Village redevelopment in Lynn Valley. Kelly Bond, who with her fellow Emery Village renters is set to be demovicted in April, came by the letters via a Freedom of Information request she filed while informing herself about the development process.

[18]

***Unintended obfuscation?* By Paul Henderson, *Chilliwack Times*, Dec. 7, 2010**

Currently some residents in Yarrow have their collective knickers in knots because of a quarry operator's proposal to build a gravel conveyor belt system down the north face of Vedder Mountain to some properties on Vedder Mountain Road. Yarrow resident Victor Froese has been on the forefront of the battle to stop this particular project, which could basically turn a large piece of land into a gravel pit in his otherwise bucolic neighbourhood. *Froese and his neighbour Walter Raupach have been determined, and have gone so far as to make FOI requests to find out where the project is at.* At the newspaper, we are used to being led down the garden

path either with distraction, misinformation or simply with language, so the persistence of Froese and Raupach is admirable.

[19]

Our school trustees eating well. By Cathy Wolfe, letter to editor, Courtenay Comox Valley Record, Nov. 4, 2008

Through a Freedom of Information request, I have discovered how much the SD71 school board spent on catering from January 2007 until June 2008. During this 18-month period, the board spent about \$146,500 of taxpayers' dollars to feed themselves, management and other SD71 employees at various meetings within the Comox Valley. This amount does not include expenses for the travel of trustees and district staff outside the district. I wonder how many lunch programs for needy students or how many learning assistance teachers or computers this money could have paid for instead, and how this huge expenditure benefited students at all.

[20]

'It's all about trust'; Concerned residents pore over 6,000 pages about OSB plant. By Matt Lamers, Alaska Highway News (Fort St. John), Oct. 17, 2013

Greg Hammond knows the problems Peace Valley Oriented Strand Board has had in honouring its environmental commitments better than anyone. He owns land directly south of the particleboard plant, and says his land has been flooded twice "that we know about" with contaminated water, causing damage to the property. "The land's not the same," he said. *Due to the fruits of a long delayed FOI request - 6,190 pages of documents - a group now has the information to help explain why the land may have changed*, and how Peace Valley OSB repeatedly ran into major problems with British Columbia's environmental regulations while the land was changing. One ministry letter told of how Peace Valley OSB's dryer stack failed to comply with the province's regulations for formaldehyde and air flow rate.

[21]

Canada Line operator ordered to reveal its deal with TransLink. By Kelly Sinoski, Vancouver Sun, April 8, 2009

The operators of the Canada Line have been ordered to reveal all the details of their agreement with TransLink, despite claims by Canada Line Rapid Transit Inc. that it would lead to an increased risk of terrorism and cause financial harm. Celia Francis, senior adjudicator for the Information Commissioner, said Canada Line Rapid Transit and InTransitBC did not provide sufficient evidence to "establish a reasonable expectation of harm flowing from disclosure." She ordered all information of the concession agreement be made available to lawyer Cameron Ward, who filed the FOI request, within the next 30 days. *Ward represents former Cambie merchant Susan Heyes, who successfully sued TransLink, InTransitBC and Canada Line Rapid Transit for \$600,000 in damages after losing business as a result of tunnel construction along Cambie Street.*

[22]

***Schools group questions information from district.* By Staff, *Harbour City Star* (Nanaimo), Dec. 27, 2013.**

Members of the *Save Cedar Schools coalition* have questions about information they received from the Nanaimo-Ladysmith school district. Spokesman Steve Rae said the coalition is sifting through more than 6,000 pages of correspondence and material related to schools in their area that they requested from the district in a FOI request. “We’ve spent \$2,000 and more than four months of our time on trying to get this information and all we received was an incomplete record of what we wanted,” Rae said. “We’ve been in contact with the Ombudsman’s office and are asking that an investigation be held into this issue.” The district contracted a consultant, at a cost of \$10,000, to help comply with three FOI requests regarding the district’s plans for schools in Cedar.

[23]

***WCB doctors too old to practice.* By Barbara McLintock, *The Province* (Vancouver), Apr. 10, 1997**

The fate of some injured workers in B.C. is in the hands of retired doctors who aren’t even allowed to practise any more, charges NDP MLA Rick Kasper who cited in the legislature the case of one of his constituents who found that two of the three doctors on his Workers Compensation Board “medical review panel” were no longer on the active list kept by the College of Physicians and Surgeons. Instead, they were “life members” — a category reserved for retired doctors who are specifically banned from “practising medicine for gain,” Kasper said. But the injured worker involved, Clayton Adkens, from Sooke, told *The Province* that when he used FOI to research his own case, he found one of the doctors had been paid about \$1,300 for his case alone. “I wanted to know what the qualifications were of the doctors on my case,” said Adkens, a welder with lung damage. “But when I looked at the (college’s) list, I couldn’t find two of the names there at all.”

[24]

***Terry Jacks’ longest season.* By Stephen Hume, *Vancouver Sun*, Dec. 2, 2000**

The story began five years ago when a call from a shift worker at Howe Sound Pulp and Paper in Port Mellon tipped former singer Terry Jacks that the mill was not in compliance with its emission permits for sulphur dioxide and nitrogen oxide. Jacks says he didn’t take the tip at face value. Instead he filed freedom of information requests with the provincial environment ministry for data comparing emissions from pulp mill stacks with the levels set under the pollution permit granted by Victoria. The bureaucrats led him on a merry chase, he says. But he persisted and he finally got the statistics he sought.

[25]

***Safe, quality daycare was all she wanted,* by Deborah Pearce, *Victoria Times Colonist*, March 23, 1997**

The Capital Regional District released details to the Times Colonist – through the initial FOI work of concerned mother Brenda Day – of problems involving day-care operator, Sunny Times Day Care, exposing a sorry history of complaints from parents about the treatment of their children while at the still-operating facility. Columnist Deborah Pearce said that only days after her story appeared, “parents started coming out of the woodwork with complaints against the woman who ran the place.” In the end, the manager voluntarily surrendered her day care licence, and promised to close her facility. *Pearce said later “in my opinion Sunny Times would still be operating without FOI.”*

[26]

Peeved pop says pupils political pawns, by Gordon Clark, The Province (Vancouver), Feb 5, 1997

The NDP was accused of putting politics ahead of children in its handling of new school funding. *Dr. Murray McFadden, a Langley parent-activist, said cabinet ignored an objective list prepared by the education ministry ranking 64 school projects in order of priority.* Only three of the 11 new schools projects announced Monday -- all in NDP ridings -- were on the list. "I would say there is child exploitation there," he said. "Because the needs of the kids of all the province should come before any partisan political needs of any party." *He obtained the list through FOI,* and wondered why Ron Brent elementary, curiously in Education Minister Paul Ramsey's town, was able to jump over 60 other schools waiting for funding. Vancouver school board co chairwoman Sandy McCormick said she was upset that Magee, in a Liberal riding -- the school at the top of the ministry list -- was ignored. She said the school is badly overcrowded, has asbestos- hazard problems and had to evacuate most of its top floor after recent flooding.

[27]

Letter: Parksville's mayor has some explaining to do, by Carl Anshelm, Harbour City Star (Nanaimo), Sept. 4, 2002

Despite two requests, in writing, the Mayor has declined to inform the taxpayers of the financial status of her multimillion dollar ‘vision and dream’ – the Civic and Technology Centre. Failing response from the Mayor, the writer, under provisions of the Freedom of Information Act, followed up by a formal complaint to the FOI commissioner, the following details were released: 1. The amount of money borrowed to date as authorized by referendum is \$4,550,000. 2. The interest paid to date on borrowed funds – \$374,745. 3. \$1,050,000 of the amount borrowed and \$59,745 of the interest is being repaid from lease revenues received by the city from the Vancouver Island Regional Library.

[28]

Mom mad at school board: No thanks for lobbying, she's called gay activist, by Sheryl Yaeger, The Province (Vancouver), May 25, 1997

Surrey parent Jackie Ward is miffed that, after bringing in more than \$70,000 for a new school, her only recognition was to be called a homosexual activist. Robert Pickering (the board's chairman) has been vocal in his opposition to teachers receiving education about recognizing and assisting homosexual students. Ward, who is one of three members of Heterosexuals Exposing Paranoia, said the board is being run by personal agendas. She noted that while Pickering says the school board is trying to get more money from the province, a freedom-of-information request showed that he has written one letter in six months, and it wasn't about funding.

[29]

Health authority intervenes at yet another China-owned senior home; Official highlights concerns about insufficient staffing, lack of cleanliness, by Joanne Lee-Young, Vancouver Sun, Dec. 13, 2019

Sandra Hawkes is watching as health authorities on Vancouver Island have intervened at another senior care home owned by a Beijing company and is wondering why the Fraser Health Authority isn't taking similar steps. In 2017, Ottawa approved a \$1-billion-plus deal for Anbang Insurance Group to buy Retirement Concepts and its 20 senior care homes, including Waverly. It was controversial from the start. Critics argued patient care could be harmed under a foreign company that revealed little about who actually owned it, which is a requirement under federal investment rules. *Hawkes has spent months requesting more specific details about inspections through FOI requests.* This has yielded inspection reports for Waverly in 2017-19 showing licensing officers making repeated requests for "corrective action" by certain dates.

[30]

B.C. school size rules ineffective, critics say, by Zak Vescera, Vancouver Sun, July 22, 2019

Trustees, teachers and parents say the province's school-design rules are out of step with student needs and modern curriculum.... The standards mean some of those rebuilds, like the one scheduled for Eric Hamber Secondary, will be significantly smaller than their predecessors. Vik Khanna, a tech entrepreneur who has a son attending Hamber, says he's concerned the new school will be more than 30 per cent smaller even though it is earmarked to accommodate the same number of students. The Vancouver school board has appealed to the ministry for more funding for the Hamber project, which is already set to cost \$79.3 million. *Khanna says responses to FOI requests he filed indicated adding the space could cost as much as \$20 million more.*

(And many more such stories)
