Order F25-76

MINISTRY OF ATTORNEY GENERAL

David S. Adams
Adjudicator

October 1, 2025

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Summary: Under the *Freedom of Information and Protection of Privacy Act* (FIPPA), an applicant requested that the Ministry of Attorney General (the Ministry) provide him access to the total amount of legal fees spent by the province in its defence of a lawsuit. The Ministry refused access on the basis that s. 14 of FIPPA (solicitor-client privilege) applied to the amount. The adjudicator found that the amount was presumptively privileged, but that there was no reasonable possibility that disclosing it could reveal privileged communications, so the presumption of privilege was rebutted and the Ministry was not authorized to withhold it under s. 14.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, RSBC 1996 c 165, s. 14

INTRODUCTION

[1] An access applicant, who is a journalist, requested the aggregate cost to the province of responding to a petition and its appeal (the Litigation). In response to this request, the Ministry created a document setting out this information and certain other supporting information (the Record), but refused access to it on the basis that s. 14 (solicitor-client privilege) of the *Freedom of Information and Protection of Privacy Act* (FIPPA) applied.

[2] The applicant requested that the Office of the Information and Privacy Commissioner (OIPC) review the Ministry's decision to refuse access. Mediation by the OIPC did not resolve the matter and it proceeded to inquiry.

ISSUE AND BURDEN OF PROOF

[3] The only issue in this inquiry is whether the Ministry may refuse to disclose the information in the Record under s. 14 of FIPPA. Under s. 57(1), the Ministry has the burden of proving that s. 14 applies.

DISCUSSION

Background

[4] In 2020, an individual and an organization (the Petitioners) sued the Lieutenant Governor of BC, the Premier of BC, the Queen, and the Ministry (the Respondents), on the basis that the government's decision to call an election in the fall of 2020 violated BC's *Constitution Act.*[1] In 2022, the BC Supreme Court dismissed this petition.[2] The Petitioners appealed, but in 2023, the BC Court of Appeal dismissed the appeal.[3] This was the end of the Litigation. The applicant seeks the total legal fees the Respondents incurred in conducting the Litigation.

Information at issue

[5] The Record sets out the fees charged by various professionals who worked on the Litigation, as well as the total amount of legal fees incurred by the Respondents. The applicant requested only the total amount of legal fees, so I consider that to be the only information in the Record that is at issue in this inquiry (the disputed information) and will not consider any other information in the Record.

Solicitor-client privilege – s. 14

[6] Section 14 of FIPPA provides that a public body may refuse to disclose to an applicant information that is subject to solicitor-client privilege. The term "solicitor-client privilege" covers both legal advice privilege and litigation privilege.[4] The Ministry says that legal advice privilege applies to the information in the Record.

Evidentiary basis for the application of s. 14

[7] The Ministry did not provide the Record for my review. Instead, it relies on an affidavit from its legal counsel (the Lawyer), who deposes that she was one of

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[1] RSBC 1996 c 66.
[2] *Democracy Watch v. British Columbia (Lieutenant Governor)*, 2022 BCSC 1037.
[3] *Democracy Watch v. British Columbia (Lieutenant Governor)*, 2023 BCCA 404.
[4] *College of Physicians of BC v. British Columbia (Information and Privacy Commissioner)*, 2002 BCCA 665 (CanLII) [*College*] at para 26.

the lawyers who represented the Respondents in the Litigation.[5] The Ministry also provided an affidavit from its financial analyst (the Financial Analyst), who deposes that he calculated the amounts shown in the Record, including the total amount of legal fees.[6]

[8] The applicant did not argue that it is necessary for me to see the Record in order to decide whether it is privileged.

[9] Past court cases and OIPC orders have discussed the evidence required to establish solicitor-client privilege in the absence of the records.[7]

[10] On my review of the Ministry's evidence, I am satisfied that the Record contains the total legal fees the Respondents incurred in the Litigation, as well as other information that is not at issue. While I have the authority under s. 44(1)(b) to order the Ministry to produce the Record for my review, I do not find it necessary to do so in this case.

Presumption of privilege over total amount of legal fees

[11] Legal advice privilege applies to communications between a solicitor and their client that entail the seeking or giving of legal advice, and that are intended by the parties to be confidential.[8] The privilege promotes free and frank disclosure between solicitor and client, thereby promoting "effective legal advice, personal autonomy (the individual's ability to control access to personal information and retain confidences), access to justice and the efficacy of the adversarial process".[9]

[12] The Supreme Court of Canada and the BC Court of Appeal have held that the total amount a party spends on legal fees is presumptively privileged because that information arises out of the solicitor-client relationship and is capable of disclosing privileged information about communications between solicitor and client. This presumption can be rebutted, but the onus is on the applicant to do so.[10] Previous OIPC orders have consistently applied this reasoning.[11]

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[5] Affidavit of Lawyer at paras 5-8.
[6] Affidavit of Financial Analyst at paras 4-7.
[7] *British Columbia (Minister of Finance) v British Columbia (Information and Privacy Commissioner)*, 2021 BCSC 266 at paras 76-93; Order F20-16, 2020 BCIPC 18 at paras 8-10.
[8] *Solosky v. The Queen*, 1979 CanLII 9 (SCC) [1980] 1 SCR 821 at 837.
[9] *College*, *supra* note 4 at para 30.
[10] *Maranda v. Richer*, 2003 SCC 67 [*Maranda*] at para 33; *British Columbia (Attorney General) v. Canadian Constitution Foundation*, 2020 BCCA 238 [*CCF BCCA*] at paras 60-61.
[11] See, e.g., Order F21-52, 2021 BCIPC 60 (CanLII) at para 10; Order F22-58, 2022 BCIPC 66 (CanLII) at para 18; F23-81, 2023 BCIPC 97 (CanLII) at paras 20-21.

[13] The Ministry says that the Record contains the total legal fees for the Litigation, and so it is presumptively privileged.[12] The applicant does not appear to take a position specifically about whether a presumption of privilege applies to the total legal fees in the Record.

[14] There is no dispute that the Record contains the total amount of legal fees the Respondents incurred in the Litigation. I therefore find that this information is presumptively privileged.

Has the presumption of privilege been rebutted?

[15] Next, I must decide whether the applicant has rebutted the presumption of privilege. The applicant must establish that there is no reasonable possibility, from the perspective of an assiduous inquirer, that disclosure of the legal billing information would directly or indirectly reveal privileged communications.[13] The courts have described the nature of the onus in this way:

> Given the presumption of privilege, there is no onus on the [public body] to establish that there is a reasonable possibility that the [total legal] costs would reveal anything about privileged communications. Nor is there an onus on the [public body] to establish some particular inference that could or would be drawn from the disclosure. Rather, the onus is on [the applicant] to establish through evidence or argument that there is no such reasonable possibility.[14]

[16] The courts have described the standard an applicant must meet as "appropriately high"[15] and "very strict".[16] This is so because solicitor-client privilege "is a fundamental principle of our legal system, with a constitutional dimension, and its protection must be as close to absolute as possible".[17]

Parties' submissions

[17] The Ministry says that knowing the total amount spent on the Litigation would reveal how much the province was willing to spend to defend a petition on an issue with political significance: namely, whether the Premier and the other Respondents had broken the law.[18]

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[12] Ministry's initial submission at paras 12-14 and 27.
[13] *CCF BCCA*, *supra* note 10 at paras 61 and 83.
[14] *British Columbia (Attorney General) v. British Columbia (Information and Privacy Commissioner)*, 2019 BCSC 1132 [*CCF BCSC*] at para 58, cited with approval in *CCF BCCA*, *supra* note 10 at para 68.
[15] *CCF BCCA*, *supra* note 10 at para 83.
[16] *CCF BCSC, supra* note 14 at para 51.
[17] Order F21-52, 2021 BCIPC 60 (CanLII) at para 49; *CCF BCCA*, *supra* note 10 at para 85.
[18] Ministry's initial submission at para 35.

[18] The Ministry says the applicant can reasonably be expected to publish the disputed information if it is disclosed to him, and that the Petitioners, with their extensive knowledge of the Litigation, could then learn the information.[19] The Ministry cites the BC Court of Appeal in *CCF BCCA* in this connection:

> If the total amount of fees is disclosed it will be in the public domain and known by the plaintiffs. One must ask whether there is a reasonable possibility that the plaintiffs, equipped with all their knowledge of the litigation, including matters that remain confidential as between the parties, would be able to draw inferences about solicitor-client communications with the assistance of the information about the legal costs. This is so even if other assiduous observers, without that knowledge, could not draw those inferences. Even if it were reasonably possible for only the plaintiffs to draw the necessary inferences, privilege risks being breached. That is sufficient to uphold the protection of the privilege.[20]

[19] The Ministry also says that there is publicly available information about the Litigation: the Litigation was well-reported in the media from the time the Petition was filed until the Court of Appeal released its decision.[21] It provided copies of several news stories about the Litigation for my review.

[20] The Ministry says that disclosure of the total amount of legal fees could allow the Petitioners to draw inferences about the amount the Respondents were willing to pay to defend themselves, their legal strategy, and the instructions they provided to their lawyers. It says the amount of publicly available information about the Litigation, and the fact that the Petitioners would learn the total legal costs if these were disclosed, weigh heavily against a finding that the presumption has been rebutted in this case.[22]

[21] Most of the applicant's arguments are focused on the political aspects of the government's decision to call an election. While I have read and considered them, they are not a factor in my analysis.

[22] With respect to whether the presumption of privilege has been rebutted, the applicant says that disclosure of the information in dispute "would not be enough to reveal communications protected by privilege or allow [him] or anyone else to acquire privileged communications."[23] In support of this position, he refers to Order F15-16, where the adjudicator found that the presumption of privilege had been rebutted with respect to the lump sum amounts paid to specific law firms in two fiscal years.[24]

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[19] *Ibid* at para 36.
[20] *CCF BCCA*, *supra* note 10 at para 76.
[21] Ministry's initial submission at para 38.
[22] *Ibid* at para 39.
[23] Applicant's response submission at para 3.
[24] Applicant's response submission at paras 4-15; Order F15-16, 2015 BCIPC 17 (CanLII) at paras 13-38.

[23] The applicant says further that even if the total amount of legal fees in the Record is privileged, the Ministry should exercise its discretion to release it. He points to an instance where the City of Surrey, in response to a request under FIPPA, released the amount it spent in legal fees in an unsuccessful court matter.[25]

[24] In reply, the Ministry says that the applicant has not challenged the Ministry's claim that the disputed information is presumed to be privileged, and he has failed to rebut the presumption. It says the fact that a different public body waived its privilege over certain information in different circumstances is irrelevant to the issue in this inquiry. It says that the reasoning of Order F15-16 is not applicable because that order dealt with an unknown number of disputes, rather than the single dispute here. It suggests that *City of Richmond v. Campbell,*[26] where the BC Supreme Court held that the presumption of privilege had not been rebutted with respect to the legal fees incurred in relation to two disputes, is more akin to this case.[27]

Analysis

[25] Previous orders have considered the following non-exhaustive circumstances in deciding whether the presumption of privilege with respect to legal fees has been rebutted in a given case:

- The stage of the underlying proceedings;
- The type of underlying proceedings;
- Whether the billing information is about one or more legal matters;
- The level of detail in the billing information;
- The applicant's involvement in the legal matter;
- The applicant's pre-existing knowledge about the legal matter; and
- The amount of publicly available information about the legal matter.[28]

[26] Several court decisions and OIPC orders have given detailed consideration to whether the presumption has been rebutted.

[27] In *Richmond,* the BC Supreme Court considered whether the presumption of privilege over total legal fees had been rebutted with respect to the legal fees incurred by a public body to resolve two employment harassment claims. The Ministry cites *Richmond* for the proposition that "when considering the

[25] Applicant's response submission at paras 11-13.
[26] *Richmond (City) v. Campbell*, 2017 BCSC 331 [*Richmond*].
[27] Ministry's reply submission at paras 3-15.
[28] Order F23-81, 2023 BCIPC 97 (CanLII) at para 23 and the orders cited therein.

presumption of privilege, whether litigation is ongoing or has concluded is 'an unimportant distinction', including for total legal costs".[29]

[28] I do not read *Richmond* as standing for the proposition that whether litigation is ongoing or has been concluded will always be an "unimportant distinction". Justice Gray found the distinction to be unimportant in the context of a settled employment harassment claim, and went on to explain that this context made the amount the public body was willing to defend itself before settling a claim more likely to reveal a public body's instructions to its counsel. She said:

> If...the aggregated legal fees for the two employment harassment claims were over a million dollars, an assiduous observer could reasonably discern that the [public body] found the prior claims very expensive, and might be willing to pay a larger amount in settlement of a later claim before incurring such significant fees. The assiduous observer could conclude that the [public body] instructed its counsel to take significant and expensive steps before settling the claims.
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> This information would be particularly valuable together with information about the amount of the settlements, because the later claimant could suggest in negotiation that the costs of the later claim would be significant, and that a settlement should therefore be greater to avoid such costs.
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> Even without the knowledge of the Settlements Information, knowledge of what the [public body] spent on legal fees aggregated for two harassment claimants could assist a later claimant against the [public body]…to know how much the [public body] was willing to spend to defend itself against such claims in the past, and how expensive it found such claims.
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> In short, knowledge of the amount spent on the two prior claims would reveal privileged information about the [public body's] instructions to its legal counsel about how much it was willing to pay in its defence.[30]

[29] The circumstances of the Litigation are somewhat different from those in *Richmond.* Here, the Litigation was not settled, but ended with a decision of the Court of Appeal. I agree with the adjudicator's observation in Order F23-81 that the "amount a client pays their lawyer at the end of the day necessarily reflects the variability and unpredictability of legal proceedings and their outcomes".[31] I think it is very unlikely that an assiduous observer could use the disputed information in this case to deduce anything about the province's *willingness* to pay to defend the Litigation.

[30] In *School District No. 49 (Central Coast) v. British Columbia (Information and Privacy Commissioner)*, the BC Supreme Court held that the presumption of privilege had not been rebutted with respect to the total interim amount of legal

[29] Ministry's initial submission at para 34.
[30] *Richmond*, *supra* note 26 at paras 83-87.
[31] Order F23-81, *supra* note 28 at para 32.

fees incurred by a public body in then-ongoing litigation. The Court concluded that an assiduous observer could use the amount to gain insight into such matters as, among other things, the state of a party's preparation for trial, whether the amount of fees indicated only minimal expenditure (thus showing an expectation of compromise or capitulation), and what future costs to the party in the action might reasonably be predicted prior to conclusion by trial. The Court found that if a litigant in a proceeding were able to make these inferences, this would be "prejudicial to the public body's interests in the litigation and would therefore operate to undermine the sanctity of the solicitor-client relationship".[32]

[31] Similarly, in *CCF BCCA*, the Court of Appeal concluded that the presumption had not been rebutted with respect to the amount of legal costs the government had incurred to that point in an ongoing dispute. After noting that matters that may be privileged at an early stage of an action "may not remain so throughout the trial as government strategy and other matters are revealed", the Court concluded that the amount of public information about the dispute in question, when combined with knowledge of the interim legal costs, risked "the possibility of allowing an assiduous inquirer to draw inferences about litigation strategy and communications between lawyer and client". The Court also noted that mid-trial disclosure of the amount of interim legal fees could indicate "something about the kind of instructions the government might give or be able to give counsel in negotiating costs". Moreover, the Court found it significant that the disputed information would become public and would therefore be available to the plaintiff in ongoing litigation.[33]

[32] It seems to me that the risks that concerned the courts in *Central Coast* and *CCF BCCA* are not present in this case. There is no dispute that the Litigation has concluded. While I accept the Ministry's contention that there is a large amount of public information about the Litigation, and that the Petitioners have extensive knowledge about the Litigation, I cannot see how disclosure of the disputed information in the Record could allow the Petitioners, or anyone else, to draw the kinds of inferences that were held to be possible in *Central Coast* and *CCF BCCA* – namely, how much a party had spent to date in an ongoing dispute, and what that revealed about the party's litigation strategy.

[33] In Order F15-16, on which the applicant relies, the access request was for the lump sum amount paid to each law firm in two fiscal years. The adjudicator found that disclosure of these amounts would not reveal how much the public body spent on any one specific dispute, since the law firm might have been engaged in respect of several disputes. The adjudicator also found that on the facts of that case, even if all the amounts related to a single dispute, disclosure of them would not reveal the public body's instructions to its counsel, details about

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[32] *School District No. 49 (Central Coast) v. British Columbia (Information and Privacy Commissioner)* [*Central Coast*], 2012 BCSC 427 at paras 132-134.
[33] *CCF BCCA*, *supra* note 10 at paras 74 and 81-83.

what work was completed, what litigation strategies were employed, what specific expenses were incurred, or any other communications protected by solicitor-client privilege. The adjudicator concluded that while the applicant in that case was an assiduous observer who was knowledgeable about the public body's legal disputes, the information at issue was "neutral information" that was insufficiently detailed to disclose privileged communications, even when combined with background information.[34] As the Ministry points out, the amounts at issue in Order F15-16 related to several disputes, rather than the one dispute here.[35]

[34] The applicant also cites orders from Ontario and Alberta, which were cited in Order F15-16. In Ontario Order MO-2601, the adjudicator found the presumption of privilege was rebutted with respect to a single dollar figure for the total amount of legal fees charged in connection with four legal actions.[36] In Alberta Order F2007-014, the adjudicator found that the total amount billed by a law firm was "neutral information from which the Applicant will be unable to glean information about advice received from counsel or the legal strategies employed by the Public Body". This was because information relating to the dates of the firm's bills, the services provided, and the individual lawyers providing the services, was not disclosed.[37]

[35] In Order F21-52, an applicant union sought access to dates and amounts on legal bills presented during a three-year period. The adjudicator found that the presumption had not been rebutted because it would have been possible for the union, which was involved in all of the public body's legal matters covered by the billing information, to begin to form accurate judgments about privileged matters.[38] The adjudicator said:

> For example, if the Union were to discover from the dates and amounts that the City spent considerably more or less than [the Union] would have expected on matters active during a certain time period, it could begin to form judgments about the City's legal strategy and state of preparation, including whether the City relied on consulting experts, all of which is based on the City's privileged instructions to the [law] Firm.[39]

[36] However, in my view the adjudicator went on to imply that the applicant might have been able to rebut the presumption if it had requested only a lump-sum figure. He explained:

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[34] Order F15-16, *supra* note 24 at paras 35-37.
[35] Ministry's reply submission at paras 14-15.
[36] Order MO-2601, 2011 CanLII 9754 (ON IPC) at 8-9.
[37] Order F2007-014, 2008 CanLII 88778 (AB OIPC) at paras 53-54.
[38] Order F21-52, 2021 BCIPC 60 (CanLII) at paras 45-47.
[39] *Ibid* at para 46.

> The Union says, and I accept, that it is seeking the information to hold the City accountable for its spending and "not with any intention or ability to make deductions about privileged communications". However, I do not consider the Union's motives relevant to the privilege analysis. The test set out in *CCF* is whether there is no reasonable possibility that disclosing the legal billing information *could* allow an assiduous observer to deduce privileged information, regardless of whether the inquirer *would* do so. At any rate, I do not see why the Union needs the dates and amounts to hold the City accountable. It seems to me that a single lump-sum figure would do for that purpose, but that is not what the Union requested.[40]

[37] In this case, just such a lump sum is at issue. I accept the Ministry's argument that if the disputed information in the Record were disclosed, the applicant could reasonably be expected to publish it, so that the Petitioners would have access to it. I also accept what the Ministry says about the large amount of publicly available information about the Litigation.

What must an applicant do to meet the onus?

[38] As discussed, the nature of the onus on an applicant seeking to rebut a presumption of solicitor-client privilege is "appropriately high" and "very strict", owing to the fundamental importance of the privilege.

[39] The Ministry says the applicant's submission consists of speculation, unsupported assertions, and irrelevant facts, which together are insufficient to rebut the presumption of privilege.[41] In this case, the applicant has merely asserted that disclosure of the disputed information would have no reasonable possibility of revealing privileged communications. He has not backed up his assertion with any explanation. This raises the question of whether a presumption of privilege can be rebutted even where an applicant does not make substantive submissions.

[40] In Order F23-81, the adjudicator was satisfied that the presumption of privilege had been rebutted where the applicant provided submissions which, although "succinct", were "well-supported with specific examples setting out the extent and nature of…other available information" about the legal dispute in question.[42] Here, by contrast, the applicant has not explained why he thinks there is no reasonable possibility that disclosure will reveal privileged communications.

[41] In *Central Coast*, Justice Butler addressed the question of whether a lack of on-point submissions by an applicant is fatal to a finding that a presumption of privilege has been rebutted:

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[40] Order F21-52, *supra* note 38 at para 48.
[41] Ministry's reply submission at paras 4-6.
[42] Order F23-81, *supra* note 28 at para 41.

> …the principle set forth in *Maranda* can be upheld and applied without placing, in every case, an evidentiary burden, or a requirement to make submissions, on an access applicant. So long as the test is properly applied – privilege is presumed; and there is no possibility that an assiduous inquirer, aware of background information, could use the information requested to deduce or otherwise acquire privileged information – then it may be possible to reach a conclusion that the documents are not privileged.
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> If the Commissioner could not take the nature and context of the information into account in determining if a claim of privilege should be upheld, the Commissioner would be deprived of material evidence. The nature and context of records and information will almost always have evidentiary value when considering claims of privilege. There is nothing in the *Act*, or relevant jurisprudence, which precludes the Commissioner from considering this important evidence for the purpose of determining whether privilege has been properly claimed.
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> Accordingly, I conclude that the Acting Commissioner did not err when he found, at para. 44:
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> > I agree that the lack of submissions directly on point by the applicant cannot be determinative of the proper application of FIPPA. It is still incumbent upon me to consider the nature of the information and the circumstances and context of the case to determine whether the presumption is rebutted.
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> In my view, this position is consistent with the Supreme Court of Canada's statement in *Maranda* that the privilege will be rebutted where it is alleged without a proper basis, or, in the words of Newbury J.A. in *Legal Services Society*, where it is possible to conclude that the release of the information creates a "merely fanciful or theoretical possibility of breach of the privilege". Furthermore, irrespective of any submissions by the access applicant on the point, the high standard of the "assiduous inquirer" provides sufficient protection against possible interference with the privilege.[43]

[42] In light of this guidance from *Central Coast*, I do not find the fact that an applicant's submissions are brief and consist of mere assertion to be an absolute bar to a finding that the presumption of privilege has been rebutted in this case. If I am satisfied from the nature of the information at issue and the surrounding circumstances that there is no reasonable possibility that an assiduous and well-informed observer could deduce or otherwise acquire privileged communications, the presumption may be rebutted.

[43] In this case, I am satisfied that there is no reasonable possibility that disclosing the disputed information in the Record would reveal privileged communications. I do not think even an assiduous observer like one of the Petitioners, armed with knowledge of the total legal fees the Respondents spent

[43] *Central Coast*, *supra* note 32 at paras 112-115.

to defend themselves, with the publicly available about the Litigation, and with their own extensive knowledge of the Litigation, could make accurate inferences about the Respondents' legal strategy, their instructions to counsel, or any other privileged information.

[44] In coming to this conclusion, I have kept in mind the "appropriately high" and "very strict" hurdle that needs to be overcome to establish that the presumption has been rebutted. I have also kept in mind the following guidance provided by the Court of Appeal in *Legal Services Society v. British Columbia (Information and Privacy Commissioner)*:

> Section 14 is paramount to the provisions of [FIPPA] that prescribe the access to records that government agencies and other public bodies must afford. It was enacted to ensure that what would at common law be the subject of solicitor-client privilege remain privileged. There is absolutely no room for compromise. Privilege has not been watered-down any more than the accountability of the legal profession has been broadened to serve some greater openness in terms of public access.
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> Certainly the purpose of [FIPPA] as a whole is to afford greater public access to information and the Commissioner is required to interpret the provisions of the statute in a manner that is consistent with its objectives. However, the question of whether information is the subject of solicitor-client privilege, and whether access to a record in the hands of a government agency will serve to disclose it, requires the same answer now as it did before [FIPPA] was enacted. The objective of s. 14 is one of preserving a fundamental right that has always been essential to the administration of justice and it must be applied accordingly.[44]

Conclusion on s. 14

[45] I have found that the disputed information in the Record is presumptively privileged since it sets out the total amount of legal fees the Respondents incurred in the Litigation.

[46] Considering whether that presumption has been rebutted, I have found that the information in dispute in the Record relates to a single dispute, which has concluded. The dispute was an important and hard-fought piece of constitutional litigation. The disputed information is the total amount of legal fees, not any other details related to the Litigation. While the applicant was not involved in the Litigation, given that he is a journalist he can reasonably be expected to publish the disputed information, and so the Petitioners, with their extensive background knowledge of the Litigation, will likely learn the information. However, I have

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[44] *Legal Services Society v. British Columbia (Information and Privacy Commissioner)*, 2003 BCCA 278 at para 35, quoting with approval from *Legal Services Society v. The Information and Privacy Commissioner of the Province of BC*, 1996 CanLII 1780 (BC SC) at paras 25-26; Ministry's reply submission at para 9.

found that learning the total amount of the fees would not allow the Petitioners, or anyone else, to draw the inferences the Ministry fears.

[47] Taking all this into account, I am satisfied that disclosure of the disputed information has no reasonable possibility of revealing privileged communications that took place between the Respondents and their lawyers. Accordingly, I find that the presumption of privilege has been rebutted in this case. The Ministry may not refuse to disclose the total amount of legal fees contained in the Record under s. 14. For clarity, I have made no finding on any of the other information contained in the Record.

CONCLUSION

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

1. The Ministry is not authorized to withhold the total amount of legal fees from the Record under s. 14. It must disclose that information to the applicant.

2. The Ministry must copy the OIPC registrar of inquiries on its cover letter to the applicant, together with a copy of the record described at item 1 above.

[49] Pursuant to s. 59(1) of FIPPA, the Ministry is required to comply with this order by November 14, 2025.

October 1, 2025

ORIGINAL SIGNED BY

David S. Adams, Adjudicator

OIPC File No.: F23-95221