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**Office of the Information and Privacy Commissioner
Province of British Columbia
Order No. 282-1998
December 10, 1998**

INQUIRY RE: A request for correspondence directed to the Ministry of Health and Ministry Responsible for Seniors, pertaining to the water quality in the Erikson Improvement District

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1. Description of the review

As Information and Privacy Commissioner, I conducted a written inquiry at the Office of the Information and Privacy Commissioner (the Office) on October 23, 1998 under section 56 of the *Freedom of Information and Protection of Privacy Act* (the Act). This inquiry arose out of a request for review of a decision of the Ministry of Health.

2. Documentation of the inquiry process

In a letter dated May 31, 1998 the applicant requested “copies of all correspondence that was directed to the Ministry of Health, Victoria and Cranbrook offices which pertained to Erikson Improvement District water quality and was sent to the Ministry by private individuals from the Creston area. The time period for the correspondence requested is from January 1, 1997 to May 31, 1998.”

The Ministry responded on July 8, 1998 by providing the applicant with access to the contents of two letters but withholding the name, address, and signature of the author(s) as well as one entire e-mail message. In a letter dated July 27, 1998 the applicant requested a review of the Ministry’s decision. During mediation, the Ministry decided to release the contents of the e-mail, but withheld all information which would identify the author. On August 14, 1998 the applicant notified this office that he wished the matter to proceed to inquiry. The Notice of Inquiry was issued on August 19, 1998.

3. Issue under review and the burden of proof

The issue under review in this inquiry is the Ministry's application of section 22(1) of the Act to the information in two letters and an e-mail.

The relevant parts of section 22 of the Act are as follows:

Disclosure harmful to personal privacy

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

Section 57 of the Act establishes the burden of proof on the parties in this inquiry. Under section 57(2), if the record or part that the applicant is refused access to contains personal information about a third party, it is up to the applicant to prove that disclosure of the information would not be an unreasonable invasion of the third party's personal privacy.

4. The records in dispute

The records in dispute are two letters and an e-mail. The Ministry severed all names and other identifying information from them.

5. The applicant's case

The applicant wants the signatures on the correspondence directed to the Ministry of Health concerning water quality in the Erickson Improvement District (the District). He submits that correspondents who are “not misleading or untrue” should have no reason to object if their signatures were released with their correspondence. Secondly, he submits that a letter without a signature lacks credibility. Finally, he wants to learn whether the author of the e-mail is a landowner in the district and/or a water user. He wants to determine whether the District can do anything to address the author's concern about ‘dirty water,’ and says he cannot do so without the signatures.

6. The Ministry of Health's case

The Ministry has refused to release information which would disclose the identity of the third party(ies) in this inquiry. It informs me that the issue of water disinfection has been a controversial matter within the District and that a medical health officer has ordered the District to put in place a disinfection system for its water.

I have presented below the Ministry's arguments on the application of section 22 to the records in dispute.

7. Discussion

Section 22: Disclosures harmful to the personal privacy of third parties

The Ministry described its Complaint Policy to me and explained that its practice is to maintain the confidentiality of complaint records by withholding the complainant's identity and/or the substance of the complaint. The Ministry notes that one of the reasons for maintaining the confidentiality of complainants is to encourage the identification of public health and safety issues. It submits that in Order No. 263-1998, September 11, 1998, I accepted that a formal policy in this regard adequately establishes that third-party personal information was submitted in confidence. (Submission of the Ministry, paragraphs 5.05 and 5.06)

The Ministry submits, and I agree as before, that disclosure of identifying information about the third party(ies) in this inquiry would be an unreasonable invasion of their privacy. It further submits that none of the circumstances listed under section 22(2) favours disclosure of this information. I further agree.

I have accepted a slightly more than one-page *in camera* submission from the Ministry. I have also accepted and reviewed another two-page *in camera* submission.

I find that the applicant has not met his burden of proof in this inquiry.

8. Order

I find that the Ministry of Health was required to refuse access to the personal information in the records in dispute that it withheld under Section 22(1) of the Act. Accordingly, under Section 58(2)(c) of the Act, I require the Ministry to refuse access to this information.

David H. Flaherty
Commissioner

December 10, 1998