



Order P23-01

A DAYCARE

Celia Francis
Adjudicator

February 13, 2023

CanLII Cite: 2023 BCIPC 09
Quicklaw Cite: [2023] B.C.I.P.C.D. No. 09

Summary: The complainants complained that a daycare was contravening the *Personal Information Protection Act* (PIPA) by collecting their images by means of video surveillance. The adjudicator found that the evidence did not establish that the daycare was collecting the complainants' images. It was, therefore, not necessary to consider whether the daycare was complying with PIPA's requirements for the collection of personal information.

Statutes Considered: *Personal Information Protection Act*.

INTRODUCTION

[1] This order arises out of a complaint that a daycare contravened the *Personal Information Protection Act* (PIPA) by inappropriately collecting the complainants' images by means of video surveillance cameras the daycare owner installed on his property.¹

[2] The two complainants live next door to the daycare. A few years ago, the daycare owner installed a number of video surveillance cameras on his property. The complainants were concerned that some of these cameras were aimed their windows and front and back garden. They believed the cameras were capturing their images, both inside and outside their home, adversely affecting their privacy and the enjoyment of their property.

[3] They attempted to resolve their complaint with the daycare owner and also complained to the RCMP and their city council, all to no avail. They then complained to the Office of the Information and Privacy Commissioner (OIPC)

¹ I have not named the daycare here, as this could identify the complainants.

that the daycare was inappropriately collecting their personal information (in the form of their images) via video surveillance. The OIPC's investigation of the complaint did not resolve the matter and it proceeded to inquiry. The OIPC received submissions from the complainants and the daycare.

PRELIMINARY ISSUE

[4] PIPA's purpose is to govern the collection, use and disclosure of personal information by organizations.² PIPA also sets out a number of conditions for these activities, including providing notice and obtaining consent.

[5] PIPA says that "personal information" means "information about an identifiable individual...". Past orders have said that the definition of "personal information" includes unrecorded personal information.³ They have also said that collecting personal information includes viewing it.⁴ Thus, any collected personal information in this case would include either recorded or non-recorded (viewable) images.

[6] There is no dispute that the daycare is an organization under PIPA. Thus, if the daycare is collecting the complainants' personal information, it must comply with PIPA's requirements in doing so.

[7] I am satisfied that images of the complainants are their personal information, as the complainants could be identified from these images.⁵ The threshold issue is whether the daycare is actually collecting the complainants' personal information in the form of their images, either recorded or non-recorded. Only then do I need to determine if the daycare is complying with PIPA's requirements for collection.

[8] The complainants provided photographs of their house and the daycare, which they say demonstrate the placement of some of the cameras.⁶ I accept, therefore, that the daycare installed a number of cameras on its property. I also accept that the complainants are upset by the placement of the cameras, for reasons described above.

[9] The complainants said that they "suspect" that the cameras are capturing their images.⁷ They admit, however, that they have not been shown "exactly what the cameras are capturing".⁸

² PIPA says an organization "includes a person, an unincorporated association, a trade union, a trust or a not for profit organization ..."

³ Order P19-03, 2019 BCIPC 42 (CanLII).

⁴ Order P10-01, 2010 BCIPC 7 (CanLII).

⁵ Order P22-08, 2022 BCIPC 74 (CanLII).

⁶ Complainants' initial submission.

⁷ Letter of August 31, 2020 to daycare.

⁸ Letter of September 9, 2020 to the complainants' city council.

[10] The daycare owner said that “CCTV is ONLY able to view our own side”.⁹

[11] Neither party provided evidence that the cameras are functioning, that they are capturing the complainants’ images or that the daycare owner is viewing or recording the complainants’ images. The evidence does not, in my view, support the conclusion that the daycare is collecting the complainants’ personal information and I so find. I do not, therefore, need to decide if the daycare is complying with PIPA.

CONCLUSION

[12] For the reasons given above, no order under s. 52(3) of PIPA is necessary.

February 13, 2023

ORIGINAL SIGNED BY

Celia Francis, Adjudicator

OIPC File No.: P20-84342

⁹ Daycare’s response.