



ARCS: 292-30
File: AGT-2011-00197

December 8, 2011

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 Attorney General. Your request is for:

Any and all correspondence and documents (including emails) sent or received from the Office of the Attorney General from July 4, 2011 to August 26, 2011; Any and all correspondence and documents (including emails) sent or received from the Office of the Deputy Attorney General from July 4, 2011 to August 26, 2011.

Please find enclosed a copy of the records located in response to your request. Information has been withheld pursuant to section(s) 12 (Cabinet and local public body confidences), 14 (Legal advice) and 22 (Disclosure harmful to personal privacy) of FOIPPA and section 26 of the Public Inquiry Act. Copies of these sections of FOIPPA are provided for your reference. A complete copy of FOIPPA and the Public Inquiry Act are 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/00_07009_01

Your file is now closed.

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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 Rob Gordon, the analyst assigned to your request, at 250 356-7869. 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 250 356-7869.

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 black ink, appearing to read "Hudson", with a stylized flourish extending from the end.

Vicki Hudson, Manager
Justice / Social 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.

Application of Freedom of Information and Protection of Privacy Act

26 (1) The *Freedom of Information and Protection of Privacy Act*, other than section 44 (1) (b), (2), (2.1) and (3) [*powers of commissioner in conducting investigations, audits or inquiries*], does not apply to any of the following in respect of a hearing commission:

- (a) a personal note, communication or draft report of a commissioner or of a person acting on behalf of or under the direction of a commissioner;
- (b) any information received by the commission to which section 15 [*power to prohibit or limit attendance or access*] or 29 [*disclosure by Crown*] of this Act applies;
- (c) a transcription or recording of a hearing;
- (d) information to which public access is provided by the commission.

(2) Subsection (1) does not apply to personal information, as defined in the *Freedom of Information and Protection of Privacy Act*, that has been in existence for 100 or more years or to other information that has been in existence for 50 or more years.

Cabinet and local public body confidences

12 (1) The head of a public body must refuse to disclose to an applicant information that would reveal the substance of deliberations of the Executive Council or any of its committees, including any advice, recommendations, policy considerations or draft legislation or regulations submitted or prepared for submission to the Executive Council or any of its committees.

(2) Subsection (1) does not apply to

(a) information in a record that has been in existence for 15 or more years,

(b) information in a record of a decision made by the Executive Council or any of its committees on an appeal under an Act, or

(c) information in a record the purpose of which is to present background explanations or analysis to the Executive Council or any of its committees for its consideration in making a decision if

(i) the decision has been made public,

(ii) the decision has been implemented, or

(iii) 5 or more years have passed since the decision was made or considered.

(3) The head of a local public body may refuse to disclose to an applicant information that would reveal

(a) a draft of a resolution, bylaw or other legal instrument by which the local public body acts or a draft of a private Bill, or

(b) the substance of deliberations of a meeting of its elected officials or of its governing body or a committee of its governing body, if an Act or a

regulation under this Act authorizes the holding of that meeting in the absence of the public.

(4) Subsection (3) does not apply if

(a) the draft of the resolution, bylaw, other legal instrument or private Bill or the subject matter of the deliberations has been considered in a meeting open to the public, or

(b) the information referred to in that subsection is in a record that has been in existence for 15 or more years.

(5) The Lieutenant Governor in Council by regulation may designate a committee for the purposes of this section.

(6) A committee may be designated under subsection (5) only if

(a) the Lieutenant Governor in Council considers that

(i) the deliberations of the committee relate to the deliberations of the Executive Council, and

(ii) the committee exercises functions of the Executive Council, and

(b) at least 1/3 of the members of the committee are members of the Executive Council.

(7) In subsections (1) and (2), "**committee**" includes a committee designated under subsection (5).

Legal advice

- 14** The head of a public body may refuse to disclose to an applicant information that is subject to solicitor client privilege.

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).