ALBERTA

OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

ORDER F2024-32

October 4, 2024

ENVIRONMENT AND PROTECTED AREAS

Case File Number 021193

Office URL: www.oipc.ab.ca

Summary: The Applicant made an access request to Environment and Protected Spaces for the following:

> A copy of any spreadsheets or reports prepared annually or quarterly between Jan. 1, 2017 and Jan. 5, 2021 that outline fees collected or uncollected fees used to cover the costs of the Oilsands Monitoring Program
>
> Time period: Jan 1, 2017 to Jan 5, 2021

The Public Body located responsive records but severed information from them on the basis that it was "nonresponsive" and on the basis of section 25 of the FOIP Act, which authorizes a public body to withhold information from an applicant if the disclosure would be harmful to the economic interests of the Government of Alberta.

The Adjudicator found that section 25 did not apply to the records and that the records were responsive. She ordered the Public Body to give the Applicant access to all the information it had severed from the records, including the records to which it had applied the term "non-responsive".

Statutes Cited: AB: *Freedom of Information and Protection of Privacy Act,* R.S.A. 2000, c. F-25, ss. 25, 72

Orders Cited: AB: 96-016, F2018-75; F2022-20, F2024-17

Cases Cited: *Alberta Energy v Alberta (Information and Privacy Commissioner)*, 2024 ABKB 198 (CanLII); *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, 2014 SCC 31 (CanLII)

I. BACKGROUND

[para 1] The Applicant made an access request dated January 18, 2021 to Environment and Protected Spaces (the Public Body). The Applicant requested:

> A copy of any spreadsheets or reports prepared annually or quarterly between Jan. 1, 2017 and Jan. 5, 2021 that outline fees collected or uncollected fees used to cover the costs of the Oilsands Monitoring Program
>
> Time period: Jan 1, 2017 to Jan 5, 2021

[para 2] The Public Body responded to the Applicant's access request, but withheld information from the Applicant under section 25 (disclosure harmful to the economic and other interests of a public body) and as "non-responsive".

[para 3] The Applicant requested review by the Commissioner. The Commissioner agreed to conduct an inquiry in relation to the Public Body's severing decisions and delegated the authority to conduct it to me.

II. DISCUSSION OF ISSUES

ISSUE A: Does section 25 of the FOIP Act authorize the Public Body to sever information from the records?

[para 4] The Public Body applied sections 25(1)(b) and (c)(i) to a column in the spreadsheets responsive to the access request that reveals the amounts paid by industry members in principal and penalty for the years 2019 – 2021.

[para 5] Section 25 states, in part:

> *25(1) The head of a public body may refuse to disclose information to an applicant if the disclosure could reasonably be expected to harm the economic interest of a public body or the Government of Alberta or the ability of the Government to manage the economy, including the following information:*
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> *(a) trade secrets of a public body or the Government of Alberta;*
>
> *(b) financial, commercial, scientific, technical or other information in which a public body or the Government of Alberta has a proprietary interest or a right of use and that has, or is reasonably likely to have, monetary value;*

> *(c) information the disclosure of which could reasonably be expected to*
>
> *(i) result in financial loss to,*
>
> *(ii) prejudice the competitive position of, or*
>
> *(iii) interfere with contractual or other negotiations of, the Government of Alberta or a public body[…]*

[para 6] Section 25(1) recognizes that there is a public interest in withholding information that could reasonably be expected to harm the economic interests of the Government of Alberta or a public body, or the Government of Alberta's ability to manage the economy, if disclosed.

[para 7] In Order 96-016, former Commissioner Clark considered section 25(1)(c), (then section 24(1)(c)). He said:

> The public body claims that section [25(1)] should be interpreted so that the harm to a public body does not have to result directly from disclosing the specific information, but can be "harm at large" or "indirect harm" (my interpretation of the public body's claim). The essence of the public body's argument is this: The information in the record was produced under a contract between a division of a public body and an organization independent of government. There was a confidentiality clause in that contract, which restricts publication of the information. Releasing this information under the Act, contrary to the confidentiality clause, will affect AEC's and, consequently, ARC's contracts with this and other organizations, thereby causing harm to both AEC and ARC. Harm will result from cancelled contracts, and from other organizations bypassing AEC and ARC, knowing they are subject to the Act. That harm is quantifiable.
>
> However reasonable the public body's argument sounds, I do not think that section [25(1)] can or should be interpreted as the public body claims. Section [25(1)] focuses on the harm resulting from the disclosure of that specific information. The wording of section [25(1)] implies that it is the specific information itself that must be capable of causing the harm, if that information is disclosed. When I look at the kinds of information listed in section [25(1)(a)-(d)], two things are clear to me: (i) the legislature had very specific kinds of information in mind when it was contemplating what information had the potential to cause harm if disclosed; and (ii) there must be a direct link between disclosure of that specific information and the harm resulting from disclosure; in other words, there must be something in the information itself capable of causing the harm.

[para 8] A public body seeking to withhold information under section 25 must establish a direct link between the disclosure of the specific information it seeks to withhold and a reasonable expectation of harm to the Government of Alberta's or its own economic interests.

[para 9] In *Alberta Energy v Alberta (Information and Privacy Commissioner)*, 2024 ABKB 198 (CanLII), Teskey J. said the following regarding the burden of proof in an inquiry:

> Third, the public body must justify each denial on its own merits. No blanket privilege accompanies the statutory exceptions under *FOIPP*. Each decision to withhold specific information must be made individually. Where a public body chooses to apply a heavy hand to

> redacting records, it is required to justify these redactions line by line. One would hope that this would imbue an attitude of practicality and proportionality into the vetting process.
> There is strong public policy justification for these obligations. The requesting party seeking the withheld record must argue for its production without the benefit of the impugned record itself. It is reasonable to expect the public body to put its best foot forward with evidence to support its denials precisely and individually for each part of a record. [My emphasis]

This principle is clearly articulated in the guidance provided to parties on inquiries by the OIPC:

> > Parties may not succeed in an inquiry if they do not provide evidence to support their arguments. If the success of an argument depends on underlying facts, providing the argument alone is not sufficient. The underlying facts must be established by evidence. As well, evidence should not be provided in the form of unattributed assertions made in the context of an argument. If a fact is being put forward, it must be shown how this fact is known to be true (e.g., by way of a statement, preferably sworn, of someone who knows the fact, or by other objective evidence, such as documents).
> >
> > It is not sufficient to provide the Commissioner with records and leave it up to the Commissioner to try to draw from the records the facts on which the decisions will be based. The Commissioner requires that persons representing the public body, custodian or organization provide evidence speaking to the contents of the records, for example by explaining how each part of a record for which an exception to disclosure is claimed falls within the exception. If the explanation depends on certain facts being true, the public body, custodian or organization must provide evidence of these facts.

[para 10] In the foregoing case, Teskey J. confirmed that public bodies have the burden in an inquiry of establishing that they properly applied exceptions to disclosure. From the foregoing, I understand that the Public Body must establish the facts necessary to support the application of the exceptions it has applied to the information it has withheld from an applicant.

[para 11] The phrase "could reasonably be expected to", which appears in section 25(1), has been interpreted by the Supreme Court of Canada. In *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, 2014 SCC 31 (CanLII), the Court stated:

> Given that the statutory tests are expressed in identical language in provincial and federal access to information statutes, it is preferable to have only one further elaboration of that language; *Merck Frosst*, at para. 195:
>
> > I am not persuaded that we should change the way this test has been expressed by the Federal Courts for such an extended period of time. Such a change would also affect other provisions because similar language to that in s. 20(1)(c) is employed in several other exemptions under the Act, including those relating to federal-provincial affairs (s. 14), international affairs and defence (s. 15), law enforcement and investigations (s. 16), safety of individuals (s. 17), and economic interests of Canada (s. 18). In addition, as the respondent points out, the "reasonable expectation of probable harm" test has been followed with respect to a number of similarly worded provincial access to information statutes. Accordingly, the legislative interpretation of this expression is of importance both to the application of many exemptions in the federal Act and to similarly worded provisions in various provincial statutes. [Emphasis added.]
>
> This Court in *Merck Frosst* adopted the "reasonable expectation of probable harm" formulation and it should be used wherever the "could reasonably be expected to" language is used in access to

> information statutes. As the Court in *Merck Frosst* emphasized, the statute tries to mark out a middle ground between that which is probable and that which is merely possible. An institution must provide evidence "well beyond" or "considerably above" a mere possibility of harm in order to reach that middle ground: paras. 197 and 199. This inquiry of course is contextual and how much evidence and the quality of evidence needed to meet this standard will ultimately depend on the nature of the issue and "inherent probabilities or improbabilities or the seriousness of the allegations or consequences": *Merck Frosst*, at para. 94, citing *F.H. v. McDougall*, 2008 SCC 53 (CanLII), [2008] 3 S.C.R. 41, at para. 40.

[para 12] In Order F2024-17, the Adjudicator reviewed the foregoing decision and said:

> The Supreme Court of Canada has made it clear that there is one evidentiary standard to be used wherever the phrase "could reasonably be expected to" appears in access-to-information legislation. There must be a reasonable expectation of probable harm, and the Public Body must provide sufficient evidence to show that the likelihood of any of the above scenarios is "considerably above" a mere possibility.

[para 13] A public body seeking to withhold information under section 25(1) must establish a link between the disclosure of the specific information and a reasonable expectation of probable harm to the Government of Alberta's or a public body's economic interests.

[para 14] The Public Body argues:

> Part i of the harms test indicates there must be a clear cause and effect relationship between the disclosure and the harm which is alleged. There is concern with the disclosure of the balances associated with the individual companies. The disclosure of this information might set a precedent for other companies not to pay and it would be detrimental to the economic interests of GoA, thereby resulting in financial losses.
>
> If the information about which third parties have paid and which have not is disclosed [my emphasis], those that pay may be discouraged and then default in their obligation to pay the fees moving forward. The disclosure may provide a course of action for third party companies, namely, insolvency, to forfeit the amount owing. This would constitute a reasonable expectation of probable financial harm if fees are not being paid.
> Part ii of the harms test indicates that the harm caused by the disclosure must constitute "damage" or "detriment" to the matter and not simply hindrance or minimal interference.
>
> If the companies that have agreed to pay the Oil Sands Environmental Monitoring (OSEM) fee stop contributing, GoA may have to fund the OSEM program causing a detriment to the budget. Oil sands operators contribute up to $50 million annually to the Oil Sands Monitoring Program, provided through the OSEM Program Regulation (Alberta Regulation 226/2013). There is a causal connection between the disclosure of this information, which could result in a budgetary deficit if payments could not be collected from the industry. The Government of Alberta would need to find the financial means to continue the OSEM program.
>
> The Government of Alberta is in the process of collecting on the debt outstanding under this program. The collection of the debts is in process under the judicial system. The disclosure of amounts owing associated with the individual companies may create public opinion based on media attention that may prejudice the proceedings. [my emphasis]
>
> Part iii indicates that the likelihood of harm must be genuine and conceivable. The potential loss of funds from additional nonpayers is very realistic. The concerns around the influence of the

> decrease of funds that could put pressure on the budget is of great concern to Government. Natural resource development has increased significantly in the oil sands area of northern Alberta escalating the need to assess and understand the long-term cumulative effects of oil sands development on the environment.
>
> The revenue collected from the third parties undertaking the projects support three main outcomes of the OSEM program: (1) to determine if changes in the environment are occurring in the oil sands region; (2) if the changes are caused by oil sands development activities; and (3) to assess the contribution in the context of cumulative effects. The possibility of decreasing funds by nonpayment will influence more than the budget but also the environment.
>
> The applicant has argued that section 8 of the Oil Sands Monitoring Program Regulation states, "Information collected or submitted for the purposes of this Regulation is considered to be public."
>
> The spreadsheets that were provided are internal documents created for tracking purposes. The tracking sheets contain sensitive information specific to third parties' business that have outstanding debt owing to the Government of Alberta. The government has a right of use over this information.

[para 15] The Public Body claims two concerns. The first is that disclosure of the records will lead members of the industry not to make payments, resulting in a loss of revenue. The second is that members of the media will report on the information, which may then create negative public opinions which the Public Body claims could ultimately result in unfairness to parties in Court. Finally, apart from these concerns, it argues that it has a "right of use" over the spreadsheets within the terms of section 25(1)(b) and that withholding the requested information from the Applicant is authorized for this reason.

[para 16] The Applicant argues:

> In the absence of any evidence that any stakeholder has actually said it would violate the terms of a regulation that require the payment of fees to fund the oilsands monitoring program, and in the absence of any solid evidence that the Alberta government is no longer capable of enforcing provincial regulations, the arguments provided by the public body are not credible.
>
> Section 7 of the regulation being enforced authorizes the Government of Alberta to recover outstanding fees. The argument about how other companies may respond to the disclosure of information is not related to any decision the government makes about whether it decides to act on its authority to recover unpaid fees under the regulation. This provides further evidence of the flaws in the public body's claims.

[para 17] I agree with the Applicant that the Public Body has provided no evidence to establish that it has a reasonable expectation of probable harm resulting from disclosure of the information in the records. It has failed to explain its arguments in the context of the statutory scheme regulating the industry. The Public Body's submissions rely on the notion that members of the industry it regulates will cease paying debts if the information is disclosed. It has not explained how the specific information it has withheld could possibly lead to that result or pointed to evidence that would establish any likelihood of such an outcome. Similarly, the Public Body's second concern – that Court proceedings could potentially become unfair with regard to the industry if the information is disclosed, relies on the notion that the Courts would become unable to control their

own proceedings. This concern lacks an air of reality. Moreover, section 25 applies to harms to the economic interests of a public body. It is unclear how the envisioned harm to the fairness of Court proceedings is harm to the Public Body's economic interests.

[para 18] I note, too, that the information to which the Public Body applied section 25(1)(c)(i) does not reveal information about non-payment of principal or penalties. Rather, it reveals the amounts actually paid by industry members in principal and penalties. It may be the case that the Public Body is including the information it withheld as non-responsive in its arguments, given that it is the information labelled as "non-responsive" that reveals information about amounts not paid, such as owing and aging balances. The information the Public Body severed under section 25(1) does not reveal which companies have outstanding balances and have not paid them, so its argument fails on that point alone.

[para 19] Assuming the information withheld as "non-responsive" is actually being withheld because it reveals information about non-payment of balances, and that the Public Body is referring to this information in its projections of harm in relation to section 25, the Public Body has still not made its case. The Public Body has not pointed to any evidence or principles that would support its argument that members of the industry would suddenly stop meeting their financial obligations if the information the Public Body has withheld from the Applicant is disclosed.

[para 20] I turn now to the Public Body's argument regarding section 25(1)(b). The Public Body asserts that it has "a right of use" over the records. Cited above, section 25(1)(b) applies to "financial, commercial, scientific, technical or other information in which a public body or the Government of Alberta has a proprietary interest or a right of use and that has, or is reasonably likely to have, monetary value". Section 25(1)(b) addresses information in which a public body either has a proprietary interest or a right of use, such as intellectual property and similar kinds of information that are financial, commercial, scientific, or technical in nature.

[para 21] The Public Body's statement that it has a right to use the information in the records does not bring the information within the terms of section 25(1)(b). The information must be proprietary or the Public Body must have obtained the right to use such information and the information must have, or be likely to have monetary value. The Public Body has not submitted any evidence as to its claimed right of use, and it has not established that the information has monetary value. If it were the case that government simply having the ability to use information brings information within the terms of section 25(1)(b), as the public body appears to argue, there would be no information that could not be withheld under its terms.

[para 22] For the reasons above, I find that the Public Body has not established that section 25(1) applies to the information it withheld from the Applicant.

ISSUE B: Did the Public Body properly withhold information as non-responsive to the Applicant's request?

[para 23] The Public Body provided the names of industry members appearing on the spreadsheet, but otherwise, all information not withheld under section 25 was withheld as non-responsive. In other words, the Public Body takes the position that the Applicant did not request all the information in the spreadsheets he requested.

[para 24] When the term "non-responsive" is used in relation to records, it typically refers to records that are not what an applicant requested. A public body need not produce all records in response to an access request – only those that reasonably relate to it. Records that do not reasonably relate to an access request are "non-responsive".

[para 25] In some cases, information contained on a record may be non-responsive. Police officer notes are an example of this situation. A police officer may attend different matters in the course of the day, but the details may be recorded on the same page. A requestor may only be interested in obtaining access to one matter; information about the remaining unrelated matters appearing on same page is "non-responsive".

[para 26] In Order F2018-75, Adjudicator Swanek discussed the circumstances in which information may be properly characterized as non-responsive. She said:

> Separate items of information in a record cannot be viewed out of context of the record as a whole when determining if they are separate and distinct from the remaining record. For example, there may be an email written about the Applicant, but the signature line of the author, or the date of the email, or the address line, are not the applicant's personal information if separated from the context of the email. However, it would be unreasonable to characterize those items of information as not responsive to a personal information request from the Applicant for emails written about him. As stated in Order F2009-025, 'non-responsive' is not an exception from the Act to separate sentences or other items of information from the context of the record as a whole in order to withhold them.
>
> Information must be considered in the context of the record as a whole, in determining whether it is separate and distinct from the remainder of the record. In the case of a personal information request like the Applicant's, in order to withhold portions of a record as non-responsive, the Public Body must consider whether that portion contains the Applicant's personal information *or* whether that portion provides context to the remainder of the record that *is* the Applicant's personal information.
>
> An example of 'separate and distinct' might be distinct emails in an email chain. Another example relates to police officers' notebooks, which often contain notes on unrelated incidents on a single page. In response to an access request for police records relating to one incident, the part of the notebook page that relates to a different incident might be non-responsive. Another example is where a personal note is added to a work email, such as a note referencing a medical absence, holiday or so on. Where that personal note does not have any relation to the remainder of the email or to the access request, it might be non-responsive.
>
> An example of where the Public Body has properly characterized a part of a responsive record as non-responsive is on page 690 of file #F8329 (the version provided on August 22, 2016). It appears that a Public Body employee used this record to jot down a note, which is not related to the record itself. The note is not related to the Applicant's request. The Public Body drew a box around the note and withheld it as non-responsive. In this case, the note was unrelated to the request and was unrelated to the rest of the record such that it was 'clearly separate and distinct' from the remainder of the record.

> Pages 517-18, 521, 523-5 of file #F8329 are administrative records that relate to queries or complaints made to or about the Public Body and the response. The Public Body has withheld portions of these records as non-responsive, stating that they are about the Public Body's administrative processes and are not the Applicant's personal information.
>
> For the most part, I agree with the Public Body, except for information withheld as non-responsive in the first and third paragraphs under "Response Action Taken". The Public Body states that this information relates to individuals other than the Applicant. These paragraphs do reference another (unidentifiable) individual (on page 523), but in a manner that clearly relates the Applicant's personal information in that record. In my view, the Public Body has to have taken this sentence out of the context of the record in its entirety, to find it to be non-responsive. As I have said, information must be considered in the context of the records as a whole. In my view, this information is responsive.

[para 27] In Order F2022-20 I said:

> Records that an applicant has not requested are "nonresponsive records". In Order 97-020, former Commissioner Clark found that determining whether records are responsive is an important component to responding to an access request. He said:
>
> > In Ontario Order P-880, the Office of the Information and Privacy Commissioner of Ontario had the following to say about "responsiveness":
> >
> > In my view, the need for an institution to determine which documents are relevant to a request is a fundamental first step in responding to the request. It is an integral part of any decision by a head. The request itself sets out the boundaries of relevancy and circumscribes the records which will ultimately be identified as being responsive to the request. I am of the view that, in the context of freedom of information legislation, "relevancy" must mean "responsiveness". That is, by asking whether information is "relevant" to a request, one is really asking whether it is "responsive" to a request. While it is admittedly difficult to provide a precise definition of "relevancy" or "responsiveness", I believe that the term describes anything that is reasonably related to the request.
> >
> > "Responsiveness" must mean anything that is reasonably related to an applicant's request for access. In determining "responsiveness", a public body is determining what information or records are relevant to the request. It follows that any information or records that do not reasonably relate to an applicant's request for access will be "non-responsive" to the applicant's request.
>
> Former Commissioner Clark determined that sections 6 and 12 of the FOIP Act provide the legislative authority for determining that records or portions of records are non-responsive. He determined that information that is reasonably related to an access request is responsive.
>
> A public body need not include recorded information in a response if the information is not what the applicant asked for. The duties to assist and respond are engaged only in regard to records that reasonably relate to the access request.

In the foregoing case, I also found that information that provides context to clearly responsive information is reasonably related to the access request and is, itself, responsive information.

[para 28] The Public Body argues:

> The scope of the request submitted by the applicant was for "A copy of any spreadsheets or reports prepared annually or quarterly between Jan. 1, 2017, and Jan. 5, 2021 that outline fees collected or uncollected fees used to cover the costs of the Oilsands Monitoring Program."
>
> The spreadsheets provide additional information included by the program area for internal tracking purposes. Though the applicant requested spreadsheets, this does not equate to all the information on the spreadsheet being responsive under the complete scope submitted by the applicant.
>
> The public body interpreted the scope to mean fees that were collected or unpaid during the time frame as provided by the applicant. The information on pages 2-7 columns labelled with dates prior to the timeframe were deemed as non-responsive to the scope of the request and withheld.
>
> The corporate status of each third party and the effective date of the fees was determined to be non-responsive to the scope of the request. This information does not outline collected or uncollected fees.
>
> Other information within the spreadsheet is considered duplicate to what was provided to the applicant in other columns. As the applicant had excluded duplicate information, this information was withheld from disclosure.

[para 29] The Applicant argues in reply:

> Responsiveness to the scope of a request is determined record-by-record. It is not determined line by line or sentence-by-sentence. The public body's approach to applying 'non-responsive' to cut apart records is not consistent with OIPC decisions.
>
> The public body's arguments about their interpretation of the scope of the request confirm that the information it labeled as non-responsive was directly responsive to the request for "A copy of any spreadsheets or reports prepared annually or quarterly between Jan. 1, 2017, and Jan. 5, 2021 that outline fees collected or uncollected fees used to cover the costs of the Oilsands Monitoring Program."
>
> The request did not specify that other information on those spreadsheets should be excluded.

[para 30] The Public Body asserts that it interpreted the Applicant's access request as excluding information about fees and balances incurred or unpaid outside the time frame specified by the Applicant. In its view, even though a spreadsheet was created within the timeframe requested by the Applicant, its content would not be responsive if it included amounts owing prior to the dates indicated by the Applicant.

[para 31] I am unable to agree with the Public Body. The Applicant requested:

> A copy of any spreadsheets or reports prepared annually or quarterly between Jan. 1, 2017 and Jan. 5, 2021 that outline fees collected or uncollected fees used to cover the costs of the Oilsands Monitoring Program
>
> Time period: Jan 1, 2017 to Jan 5, 2021

[para 32] The Applicant was clear that the request is for spreadsheets created between January 1, 2017 and January 5, 2021. The Applicant did not exclude debts or balances incurred prior to 2017. If information regarding collected or uncollected fees

appears in a spreadsheet or report created in the specified time, the information is responsive.

[para 33] As noted above, when it made submissions under section 25, the Public Body made arguments that encompassed the information it withheld as non-responsive, as it appeared to consider that the disclosure of information would reveal unpaid balances and balances owing. That would only be the case if the entire spreadsheet is disclosed and not merely the information to which it applied section 25.

[para 34] The Public Body adopted an overly narrow interpretation of the access request in its response to the Applicant without consulting the Applicant as to whether its interpretation was correct. A public body and an applicant are able to *agree* to narrower interpretations of access requests; there is no evidence in this case that that happened. On the contrary, the Applicant is clear that he believes the Public Body is withholding information responsive to the access request.

[para 35] I find that the information withheld by the Public Body as non-responsive is responsive to the access request. Not only is the information severed as non-responsive the subject of the Applicant's access request, but it lends context to the information the Public Body considered to be responsive. As discussed in past orders, cited above, information that lends context to responsive information is, itself, responsive information.

[para 36] In cases where a public body has not reviewed records to determine whether exceptions apply, it may be appropriate to allow the public body the opportunity to review the records to determine whether there is a public interest in withholding information they contain. In this case, the Public Body clearly reviewed the information in the records to determine whether exceptions apply to it. Further, its submissions in relation to section 25 include the information it labelled as non-responsive. It has made arguments as to the potential consequences of disclosing the debts and outstanding balances owing to government by industry members. Again, debts owing by industry members is the substance of the information the Public Body labelled as "non-responsive".

[para 37] I conclude that the Public Body reviewed the records it labelled as "non-responsive" and made submissions regarding them in relation to its application of section 25 of the FOIP Act. It cannot be said in this case that the public interest requires giving the Public Body further opportunity to determine whether an exception to disclosure in the FOIP Act applies. For this reason, I have decided to order disclosure of the information the Public Body argued was nonresponsive.

III. ORDER

[para 38] I make this Order under section 72 of the Act. I order the Public Body to give the Applicant access to the records in their entirety as I find it is not authorized or required to withhold the records from the Applicant.

[para 39] I order the Public Body to inform me within 50 days of receiving this order that it has complied with it.

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Teresa Cunningham
Adjudicator
/bah