



Order F26-22

CITY OF LANGFORD

D. Hans Hwang
Adjudicator

March 18, 2026

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Summary: The applicants made a request under the *Freedom of Information and Protection of Privacy Act* (FIPPA) to the City of Langford (City) for access to records about a building located in the City. The owner of the building objected to the City's decision to disclose the responsive records and claimed that the City is required to withhold the records under s. 21(1) (disclosure harmful to third party business interests) of FIPPA. The adjudicator found that the City is not required to withhold the information in dispute under s. 21(1). The adjudicator ordered the City to give the applicant access to the information it was not required to withhold.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, RSBC 1996 c 165, ss. 21(1), 21(1)(a), 21(1)(b), 21(1)(c)(i), 21(1)(c)(ii), and 21(1)(c)(iii); *Professional Governance Act*, SBC 2018 c 47, s. 109(1).

INTRODUCTION

[1] Two individuals (applicants) made a request under the *Freedom of Information and Protection of Privacy Act* (FIPPA) to the City of Langford (the City) for records about a building located in the City (the Building).

[2] Because of the nature of the requested records, the City notified a third party, Centurion Property Associates and Centurion Apartment Properties LP (Centurion) who owns and operates the Building, and sought Centurion's input on the applicant's access request.¹

¹ Section 23 specifies when and how a public body *must* or *may* give notice to third parties when the public body believes the record contains information that may be excepted from disclosure under ss. 18.1, 21 or 22.

[3] Centurion advised the City of its position that the information in the responsive records must be withheld under s. 21 (harm to third party business interests) of FIPPA.²

[4] The City disagreed with Centurion's position and notified Centurion that it intended to release the information in dispute to the applicants. In response, Centurion requested the Office of Information and Privacy Commissioner (OIPC) review the City's decision to disclose the information to the applicants.

[5] The OIPC's investigation and mediation process did not resolve the issues between the City and Centurion, so Centurion requested that the matter proceed to inquiry.

[6] The applicants decided not to participate in this inquiry, and I have no information before me regarding their position. Centurion provided an initial submission; and the City provided its response.³ Centurion declined to reply to the City's submission.

ISSUE

[7] The issue I must decide in this inquiry is whether s. 21(1) of FIPPA requires the City to refuse to disclose the information in dispute.⁴

[8] Section 57(3)(b) places the burden on Centurion to establish that s. 21(1) applies to the information it asserts the City is required to withhold.

DISCUSSION

Background

[9] The Association of Professional Engineers and Geoscientists of the Province of British Columbia (EGBC) regulates and governs professional engineers and geoscientists under the authority of the *Professional Governance Act* (PGA).⁵

[10] In 2019, EGBC investigated potential violations regarding the Building that related to the *Engineers and Geoscientists Act*.⁶ EGBC disclosed the findings of

² For the remainder of this Order, when I refer to sections of an enactment I am referring to FIPPA unless otherwise stated.

³ City's response submission. In this submission, the City states it takes no position.

⁴ From this point forward, whenever I refer to section numbers, I am referring to sections of FIPPA unless otherwise indicated.

⁵ SBC 2018 c 47.

⁶ RSBC 1996, c 116. In 2021, the *Professional Governance Act* replaced this Act.

its investigation to the City⁷ because it perceived there were compelling public interest and health or safety concerns about the structural integrity of the Building.⁸

[11] Due to the concerns raised in this investigation, the City revoked the occupancy permit for the Building.

[12] EGBC also investigated the professional conduct of an engineer who was involved in the structural design of the Building. In 2021, EGBC disclosed the findings of this investigation to the City and Centurion (the 2021 Letter) for health and safety reasons.⁹

[13] The City reissued the occupancy permit for the Building after Centurion completed the structural remediation of the Building in 2022.

[14] In 2023, due to concerns regarding the sufficiency of the remediation, EGBC investigated the professional conduct of engineers who were involved in the remediation of the Building. EGBC also disclosed the findings of this investigation to the City and Centurion (the 2023 Letter) for health and safety reasons.¹⁰

[15] Because of the concerns raised in this investigation, the City revoked the occupancy permit for the Building a second time.

Records and information at issue

[16] The responsive records are the 2021 Letter¹¹ consisting of three pages, and the 2023 Letter consisting of 10 pages¹² (collectively the Letters). Centurion claims that the City must withhold all information in the Letters.

Harm to third party business interest, s. 21(1)

[17] Centurion says that the City is required to refuse access to the Letters under s. 21(1) because the disclosure would harm the competitive position and

⁷ EGBC's December 3, 2019 letter to the City at page 11 of the records.

⁸ EGBC said the disclosure was pursuant to s. 25(1) (disclosure clearly in the public interest) of FIPPA.

⁹ EGBC said the disclosure was pursuant to ss. 25(1) and 33.1(1)(m) and later s. 33(3)(a)(i) (circumstances that affect health or safety) of FIPPA.

¹⁰ EGBC said the disclosure was pursuant to s. 25(1) and 33(3)(a)(i) of FIPPA.

¹¹ Pages 17-19 of the records.

¹² Pages 1-10 of the records. In its response submission, the City points out an error in Centurion's initial submission stating the pages numbers of the April 17, 2023 letter are 1-11. The City says that the correct page numbers of the records are 1-10. Centurion does not dispute this. Therefore, I find "pages 1-10" as the correct page numbers of the April 17, 2023 letter.

negotiating position of Centurion, and result in undue financial loss to Centurion.¹³ The City does not say anything about s. 21.

[18] Section 21(1) requires a public body to withhold information if its disclosure could reasonably be expected to harm the business interests of a third party. The portions of s. 21(1) relevant to this inquiry say:

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,

...

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

...

[19] The three-part test for whether s. 21(1) applies is well established in previous orders.¹⁴ The test is as follows:

1. Disclosing the information would reveal one or more of the types of information listed in s. 21(1)(a);
2. The information was supplied, implicitly or explicitly, in confidence under s. 21(1)(b); and
3. Disclosing the information could reasonably be expected to cause one or more of the harms in s. 21(1)(c) set out in s. 21(1).

[20] Centurion bears the burden of proving each part of the test for s. 21(1) to apply.¹⁵

[21] The first step in the s. 21(1) analysis is deciding whether the withheld information is of the type listed in s. 21(1)(a).

¹³ Centurion's initial submission at para 4.

¹⁴ Order F24-23, 2024 BCIPC 30 (CanLII) at para 20; Order F24-16, 2024 BCIPC 22 (CanLII) at para 11.

¹⁵ Order F24-16, 2024 BCIPC 22 (CanLII) at para 11.

What type of information has been withheld, s. 21(1)(a)

[22] Centurion submits the information at issue is “technical information” about Centurion.¹⁶

[23] FIPPA does not define the terms “technical” information; however, previous OIPC orders have defined it as follows:

Technical information under s. 21(1)(a)(ii) is information belonging to an organized field of knowledge falling under the general categories of applied science or mechanical arts such as architecture, engineering or electronics.¹⁷ It usually involves information prepared by a professional with the relevant expertise and describes the construction, operation or maintenance of a structure, process, equipment or entity.¹⁸

[24] Centurion says that the Letters contain specific references to technical reports completed by EGBC, including a summary of issues with the Building, technical findings, figures describing elements of the Building’s structural design, and information about deficiencies of the Building’s structural design.¹⁹

[25] To support its position, Centurion relies on the Letters themselves and the affidavit of a chief operation officer (the Operation Officer) of Centurion Asset Management.²⁰ The Operation Officer states that the Letters contain summaries of issues identified with the Building’s construction and remediation, and contents of reports and correspondence of professional engineers, structural drawings, architectural drawings, and remediation drawings.²¹

[26] From my review of the Letters and the affidavit evidence, I find the Letters contain a summary of findings and recommendations of engineers, issues identified in the investigation, descriptions of structures and processes, and references to drawings that outline the structure, architecture and remediation of the Building.

[27] I am satisfied that this information is technical information of or about Centurion.

[28] However, I find other information in the Letters is not the type of information listed in s. 21(1)(a). This information includes the date and title of the Letters,²² names and addresses of the Letters’ recipients (the City and

¹⁶ Centurion’s initial submission at para 31.

¹⁷ Order F12-13, 2012 BCIPC 18 (CanLII) at para. 11.

¹⁸ For example, Order F13-19, 2013 BCIPC 26 (CanLII) at paras. 11-12.

¹⁹ Centurion’s initial submission at para 30.

²⁰ Centurion explains “Centurion Asset Management” as a related company to Centurion.

²¹ Affidavit #1 of Operating Officer at paras 12-13.

²² Pages 1 and 17 of the records.

Centurion),²³ and opening and closing sentences that state non-technical information.²⁴ I also find EGBC's explanations of why it provided the Letters to the City and Centurion is not the type of information listed in s. 21(1)(a).²⁵

[29] In summary, guided by past orders, I am satisfied most, but not all, of the information in the Letters is "technical information" of or about a third party within the meaning of s. 21(1)(a)(ii).

Was the information supplied in confidence, s. 21(1)(b)?

[30] The second step of the analysis is to determine whether the disputed information was supplied to the City in confidence. This step involves a two-part analysis. It is first necessary to determine whether a third party supplied the information at issue to the public body. If so, the second part of the analysis is to determine whether the third party supplied that information, implicitly or explicitly, in confidence.²⁶

[31] There is no dispute that EGBC supplied the Letters to the City. I can see on the face of the Letters that EGBC sent the Letters to the City, therefore, I am satisfied that the records at issue were supplied to the City.

[32] Under s. 21(1)(b), Centurion must show that the disputed information was supplied in confidence, either implicitly or explicitly. To do so, it must show that the information was supplied under an objectively reasonable expectation of confidentiality, by the supplier of the information, at the time the information was supplied.²⁷ In other words, "the focus of the confidentiality assessment is on whether the information in the disputed records was provided in confidence and whether, assessed objectively, it can be said that there was a reasonable expectation that it be maintained in confidence."²⁸

[33] Centurion submits that the disputed information was obtained during the EGBC's confidential professional regulatory investigation against professional engineers. Centurion submits that s. 109(1) of PGA requires EGBC to keep this type of information confidential.²⁹ Centurion says that the 2023 Letter explicitly states that the information in the letter was obtained during the investigation

²³ *Ibid.*

²⁴ Pages 1, 10, 17 and 19 of the records.

²⁵ Pages 9 and 18 of the records.

²⁶ See Order F15-71, 2015 BCIPC 77 (CanLII) at para 11.

²⁷ Order 01-36, 2001 CanLII 21590 at para 23.

²⁸ Order 01-39, 2001 CanLII 21593 (BC IPC) at para 31.

²⁹ Centurion's initial submission at paras 35, 41-44.

against a professional engineer,³⁰ and the 2021 Letter is marked “Confidential”.³¹ Centurion says information in the Letters is therefore confidential.³²

[34] The 2021 Letter was marked as confidential. I find this is an indication that the information in it was supplied in confidence to the City. There is nothing that suggests the City did not keep this letter confidential and/or disclose it to anyone. I am satisfied that the 2021 Letter was provided explicitly in confidence and there was a reasonable expectation that it would be kept confidential.

[35] The 2023 Letter was not marked as confidential, so I have considered whether there are any circumstances to establish that there was an implied understanding that EGBC was supplying the information in confidence. Previous orders have examined this issue by asking whether the information was:

1. Communicated to the public body on the basis that it was confidential and that it was to be kept confidential;
2. Treated consistently in a manner that indicates a concern for its protection from disclosure by the affected person prior to being communicated to the public body;
3. Not otherwise disclosed or available from sources to which the public has access; or
4. Prepared for a purpose which would not entail disclosure.³³

[36] It is clear on the face of the 2023 Letter that the disputed information includes EGBC’s findings about the structural design and remediation of the Building, and this is information that EGBC gathered and analyzed in the misconduct investigation. In my view, it was reasonable for the City to expect that a regulatory body’s findings of the misconduct investigation is not the kind of information that would typically be made public.

[37] When considered as a whole, these circumstances persuade me that EGBC had an objectively reasonable expectation of confidentiality at the time it supplied the Letters to the City and Centurion. I accept the EGBC’s evidence that suggests the 2021 Letter and 2023 Letter were treated as confidential.³⁴

³⁰ Centurion’s initial submission at para 39.

³¹ Centurion’s initial submission at para 42.

³² Centurion’s initial submission at para 44.

³³ See for example, Order F23-86, 2023 BCIPC 102 (CanLII) at para 42; Order F25-27, 2025 BCIPC 33 (CanLII) at para 57.

³⁴ Affidavit #1 of Operating Officer at paras 16, 18 and 26.

[38] Therefore, the information meets the second part of the s. 21(1) test as being information that was supplied to the City in confidence.

Is there a reasonable expectation of probable harm, s. 21(1)(c)?

[39] The last step of the s. 21(1) analysis is to determine whether disclosure of the disputed information could reasonably be expected to result in one or more harms described in s. 21(1)(c).

[40] Centurion submits that disclosing the information in dispute could reasonably be expected to result in harm under ss. 21(1)(c)(i) and (iii).³⁵

[41] Centurion does not need to establish on a balance of probabilities that the harm to its business interests will actually result from disclosure. Instead, Centurion only needs to establish that there is a reasonable expectation of probable harm.³⁶ The Supreme Court of Canada described this standard as “a middle ground between that which is probable and that which is merely possible.”³⁷ Whether this standard has been met depends on the context of each case. This is because the unique probabilities and harms that are present in each case determine what type and amount of evidence is sufficient.³⁸

Significant harm to competitive position or interference with negotiating position, s. 21(1)(c)(i)

[42] Section 21(1)(c)(i) says that the head of a public body must refuse to disclose the disputed information if doing so could reasonably be expected to harm significantly the competitive position, or interfere significantly with the negotiating position, of the third party.

[43] To engage s. 21(1)(c)(i), the expected harm must also be significant, because s. 21(1) does not operate to protect third parties from all negative effects that flow from their dealings with public bodies.³⁹ Significant harm under s. 21(1)(c)(i) is material harm looked at in light of the circumstances affecting the third party’s competitive or negotiating position.⁴⁰

³⁵ Centurion’s initial submission at para 47.

³⁶ Order 01-20, 2001 CanLII 21574 (BC IPC) at para 57; Order 01-36, 2001 CanLII 21590 (BC IPC) at para 38; and *Merck Frosst Canada Ltd. v. Canada (Health)*, 2012 SCC 3 (CanLII), [2012] 1 SCR 23, at para 196.

³⁷ *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, 2014 SCC 31 (CanLII), [2014] 1 SCR 674, at paras 52-54.

³⁸ *Ibid.* at para 54.

³⁹ Order 00-22, 2000 CanLII 14389 (BC IPC) at p. 8; and Order F18-28, 2018 BCIPC 31 (CanLII) at para 58.

⁴⁰ Order 00-10, 2000 CanLII 11042 (BC IPC), at p. 11.

[44] Centurion says the Letters do not adequately address the steps taken by Centurion in response to EGBC's findings.⁴¹ Centurion argues that the disclosure of the information at issue would significantly harm Centurion's competitive position in the residential real estate market⁴² and significantly interfere with its negotiating position in ongoing litigation it commenced against developers and a vendor who were involved in the structural engineering of the Building.⁴³

[45] However, aside from its assertion, Centurion does not provide detailed and convincing evidence to support its claim under s. 21(1)(c)(i). For example, it does not sufficiently explain with supporting evidence how disclosing information for a specific issue with the structural design and remediation of the Building identified in the Letters could reasonably be expected to reduce or harm Centurion's ability to compete for future business in the residential real estate market. In particular, Centurion's submissions and evidence do not address the likelihood that project scope, market conditions and technology, among other factors, will be different in the future.⁴⁴

[46] Moreover, Centurion says disclosing the Letters will interfere with its negotiating position in ongoing litigation and potentially compromise its ability to negotiate a settlement. However, it is unclear and Centurion does not identify what specific information in the Letters would reveal weaknesses at the litigation or resolution of the claim, or how opposite parties could exploit this information.

[47] Centurion also argues disclosure could increase media coverage and public commentary about the Building, and this will likely increase public speculation about the safety of the Building and unfairly damage Centurion's reputation as a responsible building owner and manager.⁴⁵

[48] In my view, Centurion's submission and affidavit on their own do not provide sufficient evidence as to what competitions or negotiations are ongoing or anticipated with existing or potential projects or how disclosing the information at issue could reasonably be expected to interfere significantly with those current or future competitions and negotiations.

[49] Ultimately, I find the Centurion's assertions about harm under s. 21(1)(c)(i) are speculative and lacking in evidentiary support. Centurion says disclosure of the Letters will cause harm to Centurion's reputation, but I am not satisfied that Centurion has established a clear and direct link between disclosure of the information in question and a reasonable expectation of probable harm to its

⁴¹ Centurion's initial submission at para 62; Operating Officer's affidavit at paras 19, 21 and 22.

⁴² Centurion's initial submission at para 63.

⁴³ Centurion's initial submission at para 71a.

⁴⁴ For similar reasoning, see Order F19-26, 2019 BCIPC 28 (CanLII) at para 29; Order F25-31, 2025 BCIPC 38 (CanLII) at para 62.

⁴⁵ Centurion's initial submission at paras 51-55; Operating Officer's affidavit #1 at paras 18 and 24.

negotiating positions or competitive positions under s. 21(1)(c)(i). It also does not sufficiently explain with evidence how the level of harm would be significant as required under s. 21(1)(c)(i).

Result in undue financial loss or gain, s. 21(1)(c)(iii)

[50] Section 21(1)(c)(iii) states that the head of a public body must refuse to disclose information to an applicant if disclosure could reasonably be expected to result in undue financial loss or gain to any person or organization.

[51] Past orders have said that the ordinary meaning of “undue” financial loss or gain under s. 21(1)(c)(iii) includes loss that is “excessive, disproportionate, unwarranted, inappropriate, unfair or improper, having regard for the circumstances of each case.”⁴⁶

[52] Centurion alleges that disclosure of the disputed information would result in undue financial loss in accordance with s. 21(1)(c)(iii) in the following ways:

- It would need to consider whether to disclose additional information to contradict the potential bad inferences people will make if the Letters are disclosed, and this will require increased legal costs for Centurion; and
- Reputational harm resulted from media coverage about the information at issue may result in decreased demand for residential units owned and operated by Centurion.⁴⁷

[53] Centurion’s arguments about harm under s. 21(1)(c)(iii) rely on its assertion that the disputed information will result in legal costs to deal with potential legal proceedings and production of records.

[54] In my view, Centurion has not explained how there is a direct link between disclosure of any specific information in the Letters and these additional costs, or how those costs are undue. For example, I can see some of the withheld information is about specific parts of the Building, but it is unclear and Centurion does not sufficiently explain how disclosure of this information (or other information) will require Centurion to release additional information, what additional information it will need to consider, and how much legal costs would be incurred.

[55] I find that aside from its assertion, Centurion does not sufficiently explain or provide evidence which demonstrates how the withheld information is likely to result in legal costs. In my view, the Operation Officer’s affidavit does not satisfactorily explain how Centurion will suffer a financial loss.

⁴⁶ Order F16-17, 2016 BCIPC 19 at para 33 and Order 00-10, 2000 CanLII 11042 (BC IPC) at p. 17.

⁴⁷ Centurion’s initial submission at paras 68-69. Operations Officer’s affidavit #1 at paras 27-28.

[56] In addition, Centurion says disclosure of the information will cause reputational harm in the residential real estate market and this will result in decreased demand for residential units owned and operated by Centurion.⁴⁸

[57] However, it is unclear which information in the Letters, if disclosed, is likely to cause the alleged harm and how the decreased demand will result in excessive, disproportionate, unwarranted, inappropriate, unfair or improper loss.

[58] To establish a reasonable expectation of probable harm under s. 21(1)(c), there must be an evidentiary basis to support the assertions of harm under s. 21(1).⁴⁹ In my view, the necessary explanation and evidence required to establish harm under s. 21(1)(c)(iii) are lacking here.

[59] Based on the materials before me in this inquiry, I am unable to conclude there is a clear and direct link between disclosure of the disputed information and a reasonable expectation of probable harm under s. 21(1)(c)(iii). Therefore, without sufficient explanation or evidence, I am not persuaded that disclosure of the redacted information at issue here could reasonably be expected to result in harm under s. 21(1)(c)(iii).

Conclusion, s. 21(1)

[60] I found that the information in dispute was technical information under s. 21(1)(a) and it was supplied in confidence to the City under s. 21(1)(b). However, I was not persuaded that disclosing any of the information withheld in the Letters could reasonably be expected to result in harm under ss. 22(1)(c)(i) and 22(1)(c)(iii). Centurion did not establish a clear and direct link between the disclosure of the information at issue and the harms listed in s. 21(1)(c). Therefore, I conclude Centurion has not met its burden of proving the City must refuse to disclose the information in dispute under s. 21(1). I find the City is not required under s. 21(1) to refuse to disclose the disputed information.

CONCLUSION

[61] For the reasons discussed above, I make the following order under s. 58 of FIPPA:

⁴⁸ Centurion's initial submission at paras 69 and 70.

⁴⁹ *Jill Schmidt v. British Columbia (Information and Privacy Commissioner), et al.*, 2001 BCSC 101 (CanLII) at paras. 37-38.

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1. The City is not required to refuse access to the information under s. 21(1) of FIPPA. The City is required to give the applicant access to the information.
 2. The City must provide the OIPC registrar of inquiries with a copy of its cover letter and the records it provides to the applicant in compliance with item 1 above.

[62] Pursuant to s. 59(1) of FIPPA, the public body is required to comply with this order by **May 1, 2026**.

March 18, 2026

ORIGINAL SIGNED BY

D. Hans Hwang, Adjudicator

OIPC File No.: F23-94110 & F23-94111