



Order F25-99

**SOUTH COAST BRITISH COLUMBIA TRANSPORTATION AUTHORITY
(TRANSLINK)**

Rene Kimmett
Adjudicator

December 16, 2025

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Summary: Under the *Freedom of Information and Protection of Privacy Act* (FIPPA), an applicant asked TransLink for access to his own personal information. TransLink withheld some information responsive to the applicant's request under the following sections of FIPPA: 13(1) (advice or recommendations), 17(1) (harm to financial or economic interests of a public body), and 22(1) (unreasonable invasion of third-party personal privacy). The adjudicator found TransLink was authorized to withhold some of the information in dispute under s. 13, but none of the information withheld under only s. 17. The adjudicator found TransLink was required to withhold all the information in dispute under s. 22(1). TransLink was required to give the applicant access to all the information it was not authorized to withhold.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, RSBC 1996, c. 165, ss. 13(1), 17(1), 17(1)(a), 17(1)(f), 22(1), 22(2), 22(3)(d), and 22(4).

INTRODUCTION

[1] Under the *Freedom of Information and Protection of Privacy Act* (FIPPA), an applicant asked the South Coast British Columbia Transportation Authority (TransLink) for access to his own personal information.

[2] TransLink provided the applicant with some records responsive to his access request, but partially or entirely withheld other records under one or more of the following sections of FIPPA: 13(1) (advice or recommendations), 14 (solicitor-client privilege), 17(1) (harm to financial or economic interests of a public body), and 22(1) (unreasonable invasion of third-party personal privacy).

[3] The applicant asked the Office of the Information and Privacy Commissioner (OIPC) to review TransLink's decision to withhold information responsive to his access request.

[4] During the OIPC's mediation process, TransLink reconsidered its response and released some additional information to the applicant that it had previously withheld under s. 13. However, mediation did not resolve all the issues in dispute, and the matter proceeded to this inquiry.

PRELIMINARY ISSUES

Section 14 not in dispute

[5] In its submission, TransLink states it is no longer relying on s. 14 to withhold any of the information in dispute. TransLink did not disclose any additional information to the applicant following this submission; therefore, I understand that the information TransLink withheld under s. 14 continues to be withheld under ss. 13, 17, or 22.

[6] The applicant submits "TransLink's inconsistent use of s. 14 undermines confidence in its [other] exemption claims."¹

[7] I find that s. 14 is not at issue in this inquiry. I do not draw any adverse inferences about TransLink's application of ss. 13, 17, or 22 based on its reconsideration of the application of s. 14 to the records in dispute. Section 14 is a discretionary exception, meaning that even if TransLink believes s. 14 applies, it is not required to withhold information on that basis. The fact that TransLink decided to no longer withhold information under s. 14 is not relevant to the determination of whether it is authorized or required to withhold that information under s. 13, 17, or 22.²

Adequate search complaint

[8] The applicant's inquiry submission includes complaints that TransLink did not meet its obligations under s. 6(1) of FIPPA. Section 6(1) says public bodies "must make every reasonable effort to assist applicants and to respond without delay to each applicant openly, accurately and completely."

[9] Section 6(1) was not set out in the Fact Report or Notice of Inquiry as an issue to be decided in this inquiry. The Notice of Inquiry states that parties may not add new exceptions or issues without the OIPC's prior consent. The applicant did not ask permission to add this issue to the inquiry.

[10] Further, before making a complaint to the OIPC, a complainant must first take their concerns directly to the public body and give the public body an opportunity to respond and attempt to resolve the complaint. If the issue is not

¹ Applicant's submission at paras 11 and 18.

² For a similar finding see Order F23-52, 2023 BCIPC 60 (CanLII) at para 27 and Order F23-53, 2023 BCIPC 61 (CanLII) at para 31.

resolved, the complainant can file a complaint with the OIPC. Most complaints under s. 6(1) are resolved at the case review or investigations stage of the OIPC's process and not through a formal inquiry.³ The applicant has not provided reasons why his complaint should bypass the usual resolution opportunities and be adjudicated at this inquiry.

[11] For these reasons, I decline to add s. 6(1) as an issue in this inquiry.

Additional submissions

[12] After the close of the submission schedule, both the applicant and TransLink sent further submissions to the registrar of inquiries. The registrar of inquiries informed the parties that the submission phase of the inquiry was closed and that neither submission would form part of the record for me to consider. I considered whether I need these additional submissions in order to fairly decide the issues in dispute in this inquiry and determined I do not. The Notice of Inquiry clearly sets out the submission schedule and issues to be decided at the inquiry. Parties are expected to put their best case forward at the outset of their submissions. The OIPC did not ask either party to provide the additional submissions. For these reasons, I confirm that neither of the additional submissions form part of the record of this inquiry.

ISSUES AND BURDEN OF PROOF

[13] In this inquiry, I must decide the following issues:

- Is TransLink authorized to withhold the information in dispute under ss. 13(1) or 17(1)?
- Is TransLink required to withhold the information in dispute under s. 22(1)?

[14] TransLink has the burden of proving that the applicant has no right of access to the information withheld under ss. 13(1) or 17(1).⁴ TransLink also has the burden to prove that the information withheld under s. 22(1) is personal information.⁵

[15] The applicant has the burden of proving that disclosure of the personal information in the records would not be an unreasonable invasion of third-party personal privacy under s. 22(1).⁶

³ Order F25-27, 2025 BCIPC 33 (CanLII) at para 8; Order F18-11, 2018 BCIPC 14 at para 6.

⁴ FIPPA, s. 57(1).

⁵ Order 03-41, 2003 CanLII 49220 (BC IPC) at paras 9-11.

⁶ FIPPA, s. 57(2).

DISCUSSION

Background

[16] TransLink is a regional transportation authority that is responsible for planning and managing the transportation system within Metro Vancouver.

[17] TransLink is required, under its enabling legislation,⁷ to create a ten-year investment plan at least every three years. The investment plan must, among other things, identify proposed transportation services, capital investments, and funding. Each investment plan must be approved by TransLink's Board of Directors and the Mayors' Council on Regional Transportation.

[18] In 2009, TransLink created a financial investment forecasting model (financial model) as a tool to develop its investment plans. In 2019, TransLink began updating this tool.

[19] In early 2019, the applicant was sub-contracted to work with TransLink employees to update the financial model. In spring 2019, the applicant was hired as a full-time employee of TransLink and continued working on the financial model. The applicant's employment was later terminated without cause.

[20] The applicant has filed a petition against TransLink in the Supreme Court of British Columbia. The petition seeks, among other things, a declaration that the applicant owns the copyright to components of the financial model on the basis that it was based on a financial modelling system he created prior to being sub-contracted by TransLink. TransLink filed a response opposing the applicant's petition.

Records at issue

[21] The records package totals 1097 pages. TransLink entirely withheld approximately 720 pages and partially withheld approximately 40 other pages.

[22] Most of the information in dispute is withheld under both ss. 13(1) and 17(1). Some information is withheld under only s. 13(1) or only s. 17(1). A small amount of information is withheld under only s. 22(1).

Advice or recommendations – s. 13

[23] Section 13(1) authorizes the head of a public body to refuse to disclose information that would reveal advice or recommendations developed by or for a public body or minister.

⁷ *South Coast British Columbia Transportation Authority Act*, SBC 1998, c 30.

[24] To determine whether s. 13(1) applies, I must first decide if disclosure of the withheld information would reveal advice or recommendations developed by or for a public body or minister. If it would, then I must decide whether any of the categories or circumstances listed in ss. 13(2) or 13(3) apply to that information.

Step one: would disclosure reveal advice or recommendations?

[25] A public body is authorized to refuse access to information under s. 13(1) when the information itself directly reveals advice or recommendations or when disclosure would permit accurate inferences about any advice or recommendations developed by or for a public body.⁸

[26] The word “recommendations” includes material that relates to a suggested course of action that will ultimately be accepted or rejected by the person being advised and can be express or inferred.⁹

[27] The word “advice” has a distinct and broader meaning than “recommendations.”¹⁰ “Advice” usually involves a communication, by an individual whose advice has been sought, to the recipient of the advice, as to which courses of action are preferred or desirable.¹¹ The term “advice” also includes an opinion that involves exercising judgment and skill to weigh the significance of matters of fact on which a public body must make a decision.¹²

[28] Section 13(1) protects “a public body’s internal decision-making and policy-making processes, in particular while the public body is considering a given issue, by encouraging the free and frank flow of advice and recommendations.”¹³

[29] Section 13(1) does not automatically apply to a document simply because it is a draft and a public body can only withhold parts of the draft that would actually reveal, or allow accurate inferences to be made about, advice or recommendations.¹⁴

[30] The information TransLink has withheld under s. 13(1) relates to:

⁸ Order 02-38, 2002 CanLII 42472 at para. 135. See also Order F17-19, 2017 BCIPC 20 (CanLII) at para. 19.

⁹ *John Doe v. Ontario (Finance)*, 2014 SCC 36 at paras. 23-24.

¹⁰ *Ibid* at para. 24.

¹¹ Order 01-15, 2001 CanLII 21569 at para. 22.

¹² *College of Physicians of BC v. British Columbia (Information and Privacy Commissioner)*, 2002 BCCA 665 at para. 113.

¹³ Order 01-15, 2001 CanLII 21569 at para 22.

¹⁴ Order 00-27, 2000 CanLII 14392 at p. 6 and Order 03-37, 2003 CanLII 49216 at para. 60; Order F23-82, 2023 BCIPC 98 (CanLII).

- the events leading to the termination of the applicant's employment¹⁵ or
- the financial model.¹⁶

[31] The applicant did not make specific submissions about s. 13.

Information related to the applicant's termination

[32] TransLink submits that the information it withheld related to the applicant's termination is, or would reveal, advice or recommendations developed by human resource employees, the applicant's manager (Manager), the Manager's supervisor (Director), or other TransLink staff.¹⁷

[33] I find that the following information would reveal advice or recommendations developed by or for TransLink:

- communications in which the Manager received recommendations¹⁸ and advice¹⁹ from an HR employee about the applicant's performance plan or termination.
- the Manager's and Director's opinions about the applicant's workplace performance, which involved exercising judgment and skill to weigh matters related to whether to continue the applicant's employment with TransLink.²⁰ I find these opinions are advice provided to TransLink.

[34] However, I find that the following information would not reveal, or allow accurate inferences to be made about, advice or recommendations:

- the information withheld on pages 11-17 appears to be a draft of a document provided to the applicant. It does not contain any tracked changes or comments and appears to be identical to information already disclosed to the applicant elsewhere in the records package. Since this information does not appear to contain advice or recommendations and has already been disclosed to the applicant elsewhere, I find that disclosure of this information would not reveal advice or recommendations. I find that s. 13(1) does not apply to this information.

¹⁵ Records package at 3, 11-17, 18-19, 28, 66, 74-75, 389, 411-413, 430, 990-1025.

¹⁶ Records package at 32-35, 39, 41, 58-59, 74-75, 81-361, 363-368, 432-451, 458-463, 483-485, 539-798, 804, 969-970.

¹⁷ TransLink's submission at paras 45-47.

¹⁸ Records package at pages 411-414 and 430.

¹⁹ Records package at pages 3 and 18-19.

²⁰ Records package at pages 28, 66, and 389.

- the draft performance appraisals and draft performance plans, which include supporting materials such as emails between the applicant and the Manager.²¹ The Manager states he prepared these documents and that, in some cases, the Director reviewed them before the final versions were given to the applicant. He says that these drafts include advice and recommendations he received from other staff about the applicant's job performance.²² TransLink submits

Staff must feel free to provide frank advice about managing employees including by preparing and editing performance management documents. The content of those drafts reflect the advice and recommendations provided to [the Manager] and [the Director] regarding the access applicant's performance, with a final version being delivered to the access applicant for discussion and implementation.²³

I have reviewed these documents and cannot identify advice or recommendations provided by other employees to the Manager. I also cannot find instances in which advice or recommendations were given to or by the Director. The documents do not contain advice or recommendations via comments or track changes. The documents appear to only contain comments and instructions from the Manager to the applicant, as well as supporting emails. The final version was provided to the applicant "for discussion and implementation" and was not intended to be used by a decision-maker to make a decision. TransLink has not adequately explained its view that the information in these documents would reveal, or allow accurate inferences to be made about, advice or recommendations provided to the Manager or Director. I find that s. 13(1) does not apply to most of the information in the performance documents.

However, as noted above, these documents include supporting emails, which were sent between the applicant and the Manager. These emails include excerpts from and discussions about the financial model. As I will explain below, this information is advice and, therefore, falls under s. 13(1).

Information related to the financial model

[35] TransLink has withheld versions of, and excerpts from, the financial model as well as portions of emails discussing the financial model. TransLink submits its employees exercised their judgement, skill, and expertise to develop and use the financial model. It submits that the financial model is advice and

²¹ Records package at pages 848-952 and 990-1025.

²² Manager's affidavit at para 30.

²³ TransLink's initial submission at para 48.

recommendations developed by TransLink's employees about whether the proposed expenditures are affordable compared to proposed revenues.²⁴

[36] To support its position, TransLink provides affidavit evidence from the Manager. The Manager states that he oversees a small team that prepares TransLink's 10-year financial planning information for its investment plans. He explains that the financial model contains TransLink's assumptions about the future costs of goods, labour, and other economic inputs.²⁵ He says the financial model is used to determine TransLink's expenditures under a proposed set of programs and services. He says the expenditure can then be used to determine the level of revenue and borrowing TransLink needs to maintain its mandated cash and investments levels, debt to operating revenue ratio, and borrowing limit.²⁶ He says that, ahead of each approval, the investment plan is presented in draft form to TransLink's Board and the Mayors' Council whose feedback is then incorporated into the next draft.²⁷

[37] Based on TransLink's submissions and evidence, I find that the financial model and excerpts from this model, including where those excerpts appear in emails, would reveal advice developed by TransLink employees as part of the deliberative process of developing its investment plan. I find that s. 13(1) applies to this information.

Step two: ss. 13(2) and 13(3)

[38] Since I have found that s. 13(1) applies to some of the information in dispute under this section, I must now consider whether that information falls under any of the categories or circumstances listed in ss. 13(2) or 13(3).

[39] Subsections 13(2) and 13(3) identify certain types of records and information that may not be withheld under s. 13(1), such as factual material under s. 13(2)(a) and information in a record that has been in existence for 10 or more years under s. 13(3). If the information falls under a s. 13(2) category or if s. 13(3) applies, then the public body must not refuse to disclose that information under s. 13(1).

[40] I have considered all of the circumstances listed in s. 13(2) and find that none apply. I also find that s. 13(3) does not apply because the records relate to the applicant's time working for TransLink, which began in 2019.

²⁴ TransLink's initial submission at paras 42-44.

²⁵ Manager's affidavit at para 12.

²⁶ *Ibid* at para 6.

²⁷ *Ibid* at para 8.

Conclusion – s. 13

[41] TransLink is authorized to refuse access to some of the information it has withheld under s. 13(1).

[42] However, it is not authorized to refuse access to the information in dispute on pages 11-17 or the information in dispute on pages 848-952 and 990-1025 that is not about the financial model. For clarity, I expect TransLink to sever the information related to the financial model on pages 848-952 and 990-1025 in the same manner it has on, for example, pages 362-368. TransLink has not applied any other sections of FIPPA to the information on pages 11-17, 848-952, and 990-1025 and, therefore, must give the applicant access to the information on these pages that, I have found, is not subject to s. 13(1).

Harm to financial or economic interests - s. 17(1)

[43] Section 17(1) authorizes a public body to refuse to disclose information that, if disclosed, could reasonably be expected to harm the financial or economic interests of a public body or the government of British Columbia. The relevant parts of s. 17 read:

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

(a) trade secrets of a public body or the government of British Columbia;

[...]

(f) information the disclosure of which could reasonably be expected to harm the negotiating position of a public body or the government of British Columbia.

[44] As set out in past orders, ss. 17(1)(a) through (f) provide examples of the kinds of information that, if disclosed, could reasonably be expected to harm the financial or economic interests of a public body. Past orders have also established that it is not enough for a public body to show that one of the circumstances in (a) through (f) apply; a public body must also demonstrate that disclosure could reasonably be expected to result in financial or economic harm in accordance with the opening words of s. 17(1).²⁸

²⁸ Order F21-56, 2021 BCIPC 65 (CanLII), paras 21 and 23.

[45] Former Commissioner Loukidelis described the threshold for harm under s. 17(1) as follows:

The threshold for harm under s. 17(1) is not a low one met by any impact. Nature and magnitude of outcome are factors to be considered. If it were otherwise, in the context of s. 17(1) any burden, of any level, on a financial or economic interest of a public body could meet the test. This would offend the purpose of FIPPA to make public bodies more accountable to the public by giving the public a right of access to records, subject to specified, limited exceptions. It would also disregard the contextual variety of the harms-based disclosure exceptions in FIPPA.²⁹

[46] The Supreme Court of Canada has held that, where the phrase “could reasonably be expected to” is used in access to information statutes, the standard of proof is a middle ground between that which is merely possible and that which is probable. To meet this standard, the public body must provide evidence well beyond or considerably above a mere possibility in order to reach that middle ground.³⁰ There must be a clear and direct connection between the disclosure of the withheld information and the anticipated harm.³¹

[47] I found above that TransLink is authorized, under s. 13(1), to withhold much of the information it withheld under ss. 13 and 17. I will not consider whether TransLink is also authorized to withhold this information under s. 17(1).

[48] The only information left for me to consider under s. 17(1) is information TransLink has withheld in several versions of a document titled Revolving Land Fund.³² TransLink submits this document is part of the financial model. Most of this document has been disclosed and TransLink is only withholding the dollar figures.

[49] TransLink makes three main arguments about how disclosure of the information in dispute could reasonably be expected to harm its financial or economic interests. I consider each of these arguments under the subheadings below.

[50] The applicant did not make specific submissions about s. 17.

Ongoing copyright litigation (s. 17(1))

[51] TransLink submits that if it discloses any information from the financial model, then all the proprietary information in dispute in the intellectual property

²⁹ Order F08-22, 2008 CanLII 70316 (BC IPC) at para 50.

³⁰ *Merck Frosst Canada Ltd. v. Canada (Health)*, 2012 SCC 3 (CanLII) at para 201.

³¹ Order 02-50, 2002 CanLII 42486 (BC IPC) at para 137; Order F13-06, 2013 BCIPC 6 (CanLII) at para 24.

³² Records package at pages 396-404.

litigation between TransLink and the applicant would be disclosed to the applicant. TransLink submits that this disclosure would

- result in TransLink losing control over that intellectual property, and the economic value that is tied to it, despite the claim not yet being decided by the court.³³
- render the litigation moot because there would no longer be any proprietary information to protect, which would deprive TransLink of its opportunity to defend against the applicant's intellectual property claim.³⁴

[52] TransLink submits that it plainly has a financial interest in defending against the applicant's litigation and that disclosure of the records in dispute could reasonably be expected to harm that interest. It submits that the access to information system should not be used to undermine TransLink's ongoing litigation where the litigation itself concerns the records in dispute.³⁵

[53] I accept TransLink's submission that it has a financial interest in defending against the litigation because, if the applicant succeeds, TransLink may need to pay compensation.

[54] However, I find that TransLink has not provided sufficient evidence or legal authority to support its assertion that disclosure of excerpts of the financial model, including the Revolving Land Fund document, will result in TransLink losing control of the financial model thus rendering the intellectual property litigation moot. In the litigation, the applicant is seeking, among other things, an order that TransLink pay him a monthly licensing fee of one million dollars. It is not clear to me that disclosure of the information in dispute in this inquiry would result in the dispute about this licensing fee becoming moot. To make findings on this point, I would need some evidence that this outcome could reasonably be expected to result from disclosure. TransLink's affidavit evidence was sworn by the Manager whose expertise is in financial analysis. There is nothing suggesting his expertise extends to intellectual property law. I find TransLink has not provided sufficient evidence to show that disclosure of the Revolving Land Fund document could reasonably be expected to result in harm to TransLink's financial interests via harm to its intellectual property interests or ability to defend itself during litigation.

³³ TransLink's initial submission at para 20.

³⁴ *Ibid* at para 23.

³⁵ *Ibid* at para 24.

Harm to TransLink's negotiating position (s. 17(1)(f))

[55] TransLink submits that disclosure of the information in dispute could reasonably be expected to harm its financial or economic interests by harming its negotiating position, as contemplated under s. 17(1)(f).

[56] TransLink says the financial model contains TransLink's assumptions about the future costs of goods, labour and other economic inputs. It says the Revolving Land Fund document is part of the financial model.³⁶ TransLink describes the Revolving Land Fund document as a monthly real estate transaction report.³⁷

[57] TransLink submits that disclosure of the financial model would allow those with whom TransLink negotiates to "refuse to assume risks that they otherwise would have accepted, or they might require greater levels of compensation than they would otherwise have been willing to accept as the price of assuming the risk."³⁸ It submits that

although TransLink is required to list the cost of all capital projects over \$50M in the Investment Plan, the [financial model] contains information about real estate development projects that could have an impact on the purchase and sale of development properties needed for such capital projects. If property owners become aware that TransLink may require their property for a development project, it may result in those owners inflating the purchase price for those properties as they would know it was required for development purposes [...] Similarly, releasing capital project costs could also potentially harm capital purchase negotiations.³⁹

[58] The Revolving Land Fund appears to be a summary of the cumulative costs and revenues that TransLink has paid or received from its collective real estate properties up to 2022.⁴⁰ The version of the document in the records package was updated in 2023.⁴¹ The Revolving Land Fund appears to be a pool of money that TransLink can draw on to fund various projects.⁴² This document does not appear to identify specific properties TransLink is looking to buy, sell, or develop and it does not include any details about required contractual terms or

³⁶ TransLink's initial submission at para 28.

³⁷ *Ibid* at page 5, para 16(h); Manager's affidavit at para 10(h).

³⁸ TransLink's initial submission at para 34, quoting Order F10-34, 2010 BCIPC 50 at para 24.

³⁹ TransLink's initial submission at para 35, citing *Burnaby (City) v British Columbia (Information and Privacy Commissioner)*, 2023 BCSC 948 (CanLII) [*Burnaby*] and Order F23-67, 2023 BCIPC 78 (CanLII).

⁴⁰ The left column, which has been disclosed to the applicant, lists categories of costs and revenue. The row along the top, which has also been disclosed, says, as an example, "Cumulative Activities Up To [Date]" and "Since Inception (Spending)/Revenue".

⁴¹ Records package at page 394.

⁴² Part of the document, which has been disclosed to the applicant, says there is an "approved spending limit" and a "remaining spending limit".

risk allocation. TransLink has not adequately explained, and I cannot see, how the information in the Revolving Land Fund document could reasonably be expected to harm its negotiating position. Without an explanation from TransLink that addresses the specific information in dispute, I find that it has not met its burden under s. 17(1)(f). In making this finding, I distinguish the facts of this case from those in the orders and decisions TransLink has relied upon.⁴³ I discuss each in the paragraphs below.

[59] In F10-34, the information in dispute was developed by the public body for it to use while negotiating a specific contract. It included information about how the public body assessed risk relating to specific portions of the project and the extent to which the risks would be transferred to or shared with its partner. The adjudicator accepted the public body's evidence that disclosure of this information could reasonably be expected to result in its partners refusing to assume risks or requiring additional compensation to assume risks that they otherwise would have been willing to accept.⁴⁴

[60] In F23-67, the information in dispute was contained in a chapter titled "Property Acquisition Process" within a document called the "Property Acquisition Manual". The adjudicator found:

The Manual indicates that the Ministry has several financial and non-monetary objectives in negotiating licences and property acquisition. It is reasonable to conclude that revealing information about terms that its employees must seek to include in an agreement, or terms that they must or should be willing to concede to property owners, would give those property owners leverage in the negotiations. The disclosure of the Ministry's non-monetary objectives would also give leverage to the property owners. This could make it more difficult or costly to achieve a settlement and could reasonably be expected to cause the Ministry financial harm. Therefore, I find that s. 17(1)(f) applies to this information.

[61] In *Burnaby (City) v British Columbia (Information and Privacy Commissioner)*, 2023 BCSC 948, the information in dispute was about specific properties the public body owned that were adjacent or proximate to properties that it may want to target for acquisition and land assembly.⁴⁵ The court found the City's evidence established a direct link between disclosure of the information about the specific properties and the anticipated harm from higher sales prices or refusal to sell.⁴⁶

⁴³ Order F10-34, 2010 BCIPC 50 (CanLII); Order F23-67, 2023 BCIPC 78 (CanLII); *Burnaby*, *supra* note 37.

⁴⁴ F10-34, 2010 BCIPC 50 (CanLII) at paras 24-25.

⁴⁵ *Burnaby*, *supra* note 37 at paras 41-43.

⁴⁶ *Ibid* at para 67.

[62] Here, TransLink has not provided evidence that the information in dispute, in the Revolving Land Fund, relates to any negotiation or reveals information about TransLink's negotiation strategies, risk allocation, required terms, non-monetary objectives, or properties TransLink may seek to buy, sell, or develop. Overall, I find that TransLink has not established that disclosing the information in the Revolving Land Fund document could reasonably be expected to harm its negotiating position.

Trade secrets (s. 17(1)(a))

[63] TransLink submits that the financial model contains its trade secrets under s. 17(1)(a).

[64] FIPPA defines a "trade secret" as information that

- (a) is used, or may be used, in business or for any commercial advantage,
- (b) derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use,
- (c) is the subject of reasonable efforts to prevent it from becoming generally known, and
- (d) the disclosure of which would result in harm or improper benefit.

[65] TransLink submits that the financial model contains information that it uses to assess, among other things, the amount of funding it needs to raise and whether TransLink is compliant with legislation. It submits that detailed forecasting and analysis has economic value to TransLink because it allows it to make accurate predictions of financial performance which equates to financial savings for TransLink and its subsidiaries. It submits that it has paid to develop the financial model through external consultants and staff time. It submits it has consistently maintained the confidentiality of its financial modeling tools and that disclosure of the financial model would result in harm as described elsewhere in its submissions.⁴⁷

[66] The definition of trade secret includes the requirement that disclosure of the information "result in harm or improper benefit". The only harm (or improper benefit) contemplated by TransLink is the harm it describes elsewhere in its submissions. I understand TransLink to be referring to its arguments about harm

⁴⁷ TransLink's initial submission at para 27.

to its intellectual property rights, litigation with the applicant, or negotiating position. I have already concluded that TransLink has not established any of these harms could reasonably be expected to occur as a result of disclosure of the information in the Revolving Land Fund. On this basis, I conclude that TransLink has not established that the information in dispute meets the definition of a trade secret. Since all four requirements must be met to meet the definition, I do not need to consider the other requirements. I find TransLink has not established that s. 17(1)(a) applies to the information in dispute.

Conclusion

[67] For the reasons given above, I find that TransLink has not established that disclosure of the information in the Revolving Land Fund document could reasonably be expected to harm its financial or economic interests. TransLink is not authorized, under s. 17(1), to withhold this information.

Unreasonable invasion of third-party personal privacy – s. 22

[68] Section 22(1) requires a public body to refuse to disclose personal information if its disclosure would unreasonably invade a third party's personal privacy. A third party is any person other than the Applicant and a public body.⁴⁸

[69] There are four steps in the s. 22(1) analysis, and I will apply each step under the subheadings below.⁴⁹

Section 22(1) – personal information

[70] The first step in the s. 22(1) analysis is to determine if the information in dispute is personal information. Personal information is defined in FIPPA as "recorded information about an identifiable individual other than contact information".⁵⁰ Information is about an identifiable individual when it is reasonably capable of identifying a particular individual, either alone or when combined with other available sources of information.⁵¹

[71] Contact information is defined as "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".⁵² Whether information is "contact information" depends on the context in which it appears.⁵³

⁴⁸ FIPPA, Schedule 1.

⁴⁹ Order F15-03, 2015 BCIPC 3 (CanLII) at para 58.

⁵⁰ FIPPA, Schedule 1.

⁵¹ Order F05-30, 2005 CanLII 32547 (BC IPC) at para 35.

⁵² FIPPA, Schedule 1.

⁵³ Order F20-13, 2020 BCIPC 15 (CanLII) at para 42.

[72] The applicant did not make specific submissions about s. 22.

[73] TransLink submits the information withheld under s. 22(1) consists of:

- laptop identification numbers combined with usernames;⁵⁴
- employee usernames embedded in file locations;⁵⁵
- information about a TransLink employee other than the applicant.⁵⁶

[74] I find that all of this information is personal information because it is about identifiable individuals and is not contact information.

Section 22(4) – not an unreasonable invasion of personal privacy

[75] The second step in the s. 22(1) analysis is to determine if the personal information falls into any of the categories of information listed in s. 22(4). Section 22(4) sets out circumstances where disclosure of personal information is not an unreasonable invasion of personal privacy.

[76] The parties have not made submissions about the application of s. 22(4). I have considered the categories listed under s. 22(4) and find that none apply to the personal information in dispute.

Section 22(3) – presumed an unreasonable invasion of personal privacy

[77] The third step in the s. 22(1) analysis is to determine whether any of the presumptions listed under s. 22(3) apply to the personal information in dispute. If one or more apply, then disclosure of that personal information is presumed to be an unreasonable invasion of personal privacy.

[78] TransLink submits that the information about a TransLink employee relates to their employment history and, therefore, disclosure of this personal information is presumptively an unreasonable invasion of this employee's personal privacy under s. 22(3)(d).

[79] I can see that this withheld information is the Manager's opinion on the workplace performance of an employee other than the applicant. I find that disclosing this information would reveal evaluative information about the employee related to their employment history. I find s. 22(3)(d) applies to this information.

[80] While not argued by TransLink, I also find that the usernames and laptop identifiers (when combined with the usernames) form part of these third parties'

⁵⁴ Records Package at pages 383-384.

⁵⁵ Records Package at pages 396-401.

⁵⁶ Records Package at page 464.

employment histories. Past OIPC orders have consistently found this kind of information relates to an employee's employment history under s. 22(3)(d).⁵⁷

Section 22(2) – all relevant circumstances

[81] The final step in the s. 22(1) analysis is to consider all relevant circumstances, including those listed in s. 22(2), to determine whether the disclosure of personal information would be an unreasonable invasion of a third party's personal privacy.

[82] TransLink submits that none of the relevant circumstances rebut the presumption under s. 22(3)(d).⁵⁸ TransLink submits that the withheld information is limited in nature, that there is no public benefit in disclosing it, and that withholding this information does not hinder the applicant's ability to understand the records.

[83] I agree with TransLink that the presumption under s. 22(3)(d) is not rebutted. Disclosure of this personal information would not subject a public body's activities to public scrutiny and would not promote public health and safety. The personal information in dispute is not the applicant's personal information and there is no evidence before me that the applicant requires this personal information for a fair determination of his rights.

Conclusion – s. 22

[84] I found above that all of the information in dispute under s. 22(1) is the personal information of third parties. I found that none of the categories under s. 22(4) apply to the personal information in dispute. I found that disclosure of the personal information in dispute is presumptively an unreasonable invasion of third-party personal privacy and that there are no relevant circumstances sufficient to rebut this presumption. For all of these reasons, I find that the applicant has not met his burden to prove that disclosure of the personal information in dispute would not be an unreasonable invasion of third-party personal privacy. TransLink is required to withhold the information in dispute under s. 22(1).

CONCLUSION

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

⁵⁷ Order 03-21, 2003 CanLII 49195 at paras 25-26; Order F25-42, 2025 BCIPC 50 (CanLII) at paras 58-59.

⁵⁸ TransLink's initial submission at para 27.

1. Subject to item #2 below, I confirm TransLink's decision to withhold the information in dispute under s. 13(1).
2. TransLink is not authorized, under s.13(1), to withhold the information in dispute on pages 11-17 or the information in dispute on pages 848-952 and 990-1025 that is not about the financial model. TransLink must give the applicant access to this information. For clarity, I expect TransLink to sever the information related to the financial model on pages 848-952 and 990-1025 in the same manner it has on, for example, pages 362-368.
3. TransLink is not authorized to withhold any of the information it withheld under only s. 17(1) on pages 396-404 of the records package and must give the applicant access to this information.
4. TransLink is required to withhold all the information in dispute under s. 22(1).
5. I require TransLink to provide the OIPC registrar of inquiries with a copy of the cover letter and records it sends to the applicant in compliance with items # 2 and 3 above.

[86] Pursuant to s. 59(1) of FIPPA, TransLink is required to comply with this order by January 30, 2026.

December 16, 2025

ORIGINAL SIGNED BY

Rene Kimmett, Adjudicator

OIPC File No.: F24-96076