

Privacy guidelines for  
strata corporations  
and strata agents

## Introduction

BC's [Personal Information Protection Act](#) (PIPA) applies to the collection, use and disclosure of "personal information" by strata corporations (stratas). The Office of the Information and Privacy Commissioner (OIPC) oversees stratas' compliance with PIPA and these guidelines are intended to assist them.

## PIPA and Strata Corporations

Generally, PIPA gives **individuals** the right to:

- know the purpose for a strata's collection, use or disclosure of their personal information;
- expect a strata to collect, use or disclose personal information for purposes that are reasonable and appropriate;
- consent to collection, use or disclosure of their personal information;
- know who in the strata is responsible for protecting personal information;
- expect a strata to protect personal information by taking appropriate security measures;
- expect that the personal information a strata uses is accurate;
- request access to their personal information held by the strata;
- request that their personal information be corrected; and
- have the strata respond to complaints about how it handles personal information.

Generally, PIPA requires a **strata** to:

- designate someone to be accountable on the strata's behalf for its compliance with PIPA;
- obtain the consent of owners and tenants before it collects, uses or discloses personal information (except in specified circumstances where PIPA does not require consent);
- tell individuals, upon request, why personal information is being collected, how it is being used and to whom it has been disclosed;
- take reasonable steps to ensure that the personal information it collects is accurate and secure;
- respond to requests for personal information completely and promptly;
- have personal information policies that are understandable and readily available; and
- securely destroy, erase or make anonymous personal information where a strata no longer needs the information for the purpose for which it was collected and retention is no longer necessary for legal or business purposes.

## Responsibility for PIPA compliance

PIPA requires that each strata appoint one or more individuals to be accountable for the strata's compliance with PIPA. These people are commonly referred to as "privacy officers".

A privacy officer's role usually includes the following, which are essential components in any privacy management program:

- obtaining privacy training (if they do not already have it) to enable them to fulfil their role and to train other strata members and employees;
- maintaining an inventory of what personal information the strata routinely collects, uses and discloses;
- ensuring that a strata's privacy policy and procedures are documented and followed;
- conducting risk assessments and evaluating the strata's security safeguards for protecting personal information;
- establishing, and reviewing on a regular basis, personal information security safeguards, storage and retention policies and procedures, and breach and incident management response protocols;
- ensuring that any third parties such as legal counsel, property management companies, or other service providers are keeping personal information they receive from the strata secure; for example, through contractual requirements and audits by the strata;
- responding to requests for access to personal information under PIPA; and
- responding to complaints under PIPA.

On request, the strata must provide the privacy officer's contact information to any individual who has questions about how the strata complies with PIPA.

## What is personal information?

PIPA defines personal information as "information about an identifiable individual." This is a broad definition that can include (but is not limited to) name, date of birth, phone number, email address, driver's licence information, financial information (including strata fee arrears), medical information, and image (photos and video of an individual).

## Collecting personal information with consent

There are two types of consent: *express* and *implied*.

**"Express consent"** means that the individual specifically consents either orally or in writing to the strata collecting their personal information for specific purposes. For example, a strata corporation obtains express consent to deduct funds from an owner's bank account to pay strata fees.

"**Implied consent**" means an individual gives their personal information to the strata voluntarily, for a purpose that would be considered obvious to a reasonable person. For example, a strata obtains implied consent from someone to contact them when that individual provides their name and email address on a sign-up sheet to join one of the strata's committees.

### Collecting personal information without consent

Certain laws authorize or require a strata to collect personal information about an individual without their consent. For example, the [Strata Property Act](#) (SPA) authorizes a strata to collect personal information to create records such as meeting minutes or lists of owners and tenants.

Additionally, a strata may collect personal information without consent if a strata bylaw authorizes the collection, so long as the terms of the bylaw are objectively reasonable.

Here are some other ways a strata might collect personal information without consent:

- **When the collection is clearly in the interests of the individual and consent cannot be obtained in a timely way**

For example, a strata can collect location information about an owner if there is an emergency in their unit and the strata is trying to locate them.

- **It is reasonable to expect that collection *with* the consent of the individual would compromise the availability or the accuracy of the personal information, *and* the collection is reasonable for an investigation or a proceeding**

For example, to establish that an owner's child is living with their parents in contravention of the strata's bylaws in an over-55 building, the strata may collect information from witnesses without the consent of the owner under investigation.

- **The personal information is from a *prescribed* source of information available to the public under [s. 6 of the PIPA Regulations](#)**

For example, the strata can access public directories of phone numbers and professionals, as well as personal information appearing in a printed or electronic publication like an online newspaper or magazine, without consent. For more information, see the OIPC's [Guide for organizations collecting personal information online](#).

### Receiving unsolicited personal information

Some individuals may volunteer personal information about themselves or others to the strata that it did not request. Before collecting such personal information, the strata should determine whether it has the authority under PIPA to collect it. If it does not, then it should not

collect it. For example, if an owner or a renter has guests staying with them and they send the strata copies of government-issued identification of the guests, the strata should delete or return this information.

### Use and disclosure of personal information

A strata can use and disclose personal information for specific purposes if it notified the individual of those purposes when it collected it from them, *and* if those purposes are reasonable. Additionally, the strata must either have the individual's consent to use or disclose the personal information for those purposes, or it must identify a provision in PIPA that authorizes the strata to use or disclose the personal information without the individual's consent.

For example, if a strata collects an owner's licence plate number with their consent and notifies them that the strata will use it to enforce parking on strata property, then the strata can use and disclose that information for that purpose. They can do this because they have consent and the purpose is reasonable.

The strata could also use and disclose the owner's licence plate number in certain circumstances without notifying the individual first or getting their consent. These types of activities are discretionary under PIPA. For example, a strata could disclose an owner's plate number and name without notifying them first or obtaining their consent if it is to comply with a legal subpoena (see s. 18(1)(l) of PIPA).

### **Requests for personal information made by law enforcement agencies**

When a law enforcement agency requests personal information from a strata without a court order, the strata can ask the agency to return with a court order or it may choose to disclose it without a court order. In the latter case, the disclosure is permitted only where it is about an offence, to assist in an actual investigation, or assist in making a decision about whether to investigate a possible offence. (See s. 18(1)(j) for full details.) If the strata discloses the personal information, it should record the file number or badge number of the officer requesting the information, and the strata should record what information it gave to law enforcement and why.

### **Disclosing personal information to a property manager**

A strata can disclose personal information to a property manager without the consent of the individual the information is about as long as the property manager will only use that information for the purposes that the strata collected the information for *and* the strata collected that information with the individual's consent. The strata should ensure its contract with the property manager restricts their use of the personal information to the management of the property.

## Retaining & destroying personal information

If a strata uses personal information to make a decision that directly affects an individual, it must keep that information for at least one year so the individual has a reasonable opportunity to request access to it. For example, a strata should keep personal information associated with a bylaw infraction for at least one year.

Note that other laws might require the strata to keep records even longer than one year. If those laws require personal information to be retained longer than set out in PIPA, then the longer retention period applies. For example, [Part 4.1 of the Strata Property Regulation](#) sets out requirements for retaining certain strata records such as meeting minutes and legal decisions.

## Requests from individuals for their information

A strata corporation may receive two different types of requests for access to information. One type is a request for an individual's own personal information made under [s. 23 of PIPA](#). The other type is a request for certain records kept by a strata under [s. 36 of the SPA](#). What records are subject to release will depend on what statute the request is made under.

Under PIPA, an individual is only entitled to obtain their own personal information. For example, if an owner requests a list of all the owners in a strata under s. 23 of PIPA, the strata must only disclose the individual's own name and not the other owners. However, the same request for a list of owners made under s. 36 of the SPA, would obligate the strata to provide the full list because s. 36(1)(a) of the SPA requires it. This disclosure, in turn, is authorized under s. 18(1)(o) of PIPA, which authorizes an organization to disclose personal information if the disclosure is required or authorized by law.<sup>1</sup>

If a requester does not specify to the strata whether they are making their request under s. 23 of PIPA or s. 36 of the SPA, the strata should first clarify the law under which they are making their request. A best practice for stratas is to tell a requester about the SPA if the strata knows the requester is entitled to receive the information under the SPA but not under PIPA.<sup>2</sup>

## Requests for personal information made under PIPA

When an individual requests their information under PIPA, the strata must respond. PIPA sets out rules about when a strata may or must withhold some or all of that information; see [Part 7 of PIPA](#) for the list of disclosure exceptions. If an individual is dissatisfied with a strata's response to their request, they can ask the OIPC to review it. For more information, see "[How do I request a review?](#)" on our website.

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<sup>1</sup> To read examples illustrating the different kinds of requests for access to records or information under either the SPA or under s. 23 of PIPA, see, for example: [Order P19-01](#) (Little Qualicum River Village Strata Corporation (Strata Plan VIS 4673) (Re), 2019 BCIPC 3 (CanLII)), and [McClocklin v. The Owners, Strata Plan NW 3323, 2021 BCCRT 937](#).

<sup>2</sup> Note however that the OIPC does not have jurisdiction to decide an applicant's complaint about a strata corporation's failure to comply with its obligations under the [Strata Property Act](#). (See Order P19-01, *ibid.* at paragraph 15).

Under PIPA, a strata may charge a *minimal* fee to provide an individual with their own information, *except* if the information is about an employee, then the strata cannot charge a fee at all.

### Personal information and meeting minutes

[Section 35\(1\)\(a\)](#) of the SPA requires stratas to keep minutes of annual and special general meetings and council meetings, including the results of any votes. Here are some guidelines to help a strata take meeting minutes in a way that protects an individual's privacy:

- A person attending an annual general meeting (AGM) or a semi-annual general meeting (SGM) has provided implied consent to have their name, strata lot number and/or unit number recorded in the minutes.
- If a strata council member or a guest attends a strata council meeting, or if they make or second a motion, then the individual has provided implied consent to have their name recorded in the strata council minutes.
- Minutes of strata council meetings should record all decisions made by the strata council, but need not include the exact discussions of personal information leading up to any votes.
- It is good practice for strata council minutes to identify only the unit number or strata lot number of an owner or tenant (and not their name) in relation to sensitive matters such as bylaw violations or strata fee debts.

### **Audio and/or video recordings of a strata council meeting or general meeting**

Unless a bylaw is passed by strata corporation allowing meetings to be recorded with an audio or visual recording device, recordings of strata council or general meetings are likely not authorized by PIPA.

### PIPA and surveillance systems

Surveillance systems are inherently intrusive. For this reason, a strata should limit the use of cameras and other surveillance equipment. In the event such equipment is used, a strata should take a cautious and limited approach. Surveillance systems may include video or audio recordings, key fob entry systems, and other technologies that record or track information about identifiable individuals.

Before installing a surveillance system or activating one that was installed by the original developer, a strata should clearly identify what the purpose or purposes are for the surveillance in each area of the property, and write them down. A strata should be prepared to justify the use of surveillance on the basis of verifiable, specific concerns about the personal safety of people living there or about protection of property. This may include surveillance for the purpose of protecting personal and common property that other, less invasive measures have failed to address. Additionally, we recommend that a strata conduct a privacy impact

assessment (PIA) to help it decide whether PIPA authorizes the surveillance. For information about how to complete a PIA, see our [Guide to PIAs for PIPA](#).

It may be reasonable, for example, to use surveillance in a parking area that has experienced break-ins despite other measures having been taken to stop the activity. It may not be reasonable, however, to do so in a fitness or pool where the purpose for the surveillance may not be as clear as it would be for a parking area. The more sensitive the information the strata seeks to collect, and the more invasive the method of collection is, the less likely it is that the surveillance is reasonable, and therefore authorized, under PIPA.

For example, in one case, the OIPC determined that a strata could use video surveillance to enforce its garbage disposal bylaws, and to prevent and investigate property damage in the parking area, but not for any other purpose (such as monitoring the pool area). It also concluded that, while the strata could keep a key fob inventory for certain purposes, it could not conduct surveillance on the movements of residents using its key fob system. For more information, see OIPC [Order P21-06](#).<sup>3</sup>

If a strata proceeds with electronic surveillance of any kind, it should write a policy about how it will manage personal information created from the system, including who will have access to it, how the strata will protect it, and for how long it will keep the information before securely destroying it. As a general rule, a strata should keep video and other recordings for only 10 days unless they are needed for a longer period because of a specific investigation.

A strata should also pass a bylaw authorizing the use of surveillance for purposes stated in the bylaw. This is because PIPA authorizes the collection, use and disclosure of personal information *without* consent if it is for a reasonable purpose and if it is authorized by law. A bylaw is a law for the purposes of PIPA. The bylaw should be as detailed and precise as possible so that individuals can turn to it in the event of a dispute with the strata or a review by the OIPC.

Like any personal information, individuals have the right under PIPA to request access to surveillance information the strata has about them. Again, a strata should configure its systems so that they only retain information for the shortest reasonable time (usually anywhere from 24 hours to 10 days). That way, if someone requests their information, the strata only has a limited amount of data about that individual that it needs to review.

## Responding to privacy complaints

A strata should have clear, documented procedures in place for responding to complaints about how it collects, uses, discloses, stores and destroys personal information. The complaint

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<sup>3</sup> Please note this order is currently under judicial review. For more information, see the [judicial reviews](#) section of our website.



procedures should be simple to use. The strata should properly investigate all complaints and, if a complaint is found to be justified, should take appropriate measures that may include changing its practices related to personal information.

## Further resources

Additional guidance, education and information is available on the OIPC website to help privacy officers understand what is expected. Examples include:

- [PrivacyRight](#) (an educational series of videos, webinars and podcasts designed to provide an overview of obligations under PIPA for any organization);
- [A Guide to PIPA for businesses and organizations](#);
- [Getting Accountability Right with a Privacy Management Program](#);
- [Developing a privacy policy under PIPA](#);
- [Securing personal information: A self-assessment for public bodies and organizations](#);
- [Privacy management program self-assessment](#); and
- [Privacy Breaches: Tools and Resources](#).

These guidelines are for information purposes only and do not constitute a decision or finding by the Office of the Information and Privacy Commissioner for British Columbia. These guidelines do not affect the powers, duties, or functions of the Information and Privacy Commissioner regarding any complaint, investigation, or other matter under FIPPA or PIPA.