



ARCS: 292-30  
File: HOU-2011-00048

January 26, 2012

Sent via email:

Dear

**Re: Request for Access to Records**  
***Freedom of Information and Protection of Privacy Act (FOIPPA)***

I am writing further to your request received by the Ministry of Energy and Mines, and Responsible for Housing. You narrowed your request on December 20, 2011 through conversation and/or email with Krisna Phosy. Your request is for:

*Copies of the correspondence received by the RTB pertaining to the complaints with the dispute resolution process and the dispute resolution officer's conduct for the month in 2011 that had the greatest volume of incoming correspondence on this topic.*

Please find enclosed a copy of the records located in response to your request. Some information has been withheld pursuant to sections 17 (Disclosure harmful to the financial or economic interests of a public body) and 22 (Disclosure harmful to personal privacy) of FOIPPA. Copies of these sections of FOIPPA are provided for your reference. A complete copy of FOIPPA is available online at:

[http://www.bclaws.ca/EPLibraries/bclaws\\_new/document/ID/freeside/96165\\_00](http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/96165_00)

A portion of the records are outside the scope of FOIPPA, as per section 3(1)(c), as they were created for the Ombudsperson and relate to the exercise of the Ombudsperson's functions under the *Ombudsperson Act*. Your file is now closed.

.../2

These records will be published on the BC Government's Open Information website a minimum of 72 hours after it is released electronically or a minimum of five business days after it has been released by mail in hardcopy. To find out more about Open Information, please access the Open Information website at: <http://www.openinfo.gov.bc.ca/ibc/index.page>

If you have any questions regarding your request, please contact Krisna Phosy, the analyst assigned to your request, at 250-356-4857. This number can be reached toll-free by calling from Vancouver, 604-660-7867, or from elsewhere in BC, 1-800-663-7867 and asking to be transferred to 250-356-4857.

You have the right to ask the Information and Privacy Commissioner to review this decision. I have enclosed information on the review and complaint process.

Sincerely,

A handwritten signature in blue ink, appearing to read 'K. Ghag', is positioned above the typed name.

Kris Ghag, Manager  
Resource Team  
Information Access Operations

Enclosures

<p>How to Request a Review with the Office of the Information and Privacy Commissioner</p>
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If you have any questions regarding your request please contact the analyst assigned to your file. The analyst's name and telephone number are listed in the attached letter.

Pursuant to section 52 of the *Freedom of Information and Protection of Privacy Act* (FOIPPA), you may ask the Office of the Information and Privacy Commissioner to review any decision, act, or failure to act with regard to your request under FOIPPA.

**Please note that you have 30 business days to file your review with the Office of the Information and Privacy Commissioner. In order to request a review please write to:**

Information and Privacy Commissioner  
PO Box 9038 Stn Prov Govt  
4th Floor, 947 Fort Street  
Victoria BC V8W 9A4  
Telephone 250-387-5629      Fax 250-387-1696

If you request a review, please provide the Commissioner's Office with:

1. A copy of your original request;
2. A copy of our response; and
3. The reasons or grounds upon which you are requesting the review.

### **Scope of this Act**

**3** (1) *This Act applies to all records in the custody or under the control of a public body, including court administration records, but does not apply to the following:*

- (a) a court record, a record of a judge of the Court of Appeal, Supreme Court or Provincial Court, a record of a master of the Supreme Court, a record of a justice of the peace, a judicial administration record or a record relating to support services provided to the judges of those courts;*
- (b) a personal note, communication or draft decision of a person who is acting in a judicial or quasi judicial capacity;*
- (c) subject to subsection (3), a record that is created by or for, or is in the custody or control of, an officer of the Legislature and that relates to the exercise of that officer's functions under an Act;*
- (c.1) [Repealed 2002-50-19.]*
- (d) a record of a question that is to be used on an examination or test;*
- (e) a record containing teaching materials or research information of*
  - (i) a faculty member, as defined in the College and Institute Act and the University Act, of a post-secondary educational body,*
  - (ii) a teaching assistant or research assistant employed at a post-secondary educational body, or*
  - (iii) other persons teaching or carrying out research at a post-secondary educational body;*
- (f) material placed in the archives of the government of British Columbia by or for a person or agency other than a public body;*
- (g) material placed in the archives of a public body by or for a person or agency other than a public body;*
- (h) a record relating to a prosecution if all proceedings in respect of the prosecution have not been completed;*
- (i) [Repealed 2011-17-1.]*
- (j) a record that is available for purchase by the public;*
- (k) a record of a service provider that is not related to the provision of services for a public body.*

*(2) This Act does not limit the information available by law to a party to a proceeding.*

*(3) The following sections apply to officers of the Legislature, their employees and, in relation to their service providers, the employees and associates of those service providers, as if the officers and their offices were public bodies:*

- (a) section 30 (protection of personal information);*
- (b) section 30.1 (storage and access must be in Canada);*
- (c) section 30.2 (obligation to report foreign demand for disclosure);*
- (d) section 30.3 (whistle-blower protection);*
- (e) section 30.4 (unauthorized disclosure prohibited);*
- (e.1) section 30.5 (notification of unauthorized disclosure);*
- (f) section 33 (disclosure of personal information);*
- (g) section 33.1 (disclosure inside or outside Canada);*
- (h) section 33.2 (disclosure inside Canada only);*
- (i) section 74.1 (privacy protection offences).*

### ***Disclosure harmful to the financial or economic interests of a public body***

*17(1) The head of a public body may refuse to disclose to an applicant information the disclosure of which could reasonably be expected to harm the financial or economic interests of a public body or the government of British Columbia or the ability of that government to manage the economy, including the following information:*

- (a) trade secrets of a public body or the government of British Columbia;*
  - (b) financial, commercial, scientific or technical information that belongs to a public body or to the government of British Columbia and that has, or is reasonably likely to have, monetary value;*
  - (c) plans that relate to the management of personnel of or the administration of a public body and that have not yet been implemented or made public;*
  - (d) information the disclosure of which could reasonably be expected to result in the premature disclosure of a proposal or project or in undue financial loss or gain to a third party;*
  - (e) information about negotiations carried on by or for a public body or the government of British Columbia;*
  - (f) information the disclosure of which could reasonably be expected to harm the negotiating position of a public body or the government of British Columbia.*
- (2) The head of a public body may refuse to disclose under subsection (1) research information if the disclosure could reasonably be expected to deprive the researcher of priority of publication.*
- (3) The head of a public body must not refuse to disclose under subsection (1) the results of product or environmental testing carried out by or for that public body, unless the testing was done*
- (a) for a fee as a service to a person, a group of persons or an organization other than the public body, or*
  - (b) for the purpose of developing methods of testing.*

### ***Disclosure harmful to personal privacy***

*22(1) The head of a public body must refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party's personal privacy.*

*(2) In determining under subsection (1) or (3) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the head of a public body must consider all the relevant circumstances, including whether*

- (a) the disclosure is desirable for the purpose of subjecting the activities of the government of British Columbia or a public body to public scrutiny,*
- (b) the disclosure is likely to promote public health and safety or to promote the protection of the environment,*
- (c) the personal information is relevant to a fair determination of the applicant's rights,*
- (d) the disclosure will assist in researching or validating the claims, disputes or grievances of aboriginal people,*
- (e) the third party will be exposed unfairly to financial or other harm,*
- (f) the personal information has been supplied in confidence,*
- (g) the personal information is likely to be inaccurate or unreliable, and*
- (h) the disclosure may unfairly damage the reputation of any person referred to in the record requested by the applicant.*

*(3) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if*

- (a) the personal information relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation,*
- (b) the personal information was compiled and is identifiable as part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation,*
- (c) the personal information relates to eligibility for income assistance or social service benefits or to the determination of benefit levels,*
- (d) the personal information relates to employment, occupational or educational history,*
- (e) the personal information was obtained on a tax return or gathered for the purpose of collecting a tax,*
- (f) the personal information describes the third party's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness,*
- (g) the personal information consists of personal recommendations or evaluations, character references or personnel evaluations about the third party,*
- (h) the disclosure could reasonably be expected to reveal that the third party supplied, in confidence, a personal recommendation or evaluation, character reference or personnel evaluation,*
- (i) the personal information indicates the third party's racial or ethnic origin, sexual orientation or religious or political beliefs or associations, or*
- (j) the personal information consists of the third party's name, address, or telephone number and is to be used for mailing lists or solicitations by telephone or other means.*

*(4) A disclosure of personal information is not an unreasonable invasion of a third party's personal privacy if*

- (a) the third party has, in writing, consented to or requested the disclosure,*
- (b) there are compelling circumstances affecting anyone's health or safety and notice of disclosure is mailed to the last known address of the third party,*
- (c) an enactment of British Columbia or Canada authorizes the disclosure,*
- (d) the disclosure is for a research or statistical purpose and is in accordance with section 35,*
- (e) the information is about the third party's position, functions or remuneration as an officer, employee or member of a public body or as a member of a minister's staff,*
- (f) the disclosure reveals financial and other details of a contract to supply goods or services to a public body,*
- (g) public access to the information is provided under the Financial Information Act,*
- (h) the information is about expenses incurred by the third party while travelling at the expense of a public body,*
- (i) the disclosure reveals details of a licence, permit or other similar discretionary benefit granted to the third party by a public body, not including personal information supplied in support of the application for the benefit, or*
- (j) the disclosure reveals details of a discretionary benefit of a financial nature granted to the third party by a public body, not including personal information that is supplied in support of the application for the benefit or is referred to in subsection (3)(c).*

*(5) On refusing, under this section, to disclose personal information supplied in confidence about an applicant, the head of the public body must give the applicant a summary of the*

*information unless the summary cannot be prepared without disclosing the identity of a third party who supplied the personal information.*

*(6) The head of the public body may allow the third party to prepare the summary of personal information under subsection (5).*