



OFFICE OF THE
INFORMATION & PRIVACY
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Order F15-60

SOUTH COAST BRITISH COLUMBIA TRANSPORTATION AUTHORITY

Caitlin Lemiski
Adjudicator

November 4, 2015

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Summary: The applicant is a retired employee of Coast Mountain Bus. He requested records related to a voluntary early retirement program. The South Coast British Columbia Transportation Authority (“TransLink”) withheld some of the requested information from responsive records on the basis that it is exempt from disclosure under s. 13 of FIPPA (advice or recommendations), and s. 22 (unreasonable invasion of personal privacy). The adjudicator determined that TransLink was authorized by s. 13 and required by s. 22 to withhold some of the information. The adjudicator determined that TransLink must disclose the rest of the information to the applicant. In addition, the adjudicator ordered TransLink to process, under Part 2 of FIPPA, the information that it incorrectly withheld from certain records on the basis that it was duplicated information.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, ss. 4(2), 13, and 22.

Authorities Considered: B.C.: Order 303-1999, 1999 CanLII 2881 (BC IPC); Order 325-1999, 1999 CanLII 4017 (BC IPC); Order 01-25, 2001 CanLII 21579 (BC IPC); Order 01-28, 2001 CanLII 21582 (BC IPC); Order 02-38, 2002 CanLII 42472 (BC IPC); Order 03-13, 2003 CanLII 49182 (BC IPC); Order 03-41 2003 CanLII 49220 (BC IPC); Order F05-11, 2005 CanLII 11962 (BC IPC); Order F06-16, 2006 CanLII 25576 (BC IPC); Order F08-21 2008 CanLII 70315 (BC IPC); Order F09-15, 2009 CanLII 58553 (BC IPC); Order F10-05, 2010 BCIPC 27 (CanLII); Order F10-15, 2010 CanLII 77326 (BC IPC); Order F11-33, 2011 BCIPC 41 (CanLII); Order P12-01 2012 BCIPC 11 (CanLII); Order F12-06, 2012 BCIPC 9 (CanLII); Order F13-13 2013 BCIPC 16 (CanLII); Order F14-31, 2014 BCIPC 34 (CanLII); Order F14-34, 2014 BCIPC 37 (CanLII); F14-44, 2014

BCIPC 47 (CanLII); Order F15-12, 2015 BCIPC 12 (CanLII); Order F15-36, 2015 BCIPC 39 (CanLII).

Cases Considered: *College of Physicians of B.C. v. British Columbia (Information and Privacy Commissioner)*, 2002 BCCA 665 (CanLII); *John Doe v. Ontario (Finance)*, 2014 SCC 36 (CanLII).

INTRODUCTION

[1] This inquiry involves an applicant's request to the South Coast British Columbia Transportation Authority ("TransLink") for records about the Voluntary Departure Program implemented by the Coast Mountain Bus Company ("Coast Mountain Bus"), an operating subsidiary of TransLink.¹ The applicant is a retired employee of Coast Mountain Bus. TransLink identified responsive records and provided them to the applicant. TransLink withheld some information in the responsive records under s. 13 (advice or recommendations) and s. 22 (unreasonable invasion of personal privacy) of the *Freedom of Information and Protection of Privacy Act* ("FIPPA").

[2] The applicant was not satisfied with TransLink's response, and requested a review by the Office of the Information and Privacy Commissioner ("OIPC"). OIPC mediation did not resolve the issues in dispute, and the matter proceeded to inquiry.

ISSUES

[3] The issues in this inquiry are:

1. Is TransLink authorized by s. 13 to refuse to disclose information because disclosure would reveal advice or recommendations developed by or for a public body or minister?
2. Is TransLink required to withhold information under s. 22(1) of FIPPA because disclosure would be an unreasonable invasion of third party personal privacy?²

¹ Public body's initial submissions at para. 1. The applicant requested records from TransLink. TransLink processed this request on behalf of the Coast Mountain Bus Company, though it is a separate public body under Schedule 2 of FIPPA.

² The OIPC Fact Report and the OIPC Notice of Inquiry state that s. 17 (harm to the financial or economic interests of a public body) of FIPPA is also at issue, however TransLink is not withholding any information on that basis and it has not argued that it is one of the sections at issue in its submissions (see para. 7 of the public body's initial submissions, under "Issues").

[4] TransLink has the burden of proof, under s. 57(1) of FIPPA, to establish that s. 13 authorizes it to refuse access to the requested information.³ Section 57(2) of FIPPA places the burden on the applicant to establish that disclosure of personal information contained in the requested records would not unreasonably invade personal privacy under s. 22 of FIPPA.

DISCUSSION

[5] **Background**—The Voluntary Departure Program provided severance packages to eligible employees who agreed to retire early.⁴ The applicant retired shortly before the Voluntary Departure Program was introduced.⁵ He has requested records about the Voluntary Departure Program, including information about when the program was first conceived.⁶

Preliminary Issues

Adequacy of TransLink's response to the applicant's request

[6] The applicant submits that TransLink has not adequately responded to his request because it has not provided records showing when the Voluntary Departure Program was conceived and who conceived it.⁷ As set out in the Investigator's Fact Report, the applicant made a separate complaint to the OIPC about the adequacy of TransLink's search for records, and that matter was concluded separately before this inquiry was held.⁸ Therefore the only issues at this inquiry are whether TransLink is authorized by s. 13 or required by s. 22 of FIPPA to withhold information severed from the responsive records.⁹

Duplicate information

[7] TransLink severed some information on the basis that it is duplicated elsewhere in the records. Senior Adjudicator Barker considered this issue in Order F14-31 as follows:

... The fact that information is repeated elsewhere in the records or is only an example does not authorize the City to refuse to disclose the information. Those are not exceptions to disclosure under FIPPA. Regarding the repeated information, in particular, the City should have

³ TransLink acknowledges it has the burden of proof in relation to s. 13 (Public body's initial submission at para. 8).

⁴ Public body's initial submissions at paras. 2-3.

⁵ Applicant's initial submission at para. 14. Public body's initial submission at para. 20.

⁶ Applicant's request to the public body, dated October 26, 2012.

⁷ Applicant's reply submission at paras. 2-3 and at para. 13.

⁸ Paragraph 11 of the OIPC Fact Report.

⁹ The adjudicator in Order F14-34, 2014 BCIPC 37 (CanLII); reached a similar conclusion at para. 2. Also see Order F05-11 2005 CanLII 11962 (BC IPC), at para. 13.

applied the FIPPA exceptions to it in the same manner it did to the other iterations of the information.¹⁰

[8] I take the same approach here. TransLink must process the information it severed on the basis that it is duplicated elsewhere in the records by either disclosing the duplicated information or by severing it under an exception to FIPPA and in a manner that is consistent with the terms of this Order.¹¹

[9] **Records in dispute**—The severed information consists of emails, memos, charts, reports and notes about the Voluntary Departure Program. In some cases, TransLink has either partially or fully severed information under s. 13 or s. 22. In other cases, TransLink has applied both s. 13 and s. 22 to the same information.¹²

[10] **Advice or recommendations (s. 13)**—Section 13(1) states that the head of a public body may refuse to disclose to an applicant information that would reveal advice or recommendations developed by or for a public body or a minister. Many orders have consistently held that the purpose of s. 13(1) is to protect a public body's internal decision-making process by allowing frank discussions of advice and recommendations.¹³

[11] In addressing Ontario's equivalent to s. 13(1) in *John Doe v. Ontario (Finance)* [*John Doe*], the Supreme Court of Canada said:

...The advice and recommendations provided by a public servant who knows that his work might one day be subject to public scrutiny is less likely to be full, free and frank, and is more likely to suffer from self-censorship. Similarly, a decision maker might hesitate to even request advice or recommendations in writing concerning a controversial matter if he knows the resulting information might be disclosed.¹⁴

[12] Previous orders have found that s. 13(1) applies when disclosure of the information would reveal advice or recommendations, including when it would allow accurate inferences about the advice or recommendations.¹⁵ In addition, the courts have provided guidance regarding the meaning of the word "advice".

¹⁰ Order F14-31 2014 BCIPC 34 (CanLII) at para. 12. I note that in Order F15-33 2015 BCIPC 36 (CanLII) at para. 8, Adjudicator Flanagan determined that the public body could withhold records on the basis that they were duplicates, by contrast, this order considers duplicate *information*.

¹¹ For example, if I find that s. 22 requires information to be withheld from a record, TransLink should apply s. 22 wherever that information is duplicated.

¹² For example, pp. 377 to 379 of the disputed records.

¹³ Order 01-15 2001 CanLII 21569 (BC IPC), at para. 22; Order F15-25 2015 BCIPC 27 (CanLII) at para. 16.

¹⁴ *John Doe v. Ontario (Finance)*, 2014 SCC 36 (CanLII), at para. 45.

¹⁵ Order F15-25 2015 BCIPC 27 (CanLII) at para. 17; Order F14-44 2014 BCIPC 47 (CanLII) at para. 29, citing Order F10-15, 2010 BCIPC 24 (CanLII); Order 02-38; Order F06-16, 2006 CanLII 25576 (BCIPC).

In *John Doe*, the Supreme Court of Canada said that “advice” includes policy options, whether or not the advice is communicated to anyone.¹⁶ The BC Court of Appeal in *College of Physicians of B.C. v. British Columbia (Information and Privacy Commissioner)* said that “advice” for the purposes of s. 13 includes an opinion that involves exercising judgment and skill to weigh the significance of matters of fact, including expert opinions on matters of fact on which a public body must make a decision for future action.¹⁷

[13] There are two stages for determining whether s. 13(1) applies. The first stage is to determine whether disclosure of the information would reveal advice or recommendations developed by or for the public body. If it would, it becomes necessary to move to the second stage, which is to determine whether the information to which s. 13(1) applies falls within any of the categories listed in s. 13(2). If s. 13(2) applies, the effect is that even if the information would reveal advice or recommendations developed by or for a public body, the public body must not withhold that information.

[14] TransLink submits that the information severed under s. 13 contains policy options and recommendations TransLink considered when developing the Voluntary Departure Program.¹⁸ The applicant submits that TransLink has applied s. 13 too broadly.¹⁹ He also submits that s. 13 does not apply because the Voluntary Departure Program has already been implemented.²⁰

Analysis

[15] I find that most of the information TransLink is withholding under s. 13 is advice or recommendations developed for Coast Mountain Bus. The information I find reveals advice or recommendations is contained in emails and memorandums containing policy options and advice related to the Voluntary Departure Program. For example, TransLink severed two options presented by the Director of Labour Relations to the Director of Operations in an email.²¹ In another example, TransLink severed options and recommendations about the Voluntary Departure Program from notes to Coast Mountain Bus from an employees’ union.²² In other instances, disclosing information severed from the disputed records would allow someone to make accurate inferences about

¹⁶ *John Doe v. Ontario (Finance)*, at para. 50.

¹⁷ *College of Physicians of B.C. v. British Columbia (Information and Privacy Commissioner)*, 2002 BCCA 665 (CanLII), at para. 111 - as cited in Order F13-24 2013 BCIPC 31 (CanLII) at para. 13; also Order F15-25 at para. 18.

¹⁸ Public body’s submission at para 14.

¹⁹ Applicant’s initial submission at p. 3.

²⁰ Applicant’s reply submission at p. 3.

²¹ Page 112 of the records.

²² Pages 164 to 167 of the disputed records as well as para. 14 of the public body’s initial submission.

advice or recommendations; I therefore find that s. 13(1) applies to this information as well.

[16] There is some information TransLink cannot withhold under s. 13(1) because disclosing it would not reveal any advice or recommendations. This information comprises a fact about the Voluntary Departure Program severed under the heading “FAQ about VDP” and parts of emails that do not contain any advice or recommendations, such as information about who sent an email and when they sent it.²³

Section 13(2)

[17] TransLink did not make any submissions about the application of s. 13(2). The applicant references ss. 13(2)(a), (g), (i), (j), (k), (l), (m) and (n) in his submissions. These subsections are as follows:

- (2) The head of a public body must not refuse to disclose under subsection (1)
 - (a) any factual material,
 - ...
 - (g) a final report or final audit on the performance or efficiency of a public body or on any of its policies or its programs or activities,
 - ...
 - (i) a feasibility or technical study, including a cost estimate, relating to a policy or project of the public body,
 - (j) a report on the results of field research undertaken before a policy proposal is formulated,
 - (k) a report of a task force, committee, council or similar body that has been established to consider any matter and make reports or recommendations to a public body,
 - (l) a plan or proposal to establish a new program or activity or to change a program or activity, if the plan or proposal has been approved or rejected by the head of the public body,
 - (m) information that the head of the public body has cited publicly as the basis for making a decision or formulating a policy, or
 - (n) a decision, including reasons, that is made in the exercise of a discretionary power or an adjudicative function and that affects the rights of the applicant.

²³ Pages 112, 386-387 of the disputed records.

[18] The applicant argues that s. 13 does not apply because policies for the Voluntary Departure Program have already been developed and implemented. This argument relates to s. 13(2)(l). The applicant does not provide further reasons or evidence as to how ss. 13(2)(a), (g), (i), (j), (k), (m) and (n) apply, and it is not apparent to me based on my review of the severed information how they might apply. I will therefore only consider the applicant's argument as it relates to s. 13(2)(l).

New plan or proposal

[19] Section 13(2)(l) applies to information that is a plan or proposal to establish a new program or activity or to change a program or activity, if the plan or proposal has been approved or rejected by the head of the public body. In this case, TransLink withheld parts of a record called "CMBC Operator and Technical Training Section Staff Reduction Strategy" under s. 13 (and under s. 22).²⁴

[20] Even though the Voluntary Departure Program has been approved, I cannot tell from any of the records or evidence before me whether anyone approved or rejected the Staff Reduction Strategy, or whether another strategy was used for reducing staff members. For these reasons, I find that s. 13(2)(l) does not apply to the Staff Reduction Strategy. I also find that s. 13(2)(l) does not apply to any of the other s. 13(1) information.

Conclusions regarding s. 13

[21] In summary, TransLink may withhold most of the information it severed under s. 13(1) because disclosing it would reveal advice or recommendations and because s. 13(2) does not apply to any of the s. 13(1) information. Information to which s. 13(1) does not apply comprises a fact about the Voluntary Departure Program severed under the heading "FAQ about VDP" and parts of emails that do not contain any advice or recommendations, such as information about who sent and received emails and when they were sent. Disclosing this information would not reveal advice or recommendations, including by inference.

[22] **Unreasonable invasion of personal privacy (s. 22)** — Section 22(1) requires public bodies to withhold information that would constitute an unreasonable invasion of personal privacy. In this case, TransLink withheld the names, work and personal email addresses, employee numbers, birth dates, hire dates, position titles, and retirement or layoff dates of Coast Mountain Bus

²⁴ Pages 377-379 of the disputed records. The title of the document has already been disclosed to the applicant.

employees. TransLink also withheld parts of emails about identifiable employees affected by the Voluntary Retirement Program.²⁵

[23] The approach to s. 22 has been established in previous orders.²⁶ The first step is to determine whether any of the disputed information is “personal information.” Schedule 1 of FIPPA states that personal information “means recorded information about an identifiable individual other than contact information.” Schedule 1 of FIPPA states that contact information means “information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual.”

[24] Previous orders have held that information is personal information if it can be combined with other available information to identify an individual.²⁷ TransLink submits that all the information severed under s. 22 is personal information, including information about unnamed employees, because the applicant may still be able to identify them.²⁸ The applicant did not make submissions about s. 22 because he says that it is difficult for him to argue whether s. 22 applies when he cannot see what information has been withheld.²⁹

[25] In this case, I find that all the information TransLink severed under s. 22 is “personal information”, even where employees are not named, because they are still identifiable (for example, where an employee is not named but their employee number and retirement date are provided). I also find that the severed work email addresses of TransLink employees are personal information. In this context, these email addresses are more than contact information because they reveal the employee’s activities.³⁰ Personal email addresses are personal information because they are not used for the purposes of contacting someone at a place of business.

²⁵ As I have already determined that s. 13 authorizes the public body to withhold the parts of the Staff Reduction Strategy (at pp. 377-379) that it also withheld under s. 22, I have not considered whether s. 22 also applies to these pages.

²⁶ See for example, Order F13-09, 2013 BCIPC 10 (CanLII) at para. 18 and Order F12-08, 2012 BCIPC 12 (CanLII) at para. 12.

²⁷ Order F13-13 2013 BCIPC 16 (CanLII) at para. 14 citing Order P12-01 at para. 82. As is noted in Order F13-13 at footnote 3; “Though this case concerned personal information under the Personal Information Protection Act, the Commissioner adopted and applied this definition under FIPPA in Order F13-04, [2013] B.C.I.P.C.D. No. 4; see para. 23.” Also see Order F08-21 2008 CanLII 70315 (BC IPC) at para. 47 citing Order 03-41 2003 CanLII 49220 (BC IPC) at para. 44.

²⁸ Public body submission at para. 20.

²⁹ Applicant reply submission at para. 11.

³⁰ Order 08-04, 2008 CanLII 13322 (BC IPC) at para. 20

[26] In some instances, TransLink has severed the applicant's own personal information.³¹ This is not personal information about a "third party", therefore it is not an unreasonable invasion of personal privacy and TransLink must not withhold it under s. 22(1).

Section 22(4) factors

[27] The second step in a s. 22 analysis is to determine whether the personal information falls into any of the categories in s. 22(4), which set out specific circumstances when disclosure of personal information is not an unreasonable invasion of a third party's personal privacy. Section 22(4)(e) exempts from s. 22(1) information about a 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 from being withheld under s. 22(1). In this case, I find that the names and titles of Coast Mountain Bus employees that have been severed must be disclosed where the information is limited to their position as an employee of a public body.³²

[28] I also find that s. 22(4)(e) applies to the names and the amount of severance payments laid off employees received and the amount of bonus payments that employees who voluntarily retired received because this is information about a third party's remuneration as an employee of a public body.³³

[29] Section 22(4)(j) exempts from s. 22(1) certain information about a discretionary benefit of a financial nature granted to a third party by a public body from being withheld under s. 22(1), including the name of the third party to whom the benefit applies, what the benefit is, and when the benefit was granted.³⁴ Based on my review of the records, I have determined that any information that could possibly be subject to s. 22(4)(j) is already subject to s. 22(4)(e), therefore I need not consider whether s. 22(4)(j) applies.³⁵

³¹ Page 225 of the disputed records contains an example where the public body has severed the applicant's own personal information.

³² For example, s. 22(4)(e) does not apply to emails from employees to management about their eligibility for retirement because this information reveals details of their employment, therefore it is about more than just what their position is within Coast Mountain Bus.

³³ Previous orders have determined that s. 22(4)(e) applies to payments received by current or former employees, either in the form of severance or bonuses. (Order F09-15 2009 CanLII 58553 (BC IPC) at para. 16; Order F11-33, 2011 BCIPC 41 (CanLII) at para. 12 citing previous orders, and Order F10-05, 2010 BCIPC 27 (CanLII) at para. 41.)

³⁴ Subsection 22(4)(e) refers to s. 22(3)(c), which creates a rebuttable presumption against disclosing third party personal information if the personal information relates to eligibility for income assistance or social service benefits or to the determination of benefit levels.

³⁵ In Order 303-1999 (at p. 6) former Commissioner Flaherty determined that information in employment contracts about how much certain employees would be compensated was "remuneration" therefore he declined to consider whether s. 22(4)(j) also applied.

Presumption of invasion of privacy – s. 22(3)

[30] The third step in a s. 22 analysis is to consider whether any of the presumptions listed in s. 22(3) of FIPPA apply to personal information that does not fall within s. 22(4). Section 22(3) sets out circumstances where a disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy. It states in part:

- (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,
...
 - (d) the personal information relates to employment, occupational or educational history,
...
 - (f) the personal information describes the third party's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness
...

Medical conditions and treatment – s. 22(3)(a)

[31] Neither party made submissions regarding s. 22(3)(a). However, from my review of the information in dispute I have concluded that some of the withheld information relates to employees who are away from work for medical reasons, and whether they will return to work. I find that s. 22(3)(a) creates a presumption against disclosing information about an employee's medical leave because it relates to medical conditions and treatment.³⁶ The presumption can be rebutted if, after considering all relevant circumstances (including those listed in s. 22(2)), it is determined that disclosing the personal information would not be an unreasonable invasion of a third party's personal privacy.

Employment history – s. 22(3)(d)

[32] Disclosing personal information that relates to a third party's employment history is a presumed invasion of that person's privacy under s. 22(3)(d). TransLink submits that s. 22(3)(d) is relevant because some of the severed

³⁶ For example, information severed on pp. 27, 58, 59 and 82. I note that neither party raised s. 22(3)(a) however I have determined it is a relevant consideration here.

information reveals information about the employment, occupational or educational history of third party employees.³⁷

[33] Based on my review of the severed information, I find that s. 22(3)(d) creates a presumption against disclosing some of the disputed information because it is about the employment or occupational history of third party employees. For example, emails from employees to management about their eligibility for retirement contain information about those employees' employment history.³⁸

Income information – s. 22(3)(f)

[34] TransLink submits that s. 22(3)(f) applies to some of the severed information because it is about a third party's finances, income, or assets.³⁹ Based on my review, the only severed information that fits within this category relates to severance and bonus payments made to employees. I have already determined that s. 22(4)(e) does not require TransLink to withhold this information under s. 22(1). I therefore find that s. 22(3)(f) does not create a presumption against disclosing the information to which s. 22(4)(e) applies, or to any of the other disputed information.

Other factors – s. 22(2)

[35] The fourth step in a s. 22 analysis is to consider all relevant circumstances, including those listed in s. 22(2), to determine if disclosure would be an unreasonable invasion of a third party's personal privacy. It reads in part:

22(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,

³⁷ Public body's initial submission at para. 23. TransLink does not specifically identify the information to which it submits these presumptions apply.

³⁸ For example, information severed on pp. 177, 392, 492, 293.

³⁹ Public body's initial submission at para. 23. TransLink does not specifically identify the information to which it submits these presumptions apply. The applicant did not identify any factors as being relevant to rebut presumptions in s. 22(3).

[36] In this case, TransLink submits that disclosing information about an employee's employment, occupational or educational history does not rebut the presumption against disclosure in s. 22(3)(d) because disclosure is not desirable for the purpose of subjecting the activities of the government of British Columbia or a public body to public scrutiny.⁴⁰

[37] Based on the evidence, the type of information being withheld and the circumstances in which they are being withheld, s. 22(2)(a) does not weigh in favour of disclosing the disputed information, including the information to which the presumptions in s. 22(3)(a) and s. 22(3)(d) apply. It is not apparent how disclosing information about an employee's employment, occupational or educational history in this case would be desirable for subjecting the government of British Columbia or a public body to public scrutiny.

[38] Although neither of the parties raised s. 22(2)(c), I have determined that it is relevant to consider because the applicant believes that he would have been eligible for a considerable payment if he had participated in the Voluntary Departure Program.⁴¹ Previous orders have established that the following four criteria must be met in order for s. 22(2)(c) to apply:

1. The right in question must be a legal right drawn from the common law or a statute, as opposed to a non-legal right based only on moral or ethical grounds;
2. The right must be related to a proceeding which is either under way or is contemplated, not a proceeding that has already been completed;
3. The personal information sought by the applicant must have some bearing on, or significance for, determination of the right in question; and
4. The personal information must be necessary in order to prepare for the proceeding or to ensure a fair hearing.⁴²

[39] There is no evidence before me suggesting that there is any legal right (as opposed to a non-legal right based only on moral or ethical grounds) in question. In addition, there is no evidence that any proceeding is underway or is contemplated. On this basis, I find that s. 22(2)(c) does not weigh in favour of disclosing the severed information in this case.

[40] I find that none of the other factors in s. 22(2), or any other circumstances, rebut the presumption in s. 22(3)(d) with respect to third party employment, occupational or educational history or the presumption in s. 22(3)(a) with respect

⁴⁰ Public body's initial submission at para. 24.

⁴¹ Applicant's initial submission at p. 8.

⁴² For example, Order F15-36 at para. 23.

to medical leave information. For example, based on my review, none of the applicant's information is intertwined with third party personal information.⁴³ I therefore find that TransLink is required to continue to withhold the information it has severed under s. 22.

Summary of findings, s. 22

[41] In summary, I have determined that the information TransLink severed under s. 22(1) is personal information. Some of the personal information is about the applicant and must be disclosed because it is not an unreasonable invasion of personal privacy. I find that disclosing the names and titles of Coast Mountain Bus employees and the amount of severance or bonus payments they received is not an unreasonable invasion of third party personal privacy under s. 22(1) because it is information about their position and remuneration as employees of a public body as set out in s. 22(4)(e).

[42] I find that there are no relevant factors, including those enumerated in s. 22(2), that rebut the presumption against disclosing medical information as set out in s. 22(3)(a) and information about employees' employment or occupational history as set out in s. 22(3)(d). TransLink is therefore required to withhold this information as well as the rest of the information it has severed under s. 22(1).

Section 4(2)

[43] Section 4(2) of FIPPA states that if information can reasonably be severed from a record, an applicant has the right of access to the remainder of that record. In this case, I have determined that the applicant's own personal information can be reasonably severed from third party personal information and must be disclosed to the applicant. In addition, parts of emails from identifiable employees that have been severed under s. 22 can be disclosed without revealing who those employees are. For example, in some instances, retirement questions from employees to management (and management's corresponding responses) may be carefully severed to remove identifying information about employees while still preserving much of the contents of the question and response. I have highlighted information in the copy of the records I am providing to TransLink that may be disclosed in this way.

CONCLUSION

[44] For the reasons given above, under s. 58 of FIPPA, I order that:

1. TransLink must complete the processing of the applicant's request with respect to the information which it labelled as duplicate information in accordance with Part 2 of FIPPA.

⁴³ Order F15-12, 2015 BCIPC 12 (CanLII) at para 34.

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2. Subject to paragraph 4 below, TransLink may refuse to disclose to the applicant information under s. 13 of FIPPA.
 3. Subject to paragraph 4 below, TransLink must refuse to disclose to the applicant information severed under s. 22 of FIPPA.
 4. TransLink must disclose the information highlighted in yellow in the records which accompany TransLink's copy of this Order.
 5. TransLink must disclose the information highlighted in yellow before December 17, 2015 pursuant to s. 59 of FIPPA. TransLink must concurrently copy the OIPC Registrar of Inquiries on its cover letter to the applicant, together with a copy of the records.

November 4, 2015

ORIGINAL SIGNED BY

Caitlin Lemiski, Adjudicator

OIPC File No.: F13-51998