

COVID-19 and Tenant Privacy Rights

TENANT'S RIGHT TO PRIVACY

This fact sheet only applies to tenancies under the [Residential Tenancy Act](#).

BC landlords must comply with the [Personal Information Protection Act](#) (PIPA), which applies to any person, corporation, or unincorporated association offering to rent any property whether a secondary suite, condominium unit, or apartment.

PIPA governs the collection, use, storage, disclosure, and protection of personal information.

Personal information is 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

Personal information can only be collected, used, and disclosed if a reasonable person would consider it appropriate in the circumstances and for the reasons disclosed to the tenant by the landlord.

CONSENT

You do not need to provide your medical information, including COVID-19 diagnosis, to your landlord. Tenancy or continued tenancy can not be contingent on the provision of medical information.

In most circumstances, a landlord needs consent to collect, use, or disclose (share) a tenant's personal information. Consent requires the landlord to tell the tenant, verbally or in writing:

- What personal information is being collected
- What is the purpose for collecting, using, or disclosing the personal information
- Who the personal information will be shared with

Consent can be withdrawn at any time and a landlord must not stop a tenant from withdrawing consent.

The law gives tenants control over whether to share their medical information with their landlord, and whether the landlord may share it with others. If you chose to provide your COVID-19 status to your landlord, the landlord can not disclose your medical information to anyone, including other tenants, unless you also consent to sharing your information in a certain manner.

For instance, with your consent, your landlord could provide a general notice to other tenants. Essentially, how much personal information is disclosed to other tenants is at the discretion of the individual providing their COVID-19 status.

In very limited circumstances, a landlord may disclose personal information without consent if disclosure is:

- clearly in the interests of the individual and consent cannot be obtained in a timely way; or
- necessary for medical treatment of the individual and the individual does not have the legal capacity to give consent. For example, if you are found unconscious in the hallway and your landlord discloses health information to paramedics. A friend could also do the same.

COVID-19 EMERGENCY MEASURES

On [March 17, 2020](#), the Provincial Health Officer (“PHO”) declared a “public health emergency” under BC’s [Public Health Act](#).

The emergency declaration gives the PHO broad powers to issue verbal orders that have immediate effect. Some powers that may impact privacy are the ability to:

- conduct an inspection at any time, with or without a warrant, including a private dwelling
- collect, use, or disclose information, including personal information, that could not otherwise be collected,

used, or disclosed. Information can also be collected, used, or disclosed in a form other than what is required by the Act. This means, in theory, the PHO may create an order mandating tenants to provide medical information to others or even requiring landlords to collect and/or share the personal information collected respecting those who have disclosed their COVID-19 status.

No such order has been made and we know of no precedent where such an order has ever been made in relation to other pandemics.

FILING A COMPLAINT

You can file a [complaint](#) to BC’s Office of the Information and Privacy Commissioner (“OIPC”) if any of the following apply:

- Unauthorized collection of your personal information,
- Unauthorized use of your personal information,
- Unauthorized disclosure of your personal information,
- Inadequate security of your personal information; or
- Refusal to correct or annotate records containing your personal information.

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:

- Your file may be assigned to a case review officer if there is an opportunity to resolve your complaint without delay. No finding will be issued.
- Investigation: An investigator will conduct an investigation into the complaint, which will include gathering statements and evidence. Due to the high volume of complaints received, it may be some time before your file is assigned to an investigator.
- A report will be issued with a finding of whether or not your landlord breached the applicable privacy legislation. In some cases, the investigator may be able to mediate a resolution to your complaint.

The Commissioner cannot impose fines or awards for damages, however, the Commissioner can issue a directive for your landlord to comply with the privacy legislation.

ADDITIONAL RESOURCES

For more information about Private Sector Landlord and Tenants please visit [here](#).