Information and Privacy Commissioner,
Ontario, Canada

Commissaire à l'information et à la protection de la vie privée,
Ontario, Canada

ORDER PO-3899

Appeal PA17-400

Ministry of Natural Resources and Forestry

November 2, 2018

Summary: The Ministry of Natural Resources and Forestry received a request under the *Freedom of Information and Protection of Privacy Act* for access to records relating to a particular application for review under the Environmental Bill of Rights. The ministry granted partial access to the responsive records, with severances pursuant to the exclusion at section 65(6)3, the discretionary solicitor-client privilege exemption at section 19, and the mandatory personal privacy exemption at section 21 of the *Act*. During the inquiry, the ministry withdrew its claim of section 65(6)3. The adjudicator upholds the ministry's access decision and its application of the exemptions under sections 19 and 21, and dismisses the appeal.

Statutes Considered: *Freedom of Information and Protection of Privacy Act,* R.S.O. 1990, c. F.31, as amended, sections 2(1), 21(1), and 19.

OVERVIEW:

[1] The Ministry of Natural Resources and Forestry (the ministry) received a request under the *Freedom of Information and Protection of Privacy Act* (*FIPPA* or the *Act*). The requester sought access to a copy of the main repository folder relating to an Environmental Bill of Rights application for a request for review regarding the Slate Islands Provincial Park management plan to secure the permanent protection of the resident woodland caribou population.

[2] The ministry identified responsive records and issued a decision to the requester. The ministry granted full or partial access to some of the responsive records and denied access to others in their entirety. Where the ministry denied access, it did so based on

the exclusion at section 65(6)3 (employment or labour relations), as well as the exemptions at sections 19 (solicitor-client privilege) and 21 (personal privacy) of the *Act*. The ministry also charged a fee, which the requester subsequently paid.

[3] The requester appealed the ministry's access decision to this office, becoming the appellant in this appeal.

[4] During mediation, the ministry clarified that it relied on section 65(6)3 for the severances on three pages. The appellant advised that he did not seek access to information withheld pursuant to section 21, but wished to seek access to the remainder of the information that was withheld pursuant to sections 65(6)3 and 19.

[5] No further mediation was possible and the appeal was moved to the adjudication stage of the appeal process, where an adjudicator conducts an inquiry under the *Act*. I began my inquiry by inviting the ministry to provide written representations in response to the issues set out in the Notice of Inquiry.

[6] The ministry originally claimed the exclusion at section 65(6)3 for portions of three email records, as opposed to the records as a whole. The majority of those three records had been disclosed to the appellant. This raised a preliminary issue of whether a record can be partially redacted based on the exclusions in section 65(6) of the *Act*.[1]

[7] The ministry provided representations, the non-confidential portions of which were shared with the appellant. In its representations, the ministry withdrew its claim to section 65(6)3 and instead provided submissions arguing that the withheld information on the three pages is exempt from disclosure pursuant to the mandatory personal privacy exemption at section 21 of the *Act*. Accordingly, section 65(6)3 is no longer before me in this appeal, while the application of section 21 to the three pages is now at issue.

[8] As the appellant had advised the mediator that he was not seeking access to information withheld pursuant to section 21 from other pages of records, staff of this office contacted the appellant to determine whether he wished to pursue access to the portions of the three pages now withheld under section 21. The appellant confirmed that he wished to pursue access to these pages.

[9] I then shared the non-confidential portions of the ministry's representations with the appellant. Portions of the ministry's representations were withheld because they meet the confidentiality criteria set out in *Practice Direction Number 7*.

[10] I sought representations from the appellant in response to the issues set out in the Notice of Inquiry, as well as in response to the ministry's representations. The appellant provided voluminous representations responding to the issues and providing background information to explain the reasons for his access request and in support of his position. The appellant also provided submissions written by his colleague, who he

[1] Orders PO-3572 and PO-3642 set out this office's approach the exclusions in section 65(6) of the *Act*.

indicates is an "informal co-appellant" in this appeal. Although I have reviewed the appellant's submissions in their entirety, for the sake of succinctness, I have only summarized below the portions that are directly related to the issues before me.

[11] For the reasons that follow, I uphold the ministry's decision to withhold the information at issue based the exemptions in sections 19 and 21, and I dismiss this appeal.

RECORDS:

[12] Pages 51, 52, 65, 66, 90, 100-144, 148, 158, 159, 160, 213, 216, and 217 of the records remain at issue in this appeal. These records include emails, email attachments, and Deputy Minister's Briefing Notes. In particular:

- Pages 160, 216 and 217 are emails from which the ministry has withheld information pursuant to the personal privacy exemption at section 21.
- The remaining records are withheld either in full or in part pursuant to the solicitor-client privilege exemption at section 19.

ISSUES:

A. Does the information at issue under section 21(1) constitute "personal information" according to the definition in section 2(1) of the *Act*?

B. Does the mandatory exemption at section 21(1) apply to the information at issue in pages 160, 216, and 217?

C. Does the discretionary exemption at section 19 apply to the records?

D. Did the institution exercise its discretion under section 19? If so, should this office uphold the exercise of discretion?

DISCUSSION:

Issue A: Does the information at issue under section 21(1) constitute "personal information" according to the definition in section 2(1) of the *Act*?

[13] To determine whether the section 21(1) exemption applies, it is necessary to decide whether the record contains "personal information" of an identifiable individual that is not the appellant. That term is defined in section 2(1) as follows:

> "personal information" means recorded information about an identifiable individual, including,

> (a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,
>
> (b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
>
> (c) any identifying number, symbol or other particular assigned to the individual,
>
> (d) the address, telephone number, fingerprints or blood type of the individual,
>
> (e) the personal opinions or views of the individual except if they relate to another individual,
>
> (f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence,
>
> (g) the views or opinions of another individual about the individual, and
>
> (h) the individual's name where it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual;

[14] The list of examples of personal information under section 2(1) is not exhaustive. Therefore, information that does not fall under paragraphs (a) to (h) may still qualify as personal information.[2]

[15] Sections 2(2), (3) and (4) also relate to the definition of personal information. These sections state:

> (2) Personal information does not include information about an individual who has been dead for more than thirty years.
>
> (3) Personal information does not include the name, title, contact information or designation of an individual that identifies the individual in a business, professional or official capacity.
>
> (4) For greater certainty, subsection (3) applies even if an individual carries out business, professional or official responsibilities from their

[2] Order 11.

> dwelling and the contact information for the individual relates to that dwelling.

[16] To qualify as personal information, the information must be about the individual in a personal capacity. As a general rule, information associated with an individual in a professional, official or business capacity will not be considered to be "about" the individual.[3]

[17] Even if information relates to an individual in a professional, official or business capacity, it may still qualify as personal information if the information reveals something of a personal nature about the individual.[4]

[18] To qualify as personal information, it must be reasonable to expect that an individual may be identified if the information is disclosed.[5]

[19] The ministry maintains that the information now withheld under section 21(1) relates to an identifiable individual's employment history.

[20] Having reviewed pages 160, 216, and 217, I note that the information withheld from the three pages is identical. The withheld information relates to the employment history of an individual identified in portions of the records that have previously been disclosed to the appellant. Accordingly, I find that the withheld information constitutes "personal information" according to paragraph (b) of the definition of "personal information" in section 2(1) of the *Act.*

Issue B: Does the mandatory exemption at section 21(1) apply to the information at issue in pages 160, 216, and 217?

[21] Where a requester seeks personal information of another individual, section 21(1) prohibits an institution from releasing this information unless one of the exceptions in paragraphs (a) to (f) of section 21(1) applies.

[22] The section 21(1)(a) to (e) exceptions are relatively straightforward. The section 21(1)(f) exception, allowing disclosure if it would not be an unjustified invasion of personal privacy, is more complex, and requires a consideration of additional parts of section 21.

[23] Under section 21(1)(f), if disclosure would not be an unjustified invasion of personal privacy, it is not exempt from disclosure. Sections 21(2) and (3) help in determining whether disclosure would or would not be an unjustified invasion of privacy. Section 21(4) lists situations that would not be an unjustified invasion of personal privacy.

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[3] Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F and PO-2225.
[4] Orders P-1409, R-980015, PO-2225 and MO-2344.
[5] Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).

Representations

[24] The ministry relies on the presumptions found at sections 21(3)(d) and 21(3)(g) in support of its position that disclosure would be an unjustified invasion of personal privacy. Those sections state:

> A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy where the personal information,
>
> (d) relates to employment or educational history;
>
> (g) consists of personal recommendations or evaluations, character references or personnel evaluations;

[25] The ministry submits that disclosure of the information at issue in pages 160, 216 and 217 would be an unjustified invasion of personal privacy. The ministry bases its position on the presumptions found in section 21(3). In particular, the ministry maintains that the information at issue relates to an identifiable individual's employment history, consistent with the presumption at section 21(3)(d), and consists of a part of that individual's personnel evaluation, consistent with section 21(3)(g). The ministry maintains that the redacted information is not merely a statement of employment responsibilities under section 21(4)(a).

[26] The appellant states that he is not interested in obtaining access to the personal information of individuals in general when those individuals are not Ontario Public Service (OPS) employees. Where the individuals are OPS employees, he only seeks access to personal information that may be helpful in understanding the situation of caribous in the Lake Superior Coastal Range, or species at risk in general in Ontario. He states that he is generally not interested in seeking access to sensitive personal information. The appellant requests that I, as the adjudicator, assess the worth of the withheld information with respect to his goals and motivations, while also considering whether its potential disclosure would unduly harm the individuals to whom the information relates.

Analysis and findings

[27] Based on my review of the records and the parties' submissions, I am satisfied that the remaining information at issue on pages 160, 216, and 217 has been properly withheld under section 21(1).

[28] Past orders of this office have determined that information contained in work histories falls within the scope of the presumption at section 21(3)(d); [6] however, a person's name and professional title, without more, does not constitute "employment history".[7]

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[6] Orders M-1084 and MO-1257.
[7] Order P-216.

[29] With respect to the presumption at section 21(3)(g), past orders have determined that the terms "personal evaluations" or "personnel evaluations" refer to assessments made according to measurable standards.[8] The thrust of section 21(3)(g) is to raise a presumption concerning recommendations, evaluations or references about the identified individual in question rather than evaluations, etc., by that individual.[9]

[30] The information at issue consists of more than merely an individual's name and professional title; it also relates to the individual's past assignments, position, and assessment. As the information withheld from pages 160, 216, and 217 relates to both the individual's work history and her employment evaluations, I am satisfied the presumptions at sections 21(3)(d) and 21(3)(g) apply. I am also satisfied that the exception in section 21(4)(a) does not apply. Accordingly, I find that the withheld information on pages 160, 216, and 217 is exempt from disclosure under the personal privacy exemption at section 21 of the *Act*, as its disclosure is presumed to constitute an unjustified invasion of personal privacy.[10]

[31] I do not need to consider whether any factors favouring disclosure in section 21(2) are present, because the presumed unjustified invasion of privacy under section 21(3) can only be rebutted by the list of situations set out in section 21(4) or the public interest override in section 23. Therefore, the mandatory exemption at section 21(1) has been established with respect to the information withheld on pages 160, 216, and 217.

Issue C: Does the discretionary exemption at section 19 apply to the records?

[32] The ministry relies on section 19 of the *Act* for the information remaining at issue in the following pages: 51, 52, 65, 66, 90, 100-144, 148, 158, 159, and 213. The relevant parts of section 19 read as follows:

> A head may refuse to disclose a record,
>
> (a) that is subject to solicitor-client privilege;
>
> (b) that was prepared by or for Crown counsel for use in giving legal advice or in contemplation of or for use in litigation.

[33] Section 19 contains two branches. Branch 1 ("subject to solicitor-client privilege") is based on the common law. Branch 2 (prepared by or for Crown counsel) is a statutory privilege. An institution must establish that one or the other (or both) branches apply.

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[8] Orders PO-1756 and PO-2176.
[9] Order P-171.
[10] As an aside, and for the interest of the appellant, based on my review of the records and my understanding of the appellant's interests, I do not believe disclosure of this information would be of any benefit to him.

[34] At common law, solicitor-client privilege encompasses two types of privilege: (i) solicitor-client communication privilege; and (ii) litigation privilege.

[35] In this case, the ministry relies on the common law solicitor-client communication privilege under Branch 1.

[36] Solicitor-client communication privilege protects direct communications of a confidential nature between a solicitor and client, or their agents or employees, made for the purpose of obtaining or giving professional legal advice.[11] The rationale for this privilege is to ensure that a client may freely confide in his or her lawyer on a legal matter.[12] The privilege covers not only the document containing the legal advice, or the request for advice, but information passed between the solicitor and client aimed at keeping both informed so that advice can be sought and given.[13] The privilege may also apply to the legal advisor's working papers directly related to seeking, formulating or giving legal advice.[14]

[37] Confidentiality is an essential component of the privilege. Therefore, the institution must demonstrate that the communication was made in confidence, either expressly or by implication.[15] The privilege does not cover communications between a solicitor and a party on the other side of a transaction.[16]

[38] Under the common law, solicitor-client privilege may be waived. An express waiver of privilege will occur where the holder of the privilege knows of the existence of the privilege, and voluntarily demonstrates an intention to waive the privilege.[17]

[39] An implied waiver of solicitor-client privilege may also occur where fairness requires it and where some form of voluntary conduct by the privilege holder supports a finding of an implied or objective intention to waive it.[18]

[40] Generally, disclosure to outsiders of privileged information constitutes waiver of privilege.[19] However, waiver may not apply where the record is disclosed to another party that has a common interest with the disclosing party.[20]

Representations

[41] In its representations, the ministry relinquishes its claim to section 19 for certain portions of pages 51, 52, 65, and 66, but maintains that the exemption applies to all of

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[11] *Descôteaux v. Mierzwinski* (1982), 141 D.L.R. (3d) 590 (S.C.C.).
[12] Orders PO-2441, MO-2166 and MO-1925.
[13] *Balabel v. Air India*, [1988] 2 W.L.R. 1036 at 1046 (Eng. C.A.)
[14] *Susan Hosiery Ltd. v. Minister of National Revenue*, [1969] 2 Ex. C.R. 27.
[15] *General Accident Assurance Co. v. Chrusz* (1999), 45 O.R. (3d) 321 (C.A.); Order MO-2936.
[16] *Kitchener (City) v. Ontario (Information and Privacy Commissioner)*, 2012 ONSC 3496 (Div. Ct.).
[17] *S. & K. Processors Ltd. v. Campbell Avenue Herring Producers Ltd.* (1983), 45 B.C.L.R. 218 (S.C.).
[18] *R. v. Youvarajah*, 2011 ONCA 654 (CanLII) and Order MO-2945-I.
[19] J. Sopinka et al., *The Law of Evidence in Canada* at p. 669; Order P-1342, upheld on judicial review in *Ontario (Attorney General) v. Big Canoe*, [1997] O.J. No. 4495 (Div. Ct.).
[20] *General Accident Assurance Co. v. Chrusz,* cited above; Orders MO-1678 and PO-3167.

the remaining records and severed portions of records at issue. The ministry has issued a revised decision letter to this effect, disclosing the additional portions of those records.

[42] The ministry submits that the remaining information at issue is exempt from disclosure because it reflects confidential communications relating to the seeking and giving of legal advice. Such information includes documentation of communications between ministry staff that refer to legal advice, and emails and related attachments that were sent for the purpose of giving and receiving legal advice.

[43] The ministry also provides confidential submissions in support of the application of the solicitor-client privilege exemption, which I have considered.

[44] The ministry submits that the statutory privilege codified in section 19 has not been lost through waiver by client or counsel.

[45] The appellant maintains that legal advice that enables or counsels future crime, or which enables or counsels a future tort, is not subject to the protections offered by solicitor-client privilege. The appellant argues this with respect to the ministry's obligations toward species at risk as defined by the *Endangered Species Act* (the *ESA*).[21]

[46] The appellant's representations in support of this position are lengthy. In fact, the majority of his over 100 pages of representations and supporting documentation aim to establish the ministry's tortious conduct in failing to prevent the extirpation of a particular species at risk, the Lake Superior Coastal Region caribou, which are classified as a "threatened" species at risk under the *ESA*.

[47] In short, the appellant maintains that the ministry failed to conserve the caribou in the Lake Superior Coastal Region. In failing to adhere to the standard of stewardship stipulated in Ontario's Woodland Caribou Conservation Plan,[22] and in "knowingly and actively failing to intervene to stop the extirpation of the […] caribou notwithstanding scientific evidence, [etc]," the appellant submits that the ministry committed an "egregious tort against [the people of Ontario and treaty rights holders]."

[48] The appellant suggests that I should assess whether the records "involved tortious communications or advice, or communications or advices in furtherance of an unlawful activity or behaviour." If so, the appellant submits that the section 19 exemption should not apply to those portions containing legal advice that "counseled, entertained, enabled, or facilitated failing to rigorously adhere to the ESA requirements and/or the requirements of documents derived from the ESA […] and/or that advised or facilitated dismissing the Request for Review."

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[21] 2007, SO 2007 c 6 (*ESA*).

[22] According to the appellant, this is a document detailing the actions expected of the Crown with respect to woodland caribou conservation.

Analysis and findings

[49] I have reviewed the withheld information on pages 51, 52, 65, 66, 90, 100-144, 148, 158, 159, and 213, and considered the parties submissions, including the confidential portions provided by the ministry. Based on this review, I am satisfied that the information at issue has been properly withheld pursuant to section 19(a) of the *Act*.

[50] Some records consist of emails and email attachments exchanged directly between counsel with the ministry's Legal Services Branch and ministry staff in non-legal departments. Other records consist of emails or attachments shared between the ministry's non-legal staff that refer to the seeking or receiving of legal advice. While these emails were not sent directly to or from legal counsel within the ministry's Legal Services Branch, they reveal the fact that legal advice was sought or received, and the relevant topics or documents.

[51] Past orders of this office have recognized that email exchanges between non-legal staff can form part of the "continuum of communication" covered by solicitor-client privilege.[23] This includes where disclosure would "indirectly reveal information exchanged between the [counsel] and [client] for the purpose of keeping both […] informed so that legal advice may be sought and given as required,"[24] and where emails between non-legal staff refer to the need for the communications to be sent to legal counsel.[25]

[52] Based on my review, I am satisfied that both the emails between legal and non-legal staff, and the emails among non-legal staff contain information that would reveal information exchanged between the ministry's staff and its legal counsel for the purpose of keeping both informed so that legal advice may be sought and received as required. Having regard to the content of these pages and individual redactions in the context of the records as a whole, I find that they form part of the "continuum of communication," which falls within Branch 1 of the solicitor-client privilege exemption at section 19(a) of the *Act*.

[53] The remaining records to consider consist of Deputy Minister's Briefing Notes. During the inquiry stage of this appeal, the ministry advised that it was willing to disclose some portions of those records to the appellant. I am satisfied that disclosure of the remaining portions of those records would reveal information that qualifies as solicitor-client privileged.

[54] The appellant submits that if the legal advice contained in the records counselled the ministry to act in breach of its obligations under the *ESA* and/or documents derived from the *ESA,* then the solicitor-client privilege exemption at section 19 of the *Act* should not apply.

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[23] Orders P-1409, PO-1663, and PO-2624.
[24] Order MO-2789.
[25] Order PO-2624.

[55] While there is an exception to solicitor-client privilege at common law where the communications between counsel and client serve to further unlawful conduct,[26] Canadian courts have yet to consistently recognize the same exception for "future torts."[27]

[56] With regard to the unlawful act exception, a party must do more than merely assert that legal advice was sought in furtherance of an illegal purpose. They must provide clear and convincing evidence that (a) the client knowingly pursued an unlawful act,[28] and (b) "the solicitor-client communication facilitated the unlawful act or […] the solicitor otherwise became a […] conspirator."[29] If the same standard were to apply with respect to an exception for future torts, then I must be satisfied that the ministry knowingly pursued the alleged tortious conduct and used its legal counsel to facilitate a breach of the *ESA* and its associated documents.

[57] Having considered the records at issue and the parties' representations, I have concluded that I am unable to make these findings in the context of this appeal. The reasons for this are two-fold: First, there is insufficient evidence before me to establish that the ministry used its legal counsel in a manner that facilitated breaching its obligations under the *ESA* and its associated documents.

[58] Second, while I acknowledge the breadth of materials and evidence provided by the appellant in support of his position that a "future torts" exception to common law solicitor-client privilege applies in this appeal, the findings that I am able to make are limited by the jurisdiction of this office. In my view, a determination of whether the unlawful act or future torts exceptions apply is more appropriately made by a court or tribunal with the specific authority to decide, in another proceeding, whether the ministry's actions in question were unlawful or tortious.

[59] In the context of this appeal, my jurisdiction is based on *FIPPA*, not the *ESA.* I do not have the power to determine issues under the *ESA*, including whether the ministry met its duties and responsibilities with regard to the Woodland Caribou Conservation Plan, whether the ministry knowingly sought advice inherently at odds with its obligations, thereby leading it to commit a tortious act, or whether the ministry was negligent in dismissing the appellant's Request for Review. Rather, I am authorized to make determinations within the confines of *FIPPA*. In relation to common law solicitor-client communication privilege in section 19(a), my authority is limited to determining whether the records consist of direct communications of a confidential nature between

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[26] *Pritchard v. Ontario (Human Rights Commission),* [2004] 1 S.C.R. 809 at para 16; *R. v. Cox and Railton* (1884), 14 Q.B.D. 153, p. 167, Stephen J., cited in *Solosky v. The Queen*, [1980] 1 S.C.R. 821 and *R. v. Campbell*, [1999] 1 S.C.R. 565.

[27] Professor Adam Dodek, University of Ottawa, "Solicitor-Client Privilege in Canada: Challenges for the 21st Century" (Discussion Paper for the Canadian Bar Association, February 2011). And see: *Brome Financial Corp. v. Bank of Montreal*, 2013 ONSC 4816 at paras. 17-19.

[28] *R v Shirose (R v Campbell)*, [1999] 1 SCR 565, cited in *Blue Line Hockey Acquisition Co Inc v. Orca Bay Hockey Limited Partnership*, 2007 BCSC 143.

[29] *Reid v. British Columbia (Egg Marketing Board)*, 2006 BCSC 346 at para 17, as cited in *Blue Line Hockey Acquisition Co Inc v. Orca Bay Hockey Limited Partnership*, 2007 BCSC 143.

a solicitor and client, or their agents or employees, made for the purpose of obtaining or giving professional legal advice.[30] As previously stated, I have determined that they do.

[60] With regard to the possibility of waiver, the ministry submits that it has not waived the privilege attaching to the records and the appellant has not provided evidence otherwise. Accordingly, I am satisfied that there has not been a waiver of solicitor-client privilege in relation to the records at issue in this appeal.

[61] I will now turn to the ministry's exercise of discretion in withholding the records that are covered by the section 19(a) exemption.

Issue D: Did the institution exercise its discretion under section 19? If so, should this office uphold the exercise of discretion?

[62] The section 19 exemption is discretionary, and permits an institution to disclose information, despite the fact that it could withhold it. An institution must exercise its discretion. On appeal, the Commissioner may determine whether the institution failed to do so.

[63] In addition, the Commissioner may find that the institution erred in exercising its discretion where, for example, it does so in bad faith or for an improper purpose, it takes into account irrelevant considerations, or it fails to take into account relevant considerations.

[64] In either case, this office may send the matter back to the institution for an exercise of discretion based on proper considerations.[31] According to section 54(2) of the *Act*, however, this office may not substitute its own discretion for that of the institution.

[65] The ministry submits that it properly exercised its discretion in making its decision to deny access to the information contained in the records at issue. It submits that it considered the circumstances of the request, the purposes of the *Act*, the nature of the exemption, the importance of the solicitor-client relationship, and preserving the confidentiality of communications in the course of seeking and giving legal advice.

[66] The ministry also submits that it did not take into account irrelevant considerations.

[67] The appellant submits that while he acknowledges the importance of solicitor-client privilege generally, the information withheld in this appeal may prove that the ministry acted in furtherance of a future tort, and it should therefore be disclosed.

[68] Based on my review of the parties' submissions and the nature and the content of the records at issue, I find that the ministry properly exercised its discretion to

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[30] *Descôteaux v. Mierzwinski* (1982), 141 D.L.R. (3d) 590 (S.C.C.).
[31] Order MO-1573.

withhold information pursuant to the discretionary solicitor-client privilege exemption at section 19(a) of the *Act*. I am satisfied that the ministry took into account relevant considerations, and did not act in bad faith or for an improper purpose. Accordingly, I uphold the ministry's decision to withhold the records, or portions thereof, pursuant to section 19(a) exemption.

ORDER:

I uphold the ministry's decision to deny access to the remaining information at issue based on sections 19 and 21 of the *Act*, and I dismiss this appeal.

Original Signed by: November 2, 2018

Jaime Cardy
Adjudicator