



F08-04-MS

Opinion about Applicant belongs to Applicant

A public body disclosed to an applicant a severed copy of a letter the public body received about the applicant. The released portion identified the author of the letter, but the author's opinions about the applicant were severed. The applicant asked our office to review the public body's decision to withhold that information.

As a result of our office's involvement, the public body wrote a new decision letter indicating to the third party (the author of the letter) that it intended to release the entire letter to the applicant. The third party objected on the ground that he had provided it in confidence to the public body. He argued that section 26 of the *Foresters Act* and sections 21, 22(2)(e), 22(2)(f), 22(3)(g) and 22 (3)(h) of the *Freedom of Information and Protection of Privacy Act* (FIPPA) all applied.

Section 26 of the *Foresters Act* says that a person who obtains information while carrying out an investigation under section 24 of that Act must not disclose the information to anyone except for the purpose of carrying out a duty under the Act, the bylaws or the resolutions as required by law. We concluded that section 26 of the *Foresters Act* did not assist the third party, as the senior manager was not the Registrar for the Association of BC Forest Professionals and the third party's discussions with the senior manager were not meant to result in an investigation, under section 24 the *Foresters Act*, of the conduct of the applicant. As well, the *Foresters Act* does not contain a clause providing that it overrides FIPPA.

The letter's author couldn't show in an objective fashion that the release of the information would likely harm significantly the competitive position or interfere significantly with the negotiating position of the third party or that it would result in undue financial loss to the third party. Nor did section 22 of FIPPA apply. The letter's author couldn't show that he would be exposed unfairly to financial or other harm if the letter were disclosed, nor that the applicant was seeking personal recommendations or evaluations about the third party. Nor was the letter a personal recommendation or evaluation of the applicant, so section 22(3)(h) of FIPPA didn't apply.