

S2010705

SUPREME COURT
OF BRITISH COLUMBIA
VANCOUVER REGISTRY

No.
Vancouver Registry

OCT 23 2020

IN THE SUPREME COURT OF BRITISH COLUMBIA

In the Matter of the decision of the Delegate of the Information and Privacy Commissioner of
British Columbia, Order F20-41 and in the Matter of the *Judicial Review Procedure Act*,
R.S.B.C. 1996, c. 241

BETWEEN:

HOLBORN PROPERTIES LIMITED

PETITIONER

AND:

BRITISH COLUMBIA HOUSING MANAGEMENT
COMMISSION, DAVID CHUDNOVSKY, JEREMY
ALLINGHAM, and INFORMATION AND PRIVACY
COMMISSIONER OF BRITISH COLUMBIA

RESPONDENTS

PETITION TO THE COURT

ON NOTICE TO:

The Respondent, British Columbia Housing Management Commission, 1701 - 4555
Kingsway, Burnaby, BC, V5H 4V8; c/o Leslie Whittaker, Boughton Law Corporation,
700 - 595 Burrard Street, Vancouver, BC, V7X 1S8.

The Respondent, David Chudnovsky, 992 East 22 Avenue, Vancouver, BC, V5V 1V9.

The Respondent, Jeremy Allingham, 775 Cambie Street, Vancouver, BC, V6B 4A2.

The Respondent, the Information and Privacy Commissioner of British Columbia,
4th Floor - 947 Fort Street, Victoria, British Columbia

This proceeding is brought for the relief set out in Part 1 below, by the person named as
petitioner in the style of proceedings above

If you intend to respond to this Petition, you or your lawyer must

- (a) file a Response to Petition in Form 67 in the above-named registry of this Court
within the time for Response to Petition described below, and

- (b) serve on the Petitioner
 - (i) 2 copies of the filed Response to Petition, and
 - (ii) 2 copies of each filed Affidavit on which you intend to rely at the hearing.

Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the Response to Petition within the time for response.

Time for Response to Petition

A Response to Petition must be filed and served on the petitioner,

- (a) if you were served with the petition anywhere in Canada, within 21 days after that service,
- (b) if you were served with the petition anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the petition anywhere else, within 49 days after that service, or
- (d) if the time for response has been set by Order of the Court, within that time.

(1)	The address of the registry is: 800 Smithe Street Vancouver, BC V6Z 2E1
(2)	The ADDRESS FOR DELIVERY is: Fasken Martineau DuMoulin LLP 2900 - 550 Burrard Street Vancouver, B.C. V6C 0A3 Fax number for delivery is: n/a E-mail address for service is: n/a
(3)	The name and office address of the Petitioner's Solicitor is: Fasken Martineau DuMoulin LLP 2900 - 550 Burrard Street Vancouver, B.C. V6C 0A3 Telephone: 604 631 3131. (Reference: Lorene Novakowski / 258670.00128)

CLAIM OF THE PETITIONER

Part 1: ORDERS SOUGHT

1. The following relief by way of application for judicial review of Order 20-41, 2020 BICIPC 49 (the "**Order**"), issued by a delegate of the Information and Privacy Commission of British Columbia (the "**OIPC**"), dated September 23, 2020 requiring the respondent British Columbia Housing Management Commission ("**BC Housing**") (the "**Public Body**") to disclose to the respondents, David Chudnovsky ("**Chudnovsky**") and Jeremy Allingham ("**Allingham**") (together, the "**Applicants**"), the agreement for the sale of the Little Mountain Property between BC Housing and Holborn Properties Limited ("**Holborn**") (the "**Third Party**").
 - (a) an order in the nature of *certiorari* quashing and setting aside the Order;
 - (b) an order and declaration that Holborn was denied its right to natural justice and procedural fairness;
 - (c) in the alternative, an order and declaration that section 21(1) of the *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996, c. 165 ("**FIPPA**"), authorizes BC Housing to refuse to disclose certain portions of the Information to the Applicants;
 - (d) in the further alternative, an order and declaration that the interpretation of "supplied" under section 21(1) of FIPPA is inapplicable or inoperable under constitutional law to the extent of the conflict with the Federal law;
 - (e) in the further alternative, a direction that the OIPC reconsider and determine the matter of whether BC Housing is authorized to refuse to disclose the Information, or certain portions of it, together with any directions that the Court thinks appropriate for reconsideration;
 - (f) an order extending the stay of Order 20-41 until the within judicial review = is complete;
 - (g) an order sealing all *in camera* material that was before the OIPC in the below proceedings and the Court Clerk's notes made in this proceeding regarding the sealed *in camera* material;
 - (h) an order prohibiting publication of any *in camera* material or submissions relating to the *in camera* material that is under seal;
 - (i) costs; and
 - (j) such further relief and other relief as this Honourable Court deems just.

Part 2: FACTUAL BASIS

Nature of the Petition

1. Order F20-41 of Adjudicator Celia Francis (“**Ms. Francis**” or the “**Delegate**”) of the OIPC was issued on September 23, 2020.
2. Order F20-41 was issued following an Inquiry held pursuant to the provisions of *FIPPA*, specifically section 21(1) as a result of access requests made by the Applicant Chudnovsky and the Applicant Allingham to BC Housing (the “**Inquiry**”).
3. Order F20-41 requires BC Housing to provide to the Applicants access to the information by November 5, 2020. Holborn says that the information to be disclosed (the “**Information**”) contains information that BC Housing should be authorized to refuse to disclose pursuant to section 21(1) of *FIPPA*, in light of the third-party business interests of Holborn.
4. This Petition is an application for judicial review of Order F20-41.

The Parties

5. The Petitioner and Third Party, Holborn is a private developer involved in residential and commercial development, including residential and mixed use developments at the Bay Parkade, University Heights and Little Mountain, among others. It is considered a “third party” under *FIPPA*.
6. The Applicant Allingham is a CBC reporter.
7. The Applicant Chudnovsky is a former NDP MLA and opposition critic for homelessness in the BC legislature.
8. The Public Body, BC Housing is a statutory authority that develops, manages and administers a range of subsidized housing options and programs across British Columbia and is a “public body” under *FIPPA*.
9. The OIPC is a tribunal established under the provisions of *FIPPA*.

Background and Procedural History

10. BC Housing and Holborn entered into an Amended and Restated Purchase and Sale Agreement dated April 25, 2008 and then an Amendment to the Amended and Restated Purchase and Sale Agreement on the 14th of June, 2013. A further Second Amendment to the Amended and Restated Purchase and Sale Agreement was entered into on February 25, 2016 (the “**Agreement**”).
11. The Agreement sets out the provisions between BC Housing and Holborn regarding the sale of the Little Mountain site from BC Housing to Holborn, to be developed pursuant to the terms and conditions of the agreement.

Nature of the Review

OIPC File Number F18-75849

12. On April 11, 2018, the Applicant Chudnovsky asked BC Housing for all information related to the Little Mountain Housing Site. On April 13, 2018, the Applicant narrowed his request to “the contract for sale of the Little Mountain Social Housing Site between the Government of British Columbia or BC Housing and Holborn Group of Companies and/or Holborn Holdings and/or Holborn Development Company.”
13. The Third Party, Holborn, was given notice pursuant to Section 23 of *FIPPA*, on April 26, 2018.
14. On May 26, 2018, the Third Party responded to BC Housing and requested that the Public Body, BC Housing, withhold some of the information under Section 21 of *FIPPA*.
15. On June 8, 2018, BC Housing responded to the Third Party and indicated it would be releasing the records, with some redactions, to the Applicant Chudnovsky.
16. On July 9, 2018, the Third Party requested that the OIPC review BC Housing’s decision to release the records.

OIPC File Number F18-76353

17. On June 6, 2018, the Applicant Allingham asked the Public Body for the agreement between the BC Government (BC Housing) and Holborn Holdings for the Little Mountain lands in Vancouver.
18. On June 19, 2018, BC Housing notified the Third Party pursuant to Section 23 of *FIPPA*.
19. On July 18, 2018, Holborn responded to BC Housing and requested that it withhold some of the information under Section 21 of *FIPPA*.
20. On July 20, 2018, the Public Body, BC Housing, responded and indicated it would be releasing the records, with some redactions, to the Applicant Allingham.
21. On August 7, 2018, the Third Party requested the OIPC review the Public Body’s decision to release the records.
22. On December 11, 2019, the Applicant Allingham, raised for the first time the issue of Section 25(1)(b) of *FIPPA*. On December 23, 2019, the OIPC allowed the Applicant to add Section 25 as an issue for consideration in the Inquiry.
23. Between January 22, 2020 and February 3, 2020, Holborn made submissions to the OIPC in relation to the information it wish to submit *in camera*. Essentially, the OIPC denied Holborn the ability to protect certain information as *in camera* and denied Holborn’s right to a fair process. The final submission was based on the February 3, 2020 decision of the Adjudicator in relation to the information that Holborn was allowed to adduce *in camera*.

24. In its January 22, 2020 submission to the OIPC, Holborn explained that it would be forced to remove the proposed *in camera* submissions from its argument if they were not accepted. Holborn argued that this would result in a failure of procedural fairness and natural justice.
25. On January 27, 2020, the Delegate, Ms. Francis wrote to Holborn providing final approval regarding what portion of the proposed submissions were accepted *in camera* and which were not. Due to this decision Holborn was forced to remove important aspects of their evidence which related to certain commercial and economic harms that Holborn may suffer.
26. On January 31, 2020, Holborn made a second submission removing some of the *in camera* materials to the OIPC, noting that if it had to include the evidence on harm that it was trying to protect as *in camera*, the Inquiry would become moot because it would result in the information being disclosed to the Applicants.
27. On February 3, 2020, Ms. Francis wrote to Holborn again, disagreeing with Holborn's submission and not allowing Holborn to rely on certain information being submitted on an *in camera* basis.
28. On February 6, 2020, Holborn filed with the OIPC an *in camera* submission and supporting material, which was copied to the parties, and a submission and supporting material with no redactions, which was not copied to the parties.
29. On March 6, 2020, the Public Body filed its submission with the OIPC.
30. On March 13, 2020, the Applicant Chudnovsky filed his submission with the OIPC.
31. On March 20, 2020, the Applicant Allingham filed his submission with the OIPC.
32. On March 27, 2020, Holborn filed its reply submissions with the OIPC.

The Delegate's Reasons – Order 20-41

33. On September 23, 2020, the OIPC released the Order including the reasons for the decision. The Delegate ordered that Holborn disclose the Information to the Applicants.
34. Holborn made two submissions in the Inquiry:
 - (i) Section 21 of *FIPPA* authorized Holborn to refuse to disclose the Information to the Applicants; and
 - (ii) The OIPC should reconsider the test for third party harm under section 21 of *FIPPA*.
35. With respect to Holborn's position that section 21 of *FIPPA* authorized BC Housing to refuse to disclose the Information to the Applicants, the Delegate determined that Holborn must establish the following three elements:

- (i) Disclosure would reveal the type of information listed in section 21(1)(a).
 - (ii) The information was supplied, implicitly, in confidence.
 - (iii) Disclosure of the information could reasonably be expected to cause one or more of the harms in section 21(1)(c).
36. With respect to the type of information listed in section 21(1)(a), the Delegate determined that the information that Holborn sought to be protected met the test of being financial and/or commercial information of or about Holborn.
37. With respect to whether the information was supplied, implicitly or explicitly, in confidence under section 21(1)(b) of FIPPA, the Delegate found that the information was not supplied explicitly or implicitly in confidence, ignoring the confidentiality provision in the Agreement and discounting the Affidavit evidence that was before her.
38. As to whether or not the information was “supplied,” the Delegate did not agree that the information was relatively immutable and therefore found that it was not “supplied.” The Delegate also declined to re-visit the interpretation of supplied and rejected Holborn’s arguments that the Commissioner should adopt the federal approach under the federal ATIA section 20(1). [insert full cite to this statute]
39. With respect to Holborn’s submissions on the reasonable expectation of harm under section 21(1)(c) of *FIPPA*, the Delegate determined that Holborn had now shown that it met the test for harm, noting that Holborn had not explained with evidence how disclosure of the Information could cause it harm. The Delegate also found that Holborn did not explain how such information would no longer be supplied to a public body under section 21(1)(c)(ii) and did not accept Holborn’s argument that the disclosure could result in undue financial loss under section 21(1)(c)(iii) because Holborn had relied on general speculative statements and not provided evidence.
40. Based on the findings above, the Delegate ordered under section 58(2)(a) of FIPPA that BC Housing was required to give the Applicants access to all of the Information.

Effect of Judicial Review

41. Pursuant to section 59(2) of *FIPPA*, the order made in Order 20-41 is stayed for 120 days, beginning on the date that this application for judicial review was brought.
42. Pursuant to section 59(3) of FIPPA, if a date of hearing the application for judicial review is set before the expiration of the stay of the OIPC’s order referred to in subsection 59(2), the stay of the OIPC’s order is extended until the judicial review is completed or the court makes an order shortening the stay.
43. Holborn intends to attempt to set a hearing date for this application for judicial review before the expiration of the stay referred to in subsection 59(2) of FIPPA.

Part 3: LEGAL BASIS

Introduction

1. Order F20-41 should be quashed for the following reasons:
 - (a) the OIPC's decision refusing to receive and consider Holborn's proposed *in camera* evidence was incorrect, resulting in a failure of procedural fairness and natural justice;
 - (b) in the alternative, the Delegate's decision was unreasonable with respect to the interpretation and application of section 21 of *FIPPA* to the Information;
 - (c) in the further alternative, the Delegate's decision to not reconsider the test under section 21 of *FIPPA* was incorrect; or in the alternative, unreasonable.

Legislative Provisions

2. The Petitioner relies on the provisions of the *Judicial Review Procedure Act*, R.S.B.C. 1996, c. 241.
3. The Petitioner relies on Rules 2-1(2)(b), 14-1, and 16-1 of the *Supreme Court Civil Rules*.
4. The Petitioner relies on the provisions of *FIPPA*, and in particular section 21(1), which is set out below.

Standard of Review

5. The standard of review of the OIPC's decision regarding the appropriateness of Holborn's proposed *in camera* submissions is correctness. The standard of review applicable to questions of procedural fairness is correctness. In determining whether the decision maker treated the party fairly, the reviewing court is not required to give deference to the tribunal's own assessment of whether its procedures were fair: *Mission Institution v. Khela*, 2014 SCC 24 at para 79; *Seaspan Ferries Corp. v. British Columbia Ferry Services Inc.*, 2013 BCCA 55 at paras 49 and 52; *The Cambie Malone's Corporation v. British Columbia (Liquor Control and Licensing Branch)*, 2016 BCCA 165 at para 14.
6. The Supreme Court of Canada decision in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 applies to the merits of an administrative decision and does not change the standard of review for procedural decisions of administrative tribunals.
7. The standard of review with respect to the Delegate's interpretation and application of section 21(1) of *FIPPA* is reasonableness: *Vavilov, supra*.
8. The standard of review with respect to the Delegate's interpretation of the correct legal test is correctness: *Sattva Capital Corp. v. Creston Moly Corp.*, 2014 SCC 53 at para 49

(“*Sattva*”); *Teal Cedar Products Ltd. v. British Columbia*, 2017 SCC 32 at para 43 (“*Teal Cedar*”), or in alternative, the standard of review is reasonableness.

The Refusal to Receive Holborn’s *In Camera* Submissions

9. Holborn submits that it was not able to fully present its case and evidence relating to the reasonable expectation of commercial and financial harms it would suffer if the Information is disclosed. As outlined above, the Delegate allowed only a small portion of Holborn’s proposed *in camera* evidence, leading to Holborn removing the remainder of this evidence from its submissions. In other words, Holborn was required to establish a reasonable expectation of harm, but not permitted to rely on the totality of its evidence establishing that harm.
10. In Holborn’s letters to the OIPC, it outlined why the proposed *in camera* evidence should be accepted. Holborn said that in order to provide an explanation and full answer as to why Holborn is seeking to withhold disclosure of the Information, Holborn must be able to set out further explanation and information that is highly confidential that Holborn would not otherwise disclose. The proposed *in camera* evidence was being submitted to the OIPC for the sole purpose of defending Holborn’s position in respect of the information in the Information.
11. As mentioned, the Delegate of the OIPC refused to accept the majority of Holborn’s proposed *in camera* evidence. In doing so, the Delegate found that the evidence was not properly *in camera* because it does not reveal information in dispute and it is not information that a Public Body would be required to refuse to disclose under an exception to disclosure, specifically section 21. Due to this decision, Holborn was forced to remove certain aspects from its evidence that would have contributed to demonstrating and explaining the reasonable expectation of harm required under section 21(1)(c).
12. The *in camera* process was expressly established for the purpose of allowing the respondents to disclose information to the OIPC without having that additional information disclosed to a third party or applicant if the reasons or additional information would be protected from disclosure under *FIPPA*. The evidence that Holborn sought to produce *in camera* was being submitted in confidence to the OIPC for the purpose of defending its position with respect to the information in the Information and thus subject to the protection of *FIPPA*.
13. The rules of procedural fairness entitle a party to adduce evidence, permitting them to defend their positions. Furthermore, the *audi alterem partem* principle requires that parties be allowed an opportunity to put forward their case, submit evidence and make their submissions: *Nicholson v. Haldimand Norfolk (Regional Municipality) Police Commissioners*, [1979] 1 SCR 311. The OIPC has expressly recognized that in some circumstances a party will be permitted to adduce evidence *in camera* in order to protect and balance its privacy interests.
14. An adjudicator or tribunal may not breach procedural fairness by precluding a party from presenting all of the evidence on which a party seeks to rely to adequately present its

case: *Université du Québec à Trois-Rivières v. Larocque*, [1993] 1 S.C.R. 471; *Gallup v. Birch*, [1998] B.C.J. No. 1023 (BCSC) at para 59.

15. The result of the Delegate's decision in respect of Holborn's *in camera* submissions was that Holborn could not fully explain why it would suffer harm under section 21(1)(c) if the Information is disclosed.
16. In making this decision, the Delegate made the following reviewable error:
 - (a) refusing to accept Holborn's proposed *in camera* submissions, resulting in Holborn having to remove those portions of its submissions, and a failure of natural justice and procedural fairness.
17. For the reasons above, the Delegate's decision to refuse Holborn's *in camera* submissions and evidence was incorrect.

Unreasonable Interpretation and Application of Section 21(1) of FIPPA

18. In the alternative, Holborn says that the Delegate's interpretation and application of s. 21(1) of *FIPPA* was unreasonable.
19. Section 21(1) of *FIPPA* provides as follows:

Disclosure harmful to business interests of a third party

21 (1) The head of a public body must refuse to disclose to an applicant information

(a) that would reveal

(i) trade secrets of a third party, or

(ii) commercial, financial, labour relations, scientific or technical information of or about a third party,

(b) that is supplied, implicitly or explicitly, in confidence, and

(c) the disclosure of which could reasonably be expected to

(i) harm significantly the competitive position or interfere significantly with the negotiating position of the third party,

(ii) result in similar information no longer being supplied to the public body when it is in the public interest that similar information continue to be supplied,

(iii) result in undue financial loss or gain to any person or organization, or

(iv) reveal information supplied to, or the report of, an arbitrator, mediator, labour relations officer or other person or body appointed to resolve or inquire into a labour relations dispute.

20. The Delegate determined that section 21(1) was not applicable because:
 - (a) the Information did not contain information that was “supplied”;
 - (b) the Information did not contain information that was supplied “in confidence”;
and
 - (c) Holborn did not establish the disclosure of the Information could reasonably be expected to harm its competitive position, cause undue loss, or result in similar information no longer being supplied to a public body.
21. The Delegate accepted previous OIPC jurisprudence that when information is negotiated, it cannot be supplied and did not accept Holborn’s position that the Information was immutable.
22. The Delegate made the following reviewable errors:
 - (a) concluding that the evidence was insufficient to establish that the Information was supplied under an objectively reasonable expectation of confidentiality.
 - (b) failing to give the appropriate weight to Holborn’s evidence and the parties’ intention that the Information would remain confidential:
23. The perception of the parties on whether they intended to supply the information in confidence is of overriding importance: *Imperial Oil Ltd. v. Alberta (Information and Privacy Commissioner)*, 2014 ABCA 231. BC Housing made no submissions on the issue relating to whether the information was supplied “in confidence”. Holborn provided evidence of the parties’ intention that the information was supplied, both expressly, and implicitly, “in confidence”.
24. The Delegate further found that section 21(1)(c) did not apply because Holborn did not establish a reasonable expectation of harm. The test under section 21(1)(c) is whether disclosure of the information in question could reasonably be expected to result in the specified harm. The standard of demonstrating harm is not a high one. The Supreme Court of Canada stated: “that disclosure will result in a risk of harm that is well beyond the merely possible or speculative, but it need not be proved on the balance of probabilities that disclosure will in fact result in such harm”: *Merck Frosst Canada Ltd., v. Canada (Health)*, 2012 SCC 3 at para 206.
25. The Delegate made the following reviewable errors:
 - (a) failing to conduct or provide a contextual analysis of the evidence as it applied to the reasonable expectation of harm.

- (b) imposing a standard of proof higher than required by section 21(1)(c) of *FIPPA* and the related jurisprudence.
 - (c) concluding that the evidence was insufficient to establish a reasonable expectation of harm to Holborn's competitive position or significant interference with Holborn's negotiating position.
26. Further, and as explained above, Holborn was unable to rely on all of the evidence in its possession demonstrating a reasonable expectation of harm because of the OIPC's decision to not allow the majority of Holborn's proposed *in camera* evidence to be accepted.
27. For the reasons outlined above, the Delegate's application and interpretation of section 21(1) was unreasonable.

Refusal to Reconsider the Legal Test Under Section 21(1)(b) of *FIPPA*

28. In the further alternative, Holborn says that the Delegate's refusal to reconsider the legal test under section 21(1)(b) of *FIPPA* was incorrect, or unreasonable.
29. To meet the test under section 21(1)(b) of *FIPPA*, the information must be "supplied". The jurisprudence under section 21(1)(b) has developed in a way that the OIPC has interpreted "supplied" to mean "not negotiated". This is referred to as the "negotiated rule". Holborn made submissions that such an approach was founded without merit or a legal basis. Further, Holborn submitted that this approach is in contrast to the Federal approach taken under the *ATIA*, and that having two contrasting regimes is irrational. Further, Holborn argued the rule that supplied cannot mean negotiated is not in accordance with the purposes of section 21 of the *FIPPA* and the principles of statutory interpretation.
30. The Delegate's analysis regarding whether the "negotiated rule" was improperly founded failed to recognize the relevance of earlier *ATIA* jurisprudence. As submitted by Holborn, Commissioner Loukidelis' decision in Order 00-22, [2000] BCIPCD No. 25, where the "negotiated rule" was first accepted in B.C., adopted the reasoning in *Halifax Development Ltd. v. Canada (Minister of Public Works and Government Services)*, [1994] FCJ No. 2035 (FCTD). That decision was made under the *ATIA*, which includes greater third party protections for information that is deemed not to be supplied by way of sections 20(1)(c) and 20(1)(d) of the *ATIA*. The Delegate's Order does not take into account this argument and assumes that the test, as developed under *FIPPA* is correct.
31. Holborn submitted that the "negotiated rule" has created an absurd inconsistency between *FIPPA* and the *ATIA*. Holborn says it is absurd that whether an agreement with a Public Body will be ordered to be disclosed will be dependent on whether *FIPPA* or the *ATIA* applies. In other words, the "negotiated rule" means that an agreement subject to *FIPPA* will be disclosed, but if that same agreement was subject to the *ATIA* it would not be disclosed. The Delegate has an obligation to interpret its home statute and other relevant legislation according to the principles of statutory interpretation. One of the principles of statutory interpretation is the avoidance of absurd results. The Delegate's failure to

consider the results of her interpretation and the "negotiated rule" constitutes a reviewable error.

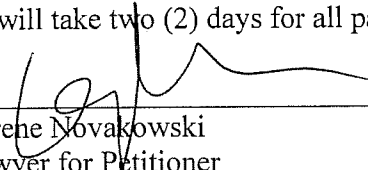
32. In summary regarding Holborn's submissions that the "negotiated rule" should be reconsidered, the Delegate made the following reviewable errors:
- (a) failing to adequately consider the origins of the "negotiated rule" where it was founded under a different legislative regime with greater third party protections.
 - (b) failing to recognize that the "negotiated rule" creates an unnecessary and irrational dichotomy between *FIPPA* and the *ATIA* leading to different outcomes under legislation pursuing the same purpose.
 - (c) failing to apply the contextual approach to *FIPPA* and harmonize the provisions of *FIPPA* with the *ATIA*, leading to potentially absurd results.
33. For the reasons listed above, the Delegate's decision in this respect was incorrect, or in the alternative, unreasonable.

Part 4: MATERIAL TO BE RELIED ON

- 1. Affidavit #1 of Anni Lam made on October 22, 2020.
- 2. *In camera* Affidavit #2 of Anni Lam made on October 22, 2020 (to be filed).
- 3. The complete record and *in camera* record comprising the record before the Commissioner in the Inquiry.

The Petitioner estimates that the application will take two (2) days for all parties' submissions.

Dated: 22-Oct-2020



Lorene Novakowski
Lawyer for Petitioner

To be completed by the court only:

Order made

in the terms requested in paragraphs of Part 1 of this Petition

with the following variations and additional terms:

.....

.....

.....

.....

Date: _____

.....
Signature of Judge Master