



OFFICE OF THE  
INFORMATION & PRIVACY  
COMMISSIONER  
— for —  
British Columbia

Order F08-14

**INSURANCE CORPORATION OF BRITISH COLUMBIA**

Celia Francis, Senior Adjudicator

July 16, 2008

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**Summary:** Applicant requested records confirming certain types of personal information regarding six individuals in connection with a neighbouring property. ICBC found to have properly refused access to this information under s. 22.

**Statutes Considered:** *Freedom of Information and Protection of Privacy Act*, ss. 25(1)(b), 22 (1), 22(2)(a), (b), (c), 22(3), 22(4)(i).

**Authorities Considered:** **B.C.:** Decision F08-05, [2008] B.C.I.P.C.D. No. 22; Decision F08-06, [2008] B.C.I.P.C.D. No. 23; Order 02-38, [2002] B.C.I.P.C.D. No. 38; Order 01-20, [2001] B.C.I.P.C.D. No. 21; Order 01-53, [2001] B.C.I.P.C.D. No. 56; Order 02-56, [2002] B.C.I.P.C.D. No. 58; Order 03-21, [2003] B.C.I.P.C.D. No. 21; Order No. 135-1996, [1996] B.C.I.P.C.D. No. 63; Order 00-53, [2000] B.C.I.P.C.D. No. 57; Order F06-13, [2006] B.C.I.P.C.D. No. 20; Order 00-42, [2000] B.C.I.P.C.D. No. 46; Order F05-28, [2005] B.C.I.P.C.D. No. 38. **Alta.:** Order F2005-016, [2006] A.I.P.C.D. No. 40; Order F2002-011, [2002] A.I.P.C.D. No. 432; Order 98-018, [1999] A.I.P.C.D. No. 1.

## 1.0 INTRODUCTION

[1] The applicant in this case made a bylaw complaint to the Township of Langley (“Langley”) regarding what she calls an “illegal mobile home” on a neighbouring property.<sup>1</sup> According to the applicant, the Agricultural Land Commission and Langley’s bylaws do not permit a mobile home on property

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<sup>1</sup> The applicant’s son represented her throughout the request and inquiry processes and some of the correspondence is from him on her behalf. I have referred here only to the applicant, for ease of reading.

unless the owner of the property is living in the principal residence and, in this case, the applicant contends, the owner of the property had moved off the property.<sup>2</sup> To assist with pursuit of her bylaw complaint, the applicant wrote to the Insurance Corporation of British Columbia (“ICBC”) to request a written version of certain information, confirmation of which she said she had recently received from ICBC in a telephone conversation.

[2] In her request, the applicant provided the names and residential addresses of six individuals she believed were the registered owners of six vehicles. She also provided physical descriptions of the vehicles in question, the vehicles’ licence plate numbers and the length of time she believed the six named individuals had lived at the residential addresses given. The applicant requested confirmation by ICBC of all these details, either in the form of copies of vehicle registrations or driver’s licence information or in some other official form. ICBC denied access to the information under s. 22 of the *Freedom of Information and Protection of Privacy Act* (“FIPPA”).

[3] The applicant requested a review of this decision, arguing that s. 25(1)(b) of FIPPA requires disclosure. Mediation was not successful and the matter proceeded to an inquiry under Part 5 of FIPPA.

## 2.0 ISSUE

[4] The issues before me in this case are:

1. Whether s. 25(1)(b) requires disclosure of the requested records.
2. Whether s. 22(1) requires ICBC to refuse the applicant access to the requested information.

[5] Under s. 57(2) of FIPPA, the applicant has the burden of proof regarding third-party personal information. Previous decisions have held that, while s. 57 of FIPPA is silent on the burden of proof in determining whether s. 25 applies, as a practical matter, it is in the interests of each party to present evidence as to whether s. 25 applies and requires disclosure.

## 3.0 DISCUSSION

[6] **3.1 Preliminary Issue**—ICBC submitted a minor portion of its initial submission *in camera*, to which the applicant objected “strenuously”. She cast doubt on the need for ICBC to make *in camera* submissions and demanded access to them or, failing that, to know the reasons why ICBC was permitted to

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<sup>2</sup> Page 2, applicant’s initial submission.

make the submissions *in camera*.<sup>3</sup> ICBC said that it submitted only a few words *in camera* and that I have the authority under FIPPA to accept such material.<sup>4</sup>

[7] ICBC is correct that it submitted only a small portion of its submission *in camera*. I also note that, at the time the Registrar of Inquiries for this office carried out the exchange of initial submissions between the parties, she informed the applicant that this Office had found the material in question to be appropriately submitted *in camera*. The information in question would reveal information that could fall under s. 22 of FIPPA. For that reason, I confirm that this information was appropriately submitted *in camera*.

[8] **3.2 Public Interest Override**—I will deal next with the applicant's contention that s. 25(1)(b) applies to the requested information. This section, which has been an issue in a number of orders,<sup>5</sup> reads as follows:

**Information must be disclosed if in the public interest**

25(1) Whether or not a request for access is made, the head of a public body must, without delay, disclose to the public, to an affected group of people or to an applicant, information ...

(b) the disclosure of which is, for any other reason, clearly in the public interest.

[9] The applicant argued that disclosure of the requested information "is clearly in the public interest" for reasons related to environmental issues and scrutiny of local government that she discusses elsewhere in her submission.<sup>6</sup> The applicant said that one of the criteria for determining whether or not an issue relates to a matter of public interest is if the matter has received media coverage. She questioned the relevance of that criterion, asking how a matter can be newsworthy, if the information has not yet been released. In any case, the applicant argued, issues of protecting the environment and preserving farmland have received media attention in recent years.<sup>7</sup>

[10] The applicant also referred to her FIPPA requests to Langley which, she said, resulted in requests for review by this Office and which she said "give additional insight as to why the information requested is in the public interest".<sup>8</sup> The requests for review she referred to relate to the same bylaw complaints and

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<sup>3</sup> Page 6, initial submission.

<sup>4</sup> Page 3, reply submission.

<sup>5</sup> See, for example, Order 02-38, [2002] B.C.I.P.C.D. No. 38, and Order 01-20, [2001] B.C.I.P.C.D. No. 21.

<sup>6</sup> See the applicant's arguments on s. 22(2) below.

<sup>7</sup> Page 5, initial submission.

<sup>8</sup> Page 1, initial submission.

are the subject of two applications under s. 56 by Langley, Decisions F08-05<sup>9</sup> and F08-06,<sup>10</sup> which I am issuing concurrently with this order.

[11] ICBC said that s. 25(1)(b) requires disclosure “without delay” in the “limited and extraordinary circumstances” set out in the provision. It argued that s. 25

... sets a very high triggering threshold and only applies in exceptional or unique circumstances where there is an urgent and compelling need for compulsory public disclosure of information, regardless of whether any of the FIPPA exceptions (like s. 22) apply to it. Section 25 clearly does not compel disclosure about all matters that may be of public concern, interest or debate.<sup>11</sup>

[12] ICBC contended there is no public, as opposed to private, interest in disclosing the requested information. Even if the information does raise a matter of public interest, it continued, “there are no exceptional, urgent or compelling reasons why [s. 25] would apply to require immediate mandatory disclosure”.<sup>12</sup>

[13] There is no basis for the applicant’s arguments on s. 25(1)(b). While I accept that the applicant has concerns about her neighbours’ property and believes there are larger issues involved, I see no clear public interest in disclosure of the requested information. This situation also does not even remotely approach the standards of compelling and urgent disclosure required by s. 25(1)(b). I find that s. 25(1)(b) does not apply.

[14] **3.3 Third-Party Privacy**—Numerous orders have considered the application of s. 22.<sup>13</sup> I apply here without repeating them the principles set out in those orders. The relevant parts of s. 22 read as follows:

**Disclosure harmful to personal privacy**

- 22(1) The head of a public body must refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party’s personal privacy.
- (2) In determining under subsection (1) or (3) whether a disclosure of personal information constitutes an unreasonable invasion of a third party’s personal privacy, the head of a public body must consider all the relevant circumstances, including whether ...

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<sup>9</sup> [2008] B.C.I.P.C.D. No. 22.

<sup>10</sup> [2008] B.C.I.P.C.D. No. 23.

<sup>11</sup> Paras. 8-9, initial submission.

<sup>12</sup> Para. 10, initial submission.

<sup>13</sup> See, for example, Order 01-53, [2001] B.C.I.P.C.D. No. 56, and Order 02-56, [2002] B.C.I.P.C.D. No. 58.

- (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, ...
- (4) A disclosure of personal information is not an unreasonable invasion of a third party's personal privacy if ...
- (i) the disclosure reveals details of a licence, permit or other similar discretionary benefit granted to the third party by a public body, not including personal information supplied in support of the application for the benefit, ....

[15] The following definitions from Schedule 1 of FIPPA are also relevant:

**“personal information”** means recorded information about an identifiable individual other than contact information;

**“contact information”** means information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual;

[16] **3.4 Is it Personal Information?**—ICBC argued that the requested records clearly contain third-party personal information which is not “contact information”.<sup>14</sup> The applicant, on the other hand, argued that it is “contact information”, as it is “all information about owners and employees of a horse and stable business” on the neighbouring property. The applicant stated that the third parties submitted information to Langley indicating that they are employees of the business and are therefore entitled to live on the property.<sup>15</sup>

[17] The applicant specifically requested confirmation, in the form of “vehicle registrations”, “driver’s licence information” or “some other form of official ICBC documentation”, of the following details, which she provided, regarding six specified vehicles, the physical description and licence plate numbers for each of which she also provided:

- name of each vehicle’s registered owner
- residential address of each vehicle’s registered owner

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<sup>14</sup> Para. 12, initial submission. ICBC referred to Order F06-13, [2006] B.C.I.P.C.D. No. 20, at para. 8, in this regard.

<sup>15</sup> Pages 1-2, reply submission.

- length of time each registered owner had lived at the given residential address or addresses

[18] This request was clearly directed at obtaining written confirmation of certain personal details of six named individuals. Past orders have found that recorded information on individuals' names and residential or home addresses is personal information as defined in FIPPA.<sup>16</sup> I also consider that recorded information confirming the length of time of time an individual has lived at a particular residential address and confirming that an individual is the registered owner of a vehicle with a given licence plate number is that individual's personal information.

[19] The requested information was not for use in contacting these individuals at their place of business. According to the applicant's own submission, the request was specifically aimed at confirming these individuals' residential or home addresses, to verify their residency for purposes connected with the applicant's complaint to Langley.<sup>17</sup> The applicant's attempt after the fact to re-frame her request as being for business contact purposes is not persuasive.

[20] I find that the requested information is third-party personal information as defined in FIPPA.

[21] **3.5 Does Section 22(4) Apply?**—Of the various parts of s. 22(4), only s. 22(4)(i) arose here.

### ***Discretionary Benefit***

[22] In the applicant's mind, the requested information falls under s. 22(4)(i), as it appears on a driver's licence and is details of a licence. The applicant referred to Order 03-21<sup>18</sup> and Order No. 135-1996<sup>19</sup> as supporting her interpretation.<sup>20</sup> She stated that she wants all driver's licence information on the individuals whose names she provided.<sup>21</sup> This is "a textbook example of the application" of s. 22(4)(i), in the applicant's view, and in fact no personal information would be disclosed, as "it is already known that these records are being used to establish

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<sup>16</sup> See Order F06-13, [2006] B.C.I.P.C.D. No. 20, at para. 8, for example.

<sup>17</sup> See discussion below on applicant's reasons for requesting the information.

<sup>18</sup> [2003] B.C.I.P.C.D. No. 21.

<sup>19</sup> [1996] B.C.I.P.C.D. No. 63.

<sup>20</sup> ICBC refuted the applicant's reliance on these two orders, saying, among other things, that they did not stand for the propositions the applicant argued they did and that the Commissioners had found that the information in question in those cases should be withheld; pp. 1-3, reply submission.

<sup>21</sup> ICBC said this is not what the applicant originally asked for and this request is not properly made in this inquiry process; p. 3, reply submission. I note however that the applicant said in her original request that she would accept the requested information in the form of "driver's licence information" as well as in a copy of vehicle registrations.

residency". The applicant therefore believes she has "a right of access to these records to see whether or not they establish residency".<sup>22</sup>

[23] The applicant claimed that she specifically requested from Langley a copy of the driver's licence of one of the six individuals in question, who, the applicant said,<sup>23</sup> is the owner of the neighbouring property. The applicant said that, although she had received copies of other records that this individual had supplied to Langley to support the individual's claim of residency, she had not received a copy of the individual's driver's licence because, "conveniently" and "highly suspiciously", Langley staff had only viewed the driver's licence and had not photocopied it. The applicant said this was "extremely peculiar", as Langley staff had photocopied for its files other documents this individual had provided.

[24] ICBC had this to say about s. 22(4)(i):

14. The reference to "similar discretionary benefit" in s. 22(4) implies that this provision would apply only to details of discretionary licences, permits and like benefits. Motor vehicle and trailer registration information is not itself a licence or a permit (discretionary or otherwise), it does not reveal the details of a licence or permit and it is not a discretionary similar benefit. Rather ICBC must issue a licence plate and must register the name and address of the owner of licenced [*sic*] vehicle or trailer in a file or index on certain information being provided. Section 3 of the *Motor Vehicle Act* provides in part:

3(1) Except as otherwise provided in this Act, the owner of a motor vehicle or trailer must, before it is used or operated on a highway,

- (a) register the motor vehicle or trailer with the Insurance Corporation of British Columbia,
- (b) obtain a licence for its operation under this section, and
- (c) obtain for it an owner's certificate under the Insurance (Vehicle) Act ...

(3) The owner must apply for

- (a) registration and licence in the form required by the Insurance Corporation of British Columbia, and
- (b) a motor vehicle liability policy ...

(7) On receiving the application in the form required by the Insurance Corporation of British Columbia, and on being satisfied of the truth of the facts stated in the application, and that the prescribed fees and insurance premium established under the Insurance (Vehicle) Act have been paid, the corporation *must*<sup>24</sup> cause the name and address of the owner and a description of the motor vehicle and trailer to be

<sup>22</sup> Page 2, initial submission; p. 2, reply submission.

<sup>23</sup> At p. 4 of her initial submission.

<sup>24</sup> Italics in ICBC's submission.

registered in a file or index to be kept for that purpose, and must cause the following to be issued to the owner:

- (a) a numbered licence in the form established by the corporation, showing registration of the motor vehicle or trailer and authorizing its use and operation in accordance with this Act;
- (b) one distinctive number plate in the case of a motorcycle or trailer, and 2 distinctive number plates in the case of a motor vehicle other than a motorcycle;
- (c) an owner's certificate and motor vehicle liability insurance card.

15. Even assuming the names and addresses of the registered owners of motor vehicles or trailers as entered into the file or index could be somehow construed as a "licence, permit or discretionary benefit", s. 22(4)(i) does not assist the applicant as the information [s]he seeks is very clearly personal information that was supplied in support of the application for a licence plate and owner's certificate and such personal information is expressly excluded under this provision. Accordingly, ICBC submits that none of the criteria set out in s. 22(4) of FIPPA apply to the information at issue.

[25] In any event, ICBC said, the issuance of a driver's licence is not discretionary. Under s. 25(7) of the *Motor Vehicle Act*, once an applicant fulfils certain criteria, ICBC "must cause to be issued to the applicant a numbered driver's licence in the form established by" ICBC. A person's residential address is not a detail of a licence for s. 22(4)(i) purposes, ICBC said, and thus even if one assumed that s. 22(4)(i) applied, it would not require disclosure of the residential addresses that third parties provide for licence purposes.

[26] I understand ICBC to argue that the requested information does not fall under s. 22(4)(i) because:

- vehicle registration information is not, nor does it reveal details of, "a licence, permit or other similar discretionary benefit granted to the third party by a public body"
- a driver's licence (which I take to contain the desired "driver's licence information") is not, nor does it reveal details of, "a licence, permit or other similar discretionary benefit granted to the third party by a public body"
- in any case, neither a vehicle registration nor a driver's licence is a "discretionary benefit", as ICBC "must" issue these things, as well as a numbered licence plate, upon an applicant providing certain information or fulfilling certain criteria
- the requested information is in any case personal information supplied in support of an individual's application for vehicle registration or a driver's licence



[27] Unfortunately, ICBC did not say what it considers details of a driver's licence or a vehicle registration to be. Nor did it say what personal information is supplied in support of applications for these things and if ICBC collects information on the length of time an individual has lived at a particular residence, for purposes of issuing a driver's licence or vehicle registration. It is not necessary for me to determine what the details of a driver's licence or vehicle registration are, however, as, for reasons given below, I have concluded that neither a vehicle registration nor a driver's licence is a "licence, permit or other similar discretionary benefit" for s. 22(4)(i) purposes.

[28] Although I am not aware of any British Columbia orders that are directly relevant, I found some guidance in Commissioner Loukidelis's consideration of the term "details of a discretionary benefit" in Order 00-53.<sup>25</sup> He found there that an individual's accumulated, unused vacation time was not a discretionary benefit for the purposes of what was then s. 22(4)(j), as there was no evidence that the public body had any discretion in deciding whether or not to pay the individual for that unused vacation time. In fact, he said, the contrary appeared to be the case.

[29] A number of Alberta orders have considered the meaning of "discretionary benefits" and "licence, permit or other similar discretionary benefit" for the purposes of ss. 17(2)(e) and (g) of the Alberta *Freedom of Information and Protection of Privacy Act*.<sup>26</sup> The Alberta orders have found that, where the statute or contract authorizing the particular benefit contains a "may" provision, that is, the public body or decision-maker had a choice as to whether or how to grant the benefit, the benefit in question is "discretionary". The words "other similar discretionary benefit" mean that "licence" and "permit" for the purposes of Alberta's s. 17(2)(g) must also have the characteristics of "discretionary benefits". In other words, the public body must have discretion in whether or how to grant the particular licence or permit.<sup>27</sup>

Since ICBC "must" issue a vehicle registration or a driver's licence once an applicant provides certain information or fulfils certain criteria, neither is a "discretionary benefit" for purposes of s. 22(4)(i). It follows that the requested

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<sup>25</sup> [2000] B.C.I.P.C.D. No. 57, at p. 8.

<sup>26</sup> These provisions read as follows: 17(2) A disclosure of personal information is not an unreasonable invasion of a third party's personal privacy if ... (e) the information is about the third party's ... discretionary benefits ... as an officer, employee or member of a public body ... (g) the information is about a licence, permit or other similar discretionary benefit relating to (i) a commercial or professional activity, that has been granted to the third party by a public body, or (ii) real property, including a development permit or building permit, that has been granted to the third party by a public body, and the disclosure is limited to the name of the third party and the nature of the licence, permit or other similar discretionary benefit. ... .

<sup>27</sup> See, for example, Alberta Orders F2005-016, [2006] A.I.P.C.D. No. 40, F2002-011, [2002] A.I.P.C.D. No. 43, and 98-018, [1999] A.I.P.C.D. No. 1.

information, whether it is found in a vehicle registration or driver's licence, does not fall into s. 22(4)(i). I find that s. 22(4)(i) does not apply in this case.

[27] **3.6 Relevant Circumstances**—ICBC suggested,<sup>28</sup> and I agree, that none of the presumptions in s. 22(3) applies here. Nevertheless, it is necessary to consider under s. 22(1) whether disclosure of the disputed information would be an unreasonable invasion of third-party privacy and, in doing so, to consider the relevant circumstances. In the applicant's view, a number of relevant circumstances, about which she provided overlapping arguments, favour disclosure in this case. ICBC disagrees.

### ***Scrutiny of a public body***

[28] In her discussion of s. 22(2)(a), the applicant reiterated that Langley has allowed an "illegal mobile home" to remain on Agricultural Land Reserve farmland, although the mobile home allegedly has no permit and does not comply with local zoning bylaws. The applicant said she should be able to see the property owner's driver's licence which the owner showed to Langley staff as proof of residency. Disclosure of the requested information is therefore desirable to subject Langley's activities to public scrutiny.<sup>29</sup>

[29] ICBC does not believe it is appropriate to use this criterion to subject ICBC, as another public body, to scrutiny.<sup>30</sup> Although s. 22(2)(a) does not require that the public scrutiny be of the public body handling an access request, ICBC's point that it is Langley, and not ICBC, with whose actions the applicant takes issue is well taken.

[30] Although it is clear that the applicant is dissatisfied with the way Langley has responded to her complaints about the neighbouring property, it is not clear from the material before me what Langley has done (or not done) that would merit further public scrutiny nor how disclosure of the requested information would, in any case, subject the activities of Langley, ICBC or another public body to public scrutiny. I find that s. 22(2)(a) does not apply here.

### ***Promote protection of the environment***

[31] The applicant said that the particular property in question lies on Agricultural Land Reserve farmland, development of which is currently not permitted in order to protect "diminishing supplies of water and the environment".<sup>31</sup> In her view, disclosure of the requested information would promote protection of the environment as it would enable scrutiny of Langley's activities "in allowing an illegal suite village on Agricultural Land Reserve

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<sup>28</sup> At para. 16, initial submission.

<sup>29</sup> Page 4, initial submission.

<sup>30</sup> Page 4, reply submission.

<sup>31</sup> Page 4, initial submission.

farmland in an area of greatest environmental sensitivity” and “disclosure will likely aid in removal of the illegal mobile home”.<sup>32</sup>

[32] The applicant’s arguments on this factor do not explain the connection between the mobile home’s presence on the neighbouring property and any environmental or water supply issues that may be a concern in the area. This is not otherwise at all apparent from the nature of the requested information. Regardless of whether there are environmental issues at stake with respect to the neighbouring property, the requested information would not, in my view, promote protection of the environment. I find that s. 22(2)(b) does not apply here.

### ***Applicant’s legal rights***

[33] ICBC noted that the applicant’s stated reason for requesting the records is to assist her in a bylaw dispute with the Township of Langley. ICBC argued that previous orders have found “rights” to be “legal rights” and that s. 22(2)(c) has been found not to apply where an applicant seeks identifying information about a third party in order to launch legal proceedings.<sup>33</sup> It submitted that Order F06-13, for example, found that the requested information was not relevant to a fair determination of the applicant’s rights, as the applicant could pursue the desired information through the small claims process. ICBC believes that, in this case, it is similarly open to the applicant to obtain the requested information through Langley’s bylaw or complaint process. In any case, ICBC argued that the applicant is not seeking the information in pursuit of her own rights but to convince Langley to enforce its bylaws as she believes they should be enforced.<sup>34</sup>

[34] The applicant advanced these arguments as to why disclosure is relevant to a fair determination of what she called her “rights”:

- she has submitted two property use complaints to Langley requesting the removal of the “illegal mobile home”
- this bylaw dispute is ongoing and does not provide for disclosure of the requested information
- the question of who lives in the buildings on the property, and for how long and where, is “absolutely fundamental to determining the disposition of her complaints and, therefore, her rights”<sup>35</sup>

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<sup>32</sup> Page 4, initial submission.

<sup>33</sup> ICBC referred here to Order 01-07, [2001] B.C.I.P.C.D. No. 7, Order 01-54, [2001] B.C.I.P.C.D. No. 57, Order 02-02, [2002] B.C.I.P.C.D. No. 2, Order F05-31, [2005] B.C.I.P.C.D. No. 42 and Order F06-13, [2006] B.C.I.P.C.D. No. 20.

<sup>34</sup> Paras. 17-21, initial submission.

<sup>35</sup> Page 5, initial submission.

- “this is clearly a textbook example of the application of s. 22(2)(c) and it involves [the respondent’s] right to have the Township of Langley enforce its bylaws and remove the illegal mobile home which is substantially and grievously detrimentally affecting her mental, physical and financial well-being”<sup>36</sup>

[35] I accept that the applicant is personally aggrieved by the continued presence of the mobile home on the neighbouring property and is dissatisfied with Langley’s handling of her complaints. However, it is not at all apparent what “legal rights” the applicant has at stake in the “bylaw dispute” nor how the requested information might be relevant to any such “rights”. The fact that she made two complaints to Langley about the neighbouring property does not give her rights in relation to enforcement, by her directly or through Langley, of the bylaws passed by that local government. Nor does the fact that she has complained to Langley about the situation give her, without more, any “right” to have Langley enforce its bylaws as she would have it do. It is also not clear how the requested information might be relevant to any legal rights the applicant may have at stake in any other forum or proceeding (the applicant has not identified any other proceedings or forums). It is evident, in any case, that the applicant has been able to make her complaints to Langley without the requested third-party personal information. I find that s. 22(2)(c) does not apply here.

***Applicant’s “constitutional right to view evidence”***

[36] The applicant made the following arguments on this factor:

- following her complaints, Langley used ICBC records (*i.e.*, the individual’s driver’s licence mentioned above) as “fundamental evidence” to establish residency regarding the property and mobile home in question
- the individual who showed her driver’s licence to Langley did so voluntarily
- she has a “constitutional right” to “view the evidence used by the Township” in deciding not to pursue the applicant’s property use complaint (apparently by not removing the “illegal mobile home”), a decision which, she argued, affects her as a citizen:

It is a fundamental principle of natural justice in a free and democratic society that a citizen must be allowed to view the evidence used by the state in making a decision affecting a citizen of that state. Star Chambers and Secret Courts must not be permitted in Canada and allowed to undermine Canadian democracy.<sup>37</sup>

[37] ICBC said that the fact that an individual may have voluntarily provided information to Langley does not form a basis for disclosure of the information the

<sup>36</sup> Page 5, initial submission; pp. 2-3, reply submission. The applicant did not explain how the mobile home was having these supposed effects.

<sup>37</sup> Pages 2-3, initial submission.

applicant seeks. The applicant should, in ICBC's view, pursue any concerns she has with the fairness of Langley's bylaw dispute process directly with Langley.<sup>38</sup>

[38] I do not find the applicant's arguments on this point to be persuasive. As noted above, I do not consider that the applicant's status as complainant in the "bylaw dispute" entitles her to see personal information in the hands of another, unconnected, public body, that Langley may have used in disposing of her complaint. I also agree with ICBC that the fact that the other individual may have voluntarily shown his or her driver's licence to Langley staff has no bearing here. I find that this factor has no relevance in this case.

### ***Applicant's awareness of information***

[39] The applicant said that, since she already knows the requested information and ICBC has confirmed it, its disclosure would not be an unreasonable invasion of third-party privacy. She is simply asking for written confirmation of this known information.<sup>39</sup>

[40] ICBC admitted that an ICBC employee orally confirmed that certain information that the applicant provided over the telephone was correct. The employee was later told not to confirm such information in future. ICBC said FIPPA does not permit oral confirmation of third-party personal information. Even if the requested information is the same, which ICBC neither confirms nor denies, the issue here is whether the fact of confirmation is a relevant circumstance favouring disclosure. ICBC does not believe it is relevant. It referred to a number of orders which considered the relevance of the applicant's awareness of requested information and noted that, depending on the circumstances, such previous knowledge may or may not favour disclosure.<sup>40</sup>

[41] The issue of whether FIPPA permits verbal confirmation of certain personal information is not before me. I find, in any case, that the fact that an ICBC employee orally confirmed some information to the applicant over the telephone, in a manner which ICBC now effectively says was unauthorized, does not favour disclosure of the requested information in this case.

### ***Is the applicant entitled to the requested information?***

[42] I have found that the disputed information is third-party "personal information". Although the information does not fall within any of the presumed unreasonable invasions of personal privacy in s. 22(3), this does not mean, as the Commissioner has said in similar circumstances,<sup>41</sup> that, under s. 22(1), the

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<sup>38</sup> Page 4, reply submission.

<sup>39</sup> Pages 4-5, initial submission.

<sup>40</sup> Paras. 22-26, initial submission; affidavits of ICBC employee, portion received *in camera*.

<sup>41</sup> See, for example, Order 00-42, [2000] B.C.I.P.C.D. No. 46, and Order F05-28, [2005] B.C.I.P.C.D. No. 38, where the Commissioner found that third parties' home and email address

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information can be disclosed without unreasonably invading third-party privacy. In this case, none of the relevant circumstances favours disclosure of the requested information about the third parties. The applicant has not established that this third-party personal information should be disclosed and I find that s. 22(1) requires ICBC to withhold it

#### **4.0 CONCLUSION**

[43] For the reasons given above, under s. 58 of the Act, I require ICBC to refuse access to the information which it withheld under s. 22(1).

July 16, 2008

#### **ORIGINAL SIGNED BY**

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Celia Francis  
Senior Adjudicator

OIPC File: F07-31076

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information, although it did not fall under s. 22(3), had to be withheld under s. 22(1). See also Order F06-13, [2006] B.C.I.P.C.D. No. 20, where I found that ICBC was required to refuse access to the name and home address of the registered owner of an identified licence plate.