

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER 2001-004

July 10, 2001

WORKERS' COMPENSATION BOARD

Review Number 1201

Office URL: <http://www.oipc.ab.ca>

Summary: On March 12, 1991, the Complainant was injured while working at her employment. The Workers' Compensation Board granted the Complainant compensation from the time of the accident until September 30, 1996. The Complainant subsequently requested a review of the Workers' Compensation Board's collection, use and disclosure of her personal information as well as the accuracy and completeness of that information under the *Freedom of Information and Protection of Privacy Act*.

The Commissioner held that the Workers' Compensation Board did not breach the collection provisions under sections 32 and 33 nor the provisions regarding accuracy and completeness under section 34. In addition, the Commissioner found that he did not have the jurisdiction under section 37 to decide what personal information a decision-maker should use when making a decision. The Commissioner found that section 37 only ensures that, if the Public Body uses personal information of an individual, the information is used in accordance with the purposes listed in the section.

However, the Commissioner found that the Workers' Compensation Board breached section 38 of the Act when it disclosed the Complainant's entire x-ray file to a medical specialist in the United States.

Statutes Cited: **AB:** *Freedom of Information and Protection of Privacy Act*, S.A. 1994 c.F-18.5, ss. 1(1)(n), 32(a), 33(1)(a)(ii), 34(a), 35, 37, 38(1)(b)(e)(j), 39, 51(1)(a), 62(3); *Workers' Compensation Act*, S.A. 1991, c.W-16, ss. 29(1)(a), 31, 33(1), 33(3), 75.

Authorities Cited: AB: Orders 98-002, 2000-002

I. BACKGROUND

[para 1.] On March 12, 1991, the Complainant was injured while working at her employment. The Workers' Compensation Board (the "Public Body") granted the Complainant compensation for her injuries from the time of the accident until September 30, 1996.

[para 2.] On November 21, 1996, the Complainant complained about the Public Body's collection, use, disclosure, accuracy and completeness of her personal information under the *Freedom of Information and Protection of Privacy Act* (the "FOIP Act").

[para 3.] This Office conducted an investigation under section 51(1)(a) of the FOIP Act. On October 20, 1999, the investigator assigned to this file issued an investigation report.

[para 4.] The Complainant was not satisfied with the investigation report. On February 10, 2000, the Complainant requested a review of the Public Body's collection, use, disclosure, accuracy and completeness of her personal information under section 62 of the FOIP Act.

[para 5.] The matter was set down for a written inquiry.

[para 6.] In this inquiry, the Public Body made an initial submission which briefly commented on the issues set out in the inquiry notice. Despite several requests by this Office, the Complainant did not send an initial submission to this Office. Neither party submitted a rebuttal submission.

[para 7.] On October 5, 2000, my legal counsel wrote to the parties requesting additional information. The Public Body sent an additional submission by the October 30, 2000 deadline stipulated in the letter. The Complainant faxed a partial submission by the deadline, but also faxed a letter that requested the deadline be extended for the rest of her submission. In that fax, the Complainant stated that she required an extension because it was taking longer than expected to collect the information she needed to make the additional submission.

[para 8.] On October 30, 2000, I wrote to the Complainant denying the Complainant's request for an extension. I found that the Complainant had not provided me with sufficient reasons that would warrant granting an extension.

[para 9.] On February 12, 2001, my legal counsel once again wrote to the parties requesting further information. In response, both parties provided additional information to me.

[para 10.] This Order proceeds on the basis of the Act as it existed before the amendments to the Act came into force on May 19, 1999.

II. RECORDS AT ISSUE

[para 11.] The request for review was made on February 10, 2000. The Public Body provided my Office with evidence that, as of that date, it had collected, used or disclosed 1773 pages of records regarding the Complainant. As such, there are 1773 pages of records at issue in this inquiry.

III. ISSUES

[para 12.] There are seven issues in this inquiry:

A) Does the *FOIP Act* apply to the issues raised by the Complainant? If so, to which records or issues does the *FOIP Act* apply?

B) Did the Public Body have the authority under section 32 of the *FOIP Act* to collect personal information about the Complainant?

C) Did the Public Body have authority under section 33 of the *FOIP Act* to indirectly collect personal information about the Complainant?

D) Did the Public Body make every reasonable effort to ensure that the Complainant's personal information was accurate and complete as required by section 34 of the *FOIP Act*?

E) Did the Public Body use the Complainant's personal information in accordance with section 37 of the *FOIP Act*?

F) Did the Public Body have authority under section 38 of the *FOIP Act* to disclose the Complainant's personal information?

G) Did the Public Body contravene section 38 of the *FOIP Act* by disclosing third party personal information?

IV. DISCUSSION

Issue A: Does the *FOIP Act* apply to the issues raised by the Complainant? If so, to which records or issues does the *FOIP Act* apply?

[para 13.] The *FOIP Act* was substantially proclaimed in force on October 1, 1995. As such, I do not have the jurisdiction to review the Public Body's collection, use, disclosure, accuracy or retention of personal information before October 1, 1995. My jurisdiction extends only to the collection, use, disclosure, accuracy or completeness of records after October 1, 1995.

[para 14.] I also note that in Order 2000-002, I stated that the terms "collection" and "access" are not synonymous. A Public Body will have "collected" personal information after October 1, 1995, if it obtains that personal information in the first instance after October 1, 1995. Each new "access" of personal information within a Public Body after October 1, 1995 can not be considered a new "collection" for the purposes of section 32 or 33 of the *FOIP Act*.

Issue B: Did the Public Body have the authority under section 32 of the *FOIP Act* to collect personal information about the Complainant?

[para 15.] In the Complainant's request for review, the Complainant states that the Public Body did not have the authority to collect personal information regarding her prior medical condition.

[para 16.] The Public Body states that it had the authority under section 32(a) of the *FOIP Act* to collect the Complainant's personal information.

[para 17.] Section 32(a) permits a Public Body to collect personal information if the collection is expressly authorized under an Act of Alberta or Canada. Section 32(a) reads:

32 No personal information may be collected by or for a public body unless

(a) the collection of that information is expressly authorized by or under an Act of Alberta or Canada,

[para 18.] In Order 98-002, I said that the Public Body's legislative authority to collect personal information under section 32(a) of the *FOIP Act* is contained in sections 29 and 31 of the *Workers' Compensation Act*. Furthermore, in Order 98-002, I said that section 31 of the *Workers' Compensation Act* only gives the Public Body the authority to collect information if the information relates to both the "disability" and the "compensation" of the disability. In that Order, I also said that the use of the phrase "that it considers necessary" in section 31 of the *Workers' Compensation Act* implies that the Public Body has the discretion to decide what information is necessary relative to the

disability and compensation. As such, I said that I would give the Public Body considerable latitude in deciding whether the collection of personal information is necessary relative to the disability and compensation.

[para 19.] Section 29(1)(a) of the *Workers' Compensation Act* reads:

29(1) A physician who attends an injured worker shall

(a) forward a report to the Board

(i) within 2 days after the date of his first attendance on the worker if he considers that the injury to the worker will or is likely to disable him for more than the day of the accident or that it may cause complications that may contribute to disablement in the future, and

(ii) at any time when requested by the Board to do so

[para 20.] Section 31 of the *Workers' Compensation Act* reads:

31 The Board may require from any person entitled to compensation, whether a worker or dependant, particulars of his place of residence, address and other information relative to the disability and compensation, that it considers necessary, and pending the receipt of those particulars the Board may withhold compensation payments.

[para 21.] I find that the Public Body collected the Complainant's personal information as defined in section 1(1)(n) of the FOIP Act. In addition, I have reviewed all of the personal information that was collected after October 1, 1995 regarding the Complainant's prior medical condition. I find that both sections 29(1)(a) and 31 of the *Workers' Compensation Act* expressly authorize the Public Body to collect this personal information. As such, I find that the collection of the personal information fulfilled the requirements of section 32(a) of the *FOIP Act*.

Issue C: Did the Public Body have authority under section 33 of the *FOIP Act* to indirectly collect personal information about the Complainant.

[para 22.] The Complainant states that the Public Body did not have the authority to indirectly collect her medical information.

[para 23.] The Public Body states that it had the authority to indirectly collect the Complainant's medical information under section 33(1)(a)(ii), (c) and (g) of the *FOIP Act*. The Public Body also states that sections 33(1) and 33(3) of the *Workers' Compensation Act* are relevant to section 33(1)(a)(ii) of the *FOIP Act*. The Public Body states that, under section 33(1) of the *Workers' Compensation Act*, the Public Body may require a worker undergo an examination by a physician selected by the Public Body.

Furthermore, under section 33(3) of the *Workers' Compensation Act*, the Public Body may require a "medical investigation" such as a documentary review to be conducted by a physician.

[para 24.] After a review of the records that were indirectly collected after October 1, 1995, I find that the Public Body was authorized to indirectly collect the Complainant's medical information under section 33(1)(a)(ii) of the *FOIP Act*. This section reads:

33(1) A public body must collect personal information directly from the individual the information is about unless

(a) another method of collection is authorized by

...

(ii) another Act or a regulation under another Act...

[para 25.] In particular, I find that sections 29(1)(a), 33(1) and 33(3) of the *Workers' Compensation Act* are relevant to section 33(1)(a)(ii) of the *FOIP Act*. These sections read as follows:

29(1) A physician who attends an injured worker shall

(a) forward a report to the Board

(i) within 2 days after the date of his first attendance on the worker if he considers that the injury to the worker will or is likely to disable him for more than the day of the accident or that it may cause complications that may contribute to disablement in the future, and

(ii) at any time when requested by the Board to do so

...

33(1) A worker claiming compensation or to whom compensation is payable under this Act shall, if the Board requires it, undergo a medical examination by a physician selected by the Board and at a time and place determined by the Board and the Board shall pay the costs of that examination.

...

(3) If a worker claims compensation under this Act the Board, in order to assist it in determining the workers' entitlement to compensation, may

(a) require that a medical investigation be conducted in respect of the worker in the manner it considers necessary, or

(b) accept the results of a medical investigation already conducted in respect of that worker,

and in either case, the Board may pay the costs of the investigation.

[para 26.] These sections require a physician to submit medical information to the Public Body either as a result of an independent assessment or through an assessment ordered by the Public Body. I find that the Public Body had the authority under sections 29(1)(a), 33(1) and 33(3) of the *Workers' Compensation Act* to indirectly collect the personal information. As such, I find that the requirements of section 33(1)(a)(ii) of the *FOIP Act* are fulfilled.

Issue D: Did the Public Body make every reasonable effort to ensure that the Complainant's personal information was accurate and complete as required by section 34 of the Act?

[para 27.] The Complainant states that the Public Body did not make every reasonable effort to ensure that the Complainant's personal information was accurate and complete. In particular, she states that her personal information is inaccurate because the Public Body collected investigative assessments from physicians who did not examine her. In addition, she states that one of the records is inaccurate because it lists a medical condition she did not have. She also states that she found the records of other claimants on her file.

[para 28.] The Public Body states that it made every reasonable effort to ensure the Complainant's personal information was accurate and complete.

[para 29.] Section 34(a) reads:

34 If an individual's personal information will be used by a public body to make a decision that directly affects the individual, the public body must

(a) make every reasonable effort to ensure that the information is accurate and complete...

[para 30.] In Order 98-002, I addressed the application of section 34(a). I stated that two conditions must be satisfied before section 34(a) applies to a public body: there must be an individual's personal information, and a public body must intend to use the personal information to make a decision that directly affects the individual. If these two conditions are met, then section 34(a) imposes a duty on a public body to make every reasonable effort to ensure that the personal information is accurate and complete.

(a) Did the Public Body use the Complainant's personal information to make a decision that directly affects the Complainant?

[para 31.] The term "personal information" is defined in section 1(1)(n) of the *FOIP Act*. The relevant parts of section 1(1)(n) read as follows:

1(1) In this Act,

(n) "personal information" means recorded information about an identifiable individual, including

(i) the individual's name, home or business address or home or business telephone number,

(iii) the individual's age, sex, marital status or family status,

(vi) information about the individual's health and health care history, including information about a physical or mental disability,

(vii) information about the individual's educational, financial, employment or criminal history, including criminal records where a pardon has been given,

(viii) anyone else's opinions about the individual, ...

[para 32.] I have reviewed the records at issue in the Complainant's file. I have found that the records of a number of other claimants were placed on the file. These records include:

- a) Alberta Health invoice dated October 18, 1991, listing the benefits paid for a number of other claimants.
- b) A letter from a physiotherapy clinic dated September 10, 1991, which lists the accounts for a number of other claimants.
- c) The second page of a letter dated October 25, 1993, from the Minister of Alberta Labour to another claimant.
- d) An eight-page "VRD - Special Services Assessment" dated June 12, 1992 of another claimant.
- e) A copy of a cheque dated September 3, 1992 regarding another claimant.
- f) A six-page "VRD- Special Services Assessment" dated November 1, 1992 regarding another claimant.

[para 33.] I find that these records do not contain the Complainant's personal information nor is there any evidence before me that this information was used to make a decision about the Complainant.

[para 34.] However, I find that the other records on the file contain the Complainant's personal information as defined under section 1(1)(n). In addition, I find that the Public Body used this information to make decisions that directly affected the Complainant. These decisions include, among others, decisions to refer the Complainant's case to outside physicians, a decision to arrange a medical review committee and a decision to suspend compensation payments on September 30, 1996.

(b) Did the Public Body make every reasonable effort to ensure that the Complainant's personal information was accurate and complete?

[para 35.] In Order 98-002, I addressed the requirements of section 34(a) and defined the term "accurate" to mean, in part, "careful; precise; lacking errors". I defined the term "complete" to mean, in part, "having all its parts; entire; finished". In that Order I also stated that the phrase "every reasonable effort" requires a public body to take positive steps to ensure that the personal information was accurate and complete before using the personal information to make a decision.

[para 36.] After a review of the records at issue, I find that the records submitted to the Public Body by external physicians were accurate and complete under section 34(a). There is no evidence before me to suggest otherwise.

[para 37.] I also reviewed the record that the Complainant states inaccurately referred to a specific medical condition. Although the Complainant states that she did not have this condition, her Alberta Health Care Statement also refers to that same condition. After a review of this record and the submissions of the parties, I find that I do not have sufficient evidence before me that the Public Body did not make a reasonable effort to ensure that the information on this record was accurate and complete under section 34(a).

[para 38.] If the Complainant chooses to do so, the Complainant may make a formal request to the Public Body under section 35 requesting a correction of that record. The Public Body would then be required to investigate and respond to her correction request according to the timelines in the *FOIP Act*.

Issue E: Did the Public Body use the Complainant's personal information in accordance with section 37 of the *FOIP Act*?

[para 39.] The Complainant states that the Public Body did not use the Complainant's personal information in accordance with section 37 of the *FOIP Act*. The Complainant states that the Public Body ignored the reports of several physicians when it made the decision to halt the compensation payments.

[para 40.] Section 37 reads as follows:

37 A public body may use personal information only

(a) for the purpose for which the information was collected or compiled or for a use consistent with that purpose

(b) if the individual the information is about has identified the information and consented, in the prescribed manner, to the use, or

(c) for a purpose for which that information may be disclosed to that public body under section 38, 40 or 41.

[para 41.] After a review of the records and the submissions of all the parties, I find that I do not have the jurisdiction to address the Complainant's complaint. Section 37 does not give me the jurisdiction to decide what personal information a decision-maker should use when making a decision under section 37. Section 37 only ensures that, if the Public Body uses personal information, the information is used only in accordance with the purposes listed in that section.

Issue F: Did the Public Body have authority under section 38 of the *FOIP Act* to disclose the Complainant's personal information?

[para 42.] On October 11, 1995, one of the Public Body's dental consultants wrote to another doctor who was working in the United States and requested a medical opinion about the Complainant. Along with that letter, the dental consultant enclosed a number of the Complainant's x-rays.

[para 43.] The Complainant states that this disclosure violated section 38 of the *FOIP Act*. The Complainant states that many of the x-rays sent to the medical specialist were not relevant to her compensation claim and should not have been sent to the medical specialist. In support, she refers to the first line of the October 11, 1995 letter which states that some of the x-rays which were included with the letter consist of brain MRIs which were "mistakenly included and need not be examined".

[para 44.] The Public Body acknowledges that the x-rays were sent to the physician in the United States. However, the Public Body states that this disclosure was authorized by section 38(1)(b), (e) and (j) of the *FOIP Act*.

[para 45.] These sections read as follows:

38(1) A public body may disclose personal information only

(b) for the purpose for which the information was collected or compiled or for a use consistent with that purpose,

...

(e) for any purpose in accordance with an enactment of Alberta or Canada that authorizes or requires the disclosure,

...

(j) for the purpose of determining an individual's suitability or eligibility for a program or benefit,

[para 46.] Section 39 is relevant to section 38(1)(b):

39 For the purposes of section 37(a) and 38(b), a use or disclosure of personal information is consistent with the purpose for which the information was collected or compiled if the use or disclosure

(a) has a reasonable and direct connection to that purpose, and

(b) is necessary for performing the statutory duties of, or for operating a legally authorized program of, the public body that uses or discloses the information.

[para 47.] The Public Body also states that section 33(3) and section 75 of the *Workers' Compensation Act* are relevant to section 38(1)(e) of the *FOIP Act*. These sections read as follows:

33(3) If a worker claims compensation under this Act the Board, in order to assist it in determining the worker's entitlement to compensation, may

(a) require that a medical investigation be conducted in respect of the worker in the manner it considers necessary, or

(b) accept the results of a medical investigation already conducted in respect of that worker,

and, in either case, the Board may pay the costs of the investigation.

75(1) The Board shall determine all questions as to the necessity, character and sufficiency of, and the amount payable in respect of, any medical aid provided to a worker who suffers an accident.

(2) No action lies against

(a) a worker, his legal personal representatives or his dependants for the recovery of any money in connection with medical aid provided to the worker under this Part, or

(b) the Board for any amount in excess of the amount determined by the Board as payable in respect of medical aid provided under this Part,

regardless of whether the medical aid is provided before or after the coming into force of this Act.

(emphasis added)

[para 48.] After a review of the October 11, 1995 letter, I find that the Public Body's disclosure of the Complainant's x-ray file to a medical specialist in the United States was in violation of section 38 of the *FOIP Act*.

[para 49.] In Order 98-002, I said that section 38(1)(b) of the *FOIP Act* permits the Public Body to disclose a complainant's personal information to an independent medical specialist if the disclosure would be consistent with the purpose of determining eligibility for compensation. Given the content of the October 11, 1995 letter, I find that the disclosure of the x-rays was not for the purpose of determining the Complainant's eligibility for compensation and was not consistent with that purpose. This is further supported by the Public Body's submission, where the Public Body states that the entire x-ray file was sent to the United States in order to avoid the loss of some of those x-rays.

[para 50.] Similarly, I do not find that the Public Body disclosed the x-rays in accordance with an enactment of Alberta or Canada under section 38(1)(e). Although section 33(3) of the *Workers' Compensation Act* states that the Public Body may require that a medical investigation be conducted "in the manner it considers necessary", this section also clearly states that this medical investigation may only be conducted in order to assist the Public Body in determining a worker's entitlement to compensation. In this case, the October 11, 1995 letter clearly indicates that the x-rays were not sent to the U.S. physician for the purpose of determining the Complainant's eligibility for compensation but rather for the sake of convenience. This is further supported by the Public Body's submission which states that the entire x-ray file was sent to the United States to prevent loss of some of the x-rays.

[para 51.] Lastly, I do not find that the Public Body disclosed the records for the purpose of determining an individual's suitability or eligibility for a program or benefit under section 38(1)(j). As I previously mentioned, the October 11, 1995 letter and the Public Body's submission to my Office, both indicate that the x-rays were not disclosed for the purpose of determining the Complainant's suitability or eligibility for a program or benefit.

[para 52.] However, I note that this breach occurred on October 11, 1995, only six days after the Act came into force. I also note that the Public Body has assured me that it

has taken steps to ensure that this type of disclosure does not happen in the future. These steps include:

- a) Conducting approximately 26 FOIP Awareness sessions for approximately 900 staff between July and October of 1998 and May of 1999.
- b) Conducting “Customer Connect teams” for approximately 350 staff in April, 2000. These sessions addressed the Act and the procedures to follow when misfiled, or irrelevant information needs to be moved to the proper file or needs to be removed from the claim file.
- c) Ongoing improvements have been initiated, since 1998, to the collection, use and disclosure procedures. Furthermore, continuous improvements have been initiated on the basis of a Privacy Audit.

[para 53.] Given the extent of the steps taken by the Public Body to ensure that this type of disclosure does not happen again, I do not find it necessary to make an order in this regard.

Issue G: Did the Public Body contravene section 38 of the *FOIP Act* by disclosing third party personal information?

[para 54.] The Complainant states that the Public Body contravened the *FOIP Act* when it sent the personal information of other claimants to her.

[para 55.] Section 62(3) of the *FOIP Act* states that a person who believes that the person’s own personal information has been collected, used or disclosed in violation of Part 2 may ask the Commissioner to review the matter. Section 62(3) does not give the Applicant the right to request a review of the disclosure of the other individuals’ personal information. Only those other individuals can ask for a review.

[para 56.] If those other individuals had asked for a review, I would have found that the Public Body breached section 38 by disclosing the following personal information to the Complainant:

- a) Alberta Health invoice dated October 18, 1991, listing the benefits paid in regard to a number of other claimants.
- b) A letter from a physiotherapy clinic dated September 10, 1991 which lists the accounts for a number of other claimants.
- c) The second page of a letter dated October 25, 1993, from the Minister of Alberta Labour to another claimant.
- d) An eight-page “VRD - Special Services Assessment” dated June 12, 1992 of another claimant.

e) A copy of a cheque dated September 3, 1992 regarding another claimant.

f) A six- page “VRD- Special Services Assessment” dated November 1, 1992 regarding another claimant.

[para 57.] Section 38 states that a Public Body may only disclose the personal information of an individual in accordance with one of the criteria set out in section 38. By this order, I intend to bring to the head’s attention that the criteria for disclosure under section 38 were not fulfilled.

V. ORDER

[para 58.] I make the following Order under section 68 of the *FOIP Act*:

A) Does the *FOIP Act* apply to the issues raised by the Complainant? If so, to which records or issues does the *FOIP Act* apply?

[para 59.] The *FOIP Act* was substantially proclaimed in force on October 1, 1995. As such, I find that I do not have the jurisdiction to review the Public Body’s collection, use, disclosure and accuracy or completeness of personal information before October 1, 1995. My jurisdiction extends only to the Public Body’s collection, use, disclosure and accuracy or completeness of personal information after October 1, 1995.

B) Did the Public Body have the authority under section 32 of the *FOIP Act* to collect personal information about the Complainant?

[para 60.] I have reviewed all of the personal information collected after October 1, 1995 regarding the Complainant’s prior medical condition. I find that the Public Body had the authority under section 32(a) of the *FOIP Act* to collect this personal information.

C) Did the Public Body have authority under section 33 of the *FOIP Act* to indirectly collect personal information about the Complainant?

[para 61.] I have reviewed all of the personal information that was indirectly collected after October 1, 1995. I find that the Public Body was authorized to indirectly collect this personal information under section 33(1)(a)(ii) of the *FOIP Act*.

D) Did the Public Body make every reasonable effort to ensure that the Complainant’s personal information was accurate and complete as required by section 34 of the *FOIP Act*?

[para 62.] I find that the Public Body made every reasonable effort to ensure that the Complainant’s personal information was accurate and complete under section 34(a). In addition, I do not find that the Public Body breached section 34(a) by placing the records

of other claimants on the Complainant's file. These records do not contain the Complainant's personal information, nor do I find that there is any evidence that these records were used to make a decision about the Complainant. As such, I find that the Public Body did not breach section 34(a) in regard to these records.

E) Did the Public Body use the Complainant's personal information in accordance with section 37 of the *FOIP Act*?

[para 63.] The Complainant states that the Public Body breached section 37 by failing to take into account the reports of several doctors when it made its decision to halt compensation payments to the Complainant. I find that section 37 does not give me the jurisdiction to decide what personal information a decision-maker should take into consideration when making a decision. Section 37 only ensures that, if the Public Body uses personal information of an individual, that the Public Body uses the information only in accordance with the purposes listed in the section.

F) Did the Public Body have authority under section 38 of the *FOIP Act* to disclose the Complainant's personal information?

[para 64.] I find that the Public Body breached section 38 of the *FOIP Act* when it disclosed the Complainant's entire x-ray file to a medical specialist in the United States. However, I note that this breach occurred on October 11, 1995, only 6 days after the *FOIP Act* came into force. I also note that the Public Body has taken a number of steps to ensure that this type of disclosure does not happen in the future. As such, I do not find it necessary to make an order in this regard.

G) Did the Public Body contravene section 38 of the *FOIP Act* by disclosing third party personal information?

[para 65.] Section 62(3) does not give the Applicant the right to request a review of the disclosure of the other individuals' personal information. Only those other individuals can ask for a review. If they had, I would have found that the Public Body breached section 38 by disclosing certain personal information of those individuals to the Applicant. By this Order, I am bringing to the head's attention that the criteria for disclosure under section 38 were not fulfilled.

Robert C. Clark
Information and Privacy Commissioner