

City of Nanaimo
455 Wallace Street
Nanaimo, B.C. V9R 5J6

2500 Lynburn Crescent
Nanaimo, B.C.
V9S 3T4

April 26, 2010

Attn : Mr. Al Kenning - City Manager :

Dear Sir : Re : Freedom of Information

Enclosed is a copy of the Preliminary Cost Estimate dated July 3, 2009 from Herold Engineering Limited pertaining to the proposed \$ 6.2 M seismic upgrade for the City Annex Building. This document was sent to me pursuant to an F.O.I. request (City File No. 25-FOI-2010-S). You will see that the information as to the preliminary estimated costs has been severed from disclosure by the City under Section 21 of the F.O.I. and Protection of Privacy Act.

The purpose of this letter is to put on record my strongest possible objection to the City's position on this matter. There is nothing in Section 21 that can in any manner be construed as being harmful to a third party. I ask that you read this Section to confirm to yourself that my position is indeed correct.

I would also point out that in the agenda documents for the December 14, 2009 Council Meeting, specifically the matter of the Centennial Museum Building, staff included a much more detailed report from Herold Engineering, including estimated costs for the various options therein. Could you therefore please provide an explanation of the City's policy in the matter of disclosures to the public on this type of information. Why would the City provide estimated costs in one instance (the museum) but refuse to provide any cost information on another matter (the annex)?

I close by asking that the City provide the cost information severed from the Herold report without further delay.

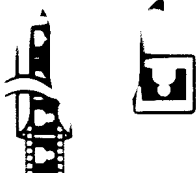
Thank you for your attention to this important matter.

Yours truly,



Wayne E. Schulstad

c/c Mayor and Council



July 3, 2009

0017-182/02

City of Nanaimo
238 Franklyn Street
Nanaimo, BC V8R 2X4

Attn: Jason Kinch, P.Eng.

Re: Preliminary Cost Estimate

Dear Jason:

Herold Engineering Limited provided a preliminary design concept to Beacon Construction Consultants Inc. in order to attain an estimated cost of construction for the seismic upgrade of the City Annex Building at 238 Franklyn Street in Nanaimo.

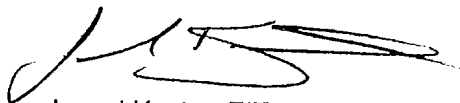
The preliminary estimate for cost of construction is *SECTION 21*. The estimate for construction costs are based on the scope of work and preliminary plan drawings dated July 1, 2009. This estimate is for seismic upgrades including removal and repair of architectural elements only and does not include any mechanical or electrical capacity upgrades or tenant changes.

Phasing this project would cost approximately *SECTION 21* per phase. Phasing would be broken down by the main stairwell concrete core and roof upgrade, followed by the second floor upgrade, and finishing with the first floor and foundation upgrades.

The estimated construction costs are *SECTION 21* if the building were to be vacated for the duration of the project.

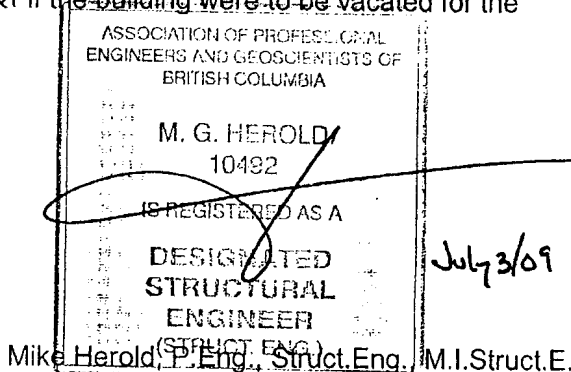
Yours truly,

HEROLD ENGINEERING LIMITED



Jarrod Koster, EIT

JK/emb



Excerpt from the *Freedom of Information and Protection of Privacy Act*

Disclosure harmful to business interests of a third party

21 (1) The head of a public body must refuse to disclose to an applicant information

- (a) that would reveal
 - (i) trade secrets of a third party, or
 - (ii) commercial, financial, labour relations, scientific or technical information of or about a third party,
- (b) that is supplied, implicitly or explicitly, in confidence, and
- (c) the disclosure of which could reasonably be expected to
 - (i) harm significantly the competitive position or interfere significantly with the negotiating position of the third party,
 - (ii) result in similar information no longer being supplied to the public body when it is in the public interest that similar information continue to be supplied,
 - (iii) result in undue financial loss or gain to any person or organization, or
 - (iv) reveal information supplied to, or the report of, an arbitrator, mediator, labour relations officer or other person or body appointed to resolve or inquire into a labour relations dispute.

(2) The head of a public body must refuse to disclose to an applicant information that was obtained on a tax return or gathered for the purpose of determining tax liability or collecting a tax.

(3) Subsections (1) and (2) do not apply if

- (a) the third party consents to the disclosure, or
- (b) the information is in a record that is in the custody or control of the archives of the government of British Columbia or the archives of a public body and that has been in existence for 50 or more years.

