Order F26-97

TOWNSHIP OF LANGLEY

Carol Pakkala
Adjudicator

November 9, 2026

CanLII Cite: 2026 BCIPC 122
Quicklaw Cite: [2026] B.C.I.P.C.D. No. 122

Summary: An applicant requested access under the *Freedom of Information and Protection of Privacy Act* (FIPPA) to records about their lease agreement with the Township of Langley (Township). At an inquiry, the Township did not produce some information for the adjudicator to review because it claimed both ss. 14 (solicitor client privilege) and 12(3)(b) (local public body confidences) applied to it. Based on the evidence at the inquiry, in Order F26-89, the adjudicator decided that s. 14 did not apply and ordered the Township to produce the information so she could see it and decide if s. 12(3)(b) (local public body confidences) applies. The adjudicator found the Township was authorized to withhold the information under ss. 12(3)(b).

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, RSBC 1996 c. 165, ss. 12(3)(b).

INTRODUCTION

[1] An individual (applicant) requested access under the *Freedom of Information and Protection of Privacy Act* (FIPPA) to all communications regarding their lease agreement with the Township of Langley (Township).

[2] The Township provided the applicant with some responsive records but withheld information from them under various disclosure exceptions in FIPPA.[1] The applicant asked the Office of the Information and Privacy Commissioner (OIPC) to review the Township's decision.

[3] An inquiry was held in which the Township did not produce the information it withheld under s. 14 for the adjudicator to review. Based on the evidence, the adjudicator decided that s. 14 did not apply to some information that the Township also withheld under s. 12(3)(b). In Order F26-89, the adjudicator

[1] From this point forward, unless otherwise specified, whenever I refer to section numbers, I am referring to sections of FIPPA.

ordered the Township, under s. 44(1)(b), to produce that information so she could review it and decide if s. 12(3)(b) applies.[2]

[4] This order decides the application of s. 12(3)(b) to the information the Township produced to the OIPC.

ISSUES AND BURDEN OF PROOF

[5] The only issue I must decide in this order is whether the Township is authorized to refuse to disclose the information at issue under s. 12(3)(b).

[6] Section 57(1) provides that the Township has the burden of proving that the applicant has no right of access to the information withheld under s. 12(3)(b).

DISCUSSION

Background[3]

[7] The Township is a municipal corporation. The applicant owns a business that leases a property from the Township under a lease agreement (Lease). The applicant requested access to records about the Lease. The Township provided responsive records but withheld information from them under various sections of FIPPA.

[8] An inquiry was held and most of the issues were decided in Order F26-89. I decided that the Township was not authorized under s. 14 to withhold information in a document titled "Closed Council Minutes" (Table).[4] The Township claimed s. 12(3)(b) also applied to the Table.

[9] The Township did not provide the Table for my review in the inquiry because of its s.14 claim. I ordered the Township to produce the Table for my review so I could decide if s. 12(3)(b) applies and the Township complied.

Records and Information at Issue

[10] The only information at issue is in the right hand column of the Table.

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[2] Order F26-89, 2026 BCIPC 114 (CanLII).
[3] This background is based on information provided in the parties' submissions and is not in dispute.
[4] I called it a Table in Order F26-89, so I use the same identifier here for consistency. In its severed format it did not resemble meeting minutes but now I can see the entire document.

Local public body confidences - s. 12(3)(b)

[11] Section 12(3)(b) is a discretionary exception that allows the head of a local public body to refuse to disclose information that would reveal

> (b) the substance of deliberations of a meeting of its elected officials or of its governing body or a committee of its governing body, if an Act or a regulation under this Act authorizes the holding of that meeting in the absence of the public.

[12] The purpose of s. 12(3)(b) is to protect a local public body's ability to engage in full and frank exploration of issues, despite how controversial they may be, by allowing a local public body's governing body to engage in certain discussions in the absence of the public.[5]

[13] The following three conditions must be met for a public body to withhold information under s. 12(3)(b). The public body must establish that:

1. it has the statutory (legal) authority to meet in the absence of the public;
2. the meeting was actually held in the absence of the public; and
3. the information would, if disclosed, reveal the substance of deliberations of that meeting.[6]

[14] Past orders have said that the phrase "substance of deliberations" covers discussions conducted with a view to making a decision or following a course of action.[7]

[15] I made the following findings in Order F26-89, and for the reasons given there, I adopt them in the analysis below:

- The Township is a local public body.[8]
- The Township's council had the statutory authority to hold the June and October meetings in the absence of the public.[9]
- The June and October meetings were, in fact, held in the absence of the public.[10]

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[5] Order F11-04, 2011 BCIPC 4 at para 29 and Order 04-04, 2004 CanLII 34258 (BC IPC) at para 72.
[6] Order 02-47, 2002 Can LII 42482 (BC IPC) at para 10 citing Order 02-22, [2002] B.C.I.P.C.D. No. 22, articulating the test from Order No. 326-1999, [1999] B.C.I.P.C.D. No. 39. Order F13-10, 2013 BCIPC 11 at para 8 relying on, for example, Order 00-14, [2000] B.C.I.P.C.D. No. 17. See also Order 02-19, [2002] B.C.I.P.C.D. No. 19 at para 70.
[7] Order 00-11, 2000 CanLII 10554 (BC IPC) at s. 3.3.
[8] Order F26-89, 2026 BCIPC 114 (CanLII) at para 76.
[9] *Ibid* at para 87.
[10] *Ibid* at para 88.

[16] Based on the above findings, the first two conditions of the s. 12(3)(b) test are met for the June and October meetings. For this order, the only question remaining is whether disclosure of the information the Township severed from the Table meets the third condition, i.e., if it would reveal the substance of deliberations at those meetings.

[17] Past orders describe the "substance of deliberations" as capturing what was discussed or decided at the closed meeting.

[18] After reviewing the Table, I find that it documents the June and October meetings. I find that disclosing the severed information would reveal Council's deliberations, including what was discussed and decided.[11] I further find that the discussions and deliberations recorded by the severed information were for the purpose of making decisions related to the s. 90(1) *Community Charter* matters authorizing the holding of those meetings in the absence of the public.

[19] I find the third condition for s. 12(3)(b) to apply is met for the information the Township severed from the Table.

Conclusion - s. 12(3)(b)

[20] For the reasons given above, I find the Township's June and October meetings were authorized by s. 90(1)(g) of the *Community Charter* to be held in the absence of the public and were in fact held in the absence of the public. I find that disclosure of the information withheld from the Table would reveal the substance of the deliberations at those meetings. For this reason, s. 12(3)(b) authorizes the Township to refuse access to that information.

CONCLUSION

[21] For the reasons given above, I confirm the Township's decision that s. 12(3)(b) authorizes it to refuse access to the information that it severed from the Table.

November 9, 2026

ORIGINAL SIGNED BY

Carol Pakkala, Adjudicator

OIPC File No.: F24-96676

[11] For similar findings, see Order F26-07, 2026 BCIPC 9 (CanLII) at para 112 and Order F12-11, 2012 BCIPC 15 (CanLII) at para 23.