



**BY FAX**

April 26, 2001

Evon Soong and Shelley Burnham  
Directors, Information and Privacy Program  
Ministry of Health  
2<sup>nd</sup> Floor, 1810 Blanshard Street  
Victoria, BC V8V 1X4

Dear Evon Soong and Shelley Burnham:

**Release of Resident Lists to Elections BC – OIPC File No. 13108**

I write about a privacy issue that has recently arisen concerning disclosure of lists of residents at residential care homes to Elections BC, for the purpose of enumerating voters. Your office referred the caller to this office for our views on whether disclosure of resident lists to Elections BC would violate the privacy of the residents.

I would appreciate any assistance you can give in bringing this letter to the attention of residential facilities that are public bodies under the *Freedom of Information and Protection of Privacy* (“Act”), as well as to any residential facilities or homes that are not covered but which may be guided by this letter.

**A. SUMMARY**

In my view, a residential care home or other facility can disclose the names of residents for the purpose of voter enumeration only if it has the consent of each resident whose name is disclosed. It is permissible to disclose the numbers of residents at each facility without consent, as that information is not personal information of any individual.

**B. BACKGROUND**

The issue, as I understand it, does not concern a specific incident. The question is whether, generally speaking, residential care homes can provide Elections BC with resident lists for the purpose of enumerating voters consistent with the Act. As we understand it, residential care homes in one region have been contacted by election officials, who have requested resident lists. No legislative authority or specific reason for

requesting the lists appears to have been given by the elections officials, so the homes are not clear on whether or not they should provide the lists. They are naturally concerned about the privacy of their residents and are looking for guidance on whether the Act would allow the disclosure.

This office has jurisdiction only over public bodies as defined, or specified, in the Act. The Act applies to Elections BC. This letter deals, therefore, with the authority of Elections BC to request such information. It also addresses the authority of any public body to disclose personal information to Elections BC as described above. As regards any residential facilities that are not, technically, public bodies under the Act, this letter offers guidance, in light of the Act's provisions, on generally accepted privacy practices.

## C. DISCUSSION

**1. Disclosure of Personal Information** – The term “personal information” is defined in Schedule 1 of the Act as “recorded information about an identifiable individual”, including, among other things, an individual's name, address or telephone number. It is clear, therefore, that a list of residents' names contains personal information of the residents. Section 33 of the Act specifies the cases in which a public body may disclose personal information. If the proposed disclosure does not fit under one of the listed cases, it cannot disclose the personal information without contravening the Act.

Most of the conditions listed in s. 33 of the Act obviously do not apply to the issue at hand. Some of the conditions, however, require further consideration. First, s. 33 (b) allows a public body to disclose personal information if the individual the information is about has identified the information and has consented to its disclosure. Second, s. 33 (d) permits disclosure for the purpose of complying with an enactment of British Columbia or Canada.

**2. Is Disclosure Required to Comply with British Columbia's *Election Act*?** – As I noted above, a public body may disclose personal information if an Act requires it. Since the process of enumerating voters in British Columbia is governed by the *Election Act*, my office reviewed the *Election Act* and also discussed the issue with the Director of Voter Registration at Elections BC, Peter Whalen. The Director is responsible for the enumeration process now underway under the *Election Act*.

Our review of the *Election Act* revealed no express legislative authority for collecting resident lists for the purpose of enumerating voters. The Director confirmed this view and told this office that elections officials should not be asking residential care homes for lists of residents. Enumeration is done on an individual basis at the residential home by a team of election officials, he said.

According to the Director, the name of the resident at this point is immaterial. The only information needed at this time is the number of residents in the home, so that Elections BC can adequately staff each team of enumerators for that home. Since election officials should not be asking for resident lists, Peter Whalen recommends that residential care homes report any such requests to their District Electoral Officer. A list of those officers is available on the Elections BC Website, at [www.elections.bc.ca](http://www.elections.bc.ca) or by calling 1-800-661-8683.

**3. Disclosure with Consent** – Although election officials do not need resident lists to enumerate voters, it has been suggested that such a list may assist that process, because it allows election officials to determine how many of the residents are already on the voters list. This information will allow them to more accurately determine how large each team of enumerators needs to be. In other words, while election officials do not need this information – or have the statutory authority to require it to be disclosed to them – it would be nice to have it. In the case of a public body covered by the Act, however, the Act does not permit the disclosure of personal information unless each resident on the list consents to the disclosure of his or her name. In the case of a residential home that is not subject to the Act, generally accepted privacy practices – such as those expressed in the recently enacted federal *Personal Information Protection and Electronic Documents Act* – would also require the consent of each resident to such disclosure.

Further questions on this issue may be directed to this office at 387-5629 or through Inquiry BC, at 1-800-663-7867 (in Vancouver: 604-660-2421), or by calling Elections BC at 1-800-661-8683.

Sincerely,

**ORIGINAL SIGNED BY**

David Loukidelis  
Information and Privacy Commissioner  
for British Columbia

cc: Peter Whelan  
Director, Voter Registration  
Elections BC