



Order P25-01

THE OWNERS, STRATA PLAN LMS 1872

Carol Pakkala
Adjudicator

February 13, 2025

CanLII Cite: 2025 BCIPC 13
Quicklaw Cite: [2025] B.C.I.P.C.D. No. 13

Summary: An owner of a unit in a strata building complained that the strata corporation was in violation of the *Personal Information Protection Act* (PIPA) by inappropriately collecting and using her personal information to confirm her principal residency. The alleged violation took place when the complainant unsuccessfully applied to the strata corporation for an approval letter to confirm short-term accommodations (STA) are allowed by the strata. The letter was to support her application to the City of Vancouver for a license to operate a STA business in her strata unit. The strata corporation argued its collection and use were appropriate because they were for the purpose of ensuring strata units are not used illegally. The adjudicator concluded the strata corporation was not authorized under PIPA to collect and use her personal information because its purposes were inappropriate in these circumstances. The adjudicator required the strata corporation to stop collecting and using her personal information.

Statutes Considered: *Personal Information Protection Act*, [SBC 2003], c. 63, ss. 1, 6, 11, and 14.

INTRODUCTION

[1] An owner of a unit in a strata building complained to the Office of the Information and Privacy Commissioner (OIPC) about the collection and use of her personal information. The complainant alleged that her strata corporation, The Owners, Strata Plan LMS 1872 (organization)¹, was in violation of the *Personal Information Protection Act* (PIPA)² because its collection and use of her personal information for the purposes of verifying her principal residency were inappropriate in these circumstances.

¹ There was no dispute that Strata Plan LMS 1872 meets the definition of an “organization” in PIPA.

² From this point forward, when I refer to sections, I am referring to sections of PIPA unless I indicate otherwise.

[2] The complainant asked the OIPC to review the organization's collection and use of her personal information to verify her principal residence. The OIPC's investigation and mediation did not resolve this matter, and the applicant requested that it proceed to an inquiry.

[3] During the OIPC's investigation and mediation process, the parties agreed to narrow the scope of this inquiry to whether the organization's collection and use of the complainant's personal information were for a purpose that a reasonable person would consider appropriate in the circumstances, to comply with ss. 11 and 14.³

[4] Both parties provided submissions in this inquiry.

ISSUES

[5] The issues before me are whether:

1. The organization's collection of the complainant's personal information was for a purpose that a reasonable person would consider appropriate in the circumstances under section 11 of PIPA; and
2. The organization's use of the complainant's personal information was for a purpose that a reasonable person would consider appropriate in the circumstances under section 14 of PIPA.

[6] PIPA does not say who has the burden of proof for an inquiry into the issues identified above. Previous OIPC decisions have found, however, that it will be in each party's interest to provide information and evidence to support and justify their position.⁴ I agree with, and adopt, this same approach.

DISCUSSION

Background

[7] The organization is a strata corporation responsible for 177 residential strata lots in a high-rise building known as Paris Place, located in Vancouver, BC. The complainant is an owner⁵ of a strata unit in Paris Place. The bylaws of the strata allow for the use of strata lots for STA under certain conditions.⁶ One of

³ OIPC's Fact Report at para 8.

⁴ Order P21-06, 2021 BCIPC 35 (CanLII) at para 17 and Order P09-02, 2009 CanLII 67292 (BC IPC) at para 4.

⁵ The evidence before me includes a decision of the Civil Resolution Tribunal which indicates the strata unit is jointly owned by the complainant and another party. The organization attached this decision as Attachment 8 to its submission. Ownership is not in dispute in this inquiry.

⁶ Organization's submission, Attachment 5, CONSOLIDATED BYLAWS of The Owners, Strata Plan LMS 1872 ("Paris Place"), as of May 19, 2021 [Bylaws] at para 40, .

those conditions is that owners must first get a City of Vancouver (City) license to operate a STA business.

[8] The City's bylaw provides that STAs are only permitted in a principal residence unit.⁷ To grant a license to operate a STA business, the City requires details about the planned operation of the business, strata approval, and proof supporting principal residency. This proof includes government issued identification, like a driver's licence, or other documentation related to utility billing, taxation, and insurance.⁸

[9] To meet the City's requirements for a business licence, the complainant requested a strata approval letter from the organization. The complainant attended a meeting of the organization where they discussed her request. At that meeting, and as requested by the organization, she showed her government issued identification (driver's licence and BC services card) for the purposes of verifying principal residency.⁹

[10] The organization considered the complainant's request for STA authorization and "collectively discussed the requirement for sufficient proof of an owner's principal residence in accordance with the [C]ity bylaws."¹⁰ The organization refused to provide a strata approval letter, saying it lacked the necessary evidence to confirm the complainant's unit was being used as her principal residence in compliance with City bylaws.

[11] In refusing to provide the approval letter, the organization said the complainant "only" provided two pieces of identification. It further said it had statements from staff members and neighbours suggesting she may not be residing in the unit.¹¹ The organization offered the complainant the option of giving her consent for it to access the data it already collected about her through its video surveillance and key FOB records to confirm her residency. The complainant refused to consent to the use of the video and key FOB information. As a result, the organization did not use those records for the purpose of confirming her principal residence.

Overview of the Complaint

[12] The complainant alleges the organization's collection and use of her personal information to verify her principal residence violates PIPA. The complainant outlined the process followed by the organization to verify principal

⁷ Organization's submission, Attachment 7, City of Vancouver Zoning and Development By-law No. 3575 at para 11.9.

⁸ *Ibid.*

⁹ OIPC's Fact Report at para 2.

¹⁰ Complainant's submission, Evidence 5, organization's May 23, 2023 denial email to the complainant.

¹¹ The complainant provided these statements as Evidence 3 and 4.

residence.¹² These methods collect information through an application form, identification documents, interviews, and the potential review of video surveillance and key FOB records. The complainant complained about the collection of personal information with each method, although not all were used in her case, as will become apparent below.¹³

[13] The complainant provided a copy of the online form the organization requires for it to verify principal residency to issue a strata approval letter. The preamble on the form provides the context for its collection and use of information as follows:

According to our strata's bylaw 3 (1) (d) – “An owner, tenant, occupant or visitor must not use a strata lot, the common property or common assets in a way that is illegal...”

Therefore, in an effort to better enforce our strata's bylaws, the council has decided to review each request for short term rental authorization letter in order to validate the use of the unit as a primary residence as required by the City of Vancouver under section 11.9.1 (a) of the **Zoning and Development By-law**.

Please fill out the form below in order for the strata council to determine whether you actually live in the unit as required by law.

The information that **you choose to share** in this form, together with statements from building staff and neighbors (should the strata wish to obtain) as well as key FOB and video records (should you decide to grant us permission to access those records) will be used in the decision of whether to provide a Short Term Rental authorization letter to the City of Vancouver.¹⁴

[14] The form also asks for the individual's name, email and phone contact details, when they began living in the unit, whether they are the owner or a tenant, and details about whether they have been renting the unit short term or long term. It also lists the type of documents required to support principal residency, and includes government issued identification. The form also indicates that documents may be submitted online or presented in person. It also says that applicants can grant permission for the organization to use information it has recorded on the building's video and key FOB systems:

Should you wish to grant us permission to access Key FOB and Video records, we would be more than willing to dedicate the time and effort required to review them and identify evidence that confirms your residency.

¹² Complainant's complaint to the OIPC.

¹³ Complainant's complaint to the OIPC.

¹⁴ Complainant's submission, Evidence 2, Request for STR Authorization: Primary Residence Verification Form for Owners and Tenants, emphasis in original.

Please note that privacy is of paramount importance to the Council, and any information obtained during this review will be handled with utmost discretion, shared only with the members involved in the decision-making process.

[15] The complainant says she did not submit the online form.¹⁵

Application of PIPA

[16] Section 3(1) states that PIPA applies to every organization. PIPA defines an organization to include “a person, an unincorporated association, a trade union, a trust or a not for profit organization.” Under the *Interpretation Act*, a “person” includes a corporation.¹⁶ The Owners, Strata Plan LMS 1872 is a strata corporation and the parties do not dispute that it qualifies as an organization and is subject to PIPA. I find it is an organization and is subject to PIPA.

[17] PIPA’s stated purpose “is to govern the collection, use and disclosure of personal information by organizations in a manner that recognizes both the right of individuals to protect their personal information and the need of organizations to collect, use or disclose personal information for purposes that a reasonable person would consider appropriate in the circumstances.”¹⁷

[18] The information that is collected and used by the organization must, therefore, qualify as “personal information” for PIPA to apply. The parties do not dispute that the information at issue is personal information. For the reasons that follow, I find the information at issue is personal information and PIPA applies.

[19] PIPA governs the collection, use and disclosure of “personal information”, which it defines as “information about an identifiable individual”, including “employee personal information”, but excluding “contact information” and “work product information.”¹⁸

[20] Previous orders establish a two step test in assessing whether information is personal information under PIPA.¹⁹ The first step is whether the information is about an identifiable individual. The second step is whether the information is excluded from the definition of “personal information” because it is “contact information” or “work product information.”²⁰ I adopt this same approach to personal information and apply it here.

¹⁵ Complainant’s submission at para 3.

¹⁶ RSBC 1996, c 238 at s. 29.

¹⁷ Section 2 of PIPA.

¹⁸ All three terms are defined under s. 1 of PIPA.

¹⁹ See for example, Order P21-06, 2021 BCIPC 35 (CanLII) and Order P13-01, 2013 BCIPC 23 (CanLII).

²⁰ Order P13-01, 2013 BCIPC 23 (CanLII) at para 16.

Records

[21] I find the information the organization collected about the complainant is:

- the complainant's identification documents (drivers license and BC services card);
- forms completed by building staff at Paris Place outlining their observations about the occupancy and use of the complainant's strata unit;²¹ and
- an email from an individual about the occupancy and use of the complainant's strata unit.²²

[22] The organization also asked for the complainant's consent to access its video images and recordings and key FOB records for the purpose of verifying her principal residence. The complainant refused to give her consent to the organization to use her personal information collected through those methods for the purpose of verifying her principal residence.

[23] The video images and recordings are collected during the use and operation of the video camera system installed at Paris Place which the organization explains monitor and record 24 hours a day, seven days a week (video records).²³ The key FOB records are collected during the use and operation of the key FOB access system that monitors access to and from the common areas of the building 24 hours a day, seven days a week. FOB entry data is recorded, by unit number, for every use (FOB records).²⁴

[24] The organization says that because the complainant did not consent, it did not access the video and FOB records for the purpose of verifying her principal residence. For this reason, I cannot find the organization used video or key FOB information about the complainant for that purpose. In my view, the complainant is in the difficult position of having to give her consent to the use of her information collected from the video and FOB records for the purpose of verifying her principal residence before she could legitimately argue that use of her personal information contravenes PIPA. For this reason, I find it is appropriate to provide my general view of the organization's intended use of video and key FOB information in the context of ss. 11 and 14 and I do so below.

²¹ Attachment 3 to the complainant's submission marked as Evidence 3, Building staff statements.

²² Attachment 4 to the complainant's submission marked as Evidence 4, Same floor neighbour statement.

²³ Attachment 2 to the organization's submission, Privacy Policy at para 1(4).

²⁴ Attachment 2 to the organization's submission, Privacy Policy at para 1(5).

Is it information about an identifiable individual?

[25] The first step in assessing whether information is “personal information” is determining if the information is “about an identifiable individual.”²⁵ In order to qualify as personal information, the information must be reasonably capable of identifying a particular individual either alone or when combined with information from other available sources.²⁶ Courts have found in various cases that the term “personal information” must be given a broad interpretation to give effect to the legislation’s intended purpose.²⁷

[26] The information the organization collected is clearly about the complainant. I find that this information is her personal information.²⁸

Is the information contact or work product information?

[27] The second step in the personal information analysis is to decide if the information is excluded from the definition of “personal information” because it is “contact information” or “work product information.”²⁹

[28] Contact information means “information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual”.

[29] Work product information means “information prepared or collected by an individual or group of individuals as a part of the individual's or group's responsibilities or activities related to the individual's or group's employment or business but does not include personal information about an individual who did not prepare or collect the personal information.”

[30] I find the collected information does not qualify as “contact information” or “work product information” as those terms are defined under s. 1 and interpreted by previous OIPC orders.³⁰ I, therefore, conclude that all of the information collected by the organization is personal information.

²⁵ Order P13-01, 2013 BCIPC 23 (CanLII) at para 16.

²⁶ Order P12-01, 2012 BCIPC 25 at para 82.

²⁷ Order P21-06, 2021 BCIPC 35 (CanLII) at para 31 citing OIPC Investigation Report P18-76168, Joint investigation of The Cadillac Fairview Corporation Limited at para 61 <https://www.oipc.bc.ca/investigation-reports/3480>, quoting *Canada (Information Commissioner) v. Canada (Transportation Accident Investigation and Safety Board)*, 2006 FCA 157 and *Girao v. Zarek Taylor Grossman Hanrahan LLP*, 2011 FC 1070 para 32.

²⁸ While I do not make any findings about whether the video and FOB records contain the complainant's personal information, I note that the organization's privacy policy defines the video and FOB records as personal information.

²⁹ Order P13-01, 2013 BCIPC 23 at para 16.

³⁰ Order P12-01, 2012 BCIPC 25 (CanLII) at para 96 and Order P14-03, 2014 BCIPC 49 (CanLII) at para 19 for an interpretation of “work product information.”

Collection and use of personal information

[31] Section 6 says an organization must not collect or use personal information about an individual unless:

- (a) the individual gives consent;
- (b) PIPA authorizes the organization to collect the personal information without the individual's consent; or
- (c) the individual is deemed to have given consent under PIPA.

Sections 11 and 14

[32] Sections 11 and 14 set further limits on the collection and use of personal information. They say:

11 Subject to this Act, an organization may collect personal information only for purposes that a reasonable person would consider appropriate in the circumstances and that

- (a) fulfill the purposes that the organization discloses under section 10 (1), or
- (b) are otherwise permitted under this Act.

14 Subject to this Act, an organization may use personal information only for purposes that a reasonable person would consider appropriate in the circumstances and that

- (a) fulfill the purposes that the organization discloses under section 10 (1),
- (b) for information collected before this Act comes into force, fulfill the purposes for which it was collected, or
- (c) are otherwise permitted under this Act.

[33] The parties say that the only issues in dispute in this inquiry are whether the organization's collection (s. 11) and use (s. 14) of the complainant's personal information were for a purpose that a reasonable person would consider appropriate in the circumstances. They agree that the requirements in ss. 11(a) and 14(a) were satisfied but do not say whether they think the requirements in ss. 11(b) or 14(b) and (c) were met. Ultimately, nothing hangs on this given my findings below about what a reasonable person would consider appropriate in the circumstances. Therefore, I find it is not necessary to also decide if the additional requirements in ss. 11(a) - (b) and 14(a) - (c) are met.

[34] Previous OIPC orders consider ss. 11 and 14 at the same time because of their use of similar wording. I will take the same approach. These orders

establish that a reasonable person standard applies to the analysis under both ss. 11 and 14.³¹

[35] The reasonable person standard is an objective assessment where one must decide whether the hypothetical reasonable person, knowing the purposes for the collection, use or disclosure and the surrounding circumstances, would consider those purposes to be appropriate.³² Relevant circumstances may include the kind and amount of personal information being collected, the uses to which it will be put, and any disclosures the organization intends at the time of collection.³³

Parties' submissions, ss. 11 and 14

[36] As noted earlier, the complainant is concerned with the collection and use of her personal information. I understand the complainant's concerns to be:

- The documents the organization asks to see before granting an approval letter contain highly sensitive personal information, some of which is unsafe to share. The onus is unfairly on the individual applicant to know what to redact before giving the documents to the organization.
- The City, not the organization, should determine principal residency.
- The potential use (with consent) of video, key FOB, and neighbour/staff evidence is invasive and creates a feeling of being under constant surveillance.
- Characterizing the provision of documents, use of interviews, and accessing video and FOB information as "voluntary" is false because the approval of the organization hinges on this process, making it de facto mandatory in nature.
- Previous orders and policy guidance of the OIPC suggest that the use of video surveillance and key FOB records are only appropriate for ensuring the safety of residents and not to monitor their movements or determine residency.³⁴

[37] I interpret the complainant's concerns in the context of ss. 11 and 14 to mean that a reasonable person knowing the purposes for the collection and use and the surrounding circumstances, would consider those purposes are not appropriate. The complainant says it is the City's, not the organization's, responsibility to determine a STA operator's principal residence.

[38] The organization says that given the circumstances, its collection and use of personal information would be considered appropriate by a reasonable

³¹ Order P21-06, 2021 BCIPC 35 (CanLII) at paras 116-117 and Order P09-02, 2009 CanLII 67292 (BC IPC) at paras 54-55.

³² Order P05-01, 2005 CanLII 18156 (BCIPC) at para 55.

³³ *Ibid.*

³⁴ Complainant's submission.

person.³⁵ The organization says its bylaw prohibiting the illegal use of strata units allows the organization to enforce the City's principal residence requirement.

[39] The organization says that at a City Council hearing it was noted that Paris Place was highly non-compliant with the City's STA regulations and that the City received a large volume of complaints as a result. The organization says the "influx of guests from these illegal STAs had an enormous impact on our common property, residents and staff, with numerous noise, garbage and security complaints."³⁶ The organization further says it must play its role in addressing illegal STA activity.

[40] The organization says its collection and use of the complainant's personal information is compliant with PIPA for the following reasons:

- To support their request for an approval letter, property owners and tenants choose which documents they wish to provide from a range of options. There is no mandatory submission requirement; instead, the organization offers multiple ways to verify residence while maintaining privacy.
- It strictly uses and discloses the collected information only for STA authorization purposes and protects this information with clear handling protocols.
- It provides optional paths for verification. For example, the application form includes an optional section for granting permission to access video and key FOB records, which otherwise will not be reviewed for this purpose.³⁷

[41] The organization says its approach to the collection and use of personal information is guided by its privacy policy, which it says is compliant with PIPA. The organization provided a copy of its privacy policy with its submissions in this inquiry.³⁸ The organization says this policy informs individuals why the information is needed - specifically, to verify primary residence as required by municipal bylaws.

Analysis, ss. 11 and 14

[42] Sections 11 and 14 prohibit the collection and use of an individual's personal information unless the purposes for the collection and use are appropriate when assessed against an objective reasonable person standard and considering relevant circumstances.

[43] The organization submits, and I accept, that the purpose for its collection and use of personal information in this case is to prevent illegal STA activity

³⁵ Organization's submission at para 1.

³⁶ Organization's submission at para 3.

³⁷ Organization's submission at paras 7-10.

³⁸ Attachment 2 to the Organization's submission, Privacy Policy at para 1.2.

through the enforcement of the City's principal residency requirement. As authority for its enforcement role, the organization points to its bylaw provision requiring strata owners to refrain from using their strata unit in a way that is illegal. The organization's position is that operating a non-compliant STA is an "illegal" use under its bylaws. The organization says it must play its role in addressing illegal STAs under the organization's bylaws and the City's STA regulations.

Illegal STA activity

[44] I consider the matter of illegal STA activity as a relevant circumstance as it provides the necessary context for the application of the reasonable person standard.³⁹

[45] The organization provided evidence about illegal STA activity in the form of a screenshot from a video recording of a City Council meeting.⁴⁰ There are notations on the screenshot that link to the full video recording which I viewed and considered.

[46] The video recording is of a hearing of an appeal of a City decision to revoke a STA business license of another owner of a strata unit at Paris Place. That owner's business licence was revoked for her failure to prove the unit she was using for a STA business was her principal residence.⁴¹ During that hearing, the City presented evidence from its bylaw enforcement staff that the organization's building generates a lot of cases of non-compliance with the City's bylaw on STAs.

[47] During the hearing, the magnitude of the housing crisis in Vancouver was highlighted as the reason for the City's bylaw allowing for STA businesses only in principal residences. The idea behind this requirement is that it will result in STA housing being returned to the long-term housing market.

[48] The evidence from the City's bylaw enforcement staff at the City Council hearing also highlighted the steps the City takes to verify and audit the principal residency requirement for STA operators in the City. Finally, the evidence revealed there is significant tension at Paris Place between owners generally opposed to STAs and those who operate STA businesses.

³⁹ Former Commissioner Loukidelis took a similar approach of establishing context before applying the reasonable person standard in Order P05-01, 2005 CanLII 18156 (BCIPC) at paras 15-25.

⁴⁰ Attachment 1 to the organization's submission. This attachment is a screenshot from a video recording of a City Special Council Meeting (Business Licence Hearing) held on November 23, 2022. This document provides a link to the video recording of the hearing found at: <https://bit.ly/3ADHMfJ>.

⁴¹ That owner was unsuccessful in her appeal of the City's decision to revoke her STA business license.

Reasonable person

[49] Now that I have looked at the context for the organization's collection and use of the complainant's personal information, I move to the application of the reasonable person standard. Previous orders have considered some of the following factors in applying the reasonable person standard:⁴²

- Does a legitimate issue exist to be addressed through the collection and use of personal information?
- Has the organization tried or considered other reasonable, less intrusive alternatives to fulfill its purposes?
- Is there a reasonable likelihood that the collection of the personal information will be effective in addressing the legitimate issue?
- Is the collection of personal information carried out in a reasonable manner?
- The kind, nature, and sensitivity of the information.
- The uses to which the information will be put and any disclosures the organization intends at the time of collection.
- How long the personal information will be retained.
- Whether the organization is collecting or using the minimum amount of information reasonably required to achieve its purposes.

[50] The above list is not exhaustive since other factors may apply depending on the particular circumstances. I consider below those factors that I find are most relevant to this matter.

[51] As noted above, the organization's purpose for collecting and using the complainant's personal information is to prevent illegal STA activity by enforcing the principal residency requirement in the City's STA bylaw.

[52] For the reasons that follow, I am not satisfied that a reasonable person would consider it is appropriate in these circumstances to collect and use the complainant's personal information to prevent illegal STA activity by enforcing the City bylaw's principal residency requirement. I find the organization's evidence falls short of establishing that it first tried or considered other available measures to address illegal STA activity and that its collection and use of personal information was likely to be effective in resolving or reducing illegal STA activity.

⁴² Order P21-06, 2021 BCIPC 35 (CanLII) at para 122 citing Order P09-02, 2009 CanLII 67292 (BC IPC); *Investigation Report P17-01: Use of employee surveillance by a BC chicken catching organization* at pp. 13-14 <https://www.oipc.bc.ca/investigation-reports/2099>; *Audit and Compliance Report P16-01: Over-collected and Overexposed – Video Surveillance and Privacy Compliance in a Medical Clinic* at pp. 21-23 <https://www.oipc.bc.ca/audit-and-compliance-reports/2111>; Order P2006-008, 2007 CanLII 81634 (AB OIPC) at para 56. See also *The Owners, Strata Plan BCS 435 v. Wong*, 2020 BCSC 1972 at paras 83-91.

Legitimate issue

[53] I accept that addressing illegal STAs, particularly in a housing crisis, is a legitimate issue to address. I am not convinced, though, that the organization's collection and use of the complainant's personal information addresses this issue. In my view, the organization is trying to step into the City's shoes and enforce the City's bylaw. I am not convinced that a reasonable person would see this is an appropriate role for the organization.

[54] The organization's bylaws allow for STAs at Paris Place on certain conditions. Bylaw 40 provides as follows:

40 Short Term Rentals [...]

A strata lot must not be used for short-term accommodation purposes, including, but not limited to, a bed-and-breakfast, lodging house, hotel, motel, home exchange, time share, temporary housing, corporate housing, vacation rental or extended vacation rental, whether arranged through websites such as Air BnB, VRBO, Premiere Executive Suites or through companies that advertise this type of accommodation, unless the following conditions are met:

(1) the resident has signed a written acknowledgment to the strata corporation, in a form as provided by the strata corporation from time to time, certifying that the resident will remain solely responsible for compliance with any then-applicable municipal or provincial laws, regulations and requirements related to short-term rentals, and indemnifying the strata corporation from any actions, fines, claims, damages or other expenses which may occur related to the resident's offering or operation of their strata lot for short-term rental purposes;

(2) the resident complies with rules related to short-term rentals as may be made by the strata corporation from time to time; and

(3) where the resident is a tenant, the resident has obtained the written permission of the Owner to conduct such short-term rentals, and has provided proof of same to the strata corporation.

(4) All owners that provide short term rental shall obtain City of Vancouver license to operate the short term rental.

(a) A Copy of license shall be provided to the Strata within 15 days of obtaining license, on an annual basis.

(b) A Copy of the license must be clearly displayed within the Strata lot as per City of Vancouver rules.

(c) Fines will be imposed for owners in violation in the amount of up to \$200.00 every 7 days.

(5) Visitor occupying short term rental units must have government ID on AirBnb profile and agree to no pets, no parties or events.

On the fourth complaint in a rolling 365 day period, owners will lose Strata's permission to operate short term rental for a period of one year from the date of the last complaint.

(6) Visitors occupying short term rental units shall not have access to the 3rd floor activity areas, nor shall they be advertised.

For greater clarity, short-term accommodation will include any such rental which is for a duration of less than 30 days, whether by term of a agreement, by intent or by fact of such rental.⁴³

[55] The organization's bylaws do not say that principal residency is required to offer STA at Paris Place. I find that a reasonable person would not consider it appropriate for the organization to collect and use personal information to determine principal residency for the purpose of preventing illegal STA activity. In my view, the organization's bylaws as well as the City's STA bylaw and enforcement process already provide a more appropriate mechanism to fulfill that purpose.

[56] The organization's bylaws require owners who wish to operate STAs to obtain a City business license to do so. The organization claims it collects and uses personal information to address the issue of illegal STA activity by ensuring owners comply with its bylaw to not use their units in an illegal manner. Bylaw 3 states:

3 (1) An owner, tenant, occupant or visitor must not use a strata lot, the common property or common assets in a way that

...

(d) is illegal or injurious to the building, or⁴⁴

[57] In my view, a reasonable person would not view the organization's bylaw against illegal use as extending to the enforcement of the City's requirements that are not conditions of use in the organization's bylaws. At most, the bylaw against illegal use authorizes the organization to facilitate compliance with the City's bylaws. The organization already facilitates that compliance by requiring owners who wish to operate STAs, to first obtain a license from the City to do so. It is up to the City to establish and enforce the primary residency requirements for that license. The organization introduced the evidence from the City Council hearing that shows the City is, in fact, investigating and enforcing those STA licensing requirements.

⁴³ Attachment 5 to the organization's submission, CONSOLIDATED BYLAWS of The Owners, Strata Plan LMS 1872 ("Paris Place").

⁴⁴ Organization's submission, Attachment 5, CONSOLIDATED BYLAWS of The Owners, Strata Plan LMS 1872 ("Paris Place").

Extent of intrusion on privacy rights

[58] Next, I consider to what extent the organization's collection and use of the complainant's personal information intruded on her privacy rights. Before looking at other less intrusive measures, I will first look at the degree of intrusiveness on the privacy rights of the complainant of the collection and use of her personal information.

Identification

[59] To issue a license to operate a STA business, the City requires applicants support their claims of principal residency with certain documents, including government issued identification. The organization has also been demanding similar documentation before issuing a letter of approval. In my view, the organization's collection and use of personal information is an unnecessary duplication. The organization knows the City will verify principal residence so its collection for this purpose is, in my view, unnecessarily intrusive.

Interviews

[60] To further verify the complainant's claims of principal residency, the organization interviewed staff and residents about the complainant's use of her strata unit. I find the degree of intrusiveness from the interviews is unnecessarily high.

[61] The building staff and residents had observations and opinions about things they witnessed. These interviews present a one-sided view of the complainant's use of her strata unit. For example, one statement refers to the parking space for the complainant's unit as always having different, or no vehicles.⁴⁵ Another statement refers to the building staff member never seeing the complainant in the building.⁴⁶ I fail to see how these statements refute the complainant's claim of principal residency. There are numerous conceivable explanations for the above observations that have nothing to do with who lives in the unit.

[62] The complainant says the use of neighbour/staff evidence is invasive and creates a feeling of being under constant surveillance. I agree. In my view, the interviews are unnecessarily intrusive on the privacy rights of the complainant.

⁴⁵ Attachment 4 to the complainant's submission marked as Evidence 4, Same floor neighbour statement.

⁴⁶ Attachment 3 to the complainant's submission marked as Evidence 3, Building staff statements at p. 3.

Video and FOB records

[63] After reviewing the personal information it collected and used to verify the complainant's principal residence, the organization denied her request for an approval letter to obtain a STA business license from the City. The organization said it was willing to verify her claim of principal residency by reviewing her personal information that it had already collected in its video and FOB records.

[64] I have no evidence before me that the complainant's personal information was collected or used from the video and FOB records for the purpose of verifying her principal residence. I note that if I had such evidence, my view is that the degree of intrusiveness on privacy rights from the video and FOB records is high. Those systems run 24 hours a day, seven days a week.⁴⁷ The continuous collection of this information can have personal and social effects on individuals while they are under surveillance.⁴⁸ The complainant says she finds the use or suggestion of it as invasive and feels as if she is being watched all the time.⁴⁹

Alternatives

[65] I find that I have insufficient evidence to make a finding about whether the organization tried or considered other reasonable, less intrusive alternatives to fulfill its stated purpose of ensuring all STAs in Paris Place complied with the primary residency requirements in the City's STA bylaw. The organization did not say whether it tried other available alternatives. For example, the organization does not say why it cannot simply require that the resident not start their STA business until they have provided the organization with a copy of the City business licence. This alternative offers a reasonable assurance that the primary residency requirement was met because the person satisfied the City's verification process.

[66] I have evidence before me, though, that there is an obvious alternative to the organization's collection and use of personal information. This alternative is for the organization to rely on the City's licensing and enforcement practices as described in the video evidence I outlined above that the organization itself presented in this inquiry.⁵⁰ This evidence shows that the City requires and enforces a principal residency requirement to operate a STA business.

⁴⁷ Attachment 2 to the Organization's submission, Privacy Policy at paras 1(4) and 1(5).

⁴⁸ Order P09-02, 2009 CanLII 67292 (BC IPC) at para 60.

⁴⁹ Complainant's submission at para 3.

⁵⁰ Attachment 1 to the organization's submission. This attachment is a screenshot from a video recording of a City Special Council Meeting (Business Licence Hearing) held on November 23, 2022. This document provides a link to the video recording of the hearing found at: <https://bit.ly/3ADHMfJ>.

[67] The organization, and anyone else for that matter, can complain to the City about illegal STA activity. The evidence reveals the City has, in fact, already received and investigated complaints about illegal STA activity at Paris Place. The City enforces its principal residence requirement through the refusal or revocation of STA business licenses. The organization did not sufficiently explain why it believes the City's methods are not effective or why it is not a reasonable alternative. Therefore, I find that the organization can rely on the City's practices as a reasonable, less intrusive alternative to the organization collecting and using personal information to verify principal residency.

[68] Additionally, the City does not require the organization to verify principal residency. It only requires a letter confirming that STAs are permitted on the strata lot.⁵¹ There is nothing that I am aware of that might preclude the organization from simply providing a letter confirming its bylaws allow for STAs as long as the individual has first obtained a licence from the City, and informing the City that the organization has not verified primary residency.

Effectiveness

[69] The organization does not say, and I cannot see, how there is a reasonable likelihood that its collection and use of the complainant's personal information will be effective in addressing the issue of illegal STA activity. The organization says the influx of guests from illegal STAs at Paris Place "had an enormous impact on its common property, residents and staff, with numerous noise, garbage and security complaints."⁵² The organization does not say, and I cannot see, how they know the guests that caused such issues were from legal or illegal STAs. Further, the organization does not say, and I cannot see, how the collection and use of personal information for the purpose of deciding whether to grant an approval letter will be effective in ensuring a STA business will not result in noise, garbage and security concerns.

Amount of information

[70] The final factor I consider relevant is whether the organization is collecting or using the minimum amount of information reasonably required to achieve its purposes. PIPA balances the right of organizations to meet its needs with that of the right of individuals to protect their personal information from collection and use where there is no need for it to be collected or used. I find the organization is not fulfilling a need by collecting and using this information because it knows, with certainty, that the City is going to collect and use that information.

[71] After considering all of the above factors, I find the organization's collection and use of the complainant's personal information was not for a

⁵¹ Complainant's submission, Evidence 1, City's March 13, 2023 letter to the complainant.

⁵² Organization's submission at para 3.

purpose that a reasonable person would consider appropriate in the circumstances.

CONCLUSION

[72] For the reasons given above, under ss. 52(3) and 52(4), I make the following order:

1. Stop collecting and using the complainant's personal information for the purpose of verifying principal residency.
2. Destroy or delete any existing documents containing instances of the complainant's personal information collected and used for the purpose of issuing a strata approval letter.
3. Provide the OIPC's registrar of inquiries with proof of its compliance with this order. This proof will be in the form of a letter signed by the strata's president. The letter should detail the documents containing the complainant's personal information that was collected and or used for verifying her principal residence and confirming they were destroyed or deleted. This letter will be copied to the complainant.

Section 53(1) requires the organization to comply with this order no later than March 28, 2025

February 13, 2025

ORIGINAL SIGNED BY

Carol Pakkala, Adjudicator

OIPC File No.: P23-93539