

ALBERTA

OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

ORDER F2008-015

July 2, 2008

ALBERTA EMPLOYMENT AND IMMIGRATION

Case File Numbers 3826 and 3861

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

Summary: The Applicant made a request under the *Freedom of Information and Protection of Privacy Act* to Alberta Economic Development, now Alberta Employment and Immigration. The Applicant requested information regarding personal expense records of a Third Party that were generated while he was using a government credit card and correspondence between several named Government Ministers and employees regarding the same. The Applicant also requested all documents within a named file number.

Alberta Employment and Immigration decided to withhold the information as either non-responsive or pursuant to section 17(unreasonable invasion of privacy).

The Commissioner held that Alberta Employment and Immigration did not properly withhold a portion of the records as non-responsive or pursuant to section 17. The Commissioner ordered Alberta Employment and Immigration to disclose that information to the Applicant.

Statutes Cited: AB: *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 1(n)(i), 1(n)(ii), 1(n)(iv), 1(n)(vii), 1(n)(viii), 17(1), 17(4)(d), 17(4)(e.1), 17(4)(f), 17(4)(g), 17(5)(a), 17(5)(e), 17(5)(f), 17(5)(g), 17(5)(h), 25, 71(2), 72.

Orders Cited: AB Orders: 96-020, 96-021, 97-002, 97-011, 98-007, 99-002, 2000-029, 2001-020, F2004-015, F2005-016, F2007-013

Cases Cited: *University of Alberta v. Pylypiuk* (2002), A.J. No. 445 (Alta. Q.B.)

I. BACKGROUND

[para 1] On July 17, 2006, the Applicant made an access request under the *Freedom of Information and Protection of Privacy Act* (the “Act”) to Alberta Economic Development now Alberta Employment and Immigration (the “Public Body”). The Applicant requested the following information:

- (a) Personal expense records of a Third Party using the government credit card;
- (b) Correspondence between any of the following: Shirley McClellan, Mark Norris, Peter Kruselnicki, Ralph Klein, Pat Black, Pat Nelson, the Third Party regarding the personal expenses of the Third Party using the government credit card; and
- (c) All documents in file #11032.

[para 2] The time period identified in the access request was for January 2001 to the date of the request.

[para 3] On July 19, 2006, the Public Body verbally consulted with the Applicant to clarify the scope of the access request. During that conversation, the Applicant confirmed that he wished to receive all correspondence and documentation pertaining to the criteria in his access request. The Applicant also confirmed that he wished to receive duplicates, but not duplicates of e-mails. Lastly, the Applicant confirmed that he wished to receive cover letters, transmission documents and confirmation of transmissions.

[para 4] On August 11, 2006, the Public Body advised the Applicant that the requested records contained information that may affect the interests of a third party and that the Public Body was required by section 30 of the Act to consult with that third party concerning possible disclosure. On that same date, the Public Body informed the Third Party about the request for information and that the Third Party’s views were being sought as to the possible disclosure of the information.

[para 5] On August 31, 2006, the Public Body received a letter from the Third Party objecting to the possible disclosure of the information to the Applicant.

[para 6] On September 12, 2006, the Public Body responded to the access request notifying the Applicant and the Third Party of its decision. The Public Body informed the parties that it intended to provide partial disclosure of the records to the Applicant.

[para 7] On September 29, 2006, the Third Party requested a review of the Public Body’s decision. On October 24, 2006, the Applicant also requested a review of the Public Body’s decision. Mediation was authorized but did not resolve the issues. The matter was set down for a written inquiry.

[para 8] The Public Body and the Applicant each submitted an initial and a rebuttal submission. The Public Body also submitted an *in camera* initial submission. The Third Party submitted an initial submission but did not submit a rebuttal.

II. INFORMATION/ RECORDS AT ISSUE

[para 9] The records at issue consist of 88 pages of records. The records consist of copies of credit card statements.

[para 10] I note that the Public Body withheld a portion of government credit card statements under section 25. This information included the card number, credit limits, payments and balances on those statements. This information is not at issue in this inquiry and I will not decide whether this information was properly withheld under section 25.

[para 11] I also note that in the Applicant's initial submission, the Applicant states that on October 27, 2006, the Applicant made a request to the Public Body for additional records. Those records are not at issue in this inquiry.

III. ISSUES

[para 12] The inquiry notices identified one issue: Does section 17 of the Act (personal information) apply to the records/information?

[para 13] In the Public Body's initial submission, the Public Body claimed that the records or, portions of the records, are non-responsive to the access request. I will also address this issue. Whether these records are responsive directly relates to the scope of the records which are relevant to the access request.

[para 14] The issues in this inquiry are as follows:

- A. Is/Are the information/records responsive to the Applicant's access request?
- B. Does section 17 of the Act (personal information) apply to the records/information?

IV. DISCUSSION

A. Is/Are the information/records responsive to the Applicant's access request?

[para 15] The Public Body states that the business related transaction information within the following records is non-responsive in its entirety:

3, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 43, 45, 49, 50, 52, 53, 54, 55, 56, 57, 58, 59, 60, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 83, 87, 88

[para 16] The Public Body also states that a portion of the following records is also non-responsive because it consists of business related information:

1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 38, 39, 40, 41, 42, 44, 46, 47, 48, 51, 61, 82, 84, 85, 86

[para 17] Lastly, the Public Body appears to have withheld, as non-responsive, the date stamps and/or approval stamps of the former Minister or, a portion of those stamps, on the following records:

1, 4, 5, 8, 11, 13, 15, 38, 40, 46, 82, 84, 85

[para 18] I note that, date stamps and/or approval stamps also appear on records 5, 7, 11, 12 and 18. These date stamps and/or approval stamps were not withheld.

[para 19] In Order 99-002, the former Commissioner interpreted the word “responsiveness” to mean anything that is reasonably related to an applicant’s access request.

[para 20] I find that the following records are not responsive to the access request as that information consists of business related transaction information. The following records do not consist of “personal expense records” nor is the information within those records responsive to the other parts of the access request:

3, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 43, 45, 49, 50, 52, 53, 54, 55, 56, 57, 58, 59, 60, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 83, 87, 88

I uphold the Public Body’s decision to withhold that information.

[para 21] In addition, I find that the business related transaction information identified by the Public Body within the following records is not responsive to the access request:

1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 38, 39, 40, 41, 42, 44, 46, 47, 48, 51, 61, 82, 84, 85, 86

I also uphold the Public Body’s decision to withhold that information.

[para 22] Furthermore, I find that a portion of an adding machine tape on record 85 that contains amounts related to the business related transactions and the total amount is non-responsive to the access request. I also uphold the Public Body’s decision to withhold that information. However, I find that the portion of the adding machine tape

on record 85 that contains information regarding the Third Party's personal expenses is responsive to the access request.

[para 23] Lastly, I find that the right-hand side of record 84 is non-responsive to the access request. It appears that this information was photocopied as part of record 84 in error. I uphold the Public Body's decision to withhold this information.

[para 24] However, I find that the date stamps and the approval stamps within records 1, 4, 5, 7, 8, 11, 12, 13, 15, 18, 38, 40, 46, 82, 84 and 85 are responsive to the access request. I find that this information is reasonably related to the Applicant's access request for personal expense records.

B. Does section 17 of the Act (personal information) apply to the records/information?

[para 25] Section 17 is a mandatory ("must") section of the Act. If section 17 applies, a public body must refuse to disclose the information. There are two criteria under section 17:

- (a) the information must be "personal information" of a third party; and
- (b) the disclosure of the personal information must be an unreasonable invasion of a third party's personal privacy.

1. Is the information "personal information" of a third party?

[para 26] Personal information is defined in section 1(n). The Public Body states that sections 1(n)(i), (ii), (iv), (vii) and (viii) are relevant in this inquiry. These sections read as follows:

I 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

(ii) the individual's race, national or ethnic origin, colour or religious or political beliefs or associations

...

(iv) an identifying number, symbol or other particular assigned to the individual,

...

- (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 27] In this inquiry, I find that there are two types of personal information that remain at issue: (a) personal information of a former Government Minister including his name, signature and date he approved the credit card transactions, the name of a Government employee within the department and the department address; and (b) Third Party personal information that related directly to the Third Party's personal expenses.

[para 28] The personal information of a former Government Minister is found on records 1, 5, 7, 8, 11, 13, 15, 38, 40, 46, 84 and 85. The name of the Government employee is found on records 13, 18, 38 and 40 while the department address is found within records 13, 18, 38, 40, 82 and 84. This personal information falls within the definition of personal information in section 1(n) and within the section 17(4)(g) presumption of unreasonable invasion of privacy. However, I do not find that the disclosure of this information would be an unreasonable invasion of privacy as, pursuant to section 17(5), this information relates to individuals who were acting in their capacity as public officials (Order F2007-013). Furthermore, as the Public Body did not apply any discretionary exceptions to that information and no other mandatory exceptions apply, I intend to order the Public Body to disclose that information to the Applicant.

[para 29] The Third Party's personal information that is responsive to the access request is found within the following records. This information includes the Third Party's name, the dates on which the Third Party used the credit card for personal purposes, the amount of each of those purchases and information related to the vendor names, locations and other transaction identifiers:

1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 38, 39, 40, 41, 42, 44, 46, 47, 48, 51, 61, 82, 84, 85, 86

[para 30] However, the records also contain headings and other template information usually found on a credit card statement including the address of the credit card company. I find that this information is not personal information. Some of the records also contain fax headers and footers and date stamps. I also find that this information is not personal information. Furthermore, as there are no mandatory exceptions that apply to the headings, template information, fax headers and footers and the date stamps, and the Public Body did not apply any discretionary exceptions to the information, I intend to order the Public Body to disclose that information to the Applicant.

2. Would the disclosure of the personal information be an unreasonable invasion of a third party's personal privacy as provided in sections 17(1) and 17(4)?

[para 31] Section 17(1) reads:

17(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.

[para 32] Section 17(4) lists a number of circumstances where a disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy. The Public Body considered whether sections 17(4)(d), (e.1), (f) and (g) are relevant in this inquiry.

[para 33] These sections read:

17(4) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if

...

(d) the personal information relates to employment or educational history,

(e.1) the personal information consists of an individual's bank account information or credit card information,

(f) the personal information consists of personal recommendations or evaluations, character references or personnel evaluations,

(g) the personal information consists of the third party's name when

(i) it appears with other personal information about the third party, or

(ii) the disclosure of the name itself would reveal personal information about the third party, ...

a. Section 17(4)(d) – Employment or educational history

[para 34] In Order 2000-029, the term “employment history” was defined as a broad, general phrase that covers information pertaining to an individual's work record.

[para 35] In Order F2004-015, I held that the notes made during an investigation into activities of staff involved in an incident did not constitute “employment history” of those persons. However, I held that the results or conclusions of that investigation may be part of a personnel file and of a person's “employment history”.

[para 36] In this inquiry, the Third Party's personal information does not refer to the results or conclusions of an investigation. The records contain the Third Party's name, the dates on which the Third Party used the credit card for personal purposes, the amount of each of those purchases and information regarding vendor names, locations and other transaction identifiers. However the records do not go further and disclose the results or conclusions of an investigation. Pursuant to the reasoning in Order F2004-015, I find that the presumption in section 17(4)(d) does not apply to the Third Party's personal information that remains at issue within the records.

b. Section 17(4)(e.1) – Bank account information or credit card information

[para 37] After a review of the records I find that section 17(4)(e.1) applies to the Third Party's personal information. The Third Party's personal information consists of credit card statements that relate to the Third Party's use of the government-issued credit card. Although the credit card was issued by a government department, the records show that it was issued in the Third Party's name for use by the Third Party. I find that the presumption in section 17(4)(e.1) applies to that information.

c. Section 17(4)(f) – Personal recommendations or evaluations, character references or personnel evaluations

[para 38] In Order 97-002, the former Commissioner held that recommendations, evaluations or references must be about an identifiable individual and must be provided by someone other than the third party.

[para 39] In that Order, the former Commissioner also addressed the meaning of "personal evaluations" and "personnel evaluations". He also adopted the Concise Oxford Dictionary definition of "evaluate" which means to "assess; appraise; find or state the number or amount of; find a numerical expression for". He held that although "personal evaluations" or "personnel evaluations" may be made according to measurable standards, those evaluations may also be made by applying knowledge, training and experience. The former Commissioner found that the following criteria were relevant in determining whether personal information constitutes "personal evaluations" or "personnel evaluations":

- (i) Was an assessment either made according to measurable standards or based upon professional judgment?
- (ii) Was the particular evaluation done by a person who had the authority to do the evaluation?

[para 40] I find that the presumption in section 17(4)(f) does not apply to the Third Party's personal information. The records do not consist of a personal recommendation or a character reference nor does it fulfill the criteria outlined in Order 97-002 regarding personal evaluations or personnel evaluations. The Third Party's personal information does not contain an assessment made according to measurable standards or based upon

professional judgment which was done by a person who had the authority to do such an evaluation.

d. Section 17(4)(g) – Third Party’s name

[para 41] The Public Body states that records contain the Third Party’s name along with other personal information about the Third Party.

[para 42] I find that section 17(4)(g) applies to the Third Party’s personal information withheld in records 1, 4, 6, 8, 11, 13, 15, 18, 38, 40, 46, 61, 82, 84, 85 and 86. I find that, pursuant to section 17(4)(g)(i), the personal information in those records consists of the Third Party’s name and other personal information about the Third Party.

3. Section 17(5)

[para 43] I have found that either section 17(4)(e.1) and/or 17(4)(g) applies to the Third Party’s personal information at issue in this inquiry. However, section 17(5) states that a public body must consider all relevant circumstances including, but not limited to, those set out in that section. The Public Body states that it considered whether sections 17(5)(a), (e), (f), (g), and (h) applied to the records at issue. These sections read:

17(5) In determining under subsections (1) and (4) whether a disclosure of personal information constitutes an unreasonable invasion of a third party’s personal privacy, the head of a public body must consider all the relevant circumstances, including whether

(a) the disclosure is desirable for the purpose of subjecting the activities of the Government of Alberta or a public body to public scrutiny,

...

(e) the third party will be exposed unfairly to financial or other harm,

(f) the personal information has been supplied in confidence,

(g) the personal information is likely to be inaccurate or unreliable,

(h) the disclosure may unfairly damage the reputation of any person referred to in the record requested by the applicant, ...

a. Section 17(5)(a) – Subjecting the activities of the Government of Alberta or a public body to public scrutiny

[para 44] The Public Body states that section 17(5)(a) applies to the dates on which the Third Party used the credit card for personal purposes and the amount of each of those purchases. However, the Public Body states that the disclosure of further information would not promote public scrutiny as a great deal of information has already been

disclosed in the Annual Report of the Auditor General of Alberta 2006-2007 (Vol. 1 pages 17, 171-181).

[para 45] In Order F2005-016 I held that for section 17(5)(a) to apply as a relevant circumstance, there must be evidence that the activities of the Government of Alberta or a public body have been called into question, which necessitates the disclosure of personal information. I also said the following:

- (i) It is not sufficient for one person to decide that public scrutiny is necessary;
- (ii) The applicant's concerns must be about the actions of more than one person within the public body; and
- (iii) If the public body had previously disclosed a substantial amount of information, the release of further personal information would likely not be desirable. This is particularly so if the public body had already investigated the matter.

[para 46] In this inquiry, I find that the three criteria are fulfilled. It is clear that the Applicant is not the only person that has decided that public scrutiny of the Third Party's credit card use and the government's response to that use was necessary. The Auditor General has also reviewed and reported on the matter. I also find that the Applicant was concerned with the actions of a number of government employees within the Public Body who became aware of the credit card use and subsequently reviewed the matter. Lastly, the Public Body states that it has not yet disclosed any of the responsive records to the Applicant.

[para 47] However, notwithstanding the above three criteria, it should be noted that the overriding consideration under section 17(5)(a) is whether the activities of the Government of Alberta or a public body have been called into question which necessitates a disclosure of personal information (Order F2005-016). In addition, in *University of Alberta v. Pylypiuk* (2002), A.J. No. 445 (Alta. Q.B.) Justice Gallant stated that public scrutiny of government or public body activities under section 17(5)(a) requires some public component, such as public accountability, public interest and public fairness.

[para 48] I find that section 17(5)(a) is a relevant circumstance that weighs in favour of disclosing the Third Party's name, the dates on which the Third Party used the credit card for personal purposes and the amount of each of those purchases. Given the concerns that have been raised about the Third Party's credit card use for personal expenses and the approval processes regarding those expenses, I find that the disclosure of this information would contribute to public accountability and public interest.

[para 49] However, I find that the disclosure of the remaining Third Party personal information is not necessary to subject the activities of the Government of Alberta or a public body to public scrutiny. This personal information consists of vendor names, locations of vendors and other transaction identifiers. I find that the disclosure of this personal information would not contribute to public scrutiny and, in particular, public

accountability, public interest or public fairness. The Auditor General found that the Third Party used the credit card for personal expenses. In addition, I have also already found that section 17(5)(a) weighs in favour of disclosing the charges incurred as personal expenses, by date and amount. I do not find that a disclosure of the remaining Third Party personal information would provide information that would further contribute to public scrutiny. In coming to this conclusion, I took note of the fact that there is a difference between satisfying public curiosity and promoting public scrutiny. The disclosure of this information may satisfy public curiosity. However, I do not find that the disclosure of this information would promote further public scrutiny.

[para 50] In the Applicant's submission, the Applicant stated that disclosure of the records is essential in order to allow for public accountability and thereby subject the activities of the Government of Alberta to public scrutiny. In support, the Applicant referred to the *Credit Card Policy Directive* ("Directive") issued by the Alberta Government on December 16, 1998. The Applicant states that this Directive applied to the Third Party and to the Minister of the public body involved. The Applicant states that the requested records relate to the use of a government-issued credit card and are essential in determining whether the Directive was followed.

[para 51] After a review of the Directive I do not find that the Third Party's personal information would assist the Applicant in determining whether the Directive was followed. The Directive regulated the use of credit cards in the conduct of government business by requiring individuals to submit their original supporting documentation for the purchase to the respective department accounting offices. It also required the Minister to approve the expenses incurred by a deputy head using such a credit card. The Third Party's personal information consists of the Third Party's credit card transaction information related to the Third Party's personal expenses. The records do not contain supporting documentation. In addition, the Third Party's personal information does not contain information regarding whether the former Minister approved the expenditures of a deputy head. I note that although the records which were initially responsive to the request contained several approval stamps of the former Minister which related to the Third Party's personal expenditures, I have already decided that the information would not be an unreasonable invasion of personal privacy and must be disclosed.

b. Section 17(5)(e) – Unfair exposure to financial or other harm

[para 52] The Third Party states that if his personal information is disclosed, it would unfairly expose him to assumptions regarding his lifestyle and spending habits and thereby impair his ability to seek gainful employment in any markets in which the information is published. The Third Party also states that the Applicant's access request specifically excluded records regarding the Third Party's repayment of his personal expenses. The Third Party states that by excluding this information, the Applicant will receive an incomplete record of the circumstances surrounding his use of the credit card.

[para 53] The Public Body states that it accepts the Third Party's concerns under section 17(5)(e) as reasonable.

[para 54] The Applicant states that much of the information the Third Party argues is potentially harmful is already in the public domain. The Applicant states that there has been a significant amount of information already published by the Auditor General as well as extensive media reporting.

[para 55] In Order 2001-020, the former Commissioner held that the focus under section 17(5)(e) is unfair harm to a third party.

[para 56] I do not find that a disclosure of the Third Party personal information would expose the Third Party to financial or other harm. I find that there is insufficient evidence before me that a disclosure of that information would result in the harm the Third Party alleges. I do not find that section 17(5)(e) is a relevant circumstance regarding that information. I also reviewed the Applicant's access request to determine if it specifically excluded information regarding the Third Party's repayment of expenses. I find that the access request did not exclude this information.

c. Section 17(5)(f) – Supplied in confidence

[para 57] The Third Party states that he considered the details of the charges and his subsequent repayment to be supplied in confidence.

[para 58] The Public Body submits that information regarding the details of the personal charges incurred by the Third Party was supplied in confidence.

[para 59] The Applicant states that the information was not supplied in confidence. The Applicant states that the Third Party was never told that the information related to his credit card expenses would be kept confidential, nor did he request that the information be kept confidential. In addition, the Applicant states that the Third Party, as a public employee, could reasonably have expected that his use of the government credit card could be subject to scrutiny.

[para 60] In Order 98-007, the former Commissioner stated that the primary concern of section 17(5)(f) is to honour promises of confidentiality made to individuals providing personal information and to protect their privacy and the privacy of others to whom the information relates.

[para 61] There is no evidence before me, either by affidavit or on the face of the records, that the Third Party's personal information was supplied in confidence. There is also no evidence that a promise of confidentiality was made to the Third Party in regard to that personal information. As such, I find that section 17(5)(f) is not a relevant circumstance that weighs against disclosure of the Third Party's personal information.

d. Section 17(5)(g) – Personal information likely to be inaccurate or unreliable

[para 62] The Third Party states his personal information within the records is inaccurate and unreliable. In support he refers to the fact that when the Applicant made a similar access request originally to Alberta Finance, the responsive records from that department varied from those in the possession of Alberta Economic Development. The Third Party also states that the Applicant's access request specifically excluded records regarding the Third Party's repayment of his personal expenses. The Third Party states that by excluding this information, the Applicant will receive an incomplete record of the circumstances surrounding his use of the credit card and will therefore result in a disclosure of personal information that is inaccurate and unreliable.

[para 63] The Public Body disagrees with the Third Party. The Public Body states that to the best of its knowledge, the personal information within the records is accurate.

[para 64] The Applicant states that the differences in responsive records identified by the Government departments do not suggest the personal information at issue is inaccurate or unreliable.

[para 65] In Order 97-002, the former Commissioner held that the reference to accuracy in section 17(5)(g) refers to whether the records contain a correct reflection of the personal information received or provided. The focus is whether the comments or information is accurately recorded, not on the accuracy of the comments or information recorded.

[para 66] I find that there is insufficient evidence before me that the Third Party's personal information is likely to be inaccurate or unreliable. Although the responsive records may vary between Government departments, this, in and of itself, is insufficient to conclude that the Public Body's records are inaccurate or unreliable. It is conceivable that different government departments would have custody of different records. I do not find that section 17(5)(g) is a relevant circumstance in this inquiry. I have also reviewed the Applicant's access request to determine if it specifically excluded information regarding the Third Party's repayment of expenses. I find that the access request did not exclude this information.

e. Section 17(5)(h) – Unfair damage to the reputation of the Third Party

[para 67] The Public Body states that if the Third Party's personal information at issue is publicly disclosed, it would unfairly damage the reputation of the Third Party.

[para 68] The Third Party states that a disclosure of his personal information will unfairly damage his reputation. The Third Party states that at the time he used the credit card for personal expenses he was following what he was advised to be acceptable government practice.

[para 69] The Applicant states that there has already been extensive publication of events related to the information at issue and that disclosure of all relevant information in this inquiry would allow for an accurate and complete portrayal of events and assist in preventing unfair damage to the Third Party's reputation.

[para 70] In Order 97-002, the former Commissioner held that the focus of section 17(5)(h) is unfair damage to a person's reputation. Consequently, the application of this section is not dependent on whether the damage or harm envisioned by the section is present or foreseeable, but whether this damage or harm would be unfair to the individual involved.

[para 71] There is insufficient evidence before me that a disclosure of the Third Party's personal information would unfairly damage the Third Party's reputation. Although these records contain the Third Party's name, the amount of each transaction, the location, vendor and date of transaction and other transaction identifiers, there is insufficient evidence before me, on the face of the records or otherwise, that a disclosure of this information would unfairly damage the Third Party's reputation. I find that section 17(5)(h) is not a relevant circumstance that weighs against a disclosure of the Third Party's personal information.

f. Additional relevant circumstance - Third Party's refusal to consent to disclosure

[para 72] The Public Body states that the Third Party's refusal to consent to disclosure of the records at issue is a relevant circumstance that weighs against disclosure.

[para 73] In Orders 96-020, 96-021 and 97-011, the former Commissioner held that a third party's refusal to consent to the disclosure of the third party's personal information was a relevant circumstance that weighed against disclosure. I similarly find that the Third Party's refusal to consent in this inquiry is a relevant circumstance that weighs against disclosure.

4. Did the Applicant meet the burden of proof?

[para 74] Section 71(2) of the Act states that an applicant bears the burden of proving that disclosure of the third party personal information would not be an unreasonable invasion of privacy under the Act. I find that the Applicant met this burden of proof in regard to the personal information of the former Government Minister on records 1, 5, 7, 8, 11, 13, 15, 38, 40, 46, 84 and 85, the name of the Government employee on records 13, 18, 38 and 40 and the department address on records 13, 18, 38, 40, 82 and 84. This personal information falls within the definition of section 1(n) and fulfills the presumption against disclosure within section 17(4)(g). However, I do not find that the disclosure of this information would be an unreasonable invasion of privacy as this information relates to individuals who were acting in their capacity as public officials.

[para 75] I also find that the Applicant met this burden of proof in regard to the Third Party's name, the dates on which the Third Party used the credit card for personal purposes and the amount of each of those purchases on records 1, 2, 4-19, 38-42, 44, 46-48, 51, 61, 82, 84-86. This personal information falls within the definition of personal information in section 1(n) and fulfills the presumption against disclosure within section 17(4)(e.1) and/or 17(4)(g). However, I find that the disclosure of this information would be desirable for the purpose of subjecting the Government of Alberta or the Public Body to public scrutiny pursuant to section 17(5)(a). Although the Third Party's refusal to consent to the disclosure of this information is a relevant circumstance that weighs against disclosure, I do not find that this circumstance outweighs the application of section 17(5)(a). In addition, I find that the Applicant has met the burden of proof in regard to the headings and other template information such as the address of the credit card company, the fax headers and footers and the date stamps found within these records as this information is not personal information.

[para 76] However, I find that the Applicant has not met the burden of proof in regard to the vendor names, locations, transaction identifiers within records 1, 2, 4-19, 38-42, 44, 46-48, 51, 61, 82 and 84-86. I find that the presumption against disclosure under section 17(4)(e.1) and/or 17(4)(g) applies to this personal information. Furthermore, I find that the Third Party's refusal to consent is a relevant circumstance that weighs against the disclosure of this personal information.

5. Conclusion under section 17

[para 77] I find that section 17(1) applies to the vendor names, locations and other transaction identifiers related to the Third Party's personal expenses within Records 1, 2, 4-19, 38-42, 44, 46-48, 51, 61, 82 and 84-86. Disclosure of this information would be an unreasonable invasion of personal privacy as provided by section 17(1) and must not be disclosed. I intend to order the Public Body not to disclose this information to the Applicant.

[para 78] However, I find that section 17(1) does not apply to the Ministerial approval stamps of the former Minister of Economic Development on records 1, 5, 7, 8, 11, 13, 15, 38, 40, 46, 84, and 85, the name of a Government employee on records 13, 18, 38 and 40 and the department address on records 13, 18, 38, 40, 82 and 84. I also find that section 17(1) does not apply to the Third Party's name, the dates on which the Third Party used the credit card for personal purposes, and the amount of each of those purchases on records 1, 2, 4-19, 38-42, 44, 46-48, 51, 61, 82 and 84-86. Disclosure of this information would not be an unreasonable invasion of privacy. I also find that section 17(1) does not apply to the headings and other template information such as the address of the credit card company, as well as the fax headers and footers and the date stamps found within records 1, 2, 4-19, 38-42, 44, 46-48, 51, 61, 82 and 84-86 as that information is not personal information. Furthermore, as there are no other mandatory exceptions that apply and the Public Body did not apply any discretionary exceptions to this information, I intend to order the Public Body to disclose this information to the Applicant.

V. ORDER

[para 79] I make the following order under section 72 of the Act.

A. Is/Are the information/records responsive to the Applicant's access request?

[para 80] I find that the Public Body properly withheld the following records as non-responsive as they consist of business related expenses in their entirety:

3, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 43, 45, 49, 50, 52, 53, 54, 55, 56, 57, 58, 59, 60, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 83, 87, 88

I uphold the Public Body's decision to withhold this information.

[para 81] I find that the business related transaction information within the following records is also non-responsive:

1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 38, 39, 40, 41, 42, 44, 46, 47, 48, 51, 61, 82, 84, 85, 86

I uphold the Public Body's decision to withhold this information.

[para 82] I find that a portion of the an adding machine tape on record 85 that contains information regarding the business related expenses and the total amount is non-responsive to the access request. I uphold the Public Body's decision to withhold this information. I find that the portion of the adding machine tape on record 85 that contains information regarding the Third Party's personal expenses is responsive to the access request.

[para 83] I find that the right-hand side of record 84 is non-responsive to the access request. I uphold the Public Body's decision to withhold this information.

[para 84] I find that the date stamps and approval stamps of the former Minister on records 1, 4, 5, 7, 8, 11, 12, 13, 15, 18, 38, 40, 46, 82, 84 and 85 are responsive to the access request.

B. Does section 17 of the Act (personal information) apply to the records/information?

[para 85] I find that section 17(1) does not apply to the Ministerial approval stamps of the former Minister of Economic Development on records 1, 5, 7, 8, 11, 13, 15, 38, 40, 46, 84, and 85, the name of a Government employee on records 13, 18, 38 and 40 and to the department address on records 13, 18, 38, 40, 82 and 84. I also find that section 17(1) does not apply to the Third Party's name, the dates on which the Third Party used the

credit card for personal purposes, the amount of each of those purchases on records 1, 2, 4-19, 38-42, 44, 46-48, 51, 61, 82, and 84-86. Disclosure of this information would not be an unreasonable invasion of privacy. I also find that section 17(1) does not apply to the headings and other template information such as the address of the credit card company, as well as the fax headers and footers and the date stamps found within records 1, 2, 4-19, 38-42, 44, 46-48, 51, 61, 82 and 84-86 as that information is not personal information. Furthermore, as there are no other mandatory exceptions that apply and the Public Body did not apply any discretionary exceptions to this information, I order the Public Body to disclose this information to the Applicant.

[para 86] However, I find that section 17(1) applies to the vendor names, locations and other transaction identifiers of the Third Party's personal expenses within Records 1, 2, 4-19, 38-42, 44, 46-48, 51, 61, 82 and 84-86. Disclosure of this information would be an unreasonable invasion of personal privacy as provided by section 17(1) and must not be disclosed. I order the Public Body not to disclose this information to the Applicant.

[para 87] I order the Public Body to notify me within 50 days of receiving a copy of this Order that it has complied with the Order.

Frank Work, Q.C.
Information and Privacy Commissioner