



Order F26-61

CITY OF VICTORIA

Lisa Siew
Adjudicator

July 8, 2026

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Summary: Under the *Freedom of Information and Protection of Privacy Act* (FIPPA), an applicant requested the City of Victoria (City) provide them with access to records related to a human rights complaint that the applicant made against the City. The records responsive to the applicant's access request included invoices for legal fees paid on the City's behalf. The City withheld the requested records under s. 14 (solicitor-client privilege) of FIPPA. At an inquiry into the matter, the adjudicator upheld the City's decision to refuse access to the requested records under s. 14 of FIPPA.

Statute and sections considered in the order: *Freedom of Information and Protection of Privacy Act*, RSBC 1996, c 165, s. 14.

INTRODUCTION

[1] Under the *Freedom of Information and Protection of Privacy Act* (FIPPA), an individual (Applicant) requested the City of Victoria (City) provide them with access to records related to a BC Human Rights Tribunal (Tribunal) complaint that the Applicant made against the City. I will refer to this dispute between the Applicant and the City as the Complaint.

[2] Among other things, the Applicant requested the City provide them with access to any records that reveal "the legal and other costs incurred by the City" at certain stages of the Complaint and "any and all other costs, including legal fees, spent by the City" on the Complaint.¹ The City located several records responsive to the Applicant's access request but withheld those records in the entirety under s. 14 (solicitor-client privilege) of FIPPA.

[3] The Applicant requested the Office of the Information and Privacy Commissioner (OIPC) review the City's decision to refuse access to the

¹ Applicant's access request received by the City on October 21, 2024.

responsive records. The OIPC's review and mediation process did not resolve the dispute between the parties, and an OIPC investigator decided to forward the matter to the OIPC's inquiry phase for adjudication.

[4] After the matter was forwarded to inquiry, the City discovered additional records responsive to the Applicant's access request and notified the Applicant that it was also withholding those records in the entirety under s. 14 of FIPPA.

PRELIMINARY MATTERS

[5] Based on my review of the parties' submissions and materials, there are several preliminary matters that I need to address. First, the City objects to the contents of an additional submission made by the Applicant. Second, the parties disagree on whether the Applicant is attempting to add a new issue to the inquiry without the OIPC's permission. Third, if the Applicant is attempting to add a new issue to the inquiry, the parties disagree on whether I should allow this new issue to be added to the inquiry. I will address those preliminary matters below.

1. The City's objection to the Applicant's additional submission

[6] The OIPC's submission schedule provided to the parties explained the submission schedule and deadlines for this inquiry. This schedule followed the OIPC's standard schedule for inquiry submissions as set out in the OIPC's *Instructions for Written Inquiries*.² The schedule allowed the City to make an initial submission, gave the Applicant an opportunity to respond to that submission and then allowed the City to reply to the Applicant's submission.

[7] The submission schedule did not allow or require the Applicant to provide any further submissions. At their request, however, I allowed the Applicant to provide an additional submission in response to the City's final inquiry submission. The parties also made more arguments and requests following the Applicant's additional submission which I discuss below or later in this order.³

[8] To start, the parties have been informed that a reply submission should be limited to addressing what is contained in the other party's submission and should not raise any new issues or FIPPA exceptions that were not listed in the notice of inquiry.⁴ The City objects to the contents of the Applicant's additional submission because the City says it talks about issues that are outside the scope of this inquiry rather than just responding to what the City said in its final inquiry

² At pp. 4-5 of the document, which is available online at: [OIPC Guidance Document](#).

³ City's letter to the OIPC's registrar of inquiries (Registrar) dated May 25, 2026 and Applicant's letter to the Registrar dated May 26, 2026. I have considered this additional material to provide the parties with a comprehensive decision about their dispute and because I found there was no unfairness to either party to consider those materials as part of this inquiry.

⁴ At pp. 4-5 of the document, which is available online at: [OIPC Guidance Document](#).

submission.⁵ For example, the City says the Applicant discusses s. 6(2) of FIPPA (creating a record for an applicant) which is not an issue set out in the OIPC's notice of inquiry that was provided to the parties. Although it does not explicitly say so, I understand the City is asking me to disregard the Applicant's additional submission because it contravenes the OIPC's requirements for a reply submission.

[9] The Applicant argues their additional submission complies with what is required of a reply submission and does not raise any new issues or arguments. Regarding s. 6(2), the Applicant says this provision was raised by the City in its final inquiry submission; therefore, the Applicant argues it was appropriate for them to address it.⁶ The Applicant asks that I set aside the City's objection and allow their additional submission to be considered as part of this inquiry.

[10] I am satisfied the Applicant's additional submission does not contravene the OIPC's requirements for a reply submission. As one example, I agree with the Applicant that s. 6(2) was a provision that the City discussed in its own submission.⁷ Therefore, it was not improper for the Applicant to discuss and address the City's arguments about s. 6(2). I, therefore, dismiss the City's objection and will consider the Applicant's additional submission as part of this inquiry.

2. Is the Applicant attempting to add a new issue to the inquiry?

[11] The parties disagree on whether the Applicant is attempting to add a new issue to the inquiry without the OIPC's permission. This dispute between the parties has to do with the following considerations: (1) what the Applicant says in their access request to the City; (2) the fact that the Applicant is currently requesting the City provide them with the total amount of legal fees that the City has spent so far on the Complaint; and (3) the City's concern that the Applicant is trying to improperly add a new issue to the inquiry.

[12] Starting first with the Applicant's access request, the Applicant requested, among other things, that the City provide them with access to records that reveal all costs that the City spent on the Complaint including legal fees. The Applicant clarified in their access request that they were seeking "redacted financial records or in the alternative, an 'aggregate amount' of each of the total amounts spent on" certain items related to the Complaint.⁸ The City located records responsive to the Applicant's access request that it describes as invoices and emails, which it withheld under s. 14 of FIPPA.⁹

⁵ City's email to OIPC's registrar of inquiries dated May 25, 2026.

⁶ Applicant's letter to the OIPC's registrar of inquiries dated May 26, 2026.

⁷ City's submission dated April 7, 2026 at paras. 3, 9 and 15.

⁸ Applicant's access request received by the City on October 21, 2024.

⁹ City's submission dated March 2, 2026 at paras. 12-14.

[13] As part of their inquiry submission, however, the Applicant says they are only interested in the total amount of fees that the City has paid so far for the Complaint.¹⁰ The Applicant clarifies that they are not seeking access to detailed invoices, billing entries, descriptions of legal work, dates of service, reserve amounts, insurance coverage details or any information that could reveal solicitor-client communications or litigation strategy. Therefore, the Applicant submits the sole issue in this inquiry is “whether a single, undifferentiated, aggregate total of legal fees paid or payable by a public body in respect of a specific matter is subject to solicitor-client privilege or litigation privilege under s. 14 of FIPPA.”¹¹

[14] The City argues the Applicant’s request for the total amount of legal fees that the City has spent so far on the Complaint was not something that the Applicant requested in their access request and was only introduced for the first time at this inquiry. In support of its position, the City notes that the issue forwarded for adjudication, as set out in the OIPC’s notice of inquiry, is whether the City is authorized to withhold the responsive records under s. 14 of FIPPA. The City says the inquiry is not about the total amount of legal fees that the City has spent on the Complaint and that the responsive records do not contain that information.¹² Therefore, the City says it would have to consider whether it is required under s. 6(2) of FIPPA to create a new record that has the requested information and whether any FIPPA exceptions or exclusions may apply to a new record if one could be produced.¹³ As a result, the City says the Applicant is inappropriately attempting to add a new issue to the inquiry without the OIPC’s permission and should not be allowed to do so.

[15] The Applicant argues their request for the total amount of legal fees that the City has paid so far for the Complaint is not a new issue for two reasons. First, the Applicant says they alternatively asked for the “‘aggregate amount’ of legal fees associated with the specific matters” in their access request; therefore, their request for the total amount of legal fees has been a part of the dispute between the parties from the outset.¹⁴ Second, the Applicant describes their request for the total amount of legal fees as narrowing the issue in dispute for this inquiry. The Applicant submits they are not adding a new issue but trying to reach a resolution and reduce the analysis required under s. 14 by narrowing the scope of the information at issue to this total amount.

¹⁰ Applicant’s submission received by the OIPC on March 23, 2026 at para. 2.

¹¹ *Ibid* at para. 3.

¹² City’s submission dated April 7, 2026 at paras. 3 and 8.

¹³ *Ibid* at para. 3. Section 6(2) sets out the circumstances in which a public body must create a record for an applicant in response to an access request.

¹⁴ Applicant’s submission received by the OIPC on May 20, 2026 at para. 2.

[16] As I will explain, based on the materials before me, I conclude the Applicant is seeking to add a new issue and not narrowing the issue in dispute for this inquiry. Section 52(1) of FIPPA provides, in part, that a person who makes a request to the head of a public body for access to a record may ask the Commissioner to review any decision, act or failure to act of the head that relates to that request. Therefore, I must consider what decision did the City make, or what act or failure to act did the City commit, that can be reviewed under s. 52(1) of FIPPA?

[17] In this case, the City ultimately located several records consisting of invoices and emails that were responsive to the Applicant's access request. The City determined that s. 14 applied to all the information in those records and informed the Applicant of its decision to refuse access to those records. The Applicant requested the OIPC review the City's decision to "withhold records" and sought the OIPC's assistance "in requiring compliance by the City to produce [the] records" to the Applicant.¹⁵ It was the City's decision regarding s. 14 that an OIPC investigator attempted to resolve and mediate and that was ultimately forwarded to inquiry for adjudication. It is not clear to me that the Applicant requested the OIPC review an act committed by the City or a failure to act that relates to their access request. Therefore, I find the City's decision to refuse access to the responsive records under s. 14 is the decision that the Applicant can ask, and did ask, the Commissioner or their delegate to review under s. 52(1).

[18] The Applicant is now asking me to adjudicate whether the total amount of legal fees that the City has paid so far to defend itself in the Complaint can be withheld under s. 14 of FIPPA. I find this issue is clearly different from the one set out in the notice of inquiry that was provided to the parties. The OIPC's notice of inquiry informed the parties that, at the inquiry, the adjudicator will consider whether the public body is authorized to refuse to disclose the information at issue under s. 14 of FIPPA.¹⁶ The information at issue under s. 14 is located within the invoices and emails that the City located as responsive to the Applicant's access request. I accept the City's explanation that none of the responsive records at issue in this inquiry contains the information that the Applicant is now seeking. Therefore, the total amount of legal fees that the City has paid so far to defend itself in the Complaint is not part of the information at issue in this inquiry under s. 14 of FIPPA. Moreover, the City did not issue a decision in accordance with Part 2 of FIPPA about the Applicant's current request regarding the total amount of legal fees, which means there is currently no decision to be reviewed by the Commissioner or their delegate under s. 52(1) of FIPPA about that request.

¹⁵ Applicant's request for review dated November 27, 2024.

¹⁶ Notice of Inquiry dated January 22, 2026.

[19] The Applicant argues their request for the total amount of legal fees is not a new issue because it was part of their access request to the City. However, I have carefully reviewed the Applicant's access request, and the Applicant did not request that the City provide them with access to a record that contains the information that the Applicant is now seeking. To be clear, I can see that the Applicant "alternatively" asks for the total amount of legal fees paid by the City for certain stages of the Complaint, but the Applicant did not ask the City to provide them with a record that contains the total amount of legal fees the City has paid so far to defend itself in the Complaint. Moreover, I find the Applicant's current request is different from the Applicant's original access request because this new request would cover a greater period than what was set out in their original access request, including any legal costs paid by the City from the beginning of the Complaint to the present date.¹⁷

[20] It is also worth noting that the Applicant requests that I require the City to provide a submission about whether the total amount of legal fees that the City has paid so far to defend itself in the Complaint can be withheld under s. 14 of FIPPA and to make a finding that the City has not properly exercised its discretion under s. 14 regarding the "aggregate total" and order the City to do so.¹⁸ However, the Applicant acknowledges that their request for the "aggregate total" did not exist at the time the City responded to their access request.¹⁹ Therefore, it is unclear and the Applicant does not sufficiently explain why the City would be expected to exercise its discretion under s. 14 for a request that it did not receive and did not yet exist when the City was deciding whether the Applicant was entitled to access the responsive records under Part 2 of FIPPA. I also would not expect the City to make a submission about information that is not at issue in this inquiry and that was not part of the Applicant's original access request to the City. Ultimately, I find the Applicant's recent demands and arguments emphasize how the Applicant's request for the total amount of legal fees was not part of the Applicant's original access request to the City nor was this request part of the issue to be determined at this inquiry.

[21] The Applicant describes their current request for the total amount of legal fees that the City has paid so far for the Complaint as narrowing the issue in dispute for this inquiry rather than adding a new issue. However, I find the following two elements must apply to prove the Applicant is narrowing the issue in dispute for this inquiry: (1) the total amount of legal fees the City has paid for the Complaint is a part of the information at issue in this inquiry; and (2) the Applicant is not disputing the City's decision to withhold the other information redacted in the responsive records under s. 14.

¹⁷ Applicant's submission received by the OIPC on March 23, 2026 at paras. 2 and 74.

¹⁸ Applicant's letter received by the OIPC on May 26, 2026 at p. 5 of pdf.

¹⁹ *Ibid* at p. 3 of pdf.

[22] As discussed above, I am satisfied that none of the responsive records at issue in this inquiry contains the total amount of legal fees the City has paid so far for the Complaint. Furthermore, the Applicant has said, among other things, that if the total amount of legal fees cannot be disclosed to them, then they do not concede the information redacted in the responsive records is privileged and that they are not giving up their right to access the responsive records at issue in this inquiry.²⁰ Therefore, I find the two necessary elements identified above have not been satisfied in this case. As a result, I am not persuaded the Applicant is narrowing the existing inquiry issue or the information in dispute between the parties rather than trying to add a new issue to this inquiry.

[23] For all those reasons, I find the question of whether the total amount of legal fees that the City has paid so far to defend itself in the Complaint can be withheld under s. 14 of FIPPA is a new issue. The next question I must consider is whether this new issue should be added to the inquiry.

3. Should the Applicant's new issue be added to the inquiry?

[24] The Commissioner or their delegate may allow a party to add a new issue at the inquiry stage if there are exceptional circumstances to justify the late addition. To allow otherwise would circumvent and undermine the integrity and effectiveness of the OIPC's early resolution processes which exist, in part, to assist the parties in identifying and clarifying the issues, to potentially resolve those issues and to determine if they warrant proceeding to inquiry.²¹

[25] It is also during the OIPC's early resolution phase that the parties are given the opportunity to raise any additional issues for consideration at mediation or at inquiry.²² However, the OIPC's early resolution process and its intended benefits are bypassed when a party seeks to add a new issue at the inquiry stage. Therefore, the OIPC's prior consent is required and there must be a valid reason to warrant introducing issues for the first time during the inquiry phase of the OIPC's processes.²³

[26] In determining whether to allow the addition of a new issue, the Commissioner or their delegate may also consider what is fair in the circumstances, including whether any of the parties will be prejudiced by allowing or denying the addition of the new issue and whether there are options available to correct any possible prejudice to a party.²⁴

²⁰ Applicant's letter received by the OIPC on May 26, 2026 at p. 4 of pdf.

²¹ Decision F08-02, 2008 CanLII 1647 (BCIPC) at paras. 28-30, Order F21-21, 2021 BCIPC 26 at para. 10 and Order F20-38, 2020 BCIPC 44 at para. 7.

²² Decision F08-02, 2008 CanLII 1647 (BCIPC) at para. 29.

²³ Order F20-38, 2020 BCIPC 44 at para. 7.

²⁴ Order F17-26, 2017 BCIPC 27 (CanLII) at paras. 7-8 and Order F17-43, 2017 BCIPC 47 (CanLII) at para. 12.

[27] I found the Applicant is attempting to introduce the following new issue to the inquiry: whether the total amount of legal fees that the City has paid so far to defend itself in the Complaint can be withheld under s. 14 of FIPPA. I was not provided with any evidence the Applicant attempted to address this issue with the City before the inquiry. The Applicant could have informed the City that they were requesting access to a record containing only the information that they are now seeking after the City had responded to the Applicant's original access request or during the OIPC's review and mediation process. As noted, the purposes of mediation include clarifying the issues between the parties and hopefully resolving them in a more timely and efficient way than an inquiry.

[28] I also find the addition of this new issue, at this late point, clearly disadvantages the City because it would be deprived the benefit of a full and meaningful review and mediation of that issue if needed. I also find any further delay of this inquiry to address and receive submissions on an issue that should have been raised before the matter proceeded to inquiry would be prejudicial to the City, especially after the City has put in the time, effort and expense of providing its evidence and arguments in support of its position for the issue set out in the notice of inquiry. A party is entitled to expect that once mediation concludes, the issues remaining in dispute between the parties will not change unless necessary.

[29] I am also not persuaded that declining to add the new issue to the inquiry would be unfair to the Applicant, especially considering the Applicant has the option of making a new access request to the City for any records that contain the information that the Applicant is now seeking and the addition of this new issue to this inquiry would not save the parties any time or effort. Even if I added this new issue to the inquiry, the City would have to respond to the Applicant's new request in accordance with Part 2 of FIPPA. The City says it would have to consider whether it is required under s. 6(2) to create a record that has the requested information and whether any FIPPA exceptions or exclusions may apply to this new record if one could be produced. All those actions and decisions would take the same amount of time and effort if the Applicant were to make a new access request to the City for a record containing the information that the Applicant is now seeking.

[30] Lastly, I find adding this new issue to the inquiry would not resolve the current dispute between the parties. The Applicant has said that they are not abandoning their original access request, and that they do not concede the responsive records are privileged. Specifically, the Applicant says they reserve their right to obtain access to the responsive records, "including the right to seek their disclosure in a subsequent proceeding on the merits of the section 14 exemption."²⁵ Therefore, even if I added the new issue to this inquiry, the current dispute between the parties may still need to be adjudicated. As a result, given

²⁵ Applicant's letter received by the OIPC on May 26, 2026 at p. 4 of pdf.

the Applicant wants to reserve their right to access the responsive records at issue in this inquiry, I conclude the proper approach in this case would be to refuse to add the new issue and decide the issue set out in the notice of inquiry. This approach would provide the parties with a timely decision about the issue that was forwarded for adjudication.

[31] To conclude, for all those reasons, I decline to add to this inquiry the issue of whether the total amount of legal fees that the City has paid so far for the Complaint can be withheld under s. 14 of FIPPA. There is nothing in the materials before me or the surrounding circumstances that persuades me there is a valid reason for adding the new issue at this late stage and for circumventing the OIPC's review and mediation process and its intended benefits.

ISSUE AND BURDEN OF PROOF

[32] The issue I must decide in this inquiry is whether the City is authorized to refuse access to the information at issue in the responsive records under s. 14 of FIPPA. Section 57(1) of FIPPA places the burden on the City, as the public body, to prove the Applicant has no right of access to the information that the City withheld under s. 14.

DISCUSSION

Background

[33] The City is a member of the Municipal Insurance Association of British Columbia (Association).²⁶ The Association provides liability insurance services and litigation assistance to local governments in BC for claims that fall within the scope of the Association's coverage.

[34] The Applicant filed the Complaint against the City alleging discrimination on behalf of their child and other individuals. Upon receiving notice of the Complaint, the City contacted the Association and requested that it appoint a specific external lawyer to represent the City. I will refer to this individual as the Lawyer. The Lawyer was then hired to represent the City in the Complaint proceedings.

[35] The Complaint has progressed through various stages of the Tribunal's process. The Complaint was forwarded to a hearing; however, the hearing has been adjourned, and the parties are currently scheduled for mediation.

²⁶ The information in this background section is compiled from the parties' submissions and evidence.

Records and information in dispute

[36] The City located a total of 14 records responsive to the Applicant's access request. The City chose not to provide those records for my review. Instead, the City provided an affidavit from its former chief legal advisor who was responsible for, among other things, managing or handling most of the City's legal work and services at the time the responsive records were created. I will refer to this person as the Legal Advisor. The Legal Advisor attests that he has reviewed the responsive records at issue in this inquiry and that those records consist of nine invoices, four emails and one email chain.

[37] The Applicant does not dispute the City's description of the responsive records but submits it is necessary in this case for me to order production of those records. I will address the Applicant's arguments regarding production below, but the City's evidence satisfies me that the only records responsive to the Applicant's access request are the nine invoices, the four emails and the one email chain.

[38] I note that the responsive records include one email chain between the City and the Association which the City says reveals legal billing information for both the Complaint and for another matter unrelated to the Complaint.²⁷ In their inquiry submission, the Applicant says the information they are interested in accessing is limited to the Complaint and any unrelated information "should be excluded."²⁸ Therefore, I understand the Applicant is not interested in seeking access to information which is not related to the Complaint. As a result, I conclude this legal billing information about an unrelated matter is not part of the information at issue in this inquiry and will not consider, as part of this inquiry, the City's decision to withhold that information under s. 14 of FIPPA.

Solicitor-client privilege – s. 14

[39] The City applied s. 14 to all the information that it withheld in the responsive records. Section 14 states that a public body may refuse to disclose information that is subject to solicitor-client privilege. It is well-established that s. 14 of FIPPA encompasses both legal advice privilege and litigation privilege.²⁹ The City is claiming that both legal advice privilege and litigation privilege apply to the information that it withheld in the responsive records.

[40] For the s. 14 analysis, I will first consider the Applicant's argument that it is necessary in this case for me to order production of the responsive records so I can review them to determine whether s. 14 applies.

²⁷ Legal Advisor's affidavit at para. 28.

²⁸ Applicant's submission dated May 20, 2026 at para. 18.

²⁹ *College of Physicians of BC v. British Columbia (Information and Privacy Commissioner)*, 2002 BCCA 665 (CanLII) at para. 26

Is it necessary to order production of the records?

[41] The Applicant submits it is necessary in this case to order production of the responsive records because, among other things, reviewing the records would allow the adjudicator to make an independent decision and “a precise ruling” about the City’s application of s. 14 to the records.³⁰

[42] When a public body’s decision regarding s. 14 of FIPPA is at issue in an inquiry, the OIPC makes an exception to its usual practice of requiring the public body to provide the OIPC with an unredacted copy of the records in dispute.³¹ Where a public body declines to provide the information or records withheld under s. 14 to the OIPC for adjudication, the public body is expected to provide a description of the information or records in a manner that, without revealing privileged information, enables the other party and the adjudicator to assess the validity of the claim of privilege.³² Where a public body relies on affidavit evidence to support its claim of privilege, the evidence should specifically address the records subject to the privilege claim and should come from an affiant with direct knowledge of the disputed records.³³

[43] However, when a public body’s evidence is not sufficient for the decision-maker to assess the claim of privilege, s. 44(1)(b) gives the Commissioner or their delegate the authority to order a public body to produce a record for the purposes of conducting an inquiry under s. 56, including records over which solicitor-client privilege is claimed.³⁴ However, the authority granted under s. 44 must be exercised cautiously and with restraint given the clear direction by the Courts that a reviewing body’s decision to examine privileged documents must never be made lightly or as a matter of course.³⁵ Therefore, given the importance of solicitor-client privilege, and in order to minimally infringe on that privilege, the Commissioner or their delegate will only order production of records being withheld under s. 14 when it is absolutely necessary to decide the issues in dispute at an OIPC inquiry.³⁶

³⁰ Applicant’s submission dated May 26, 2026 at pp. 1-2 of the pdf.

³¹ Order F25-48, 2025 BCIPC 56 (CanLII) at para. 40.

³² *British Columbia (Minister of Finance) v. British Columbia (Information and Privacy Commissioner)*, 2021 BCSC 266 (CanLII) at para. 78.

³³ *Ibid* at para. 91.

³⁴ Section 44(1)(b) of FIPPA states the Commissioner may order the production of a record, and s. 44(2.1) confirms that a production order may apply to a record that is subject to solicitor-client privilege.

³⁵ Order F19-21, 2019 BCIPC 23 (CanLII) at para. 46, citing *GWL Properties Ltd. v. WR Grace & Co. of Canada Ltd.*, 1992 CanLII 182 (BCSC) at pp. 11-12.

³⁶ Order F19-14, 2019 BCIPC 16 (CanLII) at para. 10; *Canada (Privacy Commissioner) v. Blood Tribe Department of Health*, 2008 SCC 44 (CanLII) at para. 17; *Alberta (Information and Privacy Commissioner) v. University of Calgary*, 2016 SCC 53 (CanLII) at para. 68.

[44] In the present case, the City provided a description of the withheld information and the surrounding circumstances in its submissions. The City also provided an affidavit sworn by the Legal Advisor, who I find is an individual with direct knowledge of the events in question. The Legal Advisor provided a description of the records and their contents, which can be briefly summarized as follows:

- Nine invoices with various dates from the Association to the City containing a summary of fees the Association paid on the City's behalf to the Lawyer's law firm;
- Four emails from the Association to the City containing information about invoices from the Lawyer's law firm and a description of the legal work the Lawyer performed for the City; and
- One email chain between the City and the Association which reveals information about an invoice from the Lawyer's law firm and a description of the legal work the Lawyer performed for the City.³⁷

[45] Taking all the above into account, I conclude the City's description of the information at issue and its affidavit evidence is sufficient to allow me to determine whether s. 14 applies to the information in the records at issue. As a result, I do not find it necessary to exercise my authority, under s. 44, to order the City to produce an unredacted version of the responsive records for my review.

[46] I will now consider whether the information redacted in the responsive records is protected by legal advice privilege. If I find legal advice privilege does not apply to any of the information at issue, then I will consider whether litigation privilege applies to that information.

Legal advice privilege

[47] Legal advice privilege protects communications between a solicitor and their client which entail the seeking or giving of legal advice and which were intended by the parties to be confidential.³⁸ The Supreme Court of Canada has explained that "without the assurance of confidentiality, people cannot be expected to speak honestly and candidly with their lawyers, which compromises the quality of the legal advice they receive."³⁹ Therefore, the privilege has been characterized as "fundamental to the proper functioning of our legal system."

³⁷ Legal Advisor's affidavit at paras. 27-28.

³⁸ *Solosky v. The Queen*, 1979 CanLII 9 (SCC) at p. 838, [1980] 1 SCR 821 at p. 13.

³⁹ *Alberta (Information and Privacy Commissioner) v. University of Calgary*, 2016 SCC 53 (CanLII) at para. 34.

Given its importance, the Supreme Court of Canada has said the privilege “should only be set aside in the most unusual circumstances.”⁴⁰

[48] As I will explain below, in determining whether legal advice privilege applies to the information at issue in this inquiry, I must consider the following questions:

1. Was there a solicitor-client relationship between the City, the Lawyer and the Association?
2. Does a presumption of privilege apply to the information at issue?
3. If so, is the presumption rebutted for any of the information at issue?

[49] The City describes the records at issue as communications between the City and the Association that are mostly about payments made or fees to be paid for the Lawyer’s work in representing the City in the Complaint proceedings. It is, therefore, necessary to first determine whether there was a solicitor-client relationship between the City, the Lawyer and the Association since legal advice privilege protects communications between a solicitor and their client. As I will explain, I am satisfied there was a solicitor-client relationship between the City, the Lawyer and the Association when the records at issue were created.

[50] Previous OIPC orders and court decisions have determined that “when a lawyer is hired to represent an insured and an insurer, the lawyer is regarded as being jointly retained to represent both parties.”⁴¹ In this situation, the relationship between the insured, the insurer and the lawyer is referred to as a “tripartite relationship.”⁴² The Courts accept that this tripartite relationship qualifies as a solicitor-client relationship “by virtue of the special responsibilities and duties created when insurers retain solicitor to represent and advise insureds, and then necessarily deal with those solicitors in certain aspects as principal, in others as agent for the insured.”⁴³ The question at this point, therefore, is whether there was a tripartite relationship between the City, the Lawyer and the Association.

[51] As noted previously, the Association provides liability insurance services and litigation assistance to local governments in BC, including the City. As part of

⁴⁰ *Alberta (Information and Privacy Commissioner) v. University of Calgary*, 2016 SCC 53 (CanLII) at para. 34, citing *Pritchard v. Ontario (Human Rights Commission)*, 2004 SCC 31 (CanLII) at para. 17.

⁴¹ Order F18-33, 2018 BCIPC 36 (CanLII) at para. 20, citing *Chersinoff v. Allstate Insurance Co.*, 1968 CanLII 671 (BC SC) [I note that the court discusses the principle of joint retainer at pp. 658-661]. *Corp. of the District of North Vancouver v. BC (The Information and Privacy Commissioner)*, 1996 CanLII 521 (BC SC) at para. 22.

⁴² Order F18-33, 2018 BCIPC 36 (CanLII) at para. 20.

⁴³ *Corp. of the District of North Vancouver v. BC (The Information and Privacy Commissioner)*, 1996 CanLII 521 (BC SC) at para. 22.

those services, the Legal Advisor says the Association acts as the City's agent in retaining legal counsel to represent the City for claims covered by the Association.⁴⁴ The Legal Advisor also explains that, although the assigned legal counsel may receive instructions and directions directly from the City, this legal counsel reports to both the Association and the City on the progress of the litigation and on any risk to the City or the Association, and also consults with both the City and the Association about litigation strategy and any potential settlements.⁴⁵

[52] In the present case, the Legal Advisor attests and I accept that the City notified the Association about the Complaint and that the Association retained the Lawyer to represent the City in the Complaint proceedings.⁴⁶ The City's evidence also convinces me that the Legal Advisor consulted with and provided instructions to the Lawyer regarding the Complaint.⁴⁷ As well, I accept the Legal Advisor's evidence that the Lawyer's work in the Complaint proceedings was covered under the City's liability insurance provided by the Association.⁴⁸ I also accept the Legal Advisor's evidence that a lawyer hired by the Association to represent the City would report to and consult with both the City and the Association. Taking all those factors into account, I conclude there was a tripartite relationship and, therefore, a solicitor-client relationship between the City, the Lawyer, and the Association.

[53] Having found there was a solicitor-client relationship between the Lawyer, the Association, and the City at the relevant time, the next step is to determine whether disclosing the information at issue in the records at issue would reveal privileged information or communications between the Lawyer and their clients. When it comes to legal billing information, it is well-established that the analysis involves considering whether a presumption of privilege applies to the information at issue and if so, whether that presumption is rebutted.⁴⁹

Does a presumption of privilege apply to the information at issue?

[54] Previous OIPC orders and court decisions have established there is a rebuttable presumption that billing information, such as legal fees and disbursements, in a lawyer's statements of account or other documents are subject to solicitor-client privilege.⁵⁰ This presumption recognizes that a lawyer's

⁴⁴ Legal Advisor's affidavit at para. 11.

⁴⁵ *Ibid* at paras. 13 and 15.

⁴⁶ *Ibid* at para. 21.

⁴⁷ *Ibid* at para. 22.

⁴⁸ For example, Legal Advisor's affidavit at paras. 16-17.

⁴⁹ *British Columbia (Attorney General) v. British Columbia (Information and Privacy Commissioner)*, 2019 BCSC 1132 (CanLII) at paras. 34-50 (whether the presumption applies) and paras. 51-63 (whether the presumption is rebutted).

⁵⁰ *Maranda v. Richer*, 2003 SCC 67 (CanLII); *British Columbia (Attorney General) v. British Columbia (Information and Privacy Commissioner)*, 2019 BCSC 1132 (CanLII) at paras. 34-50;

bill flows out of privileged communications between the solicitor and their client and typically reflects work done on behalf of the client or at the instruction of the client.⁵¹

[55] For instance, the BC Court of Appeal has determined that “a lawyer’s bills are presumptively privileged because they are ordinarily descriptive; by recording the work done by the solicitor, they disclose the client’s instructions, which the client cannot be compelled to divulge and the confidentiality of which the solicitor is obliged to protect.”⁵² The BC Court of Appeal has also found the presumption “does not depend on the specific details included or not included in a particular bill”, but that it “arises from the connection between billing information and the nature of the relationship between lawyers and clients.”⁵³

[56] Further, in *Maranda v. Richer*, the Supreme Court of Canada noted that this presumption reflects the importance of privilege, as well as the inherent difficulties in determining the extent to which the information contained in a lawyer’s bill of account discloses communications protected by privilege as opposed to “neutral information” that does not reveal anything in the nature of a privileged communication.⁵⁴ The Supreme Court of Canada’s decision in *Maranda* has been characterized as “the origin of the principle that information about the total amount of legal costs is presumptively privileged.”⁵⁵ The BC Court of Appeal has confirmed that the principle established in *Maranda* that legal billing information is presumptively subject to solicitor-client privilege is engaged in any context, including in civil matters.⁵⁶

[57] Turning now to determining whether the presumption applies, the presumption will apply where either the context of the information or a review of the records satisfies the adjudicator that the document does contain legal billing information.⁵⁷ In this case, the City’s evidence indicates that the responsive records contain some of the following information: invoice dates, a description of the Lawyer’s legal work, the specific dates that the legal work was performed and

Richmond (City) v. British Columbia (Office of the Information and Privacy Commissioner), 2017 BCSC 331 (CanLII) at para. 78; *School District No. 49 (Central Coast) v. British Columbia (Information and Privacy Commissioner)*, 2012 BCSC 427 (CanLII); Order 03-28, 2003 CanLII 49207 (BCIPC) at para. 15.

⁵¹ *Donell v. GJB Enterprises Inc.*, 2012 BCCA 135 (CanLII) at para. 55; *Wong v. Luu*, 2015 BCCA 159 (CanLII) at para. 38; *British Columbia (Attorney General) v. British Columbia (Information and Privacy Commissioner)*, 2019 BCSC 1132 (CanLII) at paras. 35 and 42.

⁵² *Wong v. Luu*, 2015 BCCA 159 (CanLII) at para. 38.

⁵³ *British Columbia (Attorney General) v. Canadian Constitution Foundation*, 2020 BCCA 238 (CanLII) at para. 67.

⁵⁴ *Maranda v. Richer*, 2003 SCC 67 (CanLII) at paras. 32-33.

⁵⁵ *Constitution*, *supra* note 53 at para. 24.

⁵⁶ *Constitution*, *supra* note 53 at paras. 48-67.

⁵⁷ *Central Coast*, *supra* note 50 at para. 122.

the cost of the legal work performed on each date.⁵⁸ The City contends that this information would reveal confidential solicitor-client communications such as the nature and terms of the Lawyer's retainer and the nature or extent of legal assistance sought and received, as well as assessments of different aspects of the Applicant's claim.⁵⁹ The Legal Advisor also says the invoices contain the insurance reserve amounts that the Association set for the Complaint proceeding, which would reveal confidential assessments of the claim's likelihood of success, and anticipated potential payout.⁶⁰

[58] Considering the context of the information at issue, I note that the Applicant requested the City provide them with access to records that contains the City's costs for various steps taken in the Complaint proceedings and "any and all other costs, *including legal fees*, spent by the City" on the Complaint proceedings.⁶¹ Furthermore, it is an uncontested fact that the Lawyer represented the City in the Complaint proceedings. The parties provided me with the online citation for the Complaint which also allows me to confirm the relevant parties and their legal representatives and to understand the context of the matter before me.

[59] Taking all of this into account, I find the information at issue is presumptively privileged since it contains billing and payment information between a lawyer and their clients. Based on the City's evidence, I accept that the records at issue contain detailed information that reflects the solicitor-client relationship and what transpires within it such as communications made in confidence between a lawyer and their clients. At a minimum, I find the amount of legal fees charged by the Lawyer indicates the level of activity and work carried out by the Lawyer on behalf of the City and the Association.⁶² As well, the billing information, invoice details and insurance reserve amounts could reveal details about the Lawyer's retainer, instructions from the clients to the Lawyer or the strategies being employed or contemplated for the Complaint proceedings.⁶³ As a result, I conclude the presumption of privilege applies to the information the City has withheld in the responsive records.

Is the presumption of privilege rebutted?

[60] Having found the information that the City redacted in the responsive records is presumptively privileged, the next question is whether there is sufficient evidence or persuasive argument before me to rebut the presumption. The presumption may be rebutted if it is determined that disclosure of the

⁵⁸ City's submission dated March 2, 2026 at paras. 3, 12, 13, and 26. Legal Advisor's affidavit at paras. 27-28.

⁵⁹ City's submission dated March 2, 2026 at paras. 23, 26 and 27.

⁶⁰ Legal Advisor's affidavit at paras. 28-29.

⁶¹ Applicant's access request received by the City on October 21, 2024, my emphasis.

⁶² *Luu Bankruptcy (Re)*, 2013 BCSC 1374 (CanLII) at para. 43.

⁶³ *Corp. of the District of North Vancouver v. BC (The Information and Privacy Commissioner)*, 1996 CanLII 521 (BC SC) at para. 48.

information at issue will not violate the confidentiality of the solicitor-client relationship by directly or indirectly revealing any communication protected by legal advice privilege. If there is a reasonable possibility that an “assiduous inquirer”, aware of background information, could use the requested information to deduce or otherwise acquire privileged communications, then the information is protected by legal advice privilege and cannot be disclosed.⁶⁴

[61] The Applicant argues the burden is on the City to prove the disclosure of the information at issue would reveal privileged communications.⁶⁵ However, when it comes to legal billing information, prior jurisprudence has made it clear that the burden is on the Applicant, as the party seeking the release of the presumptively privileged information, to prove through evidence or argument that there is no reasonable possibility that disclosure of the withheld information would reveal privileged communications or information.⁶⁶ The BC Court of Appeal has identified this burden as an “appropriately high threshold.”⁶⁷ To be clear, for this part of the analysis, there is no onus on the City to establish that there is a reasonable possibility that the information at issue would reveal anything about privileged communications or that some particular inference could or would be drawn from the disclosure of the information at issue.⁶⁸

[62] Whether the presumption of privilege is rebutted will always depend on the facts and circumstances of each case. However, previous decision-makers have considered the following non-exhaustive list of factors to determine whether the presumption of privilege was rebutted:

- The stage of the litigation, if applicable;
- The level of detail in the billing information;
- Whether the billing information is about one or more legal matters;
- The applicant’s involvement in the legal matter;
- The applicant’s pre-existing knowledge about the legal matter; and
- The amount of publicly available information about the legal matter.⁶⁹

[63] Furthermore, the nature of the information and the circumstances and context of the case may be considered to determine whether the presumption is

⁶⁴ *Central Coast*, *supra* note 50 at para 104; *Legal Services Society v. Information and Privacy Commissioner of British Columbia*, 2003 BCCA 278 (CanLII); *British Columbia (Attorney General) v. British Columbia (Information and Privacy Commissioner)*, 2019 BCSC 1132 (CanLII) at para. 51.

⁶⁵ Applicant’s submission dated March 23, 2026 at paras. 5, 14, 24 and 72.

⁶⁶ *Constitution*, *supra* note 53 at para. 83. *British Columbia (Attorney General) v. British Columbia (Information and Privacy Commissioner)*, 2019 BCSC 1132 (CanLII) at paras. 55 and 58.

⁶⁷ *Constitution*, *supra* note 53 at para. 83.

⁶⁸ *British Columbia (Attorney General) v. British Columbia (Information and Privacy Commissioner)*, 2019 BCSC 1132 (CanLII) at para. 58.

⁶⁹ Order F21-52, 2021 BCIPC 60 (CanLII) at paras. 24-30 (and the cases cited therein) and Order F19-47, 2019 BCIPC 53 at para. 18.

rebutted as this information may have evidentiary value when considering claims of privilege.⁷⁰ In other words, the presumption of privilege can be rebutted based on the totality of the materials and evidence before the decision-maker and is not solely dependent on the quality or length of the access applicant's submissions and arguments, even though the applicant bears the burden for this part of the analysis.⁷¹

[64] The City submits the presumption has not been rebutted for any of the information at issue in the responsive records because of the following factors: (1) the Applicant is actively involved in the Complaint proceedings as a party; (2) the Applicant has requested information on legal costs for specific parts or stages of the Complaint proceeding; (3) the litigation regarding the Complaint is still ongoing; and (4) the information at issue is about a single legal matter.⁷²

[65] The City argues those factors mean the Applicant can use their detailed knowledge, along with the information in the invoices such as dates and billing amounts, to make inferences about the following privileged communications or information: legal advice, instructions given to legal counsel, activities or strategies discussed during the dates covered by each of the invoices, how much effort and money the City was willing to expend on certain aspects of the Complaint proceedings and the Association's assessment of the Applicant's claim and the risk it presents, and the anticipated settlement available.⁷³

[66] The Applicant argues the presumption of privilege has been rebutted for the "financial totals", the "line-item totals" and the "tax amounts" in each invoice.⁷⁴ The Applicant notes that the City's evidence "identifies the privilege risk as arising from the ability to compare billing information with the dates when specific procedural steps occurred in the litigation."⁷⁵ The Applicant says the total dollar amounts and tax amounts in each of the invoices are "discrete line entries that contain no dates, no descriptions of legal services, no stage identifiers, and nothing capable of connecting them to solicitor-client communications or litigation strategy."⁷⁶

[67] The Applicant's submissions suggest they are now interested only in the total dollar amounts and tax amounts in each of the nine invoices. However, the Applicant has also said that if the total amount of legal fees cannot be disclosed

⁷⁰ *Central Coast*, *supra* note 50 at para. 113.

⁷¹ Order F25-76, 2025 BCIPC 89 (CanLII) at paras. 38-42 and Order MO-2601, 2011 CanLII 9754 (ON IPC) at pp. 2-4 of the pdf and the cases and decisions cited there.

⁷² City's submission dated March 2, 2026 at paras. 30-31 and submission dated April 7, 2026 at paras. 20-21.

⁷³ City's submission dated March 2, 2026 at para. 30.

⁷⁴ Applicant's submission dated May 20, 2026 at paras. 23 and 78 and Applicant's letter received by the OIPC on May 26, 2026 at p. 1 of pdf.

⁷⁵ Applicant's letter received by the OIPC on May 26, 2026 at p. 1 of pdf.

⁷⁶ *Ibid.*

to them, then they do not concede the information redacted in the responsive records is privileged and that they are not giving up their right to access the responsive records at issue in this inquiry.⁷⁷ Given the Applicant has not clearly and definitively limited what information that they are now seeking in the responsive records and to provide the parties with a comprehensive decision about their dispute, I will approach the current analysis by considering whether the presumption of privilege has been rebutted for the following two categories: (1) if all the information in the invoices and the emails were disclosed together to the Applicant; and (2) if no other information in the disputed records were disclosed to the Applicant except for the total dollar amounts and the tax amounts in each of the nine invoices.

The full disclosure of all the information in the disputed records

[68] I note the Applicant has requested billing information related to a single, specific legal dispute that they were personally involved in as the complainant. I, therefore, find the Applicant is a knowledgeable person that is better placed than most to use this legal billing information to draw accurate inferences about privileged communications that took place between the City and the Lawyer or between the City, the Lawyer and the Association.

[69] For example, with their detailed knowledge of the Complaint proceedings, the Applicant could make inferences about activities or strategies discussed during the dates covered by each of the invoices. The Applicant could compare what they know of the steps and progress of the Complaint proceedings with the dates covered by each of the invoices along with the number of hours spent by legal counsel during each period to make inferences about the approach that the City instructed the Lawyer to take and discussions that occurred between the City, the Association and the Lawyer about the Complaint proceedings.

[70] It is also clear that the stage of the litigation is a relevant factor in this case. The Complaint proceedings are still ongoing, and the parties have made several different applications to the tribunal at various times regarding the Complaint proceedings and have unsuccessfully attempted to mediate their dispute.⁷⁸ The Complaint proceedings have progressed to the hearing stage of the tribunal's process; however, no new hearing date has been scheduled.⁷⁹

[71] The Applicant disputes the existence of ongoing litigation as a determinative factor and argues "there is no basis in s. 14 of FIPPA for a blanket exemption tied to the status of litigation."⁸⁰ However, it is important to remember that the focus is on protecting the solicitor-client relationship, specifically the

⁷⁷ Applicant's letter received by the OIPC on May 26, 2026 at p. 4 of pdf.

⁷⁸ Legal Advisor's affidavit at para. 23.

⁷⁹ *Ibid.*

⁸⁰ Applicant's submission dated March 23, 2026 at paras. 61-63.

communications arising out of that relationship. Therefore, the purpose of considering the stage of the litigation is to reduce the risk that an assiduous inquirer would infer privileged communications that is not evident or has not been disclosed during the hearing or the proceeding such as communications between the lawyer and their client about litigation strategy, admissions of fact, witnesses, document production, trial preparation, the retention of experts, and how much the client is willing to spend on the litigation.⁸¹ Those types of decisions usually reflect instructions and communications between a client and lawyer; therefore, knowing this information could allow someone to infer what was discussed between the client and the lawyer. It is this potential inference or deduction that is of concern since it may reveal communications made in confidence between a client and their lawyer. As a result, I am not persuaded by the Applicant's argument that ongoing litigation is not a relevant factor.

[72] The City has explained that the disclosure of the redacted information in the invoices and the emails would reveal detailed billing and payment information between a lawyer and their clients, including descriptive information about the Lawyer's legal work for the City. Therefore, considering the detailed nature of the billing information, the fact that the litigation is ongoing and a hearing has yet to be conducted, as well as the Applicant's personal knowledge of the Complaint proceedings, I find the disclosure of all the redacted information in the responsive records at this time creates a reasonable possibility that the Applicant could infer privileged communications. The Applicant could use what they know about the various steps in the Complaint proceedings along with all the information in the responsive records to determine strategies or activities that were not evident or disclosed during the Complaint proceedings.

[73] For all those reasons, I am unable to conclude from the materials before me that there is no reasonable possibility of revealing privileged communications if all the information redacted in the invoices and the emails were disclosed together to the Applicant. As a result, I find that the presumption of privilege is not rebutted for all the combined information in the responsive records.

Only the total dollar amounts and tax amounts in each of the nine invoices

[74] The Applicant argues the presumption is rebutted for the total dollar amounts and the tax amounts in each of the nine invoices at issue. I understand the Applicant is arguing the disclosure of this limited information without any other information in the responsive records would not reveal any privileged communications between a lawyer and their client.

[75] There have been several orders, decisions and court cases that have considered whether the presumption of privilege was rebutted for only the total

⁸¹ *Constitution*, *supra* note 53, at paras. 73-74; *Central Coast*, *supra* note 50 at paras. 133-134.

amount of legal fees paid by a public body.⁸² The presumption of privilege was found to be rebutted in one or more of the following circumstances: the information at issue was a total dollar amount with no dates relating to when the services were charged and no details about the services rendered, the legal fees were about more than one legal dispute or matter, the litigation had concluded, and the information did not reveal amounts paid to one specific lawyer.⁸³

[76] On the other hand, the presumption of privilege was *not* rebutted for the total amount of legal fees paid by a public body when one or more of the following factors applied: the litigation was still ongoing, disclosure would have occurred at an early stage of the litigation when the parties had yet to reveal any legal strategy or instructions to counsel, the legal fees related to one specific legal dispute, and the information would be disclosed or available to individuals who were particularly well-informed about the litigation and especially well-placed to draw accurate inferences about privileged information.⁸⁴

[77] In the present case, the information that the Applicant is now seeking is the total dollar amounts and the tax amounts in each of the nine invoices at issue with no other details or information disclosed in the invoices. However, as noted by the City, the evidence establishes that the Applicant is actively involved in the Complaint proceedings as a party, the Applicant has requested access to legal costs for specific stages of the Complaint proceedings that they were personally involved in, the litigation related to the Complaint is still ongoing and the information at issue is about a single legal matter. Moreover, I note that the legal fees relate to the work done by one specific lawyer and the Applicant is seeking disclosure of this information when the hearing of the Complaint has yet to begin. Considering all those factors, I am unable to conclude from the materials before me that there is no reasonable possibility of revealing privileged communications if only the total dollar amounts and the tax amounts in each invoice were disclosed to the Applicant.

[78] I understand the Applicant is sceptical about what possible inferences could be drawn from only the total dollar amounts and tax amounts in each of the nine invoices about privileged communications between the Lawyer and their clients. However, given the importance of the solicitor-client relationship to our

⁸² Some of those decisions are discussed in Order F25-76, 2025 BCIPC 89 (CanLII) at paras. 26-37 and Order F15-16, 2015 BCIPC 17 (CanLII) at paras. 21-28.

⁸³ Order F15-16, 2015 BCIPC 17 (CanLII) at paras. 23 and 35-38; Order F15-31, 2015 BCIPC 34 (CanLII) at paras. 15-28 and the decisions cited there; Order F17-55, 2017 BCIPC 60 at paras. 31-37. Order F25-76, 2025 BCIPC 89 (CanLII) at paras. 43 and 46-47; *Ontario (Ministry of the Attorney General) v. Ontario (Assistant Information and Privacy Commissioner)*, 2005 CanLII 6045 (ON CA) at paras. 1-2 and 13-14.

⁸⁴ Order F21-52, 2021 BCIPC 60 (CanLII) at paras. 24-29 and the decisions cited there; *Constitution*, *supra* note 53 at paras. 83-84; *Richmond (City) v. Campbell*, 2017 BCSC 331 (CanLII) at paras. 74-93; *Central Coast*, *supra* note 50 at paras. 132-134; Order F16-34, 2016 BCIPC 38 (CanLII) and Order F13-03, 2013 BCIPC 3 (CanLII).

legal system, the BC Court of Appeal has determined that the person seeking to rebut the presumption has the high burden of demonstrating that no possible inferences could reasonably be drawn by an assiduous observer.⁸⁵ Based on the circumstances and evidence before me, I do not have the necessary degree of assurance; therefore, I find the presumption that the information at issue is protected by legal advice privilege has not been rebutted.

[79] To conclude, I find legal advice privilege applies to the information that the City redacted in the responsive records under s. 14 of FIPPA. Given this finding, it is not necessary for me to consider whether litigation privilege also applies to the same information.

CONCLUSION

[80] For the reasons given above, I conclude the City is authorized to withhold the information at issue under s. 14. Accordingly, under s. 58 of FIPPA, I make the following order: I confirm the City's decision to refuse the Applicant access to the information at issue in the responsive records under s. 14 of FIPPA.

July 8, 2026

ORIGINAL SIGNED BY

Lisa Siew, Adjudicator

OIPC File No.: F24-98791

⁸⁵ *Constitution*, *supra* note 53 at para. 85.