



OFFICE OF THE
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Order F15-17

CITY OF ROSSLAND

Hamish Flanagan
Adjudicator

March 26, 2015

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Summary: The applicant requested year-end pay statements of a former and current CAO of the City of Rossland. The City withheld the pay statements on the basis that disclosure would be an unreasonable invasion of privacy under s. 22 of FIPPA. The adjudicator ordered disclosure of some information in the pay statements because it was not an unreasonable invasion of privacy, including information about remuneration under s. 22(4)(e) of FIPPA. The adjudicator determined that the City must continue to withhold some information that under s. 22(3) is presumed to be an unreasonable invasion of privacy if disclosed.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, ss. 22, 22(4)(e), 22(3) and (22)(2); *Municipal Freedom of Information and Protection of Privacy Act (Ont.)* s. 14(4)(a); *Freedom of Information and Protection of Privacy Act (Nova Scotia)* s. 20(4)(e).

Authorities Considered: **B.C.:** Order F13-09, 2013 BCIPC 10 (CanLII); Order F12-08, 2012 BCIPC 12 (CanLII); Order F14-41, 2014 BCIPC 44 (CanLII); Order 41-1995, [1995] B.C.I.P.C.D. No. 14; Order F10-05, 2010 BCIPC 8 (CanLII); Order 112-1996, 1996 CanLII 360 (BC IPC); Order 02-56, 2002 CanLII 42493 (BC IPC); Order F10-32, 2010 BCIPC 45 (CanLII); Order F10-33, 2010 BCIPC 8 (CanLII); Order 00-53, 2000 CanLII 14418 (BC IPC). **N.S.:** Order FI 08-44, 2009 CanLII 14756 (NS FOIPOP). **Ont.:** Order MO-2520, 2010 CanLII 24620 (ON IPC); Order MO-1666, 2003 CanLII 53764 (ON IPC). **Alta.:** Order F2005-016, 2006 CanLII 80862 (AB OIPC).

INTRODUCTION

[1] This inquiry involves a request for the year-end pay statements of two City of Rossland (“City”) employees. In particular, the applicant requested the former Chief Administrative Officer’s (“CAO”) 2009-2012 year-end pay statements and the current CAO’s 2012 year-end pay statement.

[2] The City responded to the request by denying access to the responsive pay statements on the basis that disclosure would be an unreasonable invasion of personal privacy within the meaning of s. 22 of the *Freedom of Information and Protection of Privacy Act* (“FIPPA”).

[3] The applicant requested a review of the City’s response by the Office of the Information and Privacy Commissioner (“OIPC”). OIPC mediation did not resolve the issues, and this matter proceeded to an inquiry.

ISSUE

[4] The issue in dispute is whether the City is required to refuse access to information because disclosure would be an unreasonable invasion of third party personal privacy under s. 22 of FIPPA.

[5] The applicant has the burden of proof in this inquiry pursuant to s. 57(2) of FIPPA.

DISCUSSION

[6] **Records in issue**—The three responsive records comprise pay statements generated by the City for the former CAO during the last payroll run for each of the calendar years 2010 to 2012 inclusive.

[7] There are no responsive records for the current CAO for the 2012 calendar year or for the former CAO for the 2009 calendar year.¹ In his reply submissions the applicant says that he believes that the City could provide him with equivalent information for the years in which it says there are no responsive records. He bases this assertion on information he obtained regarding the City’s tax reporting obligations. While the applicant may be correct that the City could provide equivalent information, his request was specifically for year-end payroll statements and any equivalent information did not exist at the time of his request. I therefore find that any records the City may subsequently have prepared to comply with its tax obligations are not within the scope of the applicant’s request

¹ The lack of a year-end pay statement for 2009 for the former CAO is due to a salary deferral arrangement. There is no year-end pay statement for 2012 for the current CAO also because of a salary deferral arrangement. The applicant’s submissions and supporting evidence demonstrate his knowledge of these arrangements.

for records. Of course, this does not preclude the applicant from requesting such records and the City would be obliged to respond as required under ss. 4 and 6 of FIPPA.

[8] The information in the records contains the type of information typically found in an employee pay statement. All three pay statements, under the heading “Earnings”, contain information describing the former CAO’s hourly pay rate, hours worked during the pay period, hours worked in the calendar year, and total dollar amounts earned for regular, overtime, vacation, statutory holiday pay and other earnings categories. The pay statements also list various categories of benefits and deductions and the amounts for each category of benefit and deduction listed, both for the pay period and the calendar year. A change in the format of the pay statements for 2012 meant that rather than a “Deductions/Benefits” heading, separate “Deductions” and “Employer Paid Benefits” headings exist which contain a more detailed breakdown of deductions and employer paid benefits than in previous years pay statements. The pay statements also contain information about the former CAO’s various leave balances, such as vacation and sick leave, and the former CAO’s employee number and home address.

[9] The applicant does not seek all of the withheld information in the responsive records. I will not consider whether the City should disclose the following information which the applicant does not want:

- 1) the former CAO’s home address, the name of the financial institution that receives the former CAO’s pay and the account number the former CAO holds with that financial institution; and
- 2) the amounts listed under the heading “DEDUCTIONS/BENEFITS”, except for the year to date amount listed under the sub-heading “DEDUCTION FOR BENEFIT[S].”

[10] The applicant concedes in his reply submission that the unwanted deductions information does not fall within the definition of remuneration and should not be released.² In relation to the year to date amount listed under the sub-heading “DEDUCTION FOR BENEFIT[S],”³ I am satisfied from my review of the former CAO’s employment contracts, the pay statements and the City’s submissions that it is of the same type as the other deductions listed, namely a deduction from the former CAO’s pay, so I will not consider the information under this sub-heading any further.

² Applicant reply submission at para 15.

³ In the 2010 and 2011 pay statement. As noted above, the format of the pay statements changes for 2012. In 2012 the equivalent line item is called “DEDUCTION-EMPLOYEE PD BENEFIT”.

[11] **Unreasonable invasion of a third party's privacy - s. 22**— Section 22 is a mandatory exception requiring the City to refuse to disclose personal information to the applicant if the disclosure would be an unreasonable invasion of a third party's personal privacy. Section 22 can be considered by answering the following questions:⁴

- 1) Is the information personal information?
- 2) If the information is personal information, does it meet any of the criteria identified in s. 22(4)? If so, disclosure would not be an unreasonable invasion of third party personal privacy.
- 3) If none of the s. 22(4) criteria apply, do any of the presumptions in s. 22(3) apply? If so, disclosure is presumed to be an unreasonable invasion of third party privacy.
- 4) If any s. 22(3) presumptions apply, are they rebutted after considering all relevant circumstances including those listed in s. 22(2)?
- 5) If no s. 22(3) presumptions apply, after considering all relevant circumstances including those listed in s. 22(2), would disclosure be an unreasonable invasion of a third party's personal privacy?

[12] The portions of s. 22 that are relevant in this inquiry are:

- 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,
...
 - (c) the personal information is relevant to a fair determination of the applicant's rights,
...
 - (g) the personal information is likely to be inaccurate or unreliable,
...

⁴ Order F13-09, 2013 BCIPC 10 (CanLII); Order F12-08, 2012 BCIPC 12 (CanLII) et al.

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

...

- (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,

...

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

...

- (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*,

...

- (j) the disclosure, in respect of a discretionary benefit of a financial nature granted to a third party by a public body, not including personal information referred to in subsection (3) (c), reveals any of the following with respect to the benefit:
 - (i) the name of the third party to whom the benefit applies;
 - (ii) what the benefit grants to the third party;
 - (iii) the date the benefit was granted;
 - (iv) the period of time the benefit is valid;
 - (v) the date the benefit ceases.

[13] **Personal Information**— For s. 22 to apply, the information at issue must be the personal information of a third party. FIPPA defines personal information as "recorded information about an identifiable individual other than contact information."⁵ Contact information is defined as "information to enable an individual at a place of business to be contacted and includes the name, position

⁵ Schedule 1 of FIPPA.

name or title, business telephone number, business address, business email or business fax number of the individual.”⁶

[14] The applicant accepts that the information in issue is personal information.⁷ I find that the withheld information is the personal information of the former CAO, with the exception of pay statement headings, and other miscellaneous information such as the City’s crest on the pay statements, which is not personal information.

[15] **Section 22(4) Factors**—Section 22(4) sets out circumstances where disclosure of personal information is not an unreasonable invasion of a third party’s personal privacy. It is well established that when s. 22(4) applies, the remainder of s. 22 does not need to be considered, so it is necessary to first consider the application of s. 22(4) to the records.⁸

[16] The City submits that s. 22(4) does not apply.

[17] The applicant submits that s. 22(4)(e) is relevant because all of the withheld information is about remuneration. Section 22(4)(e) states that disclosure of personal information about a public body employee’s position, functions or remuneration is not an unreasonable invasion of that third party’s privacy. The applicant also submits that ss. 22(4)(f), (g) and (j) apply to the pay statements.

Section 22(4)(e)–remuneration

[18] Disclosure of information in the records that is about remuneration would be presumed not to be an unreasonable invasion of the former CAO’s privacy. The parties’ submissions recognize that a key issue in this inquiry is the meaning and scope of the word “remuneration” in s. 22(4)(e).

[19] In BC, Orders 02-56,⁹ F10-32¹⁰ and F10-33¹¹ firmly establish that details of wages, fees and other similar payments fall within the meaning of remuneration under s. 22(4)(e).

[20] Order F10-05¹² considers whether disclosure of remuneration information under s. 22(4)(e) includes disclosure of the various elements that make up total remuneration. Order F10-05 found that disclosure of information about the

⁶ Schedule 1 of FIPPA.

⁷ Initial submission at para 8.

⁸ Order F14-41, 2014 BCIPC 44 (CanLII) at para 33.

⁹ 2002 CanLII 42493 (BC IPC).

¹⁰ 2010 BCIPC 45 (CanLII).

¹¹ 2010 BCIPC 46 (CanLII).

¹² 2010 BCIPC 8 (CanLII).

remuneration of a public body employee did include disclosure of the individual elements that make up remuneration, so that bonus payments were required to be separately disclosed from total remuneration. This conclusion is consistent with Order 00-53,¹³ which found the total amount of an employee's vacation payout (a component of total remuneration) was appropriately disclosed by a public body under s.22.¹⁴

[21] Both parties refer to the definition of remuneration in the *Financial Information Regulation* under the *Financial Information Act*. That Act establishes a framework requiring disclosure of public sector employees' remuneration. The *Financial Information Act* definition of remuneration states:

"remuneration"

- (a) **includes any form of salary, wages, bonuses, gratuities, taxable benefits, payment into trust or any form of income deferral paid by the corporation to the employee or on behalf of the employee during the fiscal year being reported upon, whether or not such remuneration is reported under the Income Tax Act (Canada), and**
- (b) does not include anything payable under a severance agreement;

[22] In support of his argument that the information in issue falls within the meaning of remuneration in s. 22(4)(e), the applicant submits that all of the information he is seeking falls within the definition in the *Financial Information Act*. The *Financial Information Act* framework has been discussed in previous orders, notably in Order F10-05, where Adjudicator Francis noted that the scope of information available under that regime does not limit the scope of s. 22(4)(e) of FIPPA.¹⁵ Nonetheless, the broad definition of remuneration in the *Financial Information Act*, which includes taxable benefits and other components as part of remuneration, suggests an approach whereby the types of information listed are also part of the meaning of remuneration for the purposes of s. 22(4)(e).

[23] Nova Scotia's freedom of information legislation contains an identical provision to s. 22(4)(e).¹⁶ Order FI 08-44¹⁷ found that the information contained in employee pay stubs fell within the definition of "remuneration" (the employee's ID number and home address were severed) and therefore should be disclosed. In so finding, Order FI 08-44 cites BC Order 112-1996 in which former Commissioner Flaherty stated:

The Ministry has withheld other pages in their entirety under section 22 of the Act. They comprise payroll and leave verification notes, time entry and pay

¹³ 2000 CanLII 14418 (BC IPC).

¹⁴ In that case because it was considered a "benefit".

¹⁵ 2010 BCIPC 8 (CanLII) at para 33.

¹⁶ Section 20(4)(e) Freedom of Information and Protection of Privacy Act (Nova Scotia).

¹⁷ 2009 CanLII 14756 (NS FOIPOP).

authorizations, leave management transactions, attendance logs, and overtime records. Although they concern specific persons other than the applicant, I find that under section 22(4)(e) a number of these pages can be disclosed to the applicant with a modest amount of severing, since they concern third parties' position, functions, or remuneration as an employee of the Ministry.¹⁸

[24] The City cites Order MO-2520¹⁹ and Order MO-1666,²⁰ two orders of the Ontario Information and Privacy Commissioner under Ontario's *Municipal Freedom of Information and Protection of Privacy Act*, in support of its submission that s. 22(4)(e) does not apply to the information in issue. However, neither order discusses the meaning of the word "remuneration" because the equivalent provision to s. 22(4)(e) in that Act²¹ refers to "classification, salary range and benefits". Previous orders, for example the decision of the Nova Scotia Freedom of Information and Protection of Privacy Review Office in Order FI 08-44,²² have noted the importance of distinguishing between the word "remuneration" and the use in jurisdictions such as Ontario of the wording "salary range."

Summary: s. 22(4)(e)

[25] I find that s. 22(4)(e) applies to some of the withheld information because it is information about the former CAO's remuneration. Consistent with previous orders, this encompasses the information in the former CAO's pay statements under the heading "earnings" that set out the employee's gross year-end remuneration totals for the categories of earnings listed in the pay statements, including the gross dollar amounts for regular pay and statutory holiday pay,²³ and the former CAO's hourly rate. The only information under the "earnings" heading not falling with s. 22(4)(e) is information about the number of hours the former CAO worked and the dollar amount of his net earnings after deductions.

[26] Information about the categories and costs of the employer paid benefits²⁴ also form part of the former CAO's remuneration so are covered by s. 22(4)(e). These benefits fall within the definition of remuneration in the *Financial Information Act* and I accept that they also fall within the definition of remuneration for s. 22(4)(e).²⁵

¹⁸ 1996 CanLII 360 (BC IPC), at pp. 7-8.

¹⁹ 2010 CanLII 24620 (ON IPC).

²⁰ 2003 CanLII 53764 (ON IPC).

²¹ Section 14(4)(a) of the *Municipal Freedom of Information and Protection of Privacy Act* (Ont.).

²² 2009 CanLII 14756 (NS FOIPOP), at para. 66.

²³ I note also that the City has already disclosed to the applicant the amount of the former CAO's 2012 vehicle allowance, which is one of these component categories.

²⁴ This type of information appears only in the 2012 pay statement.

²⁵ I note that the cost to the City of several of these employer paid benefits for 2012 were disclosed to the applicant by letter dated April 29, 2013.

[27] Information about remuneration also includes the information in the 2012 pay statement showing the vacation and sick leave hours earned for the year.²⁶ This information differs from an employee's record of unused vacation time, which Order 00-53²⁷ found fell within s. 22(3)(d). Instead, it describes the former CAO's annual entitlement to vacation and sick leave and in that way is analogous to an employer-paid benefit. It does not reveal anything about the former CAO's work history.²⁸

Section 22(4)(f)- Details of a contract to provide services

[28] The applicant says that s. 22(4)(f) is relevant because the pay statements provide details of benefits the former CAO received under his employment contract, which is a contract to provide services, specifically management services to the City. Previous decisions have found that s. 22(4)(f) applies to contractors but not employees, because employees have a contract *of service*, not a contract *for services* as required by s. 22(4)(f).²⁹ As the former CAO is an employee, s. 22(4)(f) is not relevant here.

Section 22(4)(g)--Information available under the Financial Information Act

[29] The applicant submits that s. 22(4)(g) applies to certain information because it is information available under the *Financial Information Act*. However, I have already determined that s. 22(4)(e) applies to this information, so I do not need to discuss s. 22(4)(g) further.

Section 22(4)(j) — Details of a discretionary benefit

[30] The applicant submits that s. 22(4)(j) is relevant because the pay statements provide details about the payment of benefits. However, s. 22(4)(j) only applies to discretionary benefits, not to information about benefits generally. The applicant does not provide, and there is no evidence before me, that the City had any discretion in the benefit payments outlined in the pay statements. In fact, the benefits the applicant refers to in his submission, such as vacation pay and statutory holiday pay, are all examples of payments the former CAO was entitled to under his employment contract, a copy of which was provided to me. There are no discretionary benefits in the information at issue, so s. 22(4)(j) does not apply.

²⁶ This information does not appear in the 2010 and 2011 pay statements.

²⁷ At pp. 18-19.

²⁸ I also note that the vacation and sick leave earned in 2012 have already been disclosed to the applicant by the City in a release dated April 29, 2013.

²⁹ Order 41-1995, [1995] B.C.I.P.C.D. No. 14. See also Order F2005-016, 2006 CanLII 80862 (AB OIPC) at paras 21-28.

Summary: s. 22(4)

[31] For the above reasons, it is not an unreasonable invasion of privacy under s. 22 of FIPPA to disclose the information in the pay statements that falls within s. 22(4)(e) because it is about the former CAO's remuneration.

[32] **Presumption of Invasion of Privacy – s. 22(3)**—The next step is to determine whether any of the circumstances in which disclosure is presumed to be an unreasonable invasion of a third party's personal privacy as set out in s. 22(3) apply to the remaining information in the pay statements. References to personal information below do not include information to which s. 22(4) applies. The remaining information in dispute is information about the number of hours the former CAO worked, including regular and overtime hours, amounts earned specific to the two week pay period the pay statement is for (this information is only in the 2012 pay statement), information about the number of hours in the former CAO's leave time banks, the former CAO's employee number, and the "Net Pay" amounts.

[33] The City says ss. 22(3)(d), (e) and (f) apply to information in the pay statements; the applicant disagrees.

Section 22(3)(d)

[34] Section 22(3)(d) applies to personal information that relates to employment, occupational or educational history of a third party.³⁰

[35] The pay statements contain information about the number of hours worked by the former CAO. In some cases this information discloses details of the former CAO's leave activities, which is generally considered to be an employee's work history, and therefore falls within s.22(3)(d). This view is consistent with Order 00-53, which distinguished between the total amount of an employee's vacation payout, which was considered appropriate to disclose,³¹ and the personal information used to calculate that amount, which would have disclosed hours worked and similar information that was subject to s. 22(3).³²

[36] The pay statements include information about several time banks belonging to the former CAO that are similar in nature to a vacation time bank. Order 00-53³³ found that an employee's record of unused vacation time fell within s. 22(3)(d), not s. 22(4)(e). Information that discloses information about time taken from a leave time bank, such as sick leave, can disclose an individual

³⁰ I note that the scope of s. 22(3)(d) and its relationship with s. 22(4)(e) has been discussed at length in previous orders, see for example Order F14-41, 2014 BCIPC 44 (CanLII).

³¹ In that case because it was considered a "benefit".

³² At p. 8.

³³ At pp. 18-19.

employee's personal circumstances and therefore relates to employment history under s. 22(3)(d). Section 22(3)(d) applies to this information.

[37] The information in dispute also contains personal identifiers for the former CAO for payroll and personnel management. An employee number forms part of their employment history under s. 22(3)(d).³⁴

[38] The disclosure of this information is presumed to be an unreasonable invasion of the former CAO's privacy.

Section 22(3)(e)

[39] The City also submits that s. 22(3)(e) applies to some of the deductions information because it specifies amounts deducted for tax purposes. However, it is not necessary to consider the application of s. 22(3)(e) to the deductions information because, as noted above, the applicant stated that he did not want any information that appears in the pay statements regarding deductions.

Section 22(3)(f)

[40] The City submits that s. 22(3)(f) applies to some of the information because it describes the former CAO's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness.

[41] I agree that some of the information in dispute falls under s. 22(3)(f), namely the "Net Pay" amounts shown on the pay statements because they describe the former CAO's income.

Summary: s. 22(3)

[42] There is a presumption that disclosure of the information in the pay statements that discloses the former CAO's hours worked, employee number, leave balances (because it discloses information about the former CAO's leave activities), and net income amounts would be an unreasonable invasion of the former CAO's privacy under ss. 22(3)(d) and (f).

[43] **Section 22(2)**—Section 22(2) requires that public bodies must consider all relevant factors, including those listed in s. 22(2), in determining whether disclosure of personal information is an unreasonable invasion of personal privacy. This means that the presumptions that apply to some of the withheld information under ss. 22(3) can be rebutted.

[44] The City submits that there are no factors under s. 22(2) that rebut the s. 22(3) presumptions.³⁵

³⁴ See for example F14-41, 2014 BCIPC 44 (CanLII) at para 46.

[45] The Applicant says s. 22(2)(a) is a factor in favour of disclosure of the earnings and leave information contained in the pay statements, including overtime hours accrued and leave balances. He argues that statements made by the City's auditor about the City's unusual arrangements for managing the former CAOs overtime hours accrued and leave balances heighten the need for public scrutiny of the City in this aspect of its operation. The City says that s. 22(2)(a) is not a factor in favour of disclosure because it has already disclosed the information about the former CAO's remuneration sufficient to allow public scrutiny.

[46] I accept that release of some of the information regarding leave payouts and overtime hours and balances would assist in scrutinizing the City's activities in an area that was a particular focus for the City's auditors, so is a factor in favour of disclosure.

[47] The applicant cites s. 22(2)(g) in support of releasing the pay statements. The applicant is concerned about inaccuracies in remuneration information released by the City, and says he needs access to the withheld information to address any inaccuracies. However, as I have already found that any remuneration information must be disclosed under s. 22(4)(e) it is not necessary to consider the applicant's argument further.

Sensitivity of pay information

[48] The City points to the need to protect information in payslips because of the recognized sensitivity of payroll information and the related risk of identity theft that might result from disclosure. I recognize the sensitivity of payslip information is a legitimate consideration in favour of withholding such information where it appears in the pay statements. I note that much of the information that is particularly sensitive, including details of the former CAO's bank account and home address, the applicant prudently excluded from the scope of his request.

Prior disclosures

[49] In addition to public disclosure of the former CAO's remuneration and expenses, which were made pursuant to the *Financial Information Act*, the City has already disclosed some of the requested information to the applicant.

[50] Although the City's affidavit evidence denies it did so, the applicant provides documentary evidence that the City disclosed the former CAO's 2011 year-end pay statement to a journalist. These prior disclosures of some of the information in issue weigh against the disclosure of the information being unreasonable, since the information in them is already in the public domain.

³⁵ Reply submission at para 17.

[51] I am satisfied that there are no other factors in s. 22(2) or generally that are relevant to whether the information in issue should be disclosed.

[52] **Section 22(1)**—Section 22 requires a public body to refuse to disclose personal information if disclosure would be an unreasonable invasion of a third party's personal privacy.

[53] I conclude that the presumption that disclosure would be an unreasonable invasion of third party personal privacy for information in the 2011 pay statement showing the year-to-date hours worked for each category of earnings (regular time, overtime etc.) has been rebutted. Most significantly, this information has been previously released by the City to a journalist. In addition, the information is not sensitive, reveals little detail about the former CAO's work history and aids public scrutiny of the City's employment practises.

[54] For the remaining information subject to a presumption, I conclude that the presumption has not been rebutted and the information must be withheld under s. 22(1). I note that while the applicant already has a copy of the former CAO's 2011 pay statement, the sensitive nature of much of the information in it, particularly the banking information and the deductions information mean that it is still an unreasonable invasion of privacy to order the City to disclose the entire pay statement. Instead the City must only disclose the information I have outlined in this Order that it is not an unreasonable invasion of the former CAO's privacy to disclose.

[55] I have highlighted in the copy of the pay statements accompanying the City's copy of this Order the information which must be withheld under s. 22(1).

[56] **Summary**—Some information in the former CAO's pay statements is information about his remuneration and must be disclosed under s. 22(4)(e). Other information must be withheld because its disclosure is presumed to be an unreasonable invasion of the former CAO's privacy under ss. 22(3)(d) and/or s. 22(3)(f) and no factors, including those in s. 22(2), rebut the presumptions. The exception where I find the presumption is rebutted is for the information in the 2011 pay statement showing the year-to-date hours worked for each category of earnings. The information that neither falls within s. 22(4) nor is the subject of a s. 22(3) presumption can be released because disclosure of it would not be an unreasonable invasion of privacy under s. 22(1).

CONCLUSION

[57] For the reasons given above, under s. 58 of FIPPA, I make the following orders:

1. Subject to para. 2 below, I require the City to disclose the information in issue.
2. I require the City to withhold under s. 22(1) of FIPPA the information highlighted in the copy of the pay statements that accompany the City's copy of this decision, on or before **May 11, 2015**. The City must copy the OIPC Registrar of Inquiries on its cover letter to the applicant, together with a copy of the pay statements.

March 26, 2015

ORIGINAL SIGNED BY

Hamish Flanagan, Adjudicator

OIPC File Nos.: F13-52020
F13-52319