No.
Victoria Registry

In the Supreme Court of British Columbia

Between:

Martin Girard

Petitioner

And:

The Corporation of the City of Victoria
and the Information and Privacy Commissioner of British Columbia

Respondents

PETITION TO THE COURT

ON NOTICE TO:

Corporation of the City of Victoria
1 Centennial Square
Victoria BC V8W 1P6

Information and Privacy Commissioner of British Columbia
4th Floor, 947 Fort Street
Victoria BC V8V 3K3

Deputy Attorney General
Ministry of Justice
PO Box 9290 Stn Prov Govt
Victoria BC V8W 9J7

The address of the registry is:

850 Burdett Avenue
Victoria BC V8W 1B4

The petitioner estimates that the hearing of the petition will take 2 hours.

This matter is an application for judicial review.

This proceeding has been started by the petitioner for the relief set out in Part 1

below.

If you intend to respond to this petition, you or your lawyer must

(a) file a response to petition in Form 67 in the above-named registry of this court within the time for response to petition described below, and

(b) serve on the petitioner
(i) 2 copies of the filed response to petition, and
(ii) 2 copies of each filed affidavit on which you intend to rely at the hearing.

Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the response to petition within the time for response.

Time for response to petition

A response to petition must be filed and served on the petitioner,

(a) if you were served with the petition anywhere in Canada, within 21 days after service,

(b) if you were served with the petition anywhere in the United States of America, within 35 days after that service,

(c) if you were served with the petition anywhere else, within 49 days after that service, or

(d) if the time for response has been set by order of the court, within that time.

The ADDRESS FOR SERVICE of the petitioner is:

211-717 Pandora Avenue, Victoria BC V8W 1N9

E-mail address for service of the petitioners: martin.girard1979@linuxmail.org

Claim of the Petitioner

Part 1: ORDER SOUGHT

[1] I hereby petition the Court to remand a decision made on May 20 2026 by Investigations Director Nathan Elliot of the Office of the Information and Privacy Commissioner (OIPC) to File INV-F-26-00003, on the grounds that it is patently unreasonable within the scope of ss. 59(4)(a) and (c) of the *Administrative Tribunals*

Act, and makes unreasonable findings of fact within the scope of s. 59(2) of the *Act.*

Part 2: FACTUAL BASIS

[2] On October 30 2025, CTV News published an article titled "Victoria bylaw department marred by bullying, discrimination investigations" in which two former City of Victoria Community Safety and Bylaw Services employees went public with allegations of widespread misconduct within the department (see Exhibit A). One of the complainants even called for an independent investigation into the department's workplace culture and management practices.

[3] The reporting is accompanied by a brief summary obtained from the City of Victoria via a Freedom of Information (FOI) request, in the form of a table showing that several complaints of discrimination and harassment in the past few years have been found by internal investigations to be either founded or partially founded. The release does not disclose any specifics of the allegations.

[4] On October 31 2025, CTV News published a follow-up article featuring the municipality's official response, including an interview of the Mayor in which she expresses disappointment but denies the municipal council can do much to intervene; "In general, it would be unusual for a governance board to interfere in personnel (matters)," she said (see Exhibit B). The article does not reveal any steps taken by the municipality to address those concerns.

[5] On November 5 2025, the municipal council called a special Committee of the Whole and held a meeting closed to the public under *s.* 90(1)(c) of the *Community Charter (Labour relations or other employee relations)* (see Exhibit H). The object of the meeting was probably to deal with the fallout from the previous week's revelations. Whether any measures have been taken following this meeting is unknown, although the Mayor told CTV News on October 31 2025 that the Council's only option was to direct the city manager to investigate and report (see Exhibit B). Such a report may have been presented to the Council at another meeting on April 16 2026, also closed under s. 90(1)(c). In any case, it is clear from the Mayor's public statement that the Council shall not directly intervene in personel matters and is only monitoring the situation while keeping a lid on the incident.

[6] Meanwhile, on November 19, 2025, after some back and forth with the municipality's FOI department, I made a formal request for "All records of the ten human resources investigations involving Bylaw Services. (Date Range of Search 2020-01-01 to 2025-11-04)". On December 30, 2025, the department responded by withholding the entirety of those records under s. 22(1) of the *Freedom of Information and Privacy Protection Act (FIPPA) (Disclosure harmful to personal privacy).* It maintained its stance even when I invoked s. 25(1)(b) of *FIPPA* which states disclosure must nevertheless be made if clearly in the public interest, and prevails over the remainder of *FIPPA.*

[7] I applied for review of the decision to the OIPC, requesting that it focus on whether s.

25(1)(b) was engaged, given my concern that lack of disclosure undermined public confidence in the department's capacity to carry out its duties to the public in accordance with human rights law (see Exhibit D). I put forward a litany of factors weighing in favour of disclosure, including but not limited to:

- precedents against the invocation of s. 25(1)(b) (such as *Vancouver Police Department (Re),* 2009 CanLII 63563 (BC IPC)) have been rendered moot by *Investigation Report F15-02,* released on July 2 2015, in which the Information and Privacy Commissioner lifted the requirement for temporal urgency;
- the extraordinary number of recent complaints found to be either founded or partially founded (eight for a department of thirty-five employees);
- diversity, equity, and inclusion consulting firm INclusion INcorporated's stance that those numbers were extremely high and warranted serious intervention;
- one of the complainants outright called for an independent investigation;
- the nature of the offences falls within the scope of s. 13 of the *Human Rights Code,* consequently calling into question the department's ability to serve the public in compliance with s. 8 of the *Code* (citing *James and Moynan v. City of Salmon Arm,* 2009 BCHRT 285);
- the *Code* prevails over any other provincial enactment (under s. 4), attesting to the gravity of such offences;
- if adjudicated by the BC Human Rights Tribunal, the proceedings would be made public due to inherent public interest;
- the municipality's noncommittal response essentially precludes any political solution;
- the complainants who went public were whistleblowers dissatisfied by whatever steps the municipality did undertake to address their concerns;
- the purpose of the aptly-named *Public Interest Disclosure Act (PIDA)* is to protect government employees who blow the whistle from retaliation, given the inherent public interest in such disclosure;
- in *PIDA Special Report No. 5,* released on August 19 2025, the BC Ombudsperson recommended that the scope of *PIDA* be extended to local governments and municipal police departments (see Exhibit G);
- the lack of such protection acts as a barrier which may prevent complainants from openly seeking relief, including legal recourse;
- the complainants who went public with their allegations waived any reasonable claims to privacy pertaining to disclosure already made;
- public disclosure is the obvious last resort at this stage, short of which no independent investigation and no meaningful public debate can take place.

[8] In contrast, I am not aware the municipality has formulated a single argument opposing the invocation of s. 25(1)(b). It merely kept stonewalling with the invocation of s. 22(1), specifically under ss. 22(3)(a) *(Medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation)*, (b) *(Part of an investigation into a possible violation of law),* (d) *(Employment, occupational or educational history),* and (h) (i) *(Disclosure would reveal the identity of a third party)*.

[9] Yet in his decision, issued on May 20 2026 (See Exhibit E), OIPC Investigations Director Nathan Elliot either weighed against or ignored all of the points I made, in favour of the duty to protect personal information from harmful disclosure (essentially reiterating s. 22(1)), without providing any meaningful analysis in support of this stance. He also claims, using as sole evidence the release of a summary via an FOI request by CTV News and media reports of the municipality's evasive response, that the municipality has taken steps toward accountability and that the purpose of *FIPPA* to make public bodies more accountable through greater transparency has somehow been achieved. And he advances without basis that the information already available in the media makes public disclosure less compelling.

Part 3: LEGAL BASIS

[10] For starters, the decision makes unreasonable findings of fact (against s. 59(2) of the *Act*). The claim that the municipality has taken steps toward accountability is supported solely by "one post on an HR website on the matter". I infer, for lack of specifics, that the post in question is a piece titled "Victoria bylaw department faces scrutiny over bullying and discrimination investigations" published by the Human Resources Director Magazine on November 3 2025 (see Exhibit C). The article mentions three external investigations conducted between 2021 and 2023, whereas the bulk of the internal investigations were conducted in 2024 and 2025. It logically follows that whatever steps the municipality may have undertaken toward accountability were at best totally ineffective. In fact, in the language of the article, "the city has stated that it is in the process of implementing these recommendations and will continue to monitor the situation," which should be interpreted as an admission that it did not implement the said recommendations at least two years on and does nothing but stand and watch.

[11] By the way, the external investigations in question could hardly be considered independent for the purpose of these proceedings, since they were ordered by the municipality and carried out by private firms of its choice. I therefore preemptively reject the argument that those investigations render the purpose of disclosure moot, and I presume the complainant who called for an independent investigation would agree. In any case, I would not be satisfied by the hypothetical internal investigation I have posited in the factual basis of this petition.

[12] The decision also ignores evidence in finding against the claim of deep, systemic issues within the department. It understates the number of substantiated complaints, leaves out INclusion INcorporated's assertion that those numbers are extremely high and that of workplace inclusivity consultant Andy Regal that those numbers are "way out of whack," and also ignores that allegations have been piling up since at least 2021. Ignoring crucial evidence has already been found to be ample grounds to declare a decision patently unreasonable (see for example *Sandhu v. Gill,* 2024 BCSC 412 at para. 18-32, citing *Doell v. Doe,* 2022 BCSC 655 at para. 56-59, itself citing *Aarti Investments Ltd. v. Baumann,* 2019 BCCA 165 at para. 37-41 and *McDonald v Creekside Campgrounds and RV Park,* 2020 BCSC 2095 at para. 52).

[13] The decision is also based predominantly on an irrelevant factor given overwhelming weight (against s. 59(4)(c) of the *Act*). Observe that I did not request any contact information (defined under Schedule 1 of *FIPPA*), and I indeed expect it to be redacted. The decision conflicts with *Workers' Compensation Board (Re), 2026 BCIPC 40* at para. 150-153, which determined that while disclosing the identities of third parties mentioned in records related to bullying and harassment would be an unreasonable invasion of privacy, the remainder of the information on record was actually fair game under s. 22(1).

[14] Furthermore, allow me to make a parallel with the human rights complaint process: in the event public disclosure could prove unfairly harmful to a party, the Tribunal member has the authority to limit disclosure of personal information by withholding names (see Rule 5(6) of the *BC Human Rights Tribunal Rules and Procedures*); even then, the burden of proof lies on the applicant (see *A and B v. Famous Players Films and C,* 2005 BCHRT 432). The decision provides no analysis in this regard and merely presumes any disclosure would be harmful, on the basis of which engaging s. 25(1)(b) becomes virtually impossible—in contrast to other legal venues which deem anonymization sufficient.

[15] Speaking of which, the decision also states: "I also do not see how any recourse or options available to those officers – in terms of making complaints or pursuing legal action – depends on the public disclosure and scrutiny of information pertaining to human resources investigations." This conclusion ignores every argument I made about *PIDA*, including the fact that its protection does not currently extend to the complainants, against the stance of the Office of the BC Ombudsperson, and may indeed preclude complainants from openly pursuing their options out of fear of retaliation—an eventuality public disclosure would render moot.

[16] Moreover, the officers may be funnelled into labour arbitration under their collective agreement, which would indeed limit their ability to pursue legal action to a process that has been decried by plaintiffs as inadequate for their grievances in *Weeks v Abbotsford (City),* 2025 BCSC 2120:

> [64] The plaintiffs argue that the claims are not merely about working conditions. They say the essential character of the dispute is an institutional failure throughout British Columbia—spanning across all police boards, municipal employers, and levels of government—to keep the municipal police forces free from gender-based discrimination. The plaintiffs submit that the issues they seek to address are so pervasively embedded in police culture that this case is about something completely different than a dispute over working conditions.

[17] Besides, to withhold the investigation reports on the grounds that disclosure of sensitive personal information might be harmful, while directing dissatisfied complainants to pursue legal action in venues whose proceedings would disclose the said sensitive personal information (such as the human rights complaint process, as explained earlier), is a blatant contradiction. The decision-maker's arguments are

patently irreconcilable as they logically direct victims to commit self-harm.

[18] The decision relies on the guidance document titled *Section 25: The Duty to Warn and Disclose* in deciding which factors are to be considered to determine whether s. 25(1)(b) is engaged (see Exhibit F at pp. 2-3). The relevant portion alas provides no useful guidance on the threshold to meet past which the public interest in holding a public body accountable for its actions prevails over the amount and sensitivity of personal information, a factor which is to be considered according to *Investigation Report F15-02* at pp. 31-33.

[19] Both the municipality and the OIPC may have relied on guidance at p. 4 pertaining to whether actual records should be released under s. 25, as opposed to summaries. This part cites *Investigation Report F16-02,* which states as a factor supporting disclosure the need to restore public confidence that the governing body's measures to address concerns were appropriate (pp. 38-39). Since this is indeed the object of my complaint, it follows that full records must be disclosed, not a mere summary.

[20] While I initially conceded that s. 22(1) was engaged (under s. 22(3)(b); see *Vancouver Police Department (Re), supra*), if harm to personal privacy is indeed the overwhelming factor weighing against public interest disclosure under s. 25(1)(b) then I require some kind of analysis to support it. The only plausible angles would be via s. 22(2)(e) *(Unfair exposure to financial or other harm),* s. 22(2)(f) *(Supplied in confidence),* or s. 22(2)(h) *(Unfair damage to reputation),* which have been debated in *Workers' Compensation Board (Re), supra,* at para. 103-132 only to be rejected—and s. 25(1)(b) wasn't even engaged.

[21] The decision-maker has found ahead of time that "a mandatory disclosure under s. 25(1)(b) was less compelling due to the information already available." In addition to the objections I have already formulated, I counter that this criterion lacks basis in any of the documents he takes guidance from; therefore it is arbitrary under s. 59(4)(a) of the *Act.* Furthermore, *Workers' Compensation Board (Re), supra* also explains at para. 135-149 how the applicant's knowledge about the information at issue weighs in favour of disclosure, whereas in this case the decision-maker arbitrarily decided public knowledge from initial disclosure weighs against disclosure instead.

[22] In closing, I invite the respondents and this Court to reflect upon how the decision's arguments would be received by the public were they applied as a corollary to the infamous Epstein files, replete with most sensitive personal information, of which the U.S. Congress had to compel full disclosure with the *Epstein Files Transparency Act* amidst public outcry. Such a parallel between workplace discrimination and sexual assault isn't nearly as far-fetched as the uninitiated might presume (see for example *Hale v. University of British Columbia Okanagan (No. 5), 2023* BCHRT 121; *Ms. L v. Clear Pacific Holdings Ltd. and others,* 2024 BCHRT 14; *Mohr v. Power Flagging and Traffic Control (Power Earth) and another (No. 3),* 2026 BCHRT 40; also *A and B v. Famous Players Films and C, supra*) and cannot be ruled out in this case due to lack of disclosure. I certainly hope nobody would express the abhorrent stance that the Trump

administration’s perfunctory damage control has somewhat promoted accountability through greater transparency, that the initial revelations have made public disclosure less compelling due to fragmentary information being already available in the media, that none of the legal recourse available to the victims required public disclosure, or that the sensitive nature of the personal information weighed against disclosure even after victims went public with accusations.

[23] The language and evasiveness of the decision suggest the decision-maker has decided to see no evil in order to rationalize his decision not to order disclosure that is clearly in the public interest. The Court has a duty to remit the decision for reconsideration, this time to be supported by proper legal analysis and accurate findings of fact. I dare say the public interest requires no less.

Part 4: MATERIAL TO BE RELIED ON

1. Affidavit #1 made by Martin Girard on June 15 2026.

Date:

_____
Signature of petitioner

Martin Girard

To be completed by the court only:
Order made
[ ] in the terms requested in paragraphs ..... of Part 1 of this petition
[ ] with the following variations and additional terms:
.....
.....
.....

Date: .....[*dd/mmm/yyyy*]

.....
Signature of [ ] Judge [ ] Associate Judge