



**Home
Construction
Regulatory
Authority**

Public Access to Information Policy

Purpose:

The public can access information from the Home Construction Regulatory Authority (“HCRA”) under the HCRA’s [Access and Privacy Code](#) (the “Code”). The Code is an important part of the administrative agreement between the government and the HCRA, designed to promote transparency while protecting confidential information. This document helps explain the Code; however, we encourage readers to review the Code itself for further details.

What is an Access to Information request?

An Access to Information (“ATI”) request is a request made by a member of the public to access records held by the HCRA. The purpose of the HCRA’s ATI framework is to provide the public with a right of access to information while balancing the need to protect personal and other confidential information held by the organization.

Ontario’s Freedom of Information and Protection of Privacy Act (“FIPPA”) is the legislation that governs information controlled by the provincial government and other public institutions. Since the HCRA is not a government agency, FIPPA does not apply to us. Instead, the Code incorporates FIPPA-like principles and governs the HCRA’s responsibilities regarding information and privacy. In this way, the HCRA demonstrates its commitment to promoting transparency and accountability in its regulatory activities.

What can I request access to?

The primary right of access you have as a member of the public is to your own personal information or public information in the custody or control of the HCRA.

This right is subject to the exceptions laid out in section 10 of the [Code](#). Most commonly, these exceptions apply when a record is derived from or may compromise an inspection, investigation, or enforcement activity of the HCRA; may have been generated in the handling of complaints; or may not be in the public interest to release. We provide further details in the following section. These exceptions exist because the HCRA, as the regulator, has powers of inspection to access confidential information that would not otherwise be available to the public.

In cases where the records pertain to individuals or organizations other than the party making the request, even if closely related, disclosure must be requested separately and directly by those individuals or organizations through their own ATI request, or with their consent.

Section 80 of the New Home Construction Licensing Act, 2017 (“NHCLA”) plays a key role in determining what the HCRA can disclose in response to a request. This section requires the HCRA to preserve the confidentiality of information it obtains in fulfilling its duties as a regulator, subject to certain exceptions. If a request does not meet these exceptions, the HCRA cannot disclose the information requested.

I've filed a complaint against a licensee. Why can't I get all the information stemming from my complaint?

If you have filed a complaint against a licensee, you will naturally be interested in what happens to the complaint – including how the licensee responded to allegations of misconduct and the HCRA's analysis and notes related to the file. However, an ATI request is not a route to obtaining this information.

It is important to note that your role as a complainant does not entitle you to all the information that flows from the complaint, including inspection notes, the licensee's responses, and financial and technical analyses conducted by the HCRA.

The parties to the regulatory process are the HCRA, as the regulator, and the builder, as the regulated licensee. As a regulatory body, the HCRA relies on complaints from the public about licensees to fulfill its duties in the public interest. However, this does not change the fact that the complainant is not a party to an inspection and, consequently, the information gathered in an inspection does not belong to the complainant.

As a regulator, the HCRA has powers of inspection that it can use to compel the licensee to respond to requests and provide its confidential information. This allows the HCRA to make fully informed decisions about whether regulatory action is warranted. Because the licensee is required to give us information that would not otherwise be available to the public, the HCRA has a duty to protect that information and preserve its confidentiality.

We recognize that complainants should get updates about the complaints they've lodged. The inspector assigned to your file is your primary source of information.

How can I submit an ATI request?

You can submit an ATI request by filling out the ATI request [form](#) and submitting it to the HCRA.

What happens next? Are there costs involved?

Once you have submitted an ATI request, you can expect to receive an acknowledgement email soon thereafter. Your request will then be reviewed.

According to section 9.5 of the [Code](#), the HCRA may ask the requester to cover the costs of responding to the ATI request. Before processing your request, we will determine the amount of staff time required to respond to the parameters in the request.

As of the date of this Policy, the HCRA has decided that if the total time commitment needed by staff to fulfill the ATI request is expected to be less than 10 hours, the HCRA will absorb the cost of fulfilling the request. If the expected time **exceeds 10 hours**, the requester will receive an email with an estimated cost. The requester can then choose to proceed with the request by agreeing to the cost, narrow the scope of the request, or withdraw the request.

The HCRA's decision to absorb costs for searches under 10 hours reflects our commitment to remain open and accessible to the public. However, this policy is subject to change without

notice and may not apply to requests made unnecessarily or repeatedly, or that are substantially similar to previous requests by the same requester.

Please note there is no timeline for a response to an ATI request as each request varies significantly. The HCRA will aim to respond within a reasonable timeframe.

What if I disagree with the outcome of my ATI request?

If you disagree with the outcome of your ATI request, section 16.1 of the [Code](#) explains how to file a complaint (an “ATI Complaint”). Your ATI Complaint must clearly describe the issue you want reviewed and be addressed to the HCRA’s CEO & Registrar. You can file your ATI Complaint by email at: info@hcraontario.ca.

The CEO will review all ATI Complaints and will endeavour to respond within 30 days. If that is not possible, you will be advised of the expected response time.

If your ATI Complaint is found to be justified, the HCRA will take appropriate measures to resolve the issue, including, where necessary, amending its procedure and practices.

Important Definitions

While the Code sets out a more exhaustive list of definitions, here are the most relevant terms:

Control means the power or authority to make a decision about the use or disclosure of the record.

Custody (of a record) means the keeping, care, watch, preservation or security of the record for a legitimate business purpose.

Enforcement means:

- policing;
- complaints, inspections, deliberations or investigations that lead or could lead to proceedings in a court or tribunal of the HCRA or other provincial and federal enforcement bodies;
- compliance with regulatory requirements; or
- the conduct of proceedings referred to in clause (b)

Personal information means a record of information about an identifiable individual or by which an individual’s identity could be deduced, but does not include the name, title, business address, or telephone number of an officer, director, or employee of an organization, or a person acting in a business capacity.

Public information means a record that the HCRA has published on its website or has otherwise determined is necessary to make available to the public in order to carry out its administration of the NHCLA.

Frivolous and vexatious (requests) means any request for information instituted, for example, without any reasonable ground; whose purpose is not legitimate, but is designed to harass or to accomplish some other objective unrelated to the process being used; is a repeat request for the purpose of revisiting the previously addressed issue; or is made in bad faith; or, a speculative and/or indiscriminate demand for information without any reasonable grounds to identify an expected outcome.

Public posting

The HCRA shall make this policy available to the public, including by posting on its website.

Policy Change History

Version	Date Approved	Description of Change
1	2023-09-23	Policy established.