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**Office of the Information and Privacy Commissioner
Province of British Columbia
Order No. 183-1997
August 14, 1997**

INQUIRY RE: An applicant's request for personal information to the Ministry of Health and Ministry Responsible for Seniors

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1. Description of the review

As Information and Privacy Commissioner, I conducted a written inquiry at the Office of the Information and Privacy Commissioner (the Office) on June 30, 1997 under section 56 of the *Freedom of Information and Protection of Privacy Act* (the Act). This inquiry arose out of a request for review in which the applicant sought access to third-party personal information withheld by the Ministry of Health (the Ministry) relating to employment competitions in which his spouse participated.

2. Documentation of the inquiry process

On December 27, 1996 the applicant requested from the Ministry "disclosure of all documents, notes, memoranda, correspondence, and records, whatever the form, from January 1995 to January 1996, pertaining to the prospective employment of [the applicant's spouse] in the region served by your office." On January 24, 1997 the Ministry provided the applicant with severed copies of the requested records. It severed third-party personal information under section 22(1) of the Act.

On February 22, 1997 the applicant wrote to my Office to request a review of the decision by the Ministry to withhold information. The Office opened a file on February 27, 1997. On May 6, 1997 the applicant and the Ministry agreed to an extension of the original ninety-day deadline from May 26, 1997 to June 30, 1997. On June 2, 1997 my Office gave notice to both parties of the written inquiry to be held on June 30, 1997.

3. Issue under review and the burden of proof

The issue under review in this inquiry is the application of section 22(1) to the records in dispute. The relevant portions of the Act read as follows:

Disclosure harmful to personal privacy

- 22(1) The head of a public body must refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party's personal privacy.
- (2) In determining under subsection (1) or (3) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the head of a public body must consider all the relevant circumstances, including whether
- (a) the disclosure is desirable for the purpose of subjecting the activities of the government of British Columbia or a public body to public scrutiny,
 - ...
 - (c) the personal information is relevant to a fair determination of the applicant's rights,
 - ...
 - (e) the third party will be exposed unfairly to financial or other harm,
 - (f) the personal information has been supplied in confidence,
 - (g) the personal information is likely to be inaccurate or unreliable, and
 - (h) the disclosure may unfairly damage the reputation of any person referred to in the record requested by the applicant.
- (3) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if
- ...
 - (d) the personal information relates to employment, occupational or educational history,
 -

Under section 57(2), if the record or part that the applicant is refused access to under section 22 contains personal information about a third party, it is up to the applicant to prove that disclosure of the information would not be an unreasonable invasion of the third party's personal privacy.

4. The records in dispute

The records in dispute in this inquiry consist of three pages from which third-party personal information has been severed. This information consists primarily of information about other employees of the Ministry, including names, locations, and references to employment histories.

5. The applicant's case

The applicant, acting on behalf of his wife, submits that he has not been given adequate reasons for the Ministry's severances of the records in dispute. He has also explained to me, in considerable detail, the employment history of his wife with the Ministry, which resulted in her termination in July 1996. Various processes are now moving forward to deal with the aftermath. The Ministry has essentially recounted a similar story. (Submission of the Ministry, paragraph 1.03)

With respect to the severances made on the basis of section 22(1) of the Act, the applicant submits that "it is unlikely that all of the severed section [from one memo] constitutes an unreasonable invasion of a third party's privacy. The severances should have been limited to names and other words that directly identify a third party." In his view, sections 22(2)(a) and 22(2)(c) apply. (Submission of the Applicant, p. 7)

With respect to a second memo, the applicant submits that "severances which are not persons' names or identifying features should be released." (Submission of the Applicant, p. 8)

The applicant generally believes that "[o]fficials in the Ministry have not complied with the spirit or intent of the Act in responding to requests by me or by my wife made under the Act."

6. The Ministry's case

The Ministry states that it has refused to disclose to the applicant the following:

- 1) "the names of other Ministry employees who unsuccessfully competed for a job as an Environmental Health Officer within [a specified] Health Unit."
- 2) "information which was not relevant or responsive to the Applicant's request and which discusses the employment history of various third parties." (Submission of the Ministry, paragraph 1.02)

The severances of the above information occurred on three pages out of twenty disclosed to the applicant. (Submission of the Ministry, paragraph 1.05) I have discussed further aspects of the Ministry's submission below.

7. Discussion

I have had the benefit of a very detailed description, and an accompanying table, of the severances made by the Ministry. The applicant and his wife have now had full access to the same explanations and descriptions. Based on these materials, and my own review of the records in dispute, I conclude that the severances were appropriately made on the basis of the application of section 22(1) of the Act, especially sections 22(2)(f) and 22(3)(d). I also agree with the Ministry's consideration of sections 22(2)(a) and (c). The matter is so clear that there is no utility in restating the Ministry's submissions in greater detail. (See Submission of the Ministry, paragraphs 4.01-5.23) I find that the Ministry has met its burden of proof, and that the applicant has not met his burden. (See, in particular, Order No. 52-1995, September 15, 1995, pp. 5, 7)

I also reject the applicant's contention that the Ministry has not acted in good faith, or has acted improperly, in this matter. While the applicant and his wife may not "trust" the Ministry, my own confidence in it has not been altered by my review of all the records before me in this inquiry. (Reply Submission of the Applicant, p. 1)

As the applicant requested, I have carefully reviewed the records in dispute and can confirm that the decisions of the Ministry are in compliance with the Act. (Reply Submission of the Applicant, p. 11) I agree with the Ministry's reply submission to the effect that the applicant has received the records he requested.

8. Order

I find that the Ministry of Health and Ministry Responsible for Seniors was required under section 22 of the Act to refuse access to the information in the records in dispute. Accordingly, under section 58(2)(c) of the Act, I require the Ministry of Health and Ministry Responsible for Seniors to refuse access to the applicant.

David H. Flaherty
Commissioner

August 14, 1997