



Order F26-67

BC FERRY SERVICES INC.

Lisa Siew
Adjudicator

July 29, 2026

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Summary: Under the *Freedom of Information and Protection of Privacy Act* (FIPPA), an individual (Applicant) requested BC Ferry Services Inc. (BC Ferries) provide access to records related to a specific ferry route operated by BC Ferries. BC Ferries refused access to some information in the responsive records on the basis that ss. 15(1)(f) (endanger life or physical safety of another person), 15(1)(l) (harm the security of a property), 17(1) and 17(1)(b) (harm to public body or BC government's financial interests), and 19(1)(b) (interfere with public safety) of FIPPA applied to that information. During an inquiry into the matter, the adjudicator found BC Ferries was not authorized to refuse access to the information at issue under ss. 15(1)(f), 15(1)(l), 17(1), 17(1)(b) or 19(1)(b) of FIPPA and ordered BC Ferries to disclose that information to the Applicant.

Statutes and sections considered in order: *Freedom of Information and Protection of Privacy Act*, RSBC 1996, c 165, ss. 15(1)(f), 15(1)(l), 17(1), 17(1)(b) and 19(1)(b).

INTRODUCTION

[1] Under the *Freedom of Information and Protection of Privacy Act* (FIPPA), an individual (Applicant) requested BC Ferry Services Inc. (BC Ferries) provide access to records related to a specific ferry route operated by BC Ferries.¹ BC Ferries located several records responsive to the Applicant's access request but withheld information in those records citing several exceptions to access under Part 2 of FIPPA.

[2] The Applicant requested the Office of the Information and Privacy Commissioner (OIPC) review BC Ferries' decision to refuse access to the redacted information in the responsive records. The OIPC's review and mediation process resolved some of the matters in dispute between the parties

¹ At my request, BC Ferries provided me with evidence that demonstrates it is a "Ferry operator under the *Coastal Ferry Act*" (Email from BC Ferries' legal counsel dated July 6, 2026). Therefore, I am satisfied BC Ferries is a designated public body listed in Schedule 2 of FIPPA.

but did not resolve BC Ferries' decision to refuse access to information that it redacted in the responsive records on the basis that ss. 15(1)(c) (harm to effectiveness of investigative techniques and procedures), 15(1)(f) (endanger life or physical safety of another person), 15(1)(l) (harm the security of a property), 17(1) and 17(1)(b) (harm to a public body or the BC government's financial interests), and 19(1)(b) (interfere with public safety) of FIPPA each applied to that information. An OIPC investigator decided to forward those remaining issues to the OIPC's inquiry phase for adjudication.

[3] After the matter was forwarded to inquiry, BC Ferries withdrew its reliance on s. 15(1)(c) (harm to effectiveness of investigative techniques and procedures). Therefore, I conclude s. 15(1)(c) is no longer at issue between the parties and will not consider s. 15(1)(c) as part of this inquiry.

ISSUES AND BURDEN OF PROOF

[4] The issues I must decide in this inquiry, and the order in which I will consider those issues, are as follows:

- Is BC Ferries authorized to refuse access to the information that it withheld under ss. 17(1) or 17(1)(b) of FIPPA?
- Is BC Ferries authorized to refuse access to the information that it withheld under ss. 15(1)(f), 15(1)(l) and 19(1)(b) of FIPPA?

[5] Section 57(1) of FIPPA places the burden on BC Ferries, as the public body, to prove the Applicant has no right of access to the information that BC Ferries withheld under ss. 15(1)(f), 15(1)(l), 17(1), 17(1)(b) and 19(1)(b) of FIPPA.

DISCUSSION

Background

[6] The *Coastal Ferry Act* allows the BC government to enter into an agreement with a person for the operation of ferry services on one or more specified ferry routes.² BC Ferries currently has a contract with the BC government to provide ferry services along coastal BC. One of the routes operated by BC Ferries is called Route 8 which runs between Horseshoe Bay in West Vancouver to Snug Cove on Bowen Island.

² Section 27 of the *Coastal Ferry Act*, SBC 2003, c 14. The information in this background section was compiled from the parties' submissions and evidence.

Records and information at issue

[7] The records responsive to the Applicant's access request total 139 pages. The information at issue in this inquiry is located on pages 16-17 and 120-139 of the responsive records and contains the following information:

- A one-page table that shows passenger data over a year for Route 8, including the number of passengers "by roughly the sailing window, by season, by day of week."³
- A one-page table that shows "average available AEQ capacity by roughly the sailing window, by season by day of week for Route 8" for a year.⁴ The term AEQ stands for automobile equivalent and is defined as, "the amount of vessel capacity occupied by a particular vehicle, expressed as the number of under height vehicles it displaces."⁵
- A 20-page table that shows vehicle and passenger traffic data for Route 8 for July 2024 arranged by day and sailing time for the following categories: "AEQ Carried, AEQ Overloads, Vehicles Carried (Count), Vehicle Overloads (Count), Total Passengers."⁶

Harm to financial interests – ss. 17(1) and 17(1)(b)

[8] BC Ferries withheld the information at issue under both ss. 17(1) and 17(1)(b) which state:

17(1) The head of a public body may refuse to disclose to an applicant information the disclosure of which could reasonably be expected to harm the financial or economic interests of a public body or the government of British Columbia or the ability of that government to manage the economy, including the following information:

...

(b) financial, commercial, scientific or technical information that belongs to a public body or to the government of British Columbia and that has, or is reasonably likely to have, monetary value;

[9] Subsections 17(1)(a) to (f) are examples of the types of information that, if disclosed, could reasonably be expected to cause harm under s. 17(1). Earlier OIPC decisions have determined, however, that subsections 17(1)(a) to (f) are

³ Information located on p. 16 of the records and quoted description disclosed on that page.

⁴ Information located on p. 17 of the records and quoted description disclosed on p. 16 of the records.

⁵ Page 6 of Exhibit "C" found in an affidavit affirmed by BC Ferries' Vice-President of Strategy and Planning (Vice-President) and provided by BC Ferries in its submission dated May 7, 2026.

⁶ Information located on pp. 120-139 of the records and the categories are disclosed in the records.

not stand-alone provisions and that it is not enough for a public body to meet a subsection's requirements. Even if the information at issue fits under ss. 17(1)(a) to (f), a public body must also demonstrate that disclosure could reasonably be expected to result in the harms specified under s. 17(1).⁷

[10] However, information that does not fit under subsections 17(1)(a) to (f) may still fall under the opening language of s. 17(1) as information that, if disclosed, could reasonably be expected to harm the financial or economic interests of a public body or the BC government or the ability of the BC government to manage the economy.⁸

[11] In terms of the standard of proof for s. 17(1), it is well-established that the language "could reasonably be expected to" in access to information statutes means that in order to rely on the exception, a public body must establish that there is a "reasonable expectation of probable harm."⁹ The Supreme Court of Canada has described this standard as "a middle ground between that which is probable and that which is merely possible."¹⁰

[12] The public body does not need to show on a balance of probabilities that harm will occur if the information is disclosed, but it must demonstrate that disclosure will result in a risk of harm that is well beyond the merely possible or speculative.¹¹ There needs to be a reasonable basis for believing the harm will result, but the standard does not require a demonstration that harm is probable.¹²

[13] The determination of whether a reasonable expectation of probable harm has been established is contextual, and the amount and quality of evidence needed to meet this standard will ultimately depend on the nature of the issue and the "inherent probabilities or improbabilities or the seriousness of the allegations or consequences."¹³ Previous OIPC orders have said general speculative or subjective evidence will not suffice.¹⁴

[14] Moreover, the assessment of a reasonable expectation of probable harm under s. 17 is to be approached on the basis that disclosure of information in

⁷ Order F19-03, 2019 BCIPC 4 (CanLII) at para. 22.

⁸ Order F14-31, 2014 BCIPC 34 (CanLII) at para. 41.

⁹ *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, 2014 SCC 31 at para. 54.

¹⁰ *Ibid.*

¹¹ *Merck Frosst Canada Ltd. v. Canada (Health)*, 2012 SCC 3 at para. 206.

¹² *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, 2014 SCC 31 (CanLII) at para. 59 and *British Columbia Hydro and Power Authority v. British Columbia (Information and Privacy Commissioner)*, 2019 BCSC 2128 (CanLII) at para. 93.

¹³ *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, 2014 SCC 31 at para. 54.

¹⁴ For example, Order F08-03, 2008 CanLII 13321 (BC IPC) at para. 27.

response to an access request under FIPPA is disclosure to the world.¹⁵ In other words, the s. 17 analysis should consider what harm could reasonably be expected to result if the information at issue was disclosed to the general public and not just to the access applicant. Furthermore, it is the release of the information itself which must give rise to a reasonable expectation of harm.¹⁶ The public body must provide evidence establishing “a direct link between the disclosure and the apprehended harm and that the harm could reasonably be expected to ensue from disclosure.”¹⁷

Is there a reasonable expectation of probable harm in accordance with s. 17(1)?

[15] BC Ferries withheld the information at issue under both ss. 17(1) and 17(1)(b). I will first consider BC Ferries’ decision to withhold the information at issue under s. 17(1). As previously noted, information that does not fit under subsections 17(1)(a) to (f) may still fall under the opening language of s. 17(1) as information that, if disclosed, could reasonably be expected to harm a public body or the BC government’s financial interests.

[16] BC Ferries submits the disclosure of the information at issue could reasonably be expected to harm its financial interests. To prove harm under s. 17(1), BC Ferries argues that it has several direct competitors who have either established or are seeking to establish ferry operations along routes currently operated by BC Ferries. BC Ferries submits the information at issue would have commercial value to those competitors because passenger traffic data is “a foundational requirement for any new ferry route” as “there must be enough passengers supporting the demand for the route to ensure its commercial viability.”¹⁸

[17] In support of its position, BC Ferries provided an affidavit from one of its Vice-Presidents who attests, among other things, that a company operating as Hullo launched a high-speed, passenger-ferry service from Nanaimo to Vancouver in 2023, which competes with BC Ferries services on that route. The Vice-President deposes that he was informed that Hullo had tried to obtain passenger traffic data for that route from BC Ferries prior to and after its launch and that he is personally aware that at one time Hullo placed a person at a BC Ferries terminal to count foot passengers. The Vice-President deposes that, since Hullo entered the market, there has been an immediate and continuing “material reduction in passenger volumes” for BC Ferries on that route.¹⁹ The

¹⁵ Order 03-35, 2003 CanLII 49214 (BC IPC) at para. 31.

¹⁶ *British Columbia (Minister of Citizens’ Services) v. British Columbia (Information and Privacy Commissioner)*, 2012 BCSC 875 at para. 43.

¹⁷ *Merck Frosst Canada Ltd. v Canada (Health)*, 2012 SCC 3 at para. 219.

¹⁸ BC Ferries submission dated May 7, 2026 at para. 17.

¹⁹ Vice-President’s affidavit at para. 10.

Vice-President also says there is another company operating as CIRQL that is in direct competition with BC Ferries on Route 8 because it plans to offer passenger ferry services from Vancouver to Bowen Island.

[18] The Vice-President argues those competitors could harm BC Ferries' financial interests because they may use the information in the records that reveals how many foot passengers are on a particular route at a certain day and time "to siphon off passengers from its existing routes at high value times."²⁰ The Vice-President also says when BC Ferries loses passengers to other ferry operators or competitors the financial impacts are borne by taxpayers because BC Ferries is highly subsidized by the provincial government. Therefore, the Vice-President argues any harm to BC Ferries' financial interests also harms the "financial interests of the province and British Columbia taxpayers more broadly."²¹

[19] In response, the Applicant submits BC Ferries has failed to prove that s. 17(1) applies to the information at issue for reasons which can be summarized as follows:

- The information at issue includes operational, numerical data from 2024 that is now stale and outdated which means any competitive significance has eroded.
- BC Ferries provided the Applicant with full access to similar information for the period of November 2021 to July 2022 which the Applicant posted online; therefore, similar information is already publicly available and the disclosure of the information at issue would, at most, only reveal "*incremental* information on how Route 8 sailing traffic has shifted between 2022 and 2024."
- BC Ferries already publishes data about its operations, including vessel capacity and demand for any specific sailing date or time on Route 8, through its annual reports or on the BC Ferries' website or its mobile phone app.
- BC Ferries did not explain what specific information in the responsive records would give a competitor a commercial advantage beyond what is already publicly available about Route 8.
- The Vice-President's evidence about the passenger-ferry company Hullo is based on hearsay, lacks any supporting documentation and does not

²⁰ Vice-President's affidavit at paras. 16 and 25.

²¹ Vice-President's affidavit at paras. 24 and 26.

apply to Route 8 because it is about the Nanaimo to Vancouver ferry route.

[20] The Applicant also argues CIRQL's proposed plan for Route 8 is not a competitive threat to BC Ferries' services for the following reasons:

- CIRQL's proposed ferry service would have a different departure and arrival point between Vancouver and Bowen Island than BC Ferries' existing route.
- CIRQL would only offer passenger ferry services and cannot carry vehicles.
- CIRQL's proposed ticket prices are much higher, almost 2-3 times higher, than BC Ferries' current walk on passenger fares, which means customers would likely choose to travel with BC Ferries if possible.
- There are currently limited marine transportation options for Bowen Island residents and visitors which means both services would be fully utilized.
- CIRQL's proposed route would complement rather than harm BC Ferries services because CIRQL's services would likely appeal to walk-on tourists from downtown Vancouver and any overflow passengers from Route 8.

[21] The Applicant further argues that any proposed harm to BC Ferries' financial interests is speculative because CIRQL has no current operations and is in the early approval and design stages.

[22] Lastly, the Applicant notes that BC Ferries' evidence about harm under s. 17(1) focuses on competition from passenger ferry companies. Therefore, the Applicant submits BC Ferries has failed to prove that the disclosure of any information in the responsive records that is not about foot passengers, such as vehicle data and vessel capacity, could reasonably be expected to harm BC Ferries' financial interests and should be disclosed.

[23] BC Ferries submits the Applicant's arguments are not persuasive for the following reasons:

- The Applicant is imposing a standard of certainty, requiring proof that BC Ferries has already suffered the expected harm on Route 8, rather than the reasonable expectation of probable harm standard required under s. 17(1).

- It is not just the disclosure of the foot passenger data for Route 8 that could result in harm, but the information about “vehicle equivalents” would allow someone to infer the busiest sailing times when there may be the most people on board.
- The information at issue is more detailed than the information that BC Ferries posts online or makes publicly available.
- While BC Ferries may have provided access to similar information in the past, the marketplace has changed and there is an increase in competitors which now makes the disclosure of the information at issue harmful to both BC Ferries and the BC government’s financial interests.²²

[24] BC Ferries also argues that, although the information at issue about Route 8 may be a few years old and outdated, one cannot assume the data would not be useful to CIRQL because the preparations for the eventual operations of the CIRQL route are ongoing and it is unknown what stage of planning CIRQL is in or what information it requires to secure funding, permits or any other matter.

Analysis and findings on s. 17(1)

[25] The fundamental premise of BC Ferries’ submission regarding s. 17(1) is that competitors could reasonably be expected to find the information at issue valuable and use the redacted information to take away BC Ferries’ market share for ferry services resulting in financial harm to BC Ferries and to the BC government. As I will explain, I am not persuaded that s. 17(1) applies to the information at issue.

[26] The information at issue in this inquiry consists of statistical information about AEQ capacity and vehicle and passenger traffic for a set period, such as the specific number of walk-on passengers, the number of vehicles boarded and the automobile equivalents for each sailing on Route 8 at a certain time.²³ I note that the information at issue here is more detailed than the information that BC Ferries makes publicly available about passenger and vehicle traffic and vessel capacity for Route 8; however, as noted by both parties, the information at issue is several years old, dating back to 2024 or earlier, and is limited to a certain timeframe, including data for the month of July 2024. It is unclear what value this detailed, historical information about Route 8 for such a limited period would have for any potential competitors.

²² BC Ferries submission dated June 5, 2026 at paras. 3-8.

²³ Vice-President’s affidavit at para. 3.

[27] BC Ferries argues the information at issue is valuable because competitors need passenger traffic data to determine whether there is enough demand to support the commercial viability of a new ferry route.²⁴ However, the information at issue is specific to Route 8 and the only known competitor for that route is CIRQL. The Applicant's evidence indicates that CIRQL has already decided to offer an electronic-powered, passenger-ferry service between Bowen Island and downtown Vancouver and is now negotiating a "licence and operating agreement" with Vancouver City Council, "followed by detailed design, permitting, and regulatory review in 2027."²⁵ Therefore, it is unclear why CIRQL would be interested in this information to determine whether to offer a new passenger ferry service on this route, as argued by BC Ferries, when CIRQL has already made that decision.

[28] BC Ferries also submits CIRQL could use this information to schedule sailings during high value times to compete with BC Ferries' services and siphon off passengers. The Applicant's evidence shows CIRQL plans to offer three round-trip daily sailings on its Bowen Island to Vancouver route.²⁶ In comparison, BC Ferries operates at least 18 daily round-trip sailings on Route 8. The information at issue includes the number of passengers that traveled on each round-trip sailing on Route 8 for the month of July 2024 and for a one-year period. It is unclear why CIRQL would be interested in this detailed, historical information about all the daily sailings for Route 8 for a specific period when CIRQL only plans to operate three-round trip sailings for its Bowen Island to Vancouver route. It seems logical that CIRQL would instead schedule its sailings according to its terminal capacity, electronic vessel charging needs, crew availability and the needs of its intended customer base which would focus on servicing walk-on passengers departing from, or arriving to, downtown Vancouver.

[29] Moreover, even if a competitor wanted to know which sailings on Route 8 are the most popular, the scheduled sailing times and dates for Route 8 are already publicly available on BC Ferries' website. The Applicant notes, and I agree, that it would be easy for someone to determine busy travel dates and times for Route 8 from information already publicly posted online, such as the BC Ferries' current conditions webpage which shows the amount of space available on each sailing. It is also easy for someone to determine from simple observation which dates and times are in high demand and to deduce that weekends and holidays would likely be busy travel times. Therefore, CIRQL or another potential competitor would not need access to the detailed, historical information at issue in this inquiry to determine a competitive sailing schedule for their own operations.

²⁴ BC Ferries submission dated May 7, 2026 at para. 17.

²⁵ Exhibit "E" in Applicant's submission dated May 29, 2026.

²⁶ Exhibit "E" in Applicant's submission dated May 29, 2026.

[30] Furthermore, as noted by the Applicant, I find there are notable differences between BC Ferries' operations and CIRQL's proposed ferry services which undermines BC Ferries' arguments about a reasonable expectation of probable financial harm under s. 17(1). BC Ferries runs more daily sailings, including evening sailing times, than CIRQL's proposed three daily round-trip sailings. BC Ferries also offers cheaper walk-on passenger rates than CIRQL's proposed fares, its assigned vessel for Route 8 carries vehicle traffic and has a larger capacity than CIRQL's proposed 150 seat passenger ferry, and Route 8 offers a different arrival and departure point than CIRQL's proposed route. As well, the Applicant's evidence and BC Ferries' 2025 Annual Report show that BC Ferries was unable to accommodate all customers looking to travel on Route 8 and cancelled more sailings than expected on that route for the 2025 fiscal year.²⁷ I find all this information supports the Applicant's position that CIRQL's passenger-ferry services would complement rather than take away BC Ferries' market share for ferry services with both services utilized by Bowen Island residents and visitors.

[31] BC Ferries also argues the financial harm, if the Route 8 information were disclosed, is more than merely possible or speculative because of what happened to its passenger numbers with the introduction of Hullo's passenger ferry service on the Nanaimo to Horseshoe Bay route. BC Ferries submits it saw an immediate and continuing reduction in passenger volumes for that route since Hullo entered the market in 2023. In support of its position, BC Ferries cites its 2025 Annual Report which shows there were 64,495 less passengers for the 2025 fiscal year than the 2024 fiscal year and a negative "passenger tariff revenue growth" of \$1,150,169.²⁸

[32] While there may have been a loss of passenger revenue on the Nanaimo to Horseshoe Bay route for the 2025 fiscal year, I am not persuaded this loss was due to the introduction of Hullo's passenger-ferry services into the market. Instead, the loss of passenger revenue could easily be explained by the fact that there were 40 round trip sailings that were cancelled on that route for the 2025 fiscal year with 80 sailings cancelled mostly due to mechanical issues or weather.²⁹ The 2025 Annual Report also says BC Ferries carried the "highest level of vehicles and passengers on record" compared to the 2024 fiscal year and "overall passenger and tariff revenue increased in fiscal 2025 to \$759 million; an increase of 5.1% over the previous fiscal year."³⁰ All this information indicates BC Ferries experienced a financial gain in the 2025 fiscal year even though Hullo had been operating its passenger-ferry services for over a year. I find this combined information casts doubt on BC Ferries' claim that the introduction of

²⁷ Exhibits "C" and "F" of Applicant's submission dated May 29, 2026 and pages 23 and 31 of 2025 Annual Report which is attached as Exhibit "C" to the Vice-President's affidavit.

²⁸ Page 17 of 2025 Annual Report.

²⁹ Pages 24 and 28 of 2025 Annual Report.

³⁰ Page 7 of 2025 Annual Report.

Hullo's passenger-ferry services was responsible for negatively impacting its passenger revenue for 2025 and that the same thing could reasonably be expected to happen to Route 8 if the information at issue was disclosed.

[33] Furthermore, as noted by BC Ferries, Hullo introduced its passenger-ferry services in 2023, and BC Ferries claims it saw an immediate reduction in passenger volumes; therefore, it is unclear why BC Ferries did not also provide a copy of its annual report for the 2024 fiscal year as part of its inquiry submissions. Nonetheless, BC Ferries' annual report for the 2024 fiscal year, which is available online, indicates there was a decrease of 13,800 passengers in the 2024 fiscal year compared to the 2023 fiscal year for the Nanaimo to Vancouver route.³¹ At the same time, the 2024 Annual Report shows an increase in passenger tariff revenue for that route totalling \$1,295,931 rather than a corresponding decrease in revenue as BC Ferries' arguments suggest should happen if there is a drop in passenger numbers.³²

[34] I also note that BC Ferries offers free or discounted travel for certain customers such as seniors,³³ so while there may be a certain number of passengers on a particular sailing, not all those passengers necessarily paid a full fare. Moreover, BC Ferries' 2024 and 2025 Annual Reports do not differentiate between a regular paying passenger and a discounted passenger; therefore, the total passenger count for a particular sailing may not accurately reflect BC Ferries' revenue for that sailing. Therefore, for all those reasons, I am not persuaded by BC Ferries argument that a reduction in passenger numbers for a particular fiscal year means that BC Ferries could reasonably be expected to experience a corresponding revenue loss and thus financial harm for the purposes of s. 17(1) of FIPPA.

[35] Lastly, BC Ferries submits not all its routes are profitable and notes that its 2025 Annual Report indicates that BC Ferries suffered a \$16 million financial loss on Route 8 in 2025.³⁴ BC Ferries did not identify where this information is found in the 2025 Annual Report, and I could not locate any information in the 2025 Annual Report that supports BC Ferries claim that Route 8 suffered a \$16 million financial loss in the 2025 fiscal year. Instead, the 2025 Annual Report indicates Route 8 saw passenger growth in the 2025 fiscal year and that passenger tariff revenue increased by \$206,222 compared to the 2024 fiscal year.³⁵ However, even if it were true, it is not apparent and BC Ferries does not sufficiently explain why this \$16 million financial loss would be relevant to the s. 17(1) analysis. BC Ferries may mean this \$16 million financial loss was due to a competitor like Hullo entering the market or from the disclosure of information that is like what is

³¹ Page 12 of [BC Ferries 2024 Annual Report](#).

³² Page 12 of [BC Ferries 2024 Annual Report](#).

³³ Page 34 of 2025 Annual Report.

³⁴ BC Ferries submission dated May 7, 2026 at para. 22.

³⁵ Page 17 of 2025 Annual Report.

at issue in this inquiry, but BC Ferries does not say so and I have insufficient evidence before me to support such an argument.

[36] Considering all the above, I am not satisfied s. 17(1) applies to the information at issue in this inquiry which is about Route 8. It may be that in some cases, the disclosure of passenger and vehicle data for a particular route could reasonably be expected to cause financial harm to a public body or the BC government in accordance with s. 17(1). However, in the circumstances of this case and considering the specific information at issue here, I am not persuaded there is a reasonable expectation of probable harm under s. 17(1) if the redacted information at issue here was disclosed.

Is there a reasonable expectation of probable harm in accordance with s. 17(1)(b)?

[37] BC Ferries also withheld the information at issue under s. 17(1)(b). For s. 17(1)(b) to apply, a public body must prove the following:

- 1) The information at issue would reveal financial, commercial, scientific or technical information which belongs to a public body or the BC government;
- 2) The information has, or is reasonably likely to have, monetary value; and
- 3) The disclosure of this information could reasonably be expected to cause one or more of the harms set out in s. 17(1).³⁶

[38] All the above-noted elements must be met for the information at issue to be properly withheld under s. 17(1)(b).

[39] BC Ferries combined its submissions for ss. 17(1) and 17(1)(b) and made the same arguments about harm under s. 17(1)(b) as it did generally for s. 17(1). For all the reasons given under my analysis for s. 17(1), I am not satisfied that the third part of the s. 17(1)(b) test has been met. Therefore, I conclude s. 17(1)(b) does not apply to the information withheld in the responsive records. Having found the disclosure of the information at issue could not reasonably be expected to harm the financial interests of BC Ferries or the BC government, it is not necessary for me to consider the other criteria under s. 17(1)(b) since all elements must be met for a public body to withhold information under s. 17(1)(b).

³⁶ Order F22-35, 2022 BCIPC 39 (CanLII) at para. 78.

Endanger the life or physical safety of a person, harm the security of property or interfere with public safety – ss. 15(1)(f), 15(1)(l) and 19(1)(b)

[40] I found above that ss. 17(1) and 17(1)(b) do not apply to the information at issue. BC Ferries withheld the same information under each of the following ss. 15 and 19 provisions of FIPPA:

15(1) The head of a public body may refuse to disclose information to an applicant if the disclosure could reasonably be expected to

(f) endanger the life or physical safety of a law enforcement officer or any other person,

(l) harm the security of any property or system, including a building, a vehicle, a computer system or a communications system.

19(1) The head of a public body may refuse to disclose to an applicant information, including personal information about the applicant, if the disclosure could reasonably be expected to

(b) interfere with public safety.

[41] In terms of the standard of proof for ss. 15(1)(f), 15(1)(l) and 19(1)(b), as was the case with s. 17(1), it is well-established that the language “could reasonably be expected to” in access to information statutes means that in order to rely on the exception, a public body must establish that there is a “reasonable expectation of probable harm.”³⁷ As a result, the same legal principles and standards that I applied to the analysis under s. 17(1) are also relevant in determining whether ss. 15(1)(f), 15(1)(l) or 19(1)(b) apply. To avoid duplication, I have not repeated here all the relevant legal principles that I identified in my s. 17(1) analysis; however, as set out below, I have considered and applied them in determining whether ss. 15(1)(f), 15(1)(l) or 19(1)(b) apply to the information at issue.

Is there a reasonable expectation of probable harm in accordance with ss. 15(1)(f), 15(1)(l) or 19(1)(b)?

[42] BC Ferries submits that its arguments and evidence prove there is a reasonable expectation of probable harm to the public and to BC Ferries’ property, in accordance with ss. 15(1)(f), 15(1)(l) and 19(1)(b), should the information at issue in this inquiry be disclosed. In support of its position, BC Ferries provided an affidavit from its Director of Corporate Security Services (Director).

³⁷ *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, 2014 SCC 31 at para. 54.

[43] BC Ferries combined its submissions and evidence for ss. 15(1)(f), 15(1)(l) and 19(1)(b) and most of those submissions and evidence can be briefly summarized as follows:

- Public infrastructure and transportation systems are targets for terrorist attacks and detailed information about public infrastructure and transportation, such as passenger traffic data, is used by threat actors to choose targets.
- There is a risk that the information at issue could be used in a domestic or foreign terror attack on BC Ferries' vessels and terminals which would endanger lives and property.
- The disclosure of specific trip-by-trip passenger data with times, the route and the number of passengers and AEQs could reasonably be expected to threaten the safety of the travelling public and their property and BC Ferries' property.
- The disclosure of the information at issue would allow someone to know when Route 8 is likely to have the highest number of passengers and vehicles on board and to target a particular sailing on this route to cause the most harm to people and property.
- Threats to ferries and ferry facilities are reasonably anticipated and require continuous attention and BC Ferries is obligated to ensure that its traffic data is not released or accessed in a manner that would allow for easier identification of its vessels as a target for violence.

[44] BC Ferries argues its submissions about harm are similar to arguments made and accepted by Ontario's IPC in Order PO-3475 "based on evidence of increased terrorism risk for boat operators in the Niagara region."³⁸ In Order PO-3475, the adjudicator was satisfied that Ontario's equivalent to ss. 15(1)(f) and 15(1)(l) of FIPPA applied to some information in the disputed records because "Niagara Falls is a major tourist attraction" and disclosure would reveal information that "specifically address the subject of risk and security."³⁹

[45] BC Ferries also says that it opens approximately 200 security files per month to document security incidents, breaches and threats. BC Ferries notes there are currently 50 people on a long-term travel ban and that it issues about 30-50 same-day travel bans per month. BC Ferries further notes that recent media coverage has documented cases of disruptive behaviour and security

³⁸ BC Ferries' submission dated May 7, 2026 at para. 33 and footnote 2 citing Order PO-3475, 2015 CanLII 17919 (ON IPC).

³⁹ Order PO-3475, 2015 CanLII 17919 (ON IPC) at para. 33.

alerts aboard BC Ferries' vessels, which it argues reinforces the need for robust safeguards and responsive protocols.

[46] The Applicant submits BC Ferries has failed to prove that the disclosure of the information at issue meets the reasonable expectation of probable harm standard and does not establish a direct connection between the disclosure of the information at issue and the alleged harm. Among other things, the Applicant says BC Ferries' own evidence, which includes various threat level assessments and publications, indicates the threat of a terrorist attack on Canadian maritime transportation, let alone a small commuter ferry between West Vancouver and Bowen Island, is very low or the risk is currently considered very small. The Applicant also says BC Ferries' evidence does not prove historical statistical datasets, such as the information at issue here, has been used as a tool to plan any terrorist attacks or that its disclosure was responsible for any of the security incidents noted by BC Ferries in its submissions.

[47] The Applicant further argues someone seeking to maximize harm does not need access to the information at issue to determine busy travel times for Route 8 because that information is easy to determine from direct observation or from several already-public data sources such as BC Ferries' website. The Applicant also notes that, in 2022, BC Ferries disclosed similar sailing-by-sailing Route 8 data in response to an access request, which was subsequently posted online, and there has been no security incidents linked to the release of that data for over 3 years.

[48] As well, the Applicant says the information at issue here would not assist any potential threat actors with planning a terrorist attack because it is historical data about passenger and vehicle numbers. The Applicant notes the information at issue here is not like the information that another OIPC order found a public body could withhold under s. 15(1)(l) such as information on security procedures and protocols.⁴⁰ The Applicant says historical passenger and vehicle data only reveals how many people travelled and not how BC Ferries' systems are secured or could be breached.

[49] In response, BC Ferries submits the Applicant is imposing a standard of certainty, requiring proof that BC Ferries has already suffered the expected harm, rather than the reasonable expectation of probable harm standard required under ss. 15(1)(f), 15(1)(l) and 19(1)(b). BC Ferries argues the type and nature of evidence demanded by the Applicant to support the application of the relevant ss. 15 and 19 provisions to the information at issue does not exist because terrorist attacks are thankfully rare, but that it is not speculative to suggest that

⁴⁰ Applicant's submission dated May 29, 2026 at para. 34, citing Order F11-12, 2011 BCIPC 15 (CanLII).

additional, detailed information about the capacity of BC Ferries' vessels could be utilized by a bad actor to target a particular sailing.⁴¹

[50] BC Ferries acknowledges that its evidence indicates current threat levels are considered low; however, it says, "The point of that evidence is not to suggest that threat levels are high *right now*. Rather it demonstrates that security institutions in Canada focus on marine transportation as a particular target for violence which translates into vigilance on the part of BC Ferries."⁴² Therefore, BC Ferries argues attacks against public infrastructure are a real possibility and limiting the release of route specific passenger volumes is one way that BC Ferries can reduce the amount of information in the public domain that can facilitate domestic terrorism.⁴³

Analysis and findings on ss. 15(1)(f), 15(1)(l) and 19(1)(b)

[51] As I will explain, I am not persuaded that ss. 15(1)(f), 15(1)(l) or 19(1)(b) apply to the information at issue. To establish ss. 15(1)(f), 15(1)(l) or 19(1)(b) applies, BC Ferries does not need to show on a balance of probabilities that harm will occur if the information is disclosed, but it must demonstrate that disclosure will result in a risk of harm that is well beyond the merely possible or speculative.⁴⁴ BC Ferries argues the disclosure of the information at issue would help nefarious individuals plan and facilitate an attack on Route 8 resulting in harm to the public and to property.

[52] Given past and recent global events, it is understandable there is a heightened awareness and vigilance associated with possible terrorist attacks. However, as noted by the Applicant, BC Ferries' evidence indicates that the threat of a terrorist attack for ferries and other marine travel in Canada is very low or that the risk is currently considered very small. Its evidence also shows that Transport Canada has set marine security levels at "Level 1" which is the lowest level and means "Regular, everyday security measures are in place" to keep ferries and ports secure.⁴⁵ This evidence indicates that the risk of a possible terrorist attack on a BC Ferries' vessel or terminal is not well beyond the merely possible.

[53] Moreover, the reasonable expectation of harm standard does not require a demonstration that harm is probable but there needs to be a reasonable basis for believing the harm will result.⁴⁶ It is not apparent from the materials before me

⁴¹ BC Ferries' submission dated June 5, 2026 at para. 18.

⁴² BC Ferries' submission dated June 5, 2026 at para. 16, emphasis in original.

⁴³ BC Ferries' submission dated June 5, 2026 at para. 17.

⁴⁴ *Merck Frosst Canada Ltd. v. Canada (Health)*, 2012 SCC 3 at para. 206.

⁴⁵ Director's affidavit at paras. 12-15.

⁴⁶ *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, 2014 SCC 31 (CanLII) at para. 59 and *British Columbia Hydro and Power*

that there is a reasonable basis for believing Route 8, which is a minor ferry route servicing and connecting Bowen Island to West Vancouver, could be a potential terrorist target. In comparison, I can understand why the adjudicator in Ontario's Order P0-3475 believed Niagara Falls could be a potential target given it is "a major international tourist destination with about 8 million visitors each year."⁴⁷

[54] As well, the information at issue in this inquiry is different from what was at issue in Ontario's Order P0-3475. In that decision, the information at issue related to a proposed security plan or the security system for boat tour operations at that tourist site and the adjudicator protected information that would have revealed information that "specifically address the subject of risk and security."⁴⁸ Likewise, in Order F11-12, Adjudicator Francis found s. 15(1)(l) applied to information in a manual about security, surveillance and other protocols for casino service providers in BC.⁴⁹ BC Ferries' evidence also indicates that when it comes to choosing a target or facilitating an attack, potential terrorists are interested in information that allows them to gain familiarity with the property's layout, ease of access and any applicable security measures, checkpoints or protocols.⁵⁰ The information at issue in this inquiry does not reveal anything about a security plan, procedure or protocol or the layout for BC Ferries' vessels or systems.

[55] The Applicant's evidence also shows that BC Ferries previously disclosed similar information to what is at issue in this inquiry, specifically detailed data about passenger and vehicle numbers in July 2022 for Route 8, in response to an access request from the Applicant.⁵¹ BC Ferries did not dispute that it previously provided this 2022 passenger and vehicle data to the Applicant, and it did not sufficiently explain what has changed to make disclosure of similar information now a security or safety concern in accordance with ss. 15(1)(f), 15(1)(l) and 19(1)(b). I note that BC Ferries provided examples of security incidents and disruptive behaviour that have occurred aboard a BC Ferries vessel, at a terminal or during an advisory committee meeting.⁵² However, none of those examples relate to a possible terrorist threat or incident on Route 8, which is the harm that BC Ferries alleges could reasonably be expected to occur if the information at issue here were disclosed.

Authority v. British Columbia (Information and Privacy Commissioner), 2019 BCSC 2128 (CanLII) at para. 93.

⁴⁷ Order PO-3475, 2015 CanLII 17919 (ON IPC) at paras. 25 and 33.

⁴⁸ Order PO-3475, 2015 CanLII 17919 (ON IPC) at paras. 28-29 and 33.

⁴⁹ Order F11-12, 2011 BCIPC 15 (CanLII) at para. 75.

⁵⁰ Director's affidavit at para. 6 and Exhibit A. Exhibit A indicates there are different considerations for targeting a specific person, rather than a location, such as obtaining information to establish the person's pattern of life and to identify locations frequented by the person.

⁵¹ Exhibit "B" and description of this exhibit located under "Schedule of Exhibits" in Applicant's submission dated May 29, 2026.

⁵² Director's affidavit at paras. 9-10 and Exhibit "B" attached to their affidavit.

[56] BC Ferries acknowledges that its evidence indicates current terrorist threat levels are considered low but says its decision to refuse access was to reduce the amount of information in the public domain that can facilitate domestic terrorism.⁵³ Nonetheless, I am required to apply the reasonable expectation of probable harm standard articulated by the Courts and past orders.⁵⁴ Applying that standard and the relevant legal principles, for the reasons given, I find BC Ferries' evidence does not establish a direct link between the disclosure of the information at issue and the alleged harm or that the risk of a terrorist attack on Route 8, if the information at issue were disclosed, is well beyond the merely possible.

[57] To be clear, my findings here do not mean that ss. 15(1)(f), 15(1)(l) and 19(1)(b) will never apply to passenger, vehicle and vessel capacity data related to a BC Ferries' route. Rather, in the circumstances of this case and considering the materials before me, I am not satisfied that the various FIPPA provisions at issue in this inquiry apply to the information that BC Ferries redacted in the responsive records.

Exercise of discretion under ss. 15, 17 and 19

[58] The parties also made submissions about BC Ferries' exercise of discretion under ss. 15(1)(f), 15(1)(l), 17(1), 17(1)(b) and 19(1)(b).⁵⁵ For example, the Applicant argues BC Ferries did not exercise its discretion appropriately when it decided to apply those various FIPPA provisions to the information at issue and should be made to reconsider its decision by considering whether disclosure would be in the public interest. Given my findings and conclusion about the various FIPPA provisions at issue in this inquiry, it is not necessary for me to address the parties' submissions about BC Ferries' exercise of discretion under ss. 15(1)(f), 15(1)(l), 17(1), 17(1)(b) and 19(1)(b) or make any findings about it.

CONCLUSION

[59] For the reasons discussed above, I conclude BC Ferries is not authorized under ss. 15(1)(f), 15(1)(l), 17(1), 17(1)(b) or 19(1)(b) to refuse the Applicant access to the information that it withheld in the responsive records. Accordingly, I make the following orders:

⁵³ BC Ferries' submission dated June 5, 2026 at para. 17.

⁵⁴ For example, *Merck Frosst Canada Ltd. v. Canada (Health)*, 2012 SCC 3 at paras. 206 and 219.

⁵⁵ For example, BC Ferries submission dated May 7, 2026 at paras. 6 and 14.

1. Under s. 58(2)(a) of FIPPA, BC Ferries is required to give the Applicant access to the information that it withheld in the responsive records under ss. 15(1)(f), 15(1)(l), 17(1), 17(1)(b) and 19(1)(b) of FIPPA.
2. Under s. 58(4) of FIPPA, I require BC Ferries to provide the OIPC's registrar of inquiries with a copy of the records that it sends to the Applicant in compliance with item 1 above, along with any attached or relevant correspondence.

[60] Under s. 59(1) of FIPPA, BC Ferries is required to comply with the orders I have made above by **September 11, 2026**.

July 29, 2026

ORIGINAL SIGNED BY

Lisa Siew, Adjudicator

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