Office of the Information & Privacy Commissioner for British Columbia

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Order F17-37

BRITISH COLUMBIA ASSESSMENT AUTHORITY

Elizabeth Barker
Senior Adjudicator

September 13, 2017

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Summary: A union requested lease documents for all space leased by British Columbia Assessment Authority (BCA). BCA refused to disclose some information in the lease documents under s. 21(1) of FIPPA (harm to third party business interests). The adjudicator found that s. 21(1) did not apply and ordered BCA to disclose the disputed information.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, s. 21(1).

Authorities Considered: BC: Order 01-39, 2011 CanLII 21593 (BC IPC); Order 03-02, 2003 CanLII 49166 (BC IPC); Order 03-15, 2003 CanLII 49182 (BC IPC); Order F11-30, 2011 BCIPC 36 (CanLII).

Cases Considered: *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, 2014 SCC 31; *Merck Frosst Canada Ltd. v. Canada (Health),* 2012 SCC 3.

INTRODUCTION

[1] The Canadian Union of Public Employees Local 1767 (CUPE) made a request to the British Columbia Assessment Authority (BCA) under the *Freedom of Information and Protection of Privacy Act* (FIPPA) for copies of the leases for 15 of BCA's offices.

[2] BCA initiated a formal consultation with the landlord for each property under s. 23 of FIPPA. It obtained their input regarding disclosure of the leases

and agreed to sever the records in the way that the landlords wanted. BCA provided the applicant with complete copies of three leases but only parts of the remaining leases. Information was withheld under s. 15(1)(l) (harm to law enforcement) and s. 21(1) (harm to third party business interests) of FIPPA.

[3] CUPE requested a review of BCA's decision by the Office of the Information and Privacy Commissioner (OIPC). During mediation, the s. 15(1)(l) issues were resolved. However, BCA's decision to refuse to disclose information under s. 21(1) in several of the leases is still in dispute. CUPE requested that the s. 21(1) issue proceed to an inquiry under Part 5 of FIPPA.

[4] The OIPC gave notice of the inquiry to the landlords pursuant to s. 54(b) of FIPPA. Seven of the ten landlords provided submissions.[1] BCA and CUPE also provided submissions.

ISSUE

[5] The issue in this inquiry is whether BCA is required to refuse to disclose the information in dispute pursuant to s. 21(1) of FIPPA. Section 57(1) of FIPPA places the burden on the BCA, as the public body, to prove that the applicant has no right of access to the information withheld under s. 21(1).

DISCUSSION

Background

[6] BCA leases office space in several BC communities. CUPE represents BCA's union employees. CUPE explains that it seeks the information in dispute so that it can determine if the locations that BCA rents are economical and provide reasonable access for the public.

Information in dispute

[7] The records at issue are lease agreements, including lease extensions and amendments. Not all of the landlords object to disclosure of the same information. The disputed information is as follows: duration and dates of the agreements; square footage of the leased space; rental rates; when rents are due; renewal options; operating costs, repairs and leasehold improvements and who will be responsible for them; parking stall entitlement and cost; and the definitions of terms used in the agreement. In several instances, the landlords also do not want the name and street address of the leased building to be disclosed.

[1] The landlords are identified by number in this order. Landlords #8, #9 and #10 made no submissions.

[8] Some of the landlords also object to disclosure of the names and phone numbers of the individuals listed in their leases as an emergency contact or designated rent receiver. Several of the landlords object to disclosure of the names, signatures and contact information for the company officers, witnesses and lawyers who signed the records.

[9] CUPE says that it does not seek access to the names, addresses or phone numbers of individuals who may be named in the leases as it says that this may be personal information.[2] While I do not agree that all of this information meets the definition of personal information under FIPPA,[3] I conclude that BCA's decision to refuse to disclose individuals' names, contact details and signatures is no longer in dispute, so I will not consider that information any further.

Harm to Third Party Business Interests

[10] Section 21(1) requires public bodies to withhold information the disclosure of which would harm the business interests of a third party. The portions of s. 21(1) that are relevant in this case state:

> 21(1) The head of a public body must refuse to disclose to an applicant information
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> (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,
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> (b) that is supplied, implicitly or explicitly, in confidence, and
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> (c) the disclosure of which could reasonably be expected to
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> (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,
>
> (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.

[2] CUPE submissions, paras. 11 and 20.
[3] See Schedule 2 of FIPPA for definition of personal information and contact information.

[11] The principles for applying s. 21(1) are well established.[4] In order to properly withhold information under s. 21(1), the public body, as the party resisting disclosure, must establish the following three elements:

- Disclosure would reveal the types of information listed in s. 21(1)(a);
- The information was supplied to the public body, implicitly or explicitly, in confidence; and
- Disclosure of the information could reasonably be expected to cause the types of harm as set out in s. 21(1)(c).

Type of Information - s. 21(1)(a)

[12] Not all the parties made submissions specific to s. 21(1)(a). Of those that did, all submit that the information in dispute reveals the landlords' commercial and financial information. In addition, BCA submits that the information is commercial or financial information. One landlord says that the information in dispute also reveals its trade secrets.[5] Another landlord submits that it is scientific or technical information.[6] CUPE agrees that the information it seeks is commercial in nature.[7]

[13] First, there is one instance where the information being withheld is not "of or about" a third party as is required of s. 21(1)(a). It is the job title of the BCA employee that Landlord #9 should contact if case of an emergency.[8] This is information of or about BCA. As the public body in this case, BCA does not meet the definition of "third party" in Schedule 1 of FIPPA.[9]

[14] However, I find that disclosing the balance of the information in dispute would reveal the commercial and financial information of or about third parties, namely, the landlords. The disputed information relates to commerce and the exchange of money for goods and services. It includes dollar amounts and details about the terms of the lease agreements. Therefore, s. 21(1)(a)(ii) applies to this information.[10] Given that finding, it is not necessary to decide if disclosing this information would also reveal trade secrets or scientific and technical information.

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[4] See for example, Order 03-02, 2003 CanLII 49166 (BC IPC); Order 03-15, 2003 CanLII 49182 (BC IPC).
[5] Landlord #6 submission at p. 1.
[6] Landlord # 1 submission at para 13.
[7] CUPE submissions, para. 35.
[8] This is in Landlord #9's April 12, 2002 Indenture of Lease at p. 8. Only a job title is given and no individual is named.
[9] Schedule 1 of FIPPA: "third party", in relation to a request for access to a record or for correction of personal information, means any person, group of persons or organization other than (a) the person who made the request, or (b) a public body.
[10] For a similar finding see: Order F11-30, 2011 BCIPC 36 (CanLII).

Supplied in confidence – s. 21(1)(b)

[15] For s. 21(1)(b) to apply, the information must have been supplied, either implicitly or explicitly, in confidence. This is a two-part analysis. The first step is to determine whether the information was supplied. The second is to determine whether the information was supplied "in confidence".

[16] Previous orders have addressed the application of s. 21(1)(b) to agreements and contracts between public bodies and private-sector service providers. Those orders have repeatedly found that information in an agreement negotiated between two parties does not, in the ordinary course, qualify as information that has been "supplied" to the public body. There are two exceptions, however, where information in an agreement may be supplied, rather than negotiated information. The exceptions are explained in Order 01-39:

> Information that might otherwise be considered negotiated nonetheless may be supplied in at least two circumstances. First, the information will be found to be supplied if it is relatively "immutable" or not susceptible of change. For example, if a third party has certain fixed costs (such as overhead or labour costs already set out in a collective agreement) that determine a floor for a financial term in the contract, the information setting out the overhead cost may be found to be "supplied" within the meaning of s. 21(1)(b)…
>
> …The intention of s. 21(1)(b) is to protect information of the third party that is not susceptible of change in the negotiation process, not information that was susceptible of change but, fortuitously, was not changed…
>
> The second situation in which otherwise negotiated information may be found to be supplied is where its disclosure would allow a reasonably informed observer to draw accurate inferences about underlying confidential information that was "supplied" by the third party, that is, about information not expressly contained in the contract…[the public body] must point to specific evidence showing what accurate inferences could be drawn from which contractual terms about what underlying confidentially supplied information. Moreover, as discussed below, where information originally supplied in a bid proposal is simply accepted by the other party and incorporated into a contract, the mere fact that disclosure of the contract will allow readers to learn the terms of the original bid will not shield the contract from disclosure.[11]

[17] I adopt this approach from Order 01-39, which was upheld on judicial review and has been cited in numerous BC orders.[12]

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[11] Order 01-39, 2011 CanLII 21593 (BC IPC), at paras. 45, 46 & 50.

[12] Upheld on judicial review in *CPR v. The Information and Privacy Commissioner et al (In The Matter of the Judicial Review Procedure Act)*, 2002 BCSC 603. For two examples where it has been followed see: Order F16-17, 2016 BCIPC 19 (CanLII) and Order F14-28, 2014 BCIPC 31 (CanLII).

Analysis and findings, supplied

[18] For the reasons that follow, I find that only a small portion of the disputed information is information that was "supplied" under s. 21(1)(b).

[19] Although it has the burden of proof, BCA does not say whether it thinks that the information in dispute is "supplied" information under s. 21(1)(b). It says that it consulted with the landlords and applied s. 21(1) to each of the requested leases in the manner each landlord suggested. BCA submits that the landlords are best able to make submissions and provide supporting evidence substantiating the redactions they proposed.

[20] CUPE disputes that the information is supplied under s. 21(1)(b). It submits that the information in the lease is negotiated information and it does not reveal the fixed costs of either party.

[21] I will address each Landlord's records and submissions in turn.

[22] Landlord #1 - This landlord submits that although all of its information at issue is included as a term in an agreement, the two exceptions to the general rule that agreements are negotiated information apply. I have reviewed the information that Landlord #1 specifically identifies as falling under those two exceptions. It includes the terms agreed to by the parties for pre and post occupancy alterations to the premises, the annual rental rate, the dates for the tenancy and how many parking stalls accompany the lease. Despite what Landlord #1 asserts, it is evident to me that this is not its immutable information such as fixed costs or other non-negotiable information. No doubt, the parties' respective fixed costs informed their negotiation strategy and factored into their decision to accept or reject specific terms in the lease. However, I cannot see anything in the disputed information that resembles a fixed cost. Landlord #1 does not actually identify any specific fixed costs or other non-negotiable or immutable information that it believes the withheld blocks of text disclose. I find that the information in dispute comprises the terms that the parties agreed to before signing the lease. These terms are the result of the negotiation process between the landlord and BCA.

[23] Landlord #1 also submits that disclosing the withheld terms would allow a reasonably informed observer to draw accurate inferences about underlying confidential information that Landlord #1 supplied but which is not expressly contained in the contract. By way of explanation, Landlord #1 says that disclosure of the withheld information would reveal "the terms of its existing lease agreements, and the base rental rate that Landlord #1 is willing to lease property at and the lease periods it is willing to grant."[13] What Landlord #1 says on this point simply confirms for me that the information in dispute reveals the negotiated

[13] Landlord #1, para. 33.

terms of its agreement with BCA. In addition, Landlord #1's affidavit actually says that the terms (for instance the length of the lease and alterations to the property) were negotiated.[14] I find that the withheld lease terms reveal negotiated information – not information that was supplied to BCA.

[24] In conclusion, I find that none of the information in dispute in Landlord #1's records is supplied information. Therefore, s. 21(1)(b) does not apply to it.

[25] Landlord #2 - Landlord #2 submits that its withheld information was supplied to BCA. Landlord #2 describes some of the terms in the two leases that it objects to disclosing. However, it says nothing more about why it asserts that information is supplied rather than what it appears on its face to be, namely, the negotiated terms of a lease. It is information about matters such as the rent, notice provisions, renewal options, insurance terms and repair terms. These are matters that go to the core of what a landlord and tenant would need to discuss and reach agreement on before signing the lease. In my view, this is negotiated, not supplied information, so I find that s. 21(1)(b) does not apply to it.

[26] However, there is a small instance of information that Landlord #2 would have supplied to BCA. It is the name of the property management company that collects Landlord #2's rents.[15]

[27] Landlord #3 - Landlord #3 says that the information at issue in its lease agreements with BCA is supplied information. It explains by saying that some of the withheld lease terms are not negotiated information because Landlord #3 would only consider including them in a lease if they will be profitable. I do not understand the logic of this argument and Landlord #3 did not satisfactorily explain. To my mind, the fact that Landlord #3 only considers proposing and agreeing to profitable terms does not mean that those terms will not be subject to negotiation. It seems self-evident that a tenant still must agree to the terms before they are included in the parties' signed lease agreement.

[28] Landlord #3 also submits that revealing the terms of its lease agreements will allow a reasonably informed person to draw accurate inferences about underlying confidential information that does not appear in the agreements. For instance, Landlord #3 says that the information in dispute would reveal its "income stream and key elements of the profitability analysis [it] undertakes and the rate of return [it] requires when entering into long term lease arrangements."[16] Its property manager says, "While each of the terms in the Redacted Information may be subject to change, if they are all available to a third party, [the landlord's]

[14] Landlord #1 affidavit, paras. 9, 14, 26-28.
[15] Landlord #2, at p. 9 of its lease.
[16] Landlord #3, para. 15.

underlying profitability analysis and threshold – which is invariable – can be inferred."[17]

[29] There are no explicit references in the records to matters such as fixed costs or profit margins. Landlord #3's submissions and evidence also do not adequately explain how one could accurately infer information about such business matters in the way it alleges. I cannot see how it is possible. It is apparent to me that the withheld lease terms were agreed to by the parties, and I find that it is negotiated information, not supplied information.

[30] In summary, I find that s. 21(1)(b) does not apply to the withheld information in Landlord #3's lease records.

[31] Landlord #4 - Landlord #4 does not make any submission regarding how the information it wants withheld from its records is supplied information under s. 21(1)(b). It is only a small amount of information, specifically the rental rate, lease renewal terms, and the definition of the term "taxes". In my view, all of these terms would have been subject to negotiation and would have required agreement before the parties included them in their signed lease. I find that it is negotiated information, not supplied information, so s. 21(1)(b) does not apply.

[32] Landlord #5 - This landlord says nothing about whether the withheld information in its records was supplied under s. 21(1)(b). In fact, when describing the information the landlord frequently refers to it as "negotiated" or "negotiable" information. I find that all of the withheld information in Landlord #5's records is negotiated information. It is clearly the terms the Landlord #5 and BCA agreed to for matters such as rental rates, deposits, lease dates, how much of the available space the parties agreed BCA would ultimately rent, and who is responsible for cleaning, repairs and improvements. I find that none of the disputed information in Landlord #5's records is information that was supplied, so s. 21(1)(b) does not apply to it.

[33] Landlord #6 - Landlord #6 makes no submission on whether the disputed information in its records was supplied or negotiated. Most of what is being withheld is terms in its lease, and it is evident to me that these are the terms Landlord #6 and BCA negotiated and agreed to. I am not persuaded that it is information the landlord supplied under s. 21(1)(b).

However, the address and name of the leased building is also being withheld from Landlord #6's records. During a negotiation for that building, the name and address of the building is immutable and would not be susceptible to change. I find that Landlord #6 supplied it to BCA.

[17] Landlord #3's affidavit, para. 16.

[34] Landlord #7 - Landlord #7 submits that information withheld from its records is information that it supplied in confidence. Other than this assertion, it does not elaborate. Landlord #7 wants several lease terms withheld, for instance the rental dates and rate, parking arrangements and who will handle specific improvements to the premises. It is evidently information that was negotiable and required the input and agreement of both parties before it was included it in the signed lease. I find that it is not supplied information, so s. 21(1)(b) does not apply to it.

[35] There is a small amount of information, however, that I find is information that Landlord #7 supplied under s. 21(1)(b). It includes Landlord #7's harmonized sales tax (HST) account number.[18] A tax account number is information that clearly cannot be changed through lease negotiation between a landlord and a tenant. The supplied information also includes Landlord #7's contact information: specifically, the phone and fax numbers and the work email addresses for two employees (their names, however, have already been disclosed).

[36] Landlord #8 - I have reviewed the information that Landlord #8 objects to disclosing.[19] I find that most of it is the terms of the lease that were clearly subject to negotiation by the parties and it is not information that was supplied under s. 21(1)(b). However, there is some disputed information that is information that was supplied under s. 21(1)(b) and would not have been open to negotiation, specifically the landlord's corporate name and business address as well as the address of the leased building.

[37] Landlord #9 - I find that most of the disputed information in these records is the negotiated terms of the lease, for example, the rental rate and dates, so s. 21(1)(b) does not apply.[20] However, there is some information that I find is information that is immutable so it is information that was supplied under s. 21(1)(b): the name of the company that collects Landlord #9's rent, and the street address and legal description of the leased property.

[38] Landlord #10 - The only supplied information in Landlord #10's records is the address of Landlord #10's building. The building address is clearly immutable information that is not subject to negotiations between a landlord and tenant.

[39] In summary, I find that only a small amount of the disputed information is information that was "supplied" under s. 21(1)(b). It is as follows:

- Landlord #2 - The name of the company that collects the rent for Landlord #2.
- Landlord #6 -The name and street address of the leased property.

[18] The HST account number appears on p. 28 of Landlord #7's 2011 lease.

[19] Landlord #8 informed the OIPC that it would not participate in this inquiry but that it wanted a copy of the resulting order.

[20] Landlord #9 did not provide a submission in the inquiry.

- Landlord #7 – The landlord's HST account number and its contact information (i.e., phone, fax and email).
- Landlord #8 - The landlord's name and address, as well as the address of the leased property.
- Landlord #9 - the name of the company that collects Landlord #9's rent, and the street address and legal description of the leased property.
- Landlord #10 – the address of the leased property.

[40] For ease of reference, I will refer to this information as the "Supplied Information" from this point forward.

[41] All three parts of the s. 21(1) test must be established before the exception to disclosure applies. Therefore, I will not consider the balance of the disputed information any further because BCA has not established that it was "supplied" under s. 21(1)(b).

Analysis and findings, confidence

[42] The next step in the s. 21(1) analysis is to determine whether the Supplied Information was supplied, "implicitly or explicitly, in confidence". To establish confidentiality of supply, it must be shown that information was supplied "under an objectively reasonable expectation of confidentiality, by the supplier of the information, at the time the information was provided."[21] Evidence of the supplier's subjective intentions with respect to confidentiality alone is insufficient.[22]

[43] CUPE's submissions do not address the in-confidence element of s. 21(1)(b) other than to say that the landlords "should be well aware of the fact that leases with public bodies such as government ministries and crown corporations are indeed subject to the potential for public scrutiny."[23]

[44] Landlord #6 says that all of the disputed information in its records is confidential information. It points to one of its records (a lease extension) that states that BCA agrees not to disclose the terms of the lease to anyone other than its professional advisors or as required by law.[24]

[45] Landlord #2 and Landlord #7's leases do not contain language about confidentiality.[25] Landlord #2 says, "It was implicit in our supplying this information to the public body, that it would be confidential in nature. That is the

[21] Order 01-36, 2001 CanLII 21590 (BC IPC) at para. 23.
[22] Order F13-20, 2013 BCIPC 27 (CanLII), at para. 22.
[23] CUPE submissions para. 38.
[24] Landlord #6's 2009 lease extension, para. 6.
[25] Landlord #8, #9 and #10's records also do not have language about confidentiality. They did not provide submissions in the inquiry.

nature of all of our leases, whether with public or private tenants."[26] Landlord #7 says that it considers its disputed information to be confidential lease information.[27]

[46] BCA says

> BC Assessment's standard practice is to treat commercial and financial information that is supplied by a landlord during the course of the lease negotiations as confidential. As a matter of internal policy the details of commercial leases to which BC Assessment is a party are maintained in confidence during the currency of the lease and are not disclosed outside of BC Assessment, and in addition are not disclosed internally, except on a "need to know" and "least privilege" basis. BC Assessment confirms that this practice has been applied consistently with respect to its treatment of the leases that are the subject of this Inquiry. Leases are disclosed in response to a request for access under FIPPA following their termination, and where BC Assessment does not pursue re-leasing the subject properties. [28]

[47] It is evident that in this case BCA did not follow the practices it explains above. It disclosed parts of current lease records to CUPE. BCA says that it severed the records in this case in the way that the landlords requested. The fact that BCA and the landlords were willing to disclose some parts of their information suggests a lack of consistency when it comes to their maintaining the confidentiality of those records.

[48] In my view, BCA and the landlords' submissions and evidence about confidentiality is not very persuasive. In particular, I do not accept that the landlords supplied the names, addresses and legal descriptions of the buildings to BCA with any reasonable expectation that they were doing so in confidence. It would have been patently obvious that BCA must tell the public where its offices are located in order to provide services and fulfill its mandate. Further, some of the leases contain terms that expressly allow BCA to post public signage on the leased building.

[49] In summary, I find that the names, addresses and legal descriptions of the buildings is not information that was supplied, implicitly or explicitly in confidence under s. 21(1)(b). However, I am satisfied, although the evidence is weak, that the following is information that was supplied implicitly in confidence under s. 21(1)(b):

- Landlord #2 and #9 - The name of the companies that collect their rents.

[26] Landlord #2's submissions, p. 4.
[27] Landlord #7's submissions, para. 2.
[28] BCA's reply, p. 1.

- Landlord #7 – The landlord's HST account number and its contact information (i.e., phone, fax and email).
- Landlord #8 - The landlord's name and address

[50] Consequently, I will consider whether disclosure of this information could reasonably be expected to result in harm under s. 21(1)(c).

Harm – s. 21(1)(c)

[51] The standard of proof under s. 21(1) is whether disclosure of the information could reasonably be expected to result in the specified harm. The Supreme Court of Canada has described this standard as "a reasonable expectation of probable harm" and "a middle ground between that which is probable and that which is merely possible."[29] A public body must demonstrate that disclosure will result in a risk of harm that is "well beyond the merely possible or speculative."[30] The determination of whether the standard of proof has been met is contextual. The amount and quality of evidence needed to meet this standard will ultimately depend on the nature of the issue and "inherent probabilities or improbabilities or the seriousness of the allegations or consequences."[31]

[52] BCA did not provide submissions regarding harm because, it says, the landlords are best able to make submissions and provide supporting evidence substantiating the redactions.

[53] Name of the companies that collect Landlord #2 and #9's rents – I do not understand how disclosing the name of the company that collect a landlord's rent could cause harm. Landlord #2 says nothing specific about this information and Landlord #9 makes no submissions at all. Therefore, I am not persuaded that disclosing this information could reasonably be expected to cause harm under s. 21(1)(c).

[54] Landlord #7's HST account number and contact information - Landlord #7 argued very generally that disclosure of the information withheld from its records could harm its competitive and negotiating positions and result in financial loss. However, it did not specifically address how disclosure of its contact information or HST account number could cause harm.

[55] The HST account number pertains to a tax that no longer exists. BC replaced the HST in April 2013 and now relies on a provincial sales tax (PST) and a goods and services tax (GST). I cannot see how disclosing an account

[29] *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, 2014 SCC 31 at para. 54.
[30] *Merck Frosst Canada Ltd. v. Canada (Health),* 2012 SCC 3, at para. 206.
[31] *Community Safety*, *supra* at note 35, at para. 54

number for a now defunct tax could reasonably be expected to cause any of the s. 21(1) harms alleged, and Landlord #7's submissions do not adequately explain. Further, I am not persuaded by what Landlord #7 says about harm that disclosing its contact information to CUPE could reasonably be expected to result in any harm under s. 21(1)(c).

[56] Landlord #8's name and address – I am not persuaded that disclosing Landlord #8's name and address could reasonably be expected to result in any harm under s. 21(1). Landlord #8 does not provide a submission about harm. Furthermore, while BCA refused to disclose the landlord's name in one place, it disclosed it to CUPE in several other spots in the records. I can see no reasonable expectation of s. 21(1)(c) harm flowing from disclosing this one further instance of Landlord #8's name along with its address to CUPE.

Overall summary of s. 21(1) findings

[57] With only one exception where the information is "of or about" the public body,[32] I find that the information in dispute is commercial and financial information of or about third parties, so s. 21(1)(a)(ii) applies. However only a small portion of that information was supplied in confidence under s. 21(1)(b). Finally, BCA failed to provide sufficient evidence to establish that disclosing the information that was supplied in confidence could reasonably be expected to cause any of the harms listed in s. 21(1)(c). In conclusion, BCA has not proven that it must refuse to disclose to CUPE any of the information it is withholding under s. 21(1) of FIPPA.

CONCLUSION

[58] For the reasons provided above, under s. 58(2)(a) of FIPPA, I require BCA to give CUPE access to all of the information that BCA withheld under s. 21(1) by October 26, 2017. BCA must concurrently provide the OIPC Registrar of Inquiries with a copy of its cover letter and the records sent to the applicant.

September 13, 2017

ORIGINAL SIGNED BY

Elizabeth Barker, Senior Adjudicator

OIPC File No.: F15-62758

[32] The job title of the BCA employee. See para. 13 above for discussion of this information.