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Office of the Information and Privacy Commissioner
Province of British Columbia
Order No. 90-1996
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INQUIRY RE: A request for a waiver of fees by Vanden Berg and Associates Inc., representing the Penticton and Similkameen Indian Bands, with respect to information held by the Ministry of Employment and Investment

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1. Description of the review

As Information and Privacy Commissioner, I conducted a written inquiry at the Office of the Information and Privacy Commissioner in Victoria on February 26, 1996 under section 56 of the *Freedom of Information and Protection of Privacy Act* (the Act). This inquiry arose out of a request for review of a decision by the Ministry of Employment and Investment (the Ministry) to refuse a waiver for fees levied in connection with preparation and copying of records for the applicant, Vanden Berg and Associates Inc. (the applicant).

The applicant requested "all files and records pertaining to the financial arrangements between the government of British Columbia and the developers of the Apex ski hill." The applicant represents the Penticton and Upper and Lower Similkameen Indian Bands, all of which are engaged in dealings with the province relating to road and land ownership issues. One such matter is the ownership or control of the road leading to the Apex ski resort.

2. Documentation of the inquiry process

The applicant made its initial request for information by way of a letter dated May 8, 1995 to the Ministry of Small Business, Tourism and Culture. That Ministry in turn notified other ministries involved in the financial arrangements between the province and Apex. On May 11, 1995 the Ministry of Employment and Investment acknowledged the applicant's request. After consulting with third parties, the Ministry notified the applicant by letter dated July 12, 1995 of its intention to provide partial access to the records. It included an estimate of fees for preparing and handling the records pursuant to section 75(4) of the Act.

The fee estimate was in the amount of $1,450, including $900 for preparing records for disclosure, $50 for shipping and handling, and $500 for photocopying 2,000 pages. The public

body requested that the applicant pay 50 percent of the fee estimate, or $725, prior to further processing of the request.

On July 24, 1995 the applicant submitted a request for review to the Office of the Information and Privacy Commissioner pursuant to section 42(2)(c) of the Act. The applicant objected to paying the fees requested by the Ministry, on the grounds that such fees will slow the research process for First Nations and "make it difficult to provide a level playing field during negotiations between the Province and First Nations."

Logistical and scheduling difficulties among the parties to this inquiry led to a series of adjournments by mutual consent, with the written inquiry process finally commencing on February 2, 1996. I also granted special leave to the parties to submit additional replies to one another in this process, with the result that my Office received the last submission on February 26, 1996.

3. Issue under review at the inquiry

The issue in this case is whether Vanden Berg and Associates Inc., representing the Penticton and Similkameen Indian Bands, should be excused from paying all or part of the fees requested by the Ministry under section 75(5) of the Act, which reads as follows:

Fees

75(1) The head of a public body may require an applicant who makes a request under section 5 to pay to the public body fees for the following services:

(a) locating, retrieving and producing the record;

(b) preparing the record for disclosure;

(c) shipping and handling the record;

(d) providing a copy of the record.

(2) An applicant must not be required under subsection (1) to pay a fee for

(a) the first 3 hours spent locating and retrieving a record, or

(b) time spent severing information from a record.

....

(4) If an applicant is required to pay fees for services under subsection (1), the public body must give the applicant an estimate of the total fee before providing the services.

(5) The head of a public body may excuse an applicant from paying all or part of a fee if, in the head's opinion,

(a) the applicant cannot afford the payment or for any other reason it is fair to excuse payment, or

(b) the record relates to a matter of public interest, including the environment or public health or safety.

(6) The fees that prescribed categories of applicants are required to pay for services under subsection (1) may differ from the fees other applicants are required to pay for them, but may not exceed the actual costs of the services.

4. The records in dispute

The content of the records in dispute is not directly relevant to the principal issue in this case, and for that reason I have not sought to examine them. It is evident from the fee estimate provided by the Ministry, however, that the volume of records is considerable: 2,000 pages.

5. The burden of proof

The Act provides no specific guidance on the burden of proof to be applied in a request for a waiver of fees. However, I note that fees may be assessed by a public body in accordance with the Act and its regulations. A fee estimate provided by a public body must be paid by way of a 50 percent deposit by the applicant before records are provided, unless I order otherwise under section 58(3)(c) of the Act. To be excused from paying a fee under the Act is to receive a discretionary financial benefit; conversely, the province foregoes revenue to which it would otherwise be entitled under the Act. Thus it appears logical that the party seeking the benefit should prove its entitlement on the basis of the criteria specified in the Act. This places the burden of proof on the applicant in this inquiry.

6. The applicant's case

The applicant wishes the fees in dispute to be waived under section 75(5) of the Act or "vastly reduced." I have presented below its submissions with respect to specific sections of the Act.

The applicant points out that First Nations in this province are dependent on transfer payments from Indian and Northern Affairs Canada in order to deliver basic services on their reserves: "They cannot afford to be burdened with extensive costs for research materials, especially when those materials are of immediate relevance to negotiations intended to resolve questions pertaining to aboriginal lands." (Submission of the Applicant, paragraph 4)

The applicant alleges, supported by affidavit evidence, that the province had committed itself to providing necessary information at no cost in the Initial Agreement (the Seven Peaks

Agreement) with the Penticton Indian Band and the Upper and Lower Similkameen Indian Bands that was signed on December 14, 1994. (Submission of the Applicant, paragraph 4)

The applicant seeks an order that the Ministry erred in its handling of the fee waiver request and in its decision not to waive the fees requested. It asks me to instruct the public body to waive the fee completely or reduce it substantially. (Reply Submission of the Applicant, paragraph 8.01)

7. The Ministry's case

I have reviewed the specifics of the Ministry's case at various points below, as I found it appropriate to do so.

Its general position is as follows:

> The Public Body submits that it has made a conscious and reflective decision to assess a fee estimate in this case, and to deny a fee waiver request by the Applicant. This decision was made in good faith, without regard to extraneous considerations and without discrimination .... The Public Body has exercised its discretion in a reasoned manner, and has determined that the waiving of fees in the case is not in the public interest. (Submission of the Ministry, paragraph 5.12; and Reply Submission of the Ministry, p. 4)

8. Discussion

The broad context of this case is the ongoing, high-level debates among the province, the Indian Bands, and the Apex ski development about a variety of matters. The province itself withdrew from the Initial Seven Peaks Agreement on August 30, 1995. The Bands apparently now wish to return to the bargaining table. (Affidavit of John Wagner, February 1, 1996, paragraph 7) They are also apparently suing the government for breach of contract. The Ministry states that there are currently no negotiations ongoing between it and the Bands represented by the applicant. (Reply Submission of the Ministry, p. 3)

While the agreement was still in effect, the Ministry decided, in consultation with the Ministry of Aboriginal Affairs, that "this agreement clearly was not intended to provide access to the types of records requested by the Applicant." (Submission of the Ministry, paragraph 5.08) The applicant's response is that this decision is not consistent with previous decisions by the Ministry to provide financial records to the Bands and with the specific language of paragraph 11 of the Initial Agreement. (Reply Submission of the Applicant, paragraph 5.02) The Ministry replies that these financial records are available, if the applicant pays the required fee. (Reply Submission of the Ministry, p. 4)

The applicant argues that the province has an obligation under its openness policy to supply information to First Nations without excessive information costs: "First Nations within B.C. that have chosen not to participate in the treaty process should not be discriminated against in regard to information costs." (Submission of the Applicant, paragraph 5) I am not in a

position under the Act to in effect extend rights under a treaty process to Bands that chose not to participate in the formal process. That policy issue should be settled in the political arena.

The applicant further argues that assessment of fees by the Ministry, such as in the present inquiry, "would have disastrous consequences if applied routinely to all First Nations in the Province and would become a barrier to access. They are a barrier to access in this case." (Submission of the Applicant, paragraph 7) While I am prepared to evaluate the specific submission of this applicant in this case, I am not inclined to accept its broader argument about possible harm to all First Nations, except on a case-by-case basis. (See Order No. 55-1995, September 20, 1995, p. 9, and the Submission of the Ministry, paragraph 5.10)

Section 75(4): If an applicant is required to pay fees for services under subsection (1), the public body must give the applicant an estimate of the total fee before providing the services.

The Ministry states that the fee imposed on the applicant is in accordance with the fee schedule in B.C. Regulation 323/93 for non-commercial applicants (although it could have charged this applicant as a commercial one), and that the estimate was just that and not a final bill. (Submission of the Applicant, paragraph 5.01; and Reply Submission of the Ministry, p. 2) The Ministry estimates that it has spent approximately 350 hours in processing this request and has made over 9,000 photocopy pages. These activities have included internal meetings, cross-government meetings, severing, reviewing, mediation, and dealing with third party concerns. It estimates that 100 additional hours will be required to complete the reviews requested by third parties: "In total, the Public Body estimates that its costs for completing this request will be approximately $19,000." (Submission of the Ministry, paragraph 5.02; Affidavit of B. Hibbins, paragraph 11) The Ministry further states that other Ministries did not charge the applicant for access to comparable records, because they did not find a sufficient volume of them. This pricing was established on the basis of a common agreement among the Ministries. (Submission of the Ministry, p. 15; and Affidavit of B. Hibbins, p. 3)

The applicant's response is that there are "no provisions in the Act stating that fee estimates should reflect actual costs of completing requests." Its view is that the government spent a certain proportion of its time in this case dealing with "related political issues," as evidenced in particular by internal and cross-ministerial meetings. (Reply Submission of the Applicant, paragraph 4.01) The applicant also objects to paying for time spent "reviewing" records to see if an exception applies and for the costs of third party consultations and referrals. (Reply Submission of the Applicant, paragraphs 4.02 and 4.03) The Ministry states that its fee estimate does not include any of the time that it spent in meetings among various Ministries to ensure that all records were provided and to reduce the applicant's potential costs by avoiding duplication in the records provided. (Reply Submission of the Ministry, p. 6)

Section 75(5)(a): The head of a public body may excuse an applicant from paying all or part of a fee if, in the head's opinion, (a) the applicant cannot afford the payment or for any other reason it is fair to excuse payment

The applicant states that other Ministries, including the Ministry of Aboriginal Affairs, have provided it with requested information at no cost, except for the Ministry of Employment

and Investment. (Submission of the Applicant, paragraph 20) I note simply that each Ministry must exercise its own discretion under section 75. The applicant further claims that in its experience fees are more likely to be charged for records that pertain to controversial matters. (Affidavit of John Wagner, February 1, 1996, paragraph 17) I await further evidence that such a pattern exists.

The applicant also states that its request for a fee waiver was turned down by the Ministry. (Affidavit of John Wagner, February 1, 1996, paragraph 11) The Ministry in fact determined that the Seven Peaks Agreement (the Interim Agreement) did not apply to the requested records and that they did not relate to a matter of public interest. (Submission of the Ministry, paragraphs 1.06 and 1.07)

The Ministry informed me that the applicant did not respond to its written request of July 12, 1995 for submissions on why fees should be waived. This is contrary to my expectations set out in Order No. 30-1995, January 12, 1995, pp. 10, 12. (Submission of the Ministry, paragraphs 1.09, 1.10, 5.03) The applicant claims that the Ministry did not ask it for reasons for a fee waiver either in writing or in telephone contacts. (Reply Submission of the Applicant, paragraph 2.02)

The Ministry is also of the view that its decision on denial of a fee waiver is consistent with the written policy guidelines, dated July 28, 1995, of the Information and Privacy Branch of the then Ministry of Government Services. (Submission of the Ministry, paragraph 1.11, pp. 14, 15, and Affidavit of B. Hibbins, exhibit E) I return to this matter below.

The Ministry relied on my Order No. 55-1995 concerning fees in a City of Vancouver case in which I acknowledged the initial responsibility of a head of a public body to make such a decision, "subject to my oversight of any alleged failure to act in a reasoned manner on the issue." (pp. 8, 9) In Order No. 79-1996, January 19, 1996, I again deferred to the judgment of the head of the Vancouver Police Department to exercise his discretion with respect to a specific fee. (p. 4) (Submission of the Ministry, paragraphs 5.04 to 5.06)

As an additional reason for supporting its fee waiver request, the applicant states its understanding "that extensive severing is being carried out on the records requested and [that it] has no way of ascertaining, or providing certainty to our client, as to whether the information being provided will answer our request." (Reply Submission of the Applicant, paragraph 4.03) The Ministry's response is that the applicant will receive "the majority of the records," and that it is in mediation with the affected third parties regarding disclosure of some records or parts of records. (Reply Submission of the Ministry, p. 3)

The applicant also is concerned that it was not permitted to view the records in dispute, in order to narrow down the request, before paying the fees imposed. (Submission of the Applicant, paragraph 19) Public bodies routinely narrow down requests in the process of responding to them by reducing the scope of the request and by allowing an applicant to view volumes of possibly relevant records. The Ministry is now willing to allow the applicant to view the severed records, but not the originals, if it pays the fee for preparing them for disclosure: "In order for the Applicant to view a severed copy of the requested records, the Public Body must still prepare the records for disclosure." (Reply Submission of the Ministry, p. 6; and

Supplemental Affidavit of B. Hibbins, paragraph 3) This review would permit the applicant to request only copies of records that are of value, and the cost of preparing the records for disclosure would be less than the fee estimate. I urge the applicant to follow this recommended course of action.

I agree with the applicant's submission that the "fact that the information request is on behalf of a First Nation should give added weight to the request for a fee waiver." (Reply Submission of the Applicant, paragraph 6.02)

The Ministry has objected to the applicant's incorporation in its reply submission of information about its clients' inability to pay the fees in this case. I agree with the Ministry that the applicant should have made these arguments at the time of formally requesting a fee waiver. However, the Ministry did in fact review these final submissions, "the circumstances in this case, the application of the Act, and the policy regarding fee waivers," and "decided *not* to excuse the Applicant from paying the fee." (Second Reply Submission of the Ministry, p. 3; and Affidavit of C. Lukaitis, paragraph 3)

Section 75(5)(a): The applicant's ability to pay

In its reply submission, the applicant stated that it had indeed raised the issue of financial burden on the Indian Bands in its dealings with the Ministry for a fee waiver, contrary to the statements of the Ministry. The applicant asserts that it generally raised the financial burden on Indian Bands of paying for access requests in a telephone conversation with the Ministry. (Reply Submission of the Applicant, paragraph 2.01) Furthermore, the Ministry gave no indication that "full written submissions on the question of 'financial burden' and 'inability to pay' ... [were] appropriate or necessary to its deliberations." The applicant asserts that this was inconsistent with the policy guidelines on fee waivers dated July 28, 1995. (Reply Submission of the Applicant, paragraphs 2.02 and 2.03) The Ministry points out that the policy guidelines were not in place when it made its initial decision on a fee waiver. (Second Reply Submission of the Ministry, p. 2)

The applicant's reply submission makes claims that the Ministry acted on the fee waiver matter "in an arbitrary and improper manner," among other suggestions. In my view, there was at worst a misunderstanding of what was necessary to establish the basis for a claim of a fee waiver, which is hardly surprising in the early days of implementation of the Act. I also note that the policy guidelines on fee waivers of the Information and Privacy Branch are just that; they are not binding interpretations of the Act.

There are also competing claims about mediation of the fee waiver issue in this case. The Ministry states that my Office did not attempt to mediate. The applicant claims that my Office informed it that the Ministry staff person was unwilling to consider mediation. (Affidavit of B. Hibbins, p. 3; Reply Submission of the Applicant, paragraph 2.07, and Affidavit of John Wagner, February 9, 1996, paragraph 6) All parties should have systematically addressed the issue of a fee waiver during the mediation period set out in the Act.

In its reply submission, the applicant emphasizes that the direct and related costs of obtaining the information requested in this case are a barrier to access for the Penticton Indian Band in particular, and that "the information is highly important to their community ...." (Reply Submission of the Applicant, paragraph 2.09; Affidavit of Greg Gabriel, Band Administrator, Penticton Indian Band; Affidavit of John Wagner, February 9, 1996, paragraph 7-9) The administrator of the Penticton Indian band asserts that First Nations do not receive funding to pay this kind of cost for access to information.

With respect to ability to pay, the Ministry states that the Bands in this case were paid over $570,000 from December 1994 to August 1995 by the Ministry of Aboriginal Affairs "for the purpose of preparing for negotiations on a final agreement, and for carrying out the terms of the Initial Agreement." The Ministry also points out that the Bands have been able to hire a research consultant company (the applicant) to prepare submissions in this inquiry. (Second Reply Submission of the Ministry, p. 4)

I conclude that the actual applicant in this inquiry, a consulting company, has the ability to pay, even if its clients, the three Indian Bands, may not. The fee estimate by the Ministry is also modest in contrast to its estimate of the overall cost of processing this request.

Section 75(5)(b): the record relates to a matter of public interest, including the environment or public health or safety.

The applicant argues that the relationship between the government and the Apex Resorts Corporation and its subsidiaries is a matter of "public interest" under this section, because the government has been in effect helping to subsidize the ski development since 1960 by a variety of means. Disclosure of the records requested will help to determine the extent of this subsidy. The environmental impact of the Apex development is also a matter of public interest. (Submission of the Applicant, paragraphs 8-11. See also the Affidavit of John Wagner, February 1, 1996, paragraphs 18-25 and accompanying documentation) The Ministry's response on the latter point is that it has already disclosed, free of charge, "all environmental studies and documents relating to the Apex development. The requested records do not contain *any* information regarding the environment or the environmental impact of the Apex development." (Reply Submission of the Ministry, p. 5)

The applicant also argues that aboriginal rights and the public safety on a road up the Apex mountain are also matters of public interest and concern. (Submission of the Applicant, paragraphs 12, 13) The Ministry replies that there is nothing in the records in dispute pertaining to these two matters. (Reply Submission of the Ministry, p. 5)

The Ministry's response on the fee waiver issue is that the records in dispute in this case are primarily third party business documents involving the Bank of Montreal, the province, and Apex Mountain Resorts Ltd. with respect to loan guarantees. (Submission of the Ministry, pp. 13, 14) The Ministry's argument is that:

> The records requested have not generated significant public interest. It has been publicly disclosed that the Province has guaranteed loans for Apex Mountains

> Resorts Ltd. There has not, however, been significant public interest in the details of the Province's negotiations with the Bank of Montreal on providing these loan guarantees, or the negotiations which have taken place between the Bank of Montreal and Apex Mountains Resorts Ltd. (Submission of the Ministry, p. 16)
> ...
> In this case it is questionable whether anyone other than the Applicant, and perhaps the business competitors of Apex, or someone looking to purchase Apex, would have any interest in looking at the records which have been requested. (Reply Submission of the Ministry, p. 4)

The applicant offered, in response, specific examples of the public interest in this matter in Penticton and the Okanagan generally. (Reply Submission of the Applicant, paragraphs 3.04 and 3.05 and accompanying affidavits)

The Ministry's discussion of the "public interest" in this matter requires some comment, given the amount of public attention that the Apex ski hill controversy has attracted in the last several years. It is not enough to argue that neither environmental information, nor information relating to public health or safety are at issue. (Affidavit of B. Hibbins, paragraph 7. See, especially, the Reply Submission of the Applicant, paragraph 7.01) The general public could be interested in a detailed examination of the relationship between the province and the ski resort, once the applicant has had an opportunity to review the requested records. It is also important to acknowledge that the applicant's request for access was clearly made on behalf of the Penticton, Upper and Lower Similkameen First Nations, which plan to publicize what they learn. (Affidavit of B. Hibbins, Exhibit A)

It is the Ministry's judgment that the information and records in dispute could have "no immediate or significant impact" on the public, and that the financial information in these records "is not a topical issue, and is a very different issue from the Apex road access matter, and the injunction the Province has obtained against the Bands." (Submission of the Ministry, p. 17) However, the applicant states that:

> While the information requested is specifically in regard to financial information, it is information that describes the nature and extent of the Government's financial support for a private company. The company is involved in activities which have potentially serious environmental impacts and serious impacts on aboriginal rights, and in both cases the extent of the impacts is still undetermined. The financial information therefore has a direct bearing on environmental impacts and impacts on aboriginal rights. (Reply Submission of the Applicant, paragraph 3.02)

It is clear that the Ministry could have decided that a fee waiver was in the public interest in this case, but it exercised its discretion not to do so.

The Ministry is on strong grounds in noting that contrary to the policy guidelines, the applicant "has not provided the Public Body with any valid arguments as to why the release of these records would be in the public interest." (Submission of the Ministry, p. 16) The issue is

how far this point can be pushed. These guidelines were only finalized at the very time that the Ministry was making its decision and soon after my first ruling on fee waivers. The applicant replied to a written request for reasons from the Ministry by asking instead for a review by my Office; in retrospect, this was unwise.

Given the amount of time and energy that the parties have already devoted to this matter, I find it inappropriate for me to decide the case by instructing the applicant to go back and ask the Ministry, formally, for a fee waiver or to expand on its reasons for same. Furthermore, the applicant's defense is that it could have given fuller reasons why its request was in the public interest, had it been formally asked to do so. (Reply Submission of the Applicant, paragraph 3.01) In effect, it has made its claim for a fee waiver during this inquiry.

I find it useful to reproduce the full list of criteria prepared by the Information and Privacy Branch of the then Ministry of Government Services for "determining public interest for the purposes of charging or waiving a fee:"

> *The greater the proportion of the public that will be affected by the information, the stronger the argument for release in the public interest.
> *The most immediate and significant the impact of the information on the public, the stronger the argument for release in the public interest.
> *The issue is topical and included in public debate or discussion.
> *A request that is about a specific and definable issue more strongly reflects public interest. (Affidavit of B. Hibbins, Exhibit E, p. 2)

The Ministry's consideration of each of these four criteria minimizes the involvement of the "public interest" as such, but some readers would not have much difficulty in evaluating such criteria differently. (See Submission of the Ministry, p. 17; and the Reply Submission of the Applicant, paragraph 3.06)

However, I am persuaded by the Ministry's distinction between the whole circumstances of the Apex ski hill controversy and the specific records in dispute in the inquiry, which concern the government's financial support for the ski development. In the appropriate role of exercising its discretion under section 75(5)(b), the Ministry is also familiar with the contents of the records. I defer to its judgment in a case where the imposed fee is relatively modest compared to the Ministry's estimated total costs of approximately $19,000. I am following the same line of thinking set out for the City of Vancouver in Order No. 55-1995, p. 8.

Section 75(1)(b): The head of a public body may require an applicant who makes a request under section 5 to pay to the public body fees for the following services: ... (b) preparing the record for disclosure;

The applicant disputes the amount of time, thirty hours, that is being billed for this purpose, since it has not received any description to justify the charge. It especially does not wish to pay for time spent coordinating the request across government ministries because of the political sensitivity of the request. (Submission of the Applicant, paragraphs 14, 15) As noted above, it is in fact not being charged for the latter activity.

Section 75(2): An applicant must not be required under subsection (1) to pay a fee for ... (b) time spent severing information from a record.

The applicant objects to any charges associated with severing the records in this case. (Submission of the Applicant, paragraph 18) In fact, the Ministry's fee estimate does not include any charges for severing. (Reply Submission of the Ministry, p. 6)

Criteria for applying for a fee waiver

I wish to reiterate my expectations for an applicant seeking a fee waiver from a public body under the Act. First, the public body should inform an applicant in writing at the time of giving a fee estimate that a request for a fee waiver must be in written form and contain a reasoned argument for it. Secondly, the applicant, as it failed to do in the present inquiry, should ask the public body in writing for a waiver and give it some supporting reasons. An applicant should concentrate on making its own case for a fee waiver and not worry too much about the putative fate of similarly-situated future applicants. Thirdly, a public body should give written reasons for the full or partial denial of a fee waiver before an applicant is encouraged to request a review by my Office.

In the present case the applicant brought a request for review before interacting with the Ministry on its request for a fee waiver and its rationale for it. I have been put in a position of mediating a fee waiver dispute and being asked to second guess the decision of the head of the public body on the matter. I decline to do so, despite the complex circumstances affecting the public interest in the present case.

I regard the fee estimate of the Ministry as a reasonable one for a commercial applicant, which is the real standing of the applicant in this case as a specialist in research and negotiations in the field of land claims (to quote its letterhead). It is arguable that the applicant can afford to pay, even if it cannot pass on the costs to its Band clients in the present circumstances. (See Reply Submission of the Ministry, p. 5) The applicant's consultant states that he is already absorbing most of the cost of preparing submissions and pursuing this review. A commercial applicant representing a non-commercial client under the Act should emphasize who the *true* client is in a fee waiver application. In this case the Ministry in fact chose to charge non-commercial rates for the access request.

I also conclude that the head of the public body is entitled to leeway in its determination of what is in the public interest, especially in a case like the present one, which is fraught with complex overtones. As the Ministry pointed out, discretion is lodged with the head of the public body and is permissive and not mandatory. I am persuaded that this discretion has been exercised properly and in good faith in the present inquiry. (Second Reply Submission of the Ministry, p. 5)

9. Order

I find that the Ministry of Employment and Investment was in compliance with section 75(4) of the Act and section 7 of B.C. Reg. 323/93 with respect to its providing a fee estimate to

the applicant. I further confirm that the Ministry was in compliance with section 75(5) with respect to its decision on the fee waiver. Under section 58(3)(c) of the Act, I confirm the fees charged by the Ministry.

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David H. Flaherty
Commissioner

March 8, 1996