



Order F26-90

COAST MOUNTAIN BUS COMPANY LTD.

Alexander Corley
Adjudicator

October 22, 2026

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Summary: An applicant requested that the public body provide access to specific information under the *Freedom of Information and Protection of Privacy Act* (FIPPA). In response, the public body released most of the requested information to the applicant but withheld some information under ss. 13(1) (advice or recommendations) and 22(1) (unreasonable invasion of privacy) of FIPPA. At inquiry, the adjudicator found the public body was authorized or required to withhold most, but not all, of the information in dispute and ordered the public body to provide the information it was not authorized or required to withhold to the applicant.

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

INTRODUCTION

[1] An employee (Applicant) of Coast Mountain Bus Company Ltd. (Public Body) requested access to employment-related information under the *Freedom of Information and Protection of Privacy Act* (FIPPA).¹ In response, the Public Body identified responsive records and released them to the Applicant but withheld some information from those records under various sections of FIPPA.

[2] The Applicant was not satisfied with the Public Body's response to the access request and asked the Office of the Information and Privacy Commissioner for British Columbia (OIPC) to review the Public Body's decision to withhold information from the responsive records. Mediation and other pre-inquiry steps taken by the OIPC resolved all the issues between the parties except for the Public Body's decision to withhold information from 17 pages of

¹ RSBC 1996, c. 165. Through the remainder of this order references to sections of an enactment are references to FIPPA unless otherwise stated.

the responsive records under ss. 13(1) (advice or recommendations) and 22(1) (unreasonable invasion of privacy).² The unresolved issues proceeded to this inquiry.

Preliminary issue – what information is in dispute under s. 22(1)?

[3] The OIPC Investigator's Fact Report, which sets the foundation for this inquiry, indicates that only the information on pages 107 and 108 of the responsive records is in dispute under s. 22(1). However, I can see that a small amount of information on pages 763 and 764 of the responsive records is also marked as withheld by the Public Body under s. 22(1). Further, I can see that the Public Body addresses the application of s. 22(1) to the information on pages 763 and 764 at paragraph 26 of its Initial Submission. Finally, I find that the Applicant's submissions regarding how the Public Body has applied s. 22(1) are equally as applicable to the information on pages 763 and 764 as they are to the information on pages 107 and 108.

[4] In these circumstances and taking account of the fact that s. 22(1) is a mandatory, as opposed to a discretionary, disclosure exemption, I find it is appropriate to consider whether s. 22(1) applies to the relevant information on pages 763 and 764 of the responsive records in the course of this inquiry and will do so below.

ISSUES

[5] The issues I must decide in this inquiry are:

1. Whether the Public Body is authorized to withhold the information in dispute under s. 13(1)?
2. Whether the Public Body is required to withhold the information in dispute under s. 22(1)?

[6] Section 57(1) says it is up to the Public Body to show that it is authorized to withhold the information in dispute under s. 13(1).

[7] Under s. 57(2), the Applicant bears the burden of showing that disclosing any personal information the Public Body withheld under s. 22(1) would not be an unreasonable invasion of the personal privacy of any third parties. However, it is well established that the Public Body bears the initial burden of showing the information it withheld under s. 22(1) is, in fact, personal information.

² Pages 15-17, 20, 26-28, 31, 35, 97, 101, 105-108, 599, and 764 of the responsive records.

DISCUSSION

Background and records in dispute

[8] The Public Body is responsible for providing public transportation services throughout the Lower Mainland of British Columbia. At the time the Applicant made the access request, they were a unionized employee working at the Public Body's Vancouver Transit Centre. At some point, the employment relationship between the parties ceased but neither party provides specific information regarding the end of the Applicant's employment with the Public Body. However, it is clear from the parties' submissions that the Applicant had an open grievance against the Public Body at the time of this inquiry.

[9] In the access request, the Applicant requested:

A complete work history including but not limited to diaries, logs, internal notes, emails, minutes. All communications in OHN, Labour Relations and any other corporate designates through the system (CMBC). Copies of all communications to and from Great West Life & Canada Life. Complete Medical File.

[10] In response, the Public Body identified 1237 pages of responsive records. As noted above, only a small amount of information in those records remains in dispute between the parties. Having reviewed the records containing the information in dispute, I find that they are a combination of emails, incident logs, and handwritten notes drafted by the Public Body's employees (records).

Section 13(1) – advice or recommendations

[11] 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 a minister.

[12] Numerous OIPC orders and court cases have considered the scope and application of s. 13(1). These authorities make clear that the purpose of s. 13(1) is to prevent the harm that would occur if a public body's deliberative and decision-making processes were exposed to excessive public scrutiny.³ In Order F22-39, the adjudicator canvassed the law and summarized the principles for interpreting s. 13(1) as follows:⁴

³ Order F18-19, 2018 BCIPC 22 at para. 12, citing *John Doe v. Ontario (Finance)*, 2014 SCC 36 [John Doe] at para. 45.

⁴ 2022 BCIPC 44 at para. 67. See also Order F23-29, 2023 BCIPC 33 at para. 27.

- Section 13(1) applies to information that “would reveal” advice or recommendations and not only to information that “is” advice or recommendations.⁵
- The terms “advice” and “recommendations” are distinct, so they must have distinct meanings.⁶
- “Recommendations” relate to a suggested course of action that will ultimately be accepted or rejected by the person being advised.⁷
- “Advice” has a broader meaning than “recommendations”⁸ and includes setting out relevant considerations and options, and providing analysis and opinions, including expert opinions on matters of fact.⁹ “Advice” can be an opinion about an existing set of circumstances and does not have to be a communication about future action.¹⁰
- “Advice” also includes factual information “compiled and selected by an expert, using his or her expertise, judgment and skill for the purpose of providing explanations necessary to the deliberative process of a public body.”¹¹ This is because the compilation of factual information and weighing of significance of matters of fact is an integral component of an expert’s advice and informs the public body’s decision-making process.

[13] I adopt these principles.

[14] The first step in the s. 13 analysis is to determine whether the information in dispute would reveal advice or recommendations developed by or for a public body or a minister if disclosed. If it would, the next step is to determine whether ss. 13(2) or 13(3) apply. Section 13(2) lists certain classes of records and information that cannot be withheld under s. 13(1). Section 13(3) says that s. 13(1) does not apply to information in a record that has been in existence for 10 or more years.

[15] Here, neither party argues that any of the records containing information the Public Body withheld under s. 13(1) has been in existence for 10 or more

⁵ Citing Order 02-38, 2002 CanLII 42472 (BC IPC) at para. 135.

⁶ Citing *John Doe*, *supra* note 3 at para. 24.

⁷ Citing *John Doe*, *ibid* at paras. 23-24.

⁸ Citing *John Doe*, *ibid* at para. 24.

⁹ Citing *John Doe*, *ibid* at paras. 26-27 and 46-47; *College of Physicians and Surgeons of British Columbia v. British Columbia (Information and Privacy Commissioner)*, 2001 BCSC 726 [College] at paras. 103 and 113.

¹⁰ Citing *College*, *ibid* at para. 103.

¹¹ Citing *Provincial Health Services Authority v. British Columbia (Information and Privacy Commissioner)*, 2013 BCSC 2322 at para. 94; *Insurance Corporation of British Columbia v. Automotive Retailers Association*, 2013 BCSC 2025 [ICBC] at paras. 52-53.

years and after reviewing those records I agree. Therefore, I find at the outset that s. 13(3) does not apply to the information in dispute under s. 13(1) and I will not consider s. 13(3) any further in this order.

Positions of the parties – “advice or recommendations”

[16] The Public Body says it has applied s. 13(1) primarily to withhold information which would reveal advice and recommendations provided by its human resources staff to supervisory staff who worked with the Applicant.

[17] Specifically, the Public Body says the relevant information is mostly contained in records of conversations between two of its Labour Relations Advisors (Advisors) and three of its Operations Supervisors (Supervisors).¹²

[18] The Public Body also says that a small amount of the information withheld under s. 13(1) would reveal advice provided by one of the Public Body’s Duty Managers to a fourth Supervisor.¹³

[19] In response, the Applicant says they are concerned that information which is “primarily about [them]” has been withheld from the records and asserts that the Public Body has been overbroad in how it has severed the records. However, the Applicant does not address whether the specific information withheld by the Public Body under s. 13(1) would reveal “advice or recommendations” if disclosed.

[20] In reply, the Public Body says only that nothing the Applicant asserts negates its clear evidence that the information in dispute under s. 13(1) would reveal advice or recommendations if disclosed.

Analysis and conclusion – “advice or recommendations”

[21] For the following reasons, I find that most, but not all, of the information the Public Body withheld under s. 13(1) would reveal advice or recommendations if disclosed.

[22] I can see that most of the information in dispute under s. 13(1) is contained in handwritten notes taken by the Advisors either during or immediately following meetings with the Supervisors concerning the Applicant and the Applicant’s workplace conduct. It is clear to me from reviewing these notes that disclosing much of the information they contain would reveal advice and recommendations which the Advisors provided to the Supervisors about how to manage the Applicant.

[23] One of the records is also a single page of handwritten notes which were taken by a Supervisor following a telephone call with the Public Body’s Manager

¹² Citing Affidavit #1 of the Public Body’s Manager of Information Access (Access Manager).

¹³ The relevant information is at p. 764 of the records.

of HR Services.¹⁴ It is clear to me that most of the information the Public Body withheld from this record reveals advice and recommendations provided to that Supervisor during that telephone call.

[24] There is also an email thread reproduced in the records wherein a Supervisor requests advice from an Advisor about which questions to ask the Applicant and the Advisor responds with the advice. There are two copies of this email thread in the records in dispute. I find that most of the information severed from both copies of the email thread reveals advice prepared for the Supervisor by the Advisor.

[25] In some cases, I also find that releasing the relevant information would allow the Applicant to draw accurate inferences about some of the advice provided by the Advisors because the advice relates to incidents and circumstances the Applicant was directly involved in. Specifically, I find this to be the case concerning standard information about a specific type of workplace leave which an Advisor sent to and discussed with a Supervisor via email. I make the same finding regarding the information severed under s. 13(1) from the other emails in the same thread. I also find that some information provided to the Advisors by the Supervisors which is reproduced in the handwritten notes falls within this same category.

[26] There is other information, however, that I find would not reveal advice or recommendations if disclosed.

[27] For instance, I find the Public Body applied s. 13(1) to information which reveals only that the Supervisors sought advice from the Advisors or reveals the contours of those conversations without shedding any light on the actual advice that was requested or provided. I also find that in some cases the severed information reveals only that the Advisors told the Supervisors they should or should not have done a thing or taken an action but does not reveal what thing or action the Advisors were referring to. I find the information discussed in this paragraph could be released without revealing advice or recommendations.

[28] Moreover, in some cases the Public Body has relied on s. 13(1) to sever information the Supervisors provided to the Advisors regarding their own conduct or their own understanding of the Public Body's procedures or processes. I found above that some of this information is subject to s. 13(1) because releasing it would allow the Applicant to draw accurate inferences about advice provided by the Advisors. However, I find the balance of this information could be released without revealing advice or recommendations.

[29] I also find that a small amount of the information in dispute under s. 13(1) duplicates information that is already disclosed elsewhere in the records. Prior orders are clear that a public body cannot rely on s. 13(1) to withhold information

¹⁴ See Access Manager's Affidavit at para. 9.

which it has already revealed elsewhere.¹⁵ As such, I find the Public Body cannot rely on s. 13(1) to withhold the information discussed in this paragraph.

[30] Finally, it is not clear to me how releasing information about what the Duty Manager told one of the Supervisors would reveal advice or recommendations provided by or for the Public Body. As I read the relevant information, it only reveals the substance of a settled decision by the Duty Manager to take a specific course of action. It does not represent advice or a recommendation provided to the Supervisor or anyone else by the Duty Manager.

[31] Based on the foregoing, I will now move on to consider whether any of the subsections of s. 13(2) apply to the information I found above reveals advice or recommendations. The Public Body is not authorized to withhold any of the information that I found above does not reveal advice or recommendations under s. 13(1).

Section 13(2)

[32] The Public Body says none of the information it withheld under s. 13(1) comes within any of the categories set out in s. 13(2) and specifically says none of it is “factual material” within the meaning of s. 13(2)(a). The Applicant does not address s. 13(2) in their submission.

[33] I do not see that any subsection of s. 13(2) applies to the information I found above would reveal advice or recommendations if disclosed. However, because the Public Body proactively raised s. 13(2)(a), I will address its potential application.

[34] Section 13(2)(a) says that a public body must not refuse to disclose “any factual material” under s. 13(1). “Factual material” is narrower than “factual information” and means background facts in isolation which are not intermingled with advice or recommendations. Further, s. 13(2)(a) will not apply where disclosure of the facts would allow an accurate inference to be drawn about advice or recommendations developed based on those facts.¹⁶

[35] Some of the information I found above constitutes advice or recommendations prepared by or for the Public Body contains statements of facts. However, I find in each case that disclosing these statements of fact would allow the Applicant to draw accurate inferences regarding the advice and recommendations prepared for the Public Body based on the facts. Therefore, I find s. 13(2)(a) does not apply to any of the information that I found above reveals advice or recommendations within the meaning of s. 13(1).

¹⁵ Order F23-42, 2023 BCIPC 50 at para. 89, citing Order F20-32, 2020 BCIPC 38, Order F12-15, 2012 BCIPC 21, and Order F13-24, 2013 BCIPC 31.

¹⁶ See *ICBC*, *supra* note 11 at paras. 52-53 and Order F18-41, 2018 BCIPC 44 at para. 34.

Conclusion – s. 13(1)

[36] I found above that some, but not all, of the information the Public Body withheld under s. 13(1) would reveal advice or recommendations developed by or for the Public Body if disclosed. I also found that ss. 13(2) and 13(3) do not apply to any of that information. Finally, I do not see any indication before me that the Public Body has exercised its discretion to withhold advice or recommendations under s. 13(1) invalidly, in bad faith, or for an improper purpose.¹⁷ Taking all of this together, I find that the Public Body is authorized under s. 13(1) to withhold the information I found would reveal advice or recommendations if disclosed.

Section 22(1) – unreasonable invasion of privacy

[37] Section 22(1) says that a public body must refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of the personal privacy of a third party. FIPPA defines a “third party” as anyone other than the access applicant or the public body who is subject to the access request.¹⁸

[38] The Public Body withheld a small amount of information in dispute from four pages of the records under s. 22(1).¹⁹

Personal information

[39] Section 22(1) only applies to personal information. Therefore, the first step in the analysis is to determine whether the information in dispute under s. 22(1) is personal information for purposes of FIPPA.

[40] Under Schedule 1 of FIPPA,

“personal information” means recorded information about an identifiable individual other than contact information; [and]

“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[.]

[41] Therefore, “contact information” is not “personal information” under FIPPA. Whether information is contact information is context dependent.²⁰

¹⁷ The Applicant makes some submissions intended to cast doubt on the appropriateness of the Public Body’s exercise of discretion under s. 13(1). However, I accept the evidence of the Access Manager regarding how the Public Body exercised its discretion in this case and find it answers the Applicant’s concerns on this point: see Access Manager’s Affidavit at paras. 10-15.

¹⁸ FIPPA at Schedule 1, definition of “third party.”

¹⁹ Pages 107-108 and 763-764 of the records.

²⁰ Order F20-13, 2020 BCIPC 15 at para. 42.

[42] The Public Body says the information in dispute under s. 22(1) is clearly personal information because it is related to the emotional state of third parties who are clearly identified in the relevant records.²¹ In response, the Applicant says only that the information in dispute is their own personal information and ought to be released to them on that basis.

[43] Having reviewed the information in dispute under s. 22(1) and considered the parties' submissions on this point, I find that all of it is "personal information." It is clear to me that the information is linked to specific third parties who are either clearly identified in the revealed portions of the records or would be readily identifiable to the Applicant given the Applicant's proximity to the events described. I also find that in all but one case disclosing the information would reveal specific details about those third parties' thoughts and feelings regarding specific interactions with the Applicant. The remaining information is a third party's employee identification number. Taking all of this together, it is clear to me that the information in dispute under s. 22(1) is "about" identifiable third parties and is not "contact information."

[44] I agree with the Applicant that because most of the information in dispute under s. 22(1) is the thoughts and feelings of the third parties about their interactions with the Applicant, it is also the Applicant's own personal information. However, it is well-established that information can simultaneously be the personal information of multiple individuals. Moreover, prior orders are clear that the fact that information is about an applicant does not automatically exclude the information from protection under s. 22(1). Rather, the appropriate course is to consider this fact as a "relevant circumstance" when deciding whether disclosing the personal information would be an unreasonable invasion of third-party personal privacy and I will do so below when I turn my attention to s. 22(2).

Section 22(4)

[45] The next step in the s. 22(1) analysis is to determine whether s. 22(4) applies to the personal information in dispute. Section 22(4) lists circumstances where disclosing personal information is not an unreasonable invasion of third-party personal privacy. If s. 22(4) applies to personal information, a public body cannot withhold that information under s. 22(1).

[46] The Public Body says that none of the subsections of s. 22(4) applies to the personal information in dispute. For their part, the Applicant makes a broad reference to s. 22(4) but does not specifically argue that it applies in this case.

[47] Having reviewed the personal information in dispute, I find that none of it comes within the categories enumerated in s. 22(4).

²¹ Citing Order F14-08, 2014 BCIPC 9 at para. 11.

Section 22(3)

[48] The third step in the s. 22(1) analysis is to determine whether s. 22(3) applies to any of the personal information in dispute. Section 22(3) lists circumstances where disclosing personal information is presumed to be an unreasonable invasion of third-party personal privacy.

[49] Here, the Public Body says that s. 22(3)(d) applies to the personal information in dispute. The Applicant broadly references s. 22(3) but does not make any specific submissions regarding its applicability to the personal information in dispute.

[50] I do not see that any of the other subsections of s. 22(3) may apply here, so I will only consider s. 22(3)(d).

[51] Section 22(3)(d) says that disclosing information related to a third party's employment, occupational or educational history is presumed to be an unreasonable invasion of that third party's personal privacy.

[52] Past orders that have considered s. 22(3)(d) have drawn a distinction between quantitative information that reveals the actions a person took or the events they witnessed while undertaking their employment and qualitative or subjective information that reveals the person's thoughts and feelings regarding those actions or events. Section 22(3)(d) has been found to apply to the latter kind of information but not the former.²²

[53] Here, I find that some of the personal information in dispute is subject to the presumption under s. 22(3)(d) because it reveals third parties' feelings and emotional states about specific, employment-related, interactions between them and the Applicant. As noted, some of the information is also a third party's employee identification number. I find the number is clearly a part of that third party's employment history. Releasing the personal information discussed in this paragraph is presumed to be an unreasonable invasion of third-party personal privacy.

[54] However, I find that some of the personal information in dispute reveals that the third parties reacted to the Applicant's behaviour but does not reveal the substance or character of those reactions. I find s. 22(3)(d) does not apply to this information because it does not reveal anything about the third parties' subjective feelings regarding aspects of their employment.

Section 22(2) and all the relevant circumstances

²² See, for example, Order F14-08, *ibid* at paras. 17-18.

[55] The final step in the s. 22(1) analysis is to consider whether, taking account of all the relevant circumstances, releasing the personal information in dispute would be an unreasonable invasion of third-party personal privacy. Certain relevant circumstances are enumerated in s. 22(2) but it is open to an adjudicator to consider circumstances not specifically listed in that section. Some circumstances will weigh in favour of disclosure and some will weigh against with circumstances that favour disclosure being able to rebut s. 22(3) presumptions in some cases.

[56] The Public Body says that no relevant circumstances weigh in favour of disclosure and specifically says that ss. 22(2)(a) and (c) do not weigh in favour of disclosure. The Applicant, without referring to any circumstances under s. 22(2), broadly argues that the personal information in dispute should be released to them because it is their own personal information.²³

[57] Having reviewed the parties' submissions on this point, I agree with the Public Body that ss. 22(2)(a) and (c) do not apply to the personal information in dispute.

[58] Section 22(2)(a) applies to personal information the disclosure of which is desirable for the purpose of subjecting the activities of a public body to public scrutiny. The Applicant does not advance any evidence or argument suggesting that this is the case regarding the personal information in dispute, and I do not independently see how disclosing any of the personal information in dispute would advance this goal.

[59] Turning to s. 22(2)(c), this section weighs in favour of disclosing personal information which is relevant to a fair determination of an applicant's rights. The test for whether s. 22(2)(c) applies to personal information is set out in numerous prior orders and I will not repeat it here.²⁴ Suffice it to say that in order for s. 22(2)(c) to apply to the personal information in dispute, the Applicant would need to show that they are either currently engaged in legal proceedings or seriously contemplating bringing legal proceedings and that the personal information in dispute has a bearing on the outcome of those proceedings.

[60] I accept, based on the parties' submissions, that the Applicant currently has an open grievance against the Public Body. However, the Applicant does not provide any evidence or argument regarding the substance of the grievance. Given this, I am not able to assess whether and how any of the personal information in dispute may be relevant to a fair determination of the Applicant's

²³ The Applicant also makes some similarly broad arguments that the information should be released because it is about their employment and is "important" to them. However, I find these arguments to be subsidiary to the Applicant's argument about release being desirable because the information is their own personal information.

²⁴ See, for example, Order F23-71, 2023 BCIPC 84 at para. 69.

rights within the context of the grievance. Faced with this dearth of evidence and argument, I am not able to find that s. 22(2)(c) applies to any of the personal information in dispute.

[61] Turning to the fact that some of the personal information in dispute is the Applicant's own personal information, prior orders have found that this can weigh heavily in favour of releasing information to an applicant. However, where an applicant's personal information is interwoven with the personal information of third parties this factor carries less weight.²⁵

[62] Here, it is clear to me that all the personal information in dispute which is about the Applicant is also about third parties because it is contained in those third parties' statements about their feelings and emotional states regarding interactions with the Applicant. As such, I find that the Applicant's personal information is interwoven with the personal information of the third parties and therefore I give relatively little weight to the fact that some of the personal information in dispute is also about the Applicant.

Conclusion – s. 22(1)

[63] I found above that all the information the Public Body withheld under s. 22(1) is third-party personal information. I also found that s. 22(4) does not apply to any of that personal information and that s. 22(3)(d) applies to most of it and creates a presumption that disclosing the information to which it applies would be an unreasonable invasion of third-party personal privacy. Finally, I found that s. 22(2)(a) and (c) do not weigh in favour of disclosing any of the personal information in dispute and that while some of the personal information in dispute is also the Applicant's own personal information this factor weighs only weakly in favour of disclosure in this case.

[64] Taking all of this together and weighing it out, I find that the presumption under s. 22(3)(d) is not rebutted in this case. Therefore, releasing the information I found s. 22(3)(d) applies to would be an unreasonable invasion of third-party personal privacy.

[65] However, I do not see how releasing the personal information in dispute which I found s. 22(3)(d) does not apply to would be an unreasonable invasion of third-party personal privacy.

CONCLUSION

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

²⁵ Order F14-47, 2014 BCIPC 51 at para. 36.

1. Subject to Item 2, below, I confirm that the Public Body is authorized by s. 13(1) or required by s. 22(1) to withhold the information in dispute.
2. The Public Body is not authorized by s. 13(1) or required by s. 22(1) to withhold the information I have highlighted in green in the copy of the records delivered to the Public Body alongside this order. The Public Body must give the Applicant access to the highlighted information.²⁶
3. The Public Body must concurrently copy the OIPC registrar of inquiries on its cover letter to the Applicant, together with a copy of the information described at Item 2, above.

[67] Pursuant to s. 59(1) of FIPPA, the public body is required to comply with this order by December 4, 2026.

October 22, 2026

ORIGINAL SIGNED BY

Alexander Corley, Adjudicator

OIPC File No.: F24-98820

²⁶ The highlighted information is on pages 15-17, 20, 26-28, 31, 35, 97, 101, 105-108, 599, and 763-764 of the records.