

# Privacy Rights: Strata Corporations

## WHAT IS THE ISSUE?

In British Columbia, strata corporations (a.k.a. condominiums) may be required to collect, use, and disclose member's personal information for the purposes of managing the strata. However, strata corporations are subject to privacy laws, and as such are restricted in what personal information can be collected, used, and disclosed.

With the proliferation of surveillance systems, there is an increased tension between the privacy rights of strata property owners to their personal information and the interests of stratas to manage the day-to-day operations of the corporation.

## WHICH PRIVACY LAW APPLIES?

Privacy law for BC private sector organizations in BC, including strata corporations, are governed by the [Personal Information Protection Act \("PIPA"\)](#).

## WHAT ARE THE PRINCIPLES?

Privacy law governs the collection, use, and disclosure of personal information by balancing two principles:

- A person's right to control access to and use of their personal information AND
- An organization's need to collect, use, or disclose a person's personal information for legitimate and reasonable purposes.

"Personal information" means information about an identifiable individual, including:

- Name, home address, or home phone
- Information about a person's height or weight
- Information about a person's race, religion, sex, sexual orientation, age, etc.
- Medical information
- Fingerprints, blood type, and other biometrics

"Reasonable" for the purposes of collection, use, and disclosure means what a reasonable person would consider appropriate in the circumstances. What is considered "appropriate" in the circumstances will depend on:

- The amount and sensitivity of the personal information collected or used by the organization

- Whether the organization attempted a less intrusive method of collecting or using the personal information
- Whether the organization's chosen method meets its stated goal for collecting or using the personal information, such as resident safety or security

## DID I CONSENT TO GIVE MY INFORMATION?

Meaningful consent is an essential element of privacy law for private sector organizations. In general, organizations are required to obtain a person's meaningful consent to collect, use, or disclose their personal information.

"Meaningful consent" means that a person understands the nature, purpose, and consequences of what they are consenting to. To obtain meaningful consent, organizations must make information about the collection, use, and disclosure of personal information available to the person, including:

- What personal information is being collected
- What is the purpose for collecting, using, or disclosing the personal information
- With what other parties will the personal information be shared

## LAW ON STRATA CORPORATIONS

Strata schemes in BC are governed by the [Strata Property Act \(SPA\)](#), though other laws such as the PIPA also apply.

Many of the matters that arise about privacy in strata schemes are not directly addressed in the SPA. If the SPA does not authorize the collection, use or disclosure of particular personal information, the privacy law described in the previous two sections of this information sheet applies.

While the SPA does not address issues such as video surveillance (and PIPA thus applies), it does authorize the collection, use and/or disclosure of personal information in particular contexts.

The SPA requires a strata corporation to maintain records that include personal information. Such information includes:

- Meeting minutes, including results of any vote
- List of council members, including their telephone numbers
- List of owners with their addresses, parking stall numbers and unit entitlements
- List of individual mortgagees that have filed a Mortgagee's Request for Notification
- List of names of tenants
- List of assignments of voting or other rights by landlord to tenants under SPA;
- Books of account showing money received and spent & reasons
- Any correspondence sent or received by the strata corporation or council

The applicable retention periods for the above records vary between 2 and 6 years. The SPA authorizes the strata corporation to disclose such records to strata unit owners (or their tenants, with permission) upon request.

The SPA also allows for the use and disclosure of personal information in paperwork that facilitate the sale and purchase of strata units. For instance, an "information certificate" must disclose the amount of money an owner owes the strata corporation.

## APPLICATION OF PIPA TO STRATA CORPORATIONS

As previously stated, PIPA governs any strata-related privacy matter that is not directly addressed in the SPA.

Previous decisions from the Office of the Information and Privacy Commissioner provide guidance as to what kind of privacy-related measures are legal for strata schemes in BC.

For instance, we know that PIPA allows strata corporations to use video surveillance on exterior doors and in parkades for the purpose of preventing unauthorised entry, theft, threat to personal safety, or damage to property. Video surveillance of any pool or fitness area is not authorized, nor is the use of video surveillance for bylaw enforcement purposes.

Key fob technology that identifies the movement of individuals has been deemed appropriate so long as the strata corporation has policies which require the destruction of the information after a set period of time and provides that the data may only be accessed to investigate instances of serious property

damage.

The collection and use by a strata corporation of an owner's e-mail address to communicate about matters related to the strata is allowed, but the disclosure of their e-mail address to other residents is unauthorized unless consent has been provided to do so.

## PRIVACY GUIDELINES FOR STRATA CORPORATIONS

[Privacy guidelines about strata corporations](#) have been published by BC's Office of the Information and Privacy Commissioner. They provide an overall set of principles which should be followed by organizations in most circumstances.

## WHAT CAN I DO ABOUT IT?

If you have any concerns about how your strata corporation collects, uses and discloses your personal information, the following steps are recommended:

1. Review your strata's privacy policy. If you do not have a copy, request one from your strata corporation.
2. If you want to know what personal information of yours is in the custody of the strata corporation, you have the right to request it. Under PIPA, a strata corporation must respond to written requests for personal information within 30 days and include in their response:
  - A statement of entitlement to access requested records
  - If access is denied, the reasons and legal authority
  - The name and contact information of someone who can answer questions and the response
3. Owners of units (or their tenants, with permission of the owner) may make a request to inspect strata corporation records under SPA. A request for records must be complied with within two weeks of receiving the request. If it is to do with bylaws or rules then it must be completed within one week.
4. If you remain concerned after reviewing the relevant materials, submit a written complaint to the strata corporation. Provide as much detail as you can in order to help them to understand the nature of your complaint. Ask the strata corporation to explain their legal authority for doing what they do/did with your personal information. Keep copies of all correspondence

sent and received on the matter.

5. [File a complaint to BC's Office of the Information and Privacy Commissioner \("OIPC"\)](#) if either of the following apply:
  - You have not received a response from the strata corporation within 30 business days of lodging your complaint with them;
  - You are unsatisfied with how the strata corporation addressed your complaint.

You can call the OIPC at (250) 387-5629.

If your complaint is accepted, a file will be opened and you will be sent a notice with a file number. In processing your complaint, the Commissioner may do one of the following:

- Mediation: An investigator will attempt to settle the complaint between you and the strata corporation. No finding will be issued.
- Investigation: An investigator will conduct an investigation into the complaint, which will include gathering statements and evidence. A report will be issued with a finding of whether your or not your strata corporation breached the applicable privacy legislation.

The Commissioner cannot impose fines or awards for damages against your strata corporation. The Commissioner can issue a directive for your strata corporation to comply with the applicable privacy legislation.