

**ALBERTA**

**OFFICE OF THE INFORMATION AND PRIVACY  
COMMISSIONER**

**ORDER P2024-05**

June 21, 2024

**THE VETERANS HOUSING PROJECT EDMONTON**  
also known as or operating as **VETERANS HOUSING PROJECT  
EDMONTON, VETERANS VILLA HOUSING PROJECT,  
VETERANS VILLA – SOUTHGATE, VETERANS VILLA**

Case File Number 026308

**Office URL:** [www.oipc.ab.ca](http://www.oipc.ab.ca)

**Summary:** An individual made a complaint under the *Personal Information Protection Act* (PIPA) alleging that The Veterans Housing Project Edmonton (also known as or operating as Veterans Housing Project Edmonton, Veterans Villa Housing Project, Veterans Villa – Southgate, and Veterans Villa) (the Organization) collects, uses and discloses personal information of its tenants, beyond what is necessary for providing its service, in contravention of the Act. The complaint related to the Organization’s use of video surveillance and the requirement of tenants to inform the Organization of any overnight guests.

The Adjudicator found that the Organization is authorized to collect, use and disclose personal information via video surveillance for the purpose of ensuring the security of its premises. However, the Organization’s practice of disclosing personal information by making video surveillance footage accessible to all tenants is not authorized under the Act and the Adjudicator ordered the Organization to cease this practice.

The Adjudicator also found that the Organization’s practice of collecting information about all overnight guests is not authorized under the Act. The Adjudicator ordered the Organization to cease this practice.

**Statutes Cited: AB:** *Personal Information Protection Act* S.A. 2003, c. P-6.5, ss. 1, 2, 7, 8, 11, 13, 14, 16, 17, 19, 20, 52, 56

**Authorities Cited: AB:** Decision P2013-D-01, Orders F2008-020, P2006-004, P2006-011, P2008-010, P2010-021, P2012-05, P2012-10, P2014-03, P2016-02, P2016-08, P2017-07, P2018-03, P2020-05, P2021-06, P2023-05, **BC:** Order P09-01

**Cases Cited: AB:** *Leon's Furniture Ltd. v. Alberta (Information and Privacy Commissioner)*, 2011 ABCA 94, *Peter Choate & Associates Ltd. v. Dahlseide*, 2014 ABQB 117 (CanLII), *The Owners, Strata Plan BCS 435 v. Wong*, 2020 BCSC 1972, *Wong v. The Owners, Strata Plan BCS 435*, 2020 BCCRT 53

## **I. BACKGROUND**

[para 1] The Complainant filed a complaint under the *Personal Information Protection Act* (PIPA) alleging that The Veterans Housing Project Edmonton (also known as or operating as Veterans Housing Project Edmonton, Veterans Villa Housing Project, Veterans Villa – Southgate, and Veterans Villa) (the Organization) collects, uses and discloses personal information of its tenants, beyond what is necessary for providing its service, in contravention of the Act. The issues raised by the Complainant in her complaint relate to the building's video surveillance; the requirement of tenants to provide legal documents, such as wills, to the Organization; the requirement of tenants to inform the Organization of any overnight absences; and the requirement of tenants to inform the Organization of any overnight guests.

[para 2] A Senior Information and Privacy Manager was assigned to investigate and attempt to settle the matter. Although some concerns were settled, the following concerns from the original complaint were not settled:

- The Organization is monitored by video surveillance cameras 24 hours a day 7 days a week. There are numerous cameras that cover the interior and exterior of the building. The placement of the video cameras captures every movement a tenant makes inside and outside of their apartment building. Further, the Organization provides every tenant access to the video surveillance in real time, 24 hours per day, 7 days a week on the television channel 716. This service allows tenants the ability to rewind or fast forward their recorded video in 30 minute increments.
- The Apartment Rules and Regulations (that tenants are required to sign) requires that tenants must inform the Landlord of any overnight guests and their duration of stay.

[para 3] The Complainant requested an inquiry regarding these outstanding concerns.

## II. ISSUES

[para 4] The Notice of Inquiry, dated January 12, 2024, set out six issues to be considered in the inquiry. After reviewing the parties' initial submissions, as well as the Complainant's complaint and request for inquiry, I determined that some of the issues didn't entirely address the concerns raised by the Complainant. By letter dated March 12, 2024, I informed the parties:

Issues #3 - #6 set out in the Notice of Inquiry ask whether the Organization collected, used and disclosed the Complainant's personal information in accordance with sections 7(1); 14, 17 and 20; 11, 16 and 19; and 13.

However, the concerns raised by the Complainant primarily relate to the Organization's *practices* with respect to the collection, use and disclosure of tenants' personal information more generally. The parties' submissions thus far also both address the Organization's practices, rather than the Complainant's particular circumstances.

[para 5] I reframed the issues for the inquiry, and added a seventh issue; the restated issues are as follows:

1. Is the Organization a non-profit Organization within the terms of section 56(1)(b) of PIPA?
2. If the Organization is a non-profit Organization, does it collect, use and/or disclose personal information in connection with a commercial activity within the terms of section 56(3) of PIPA?

If PIPA applies to the Organization in its dealings with personal information, then the following issues will be considered.

3. Does the Organization collect, use and/or disclose personal information contrary to, or in compliance with, section 7(1) of PIPA (no collection, use or disclosure without either authorization or consent)? In particular,
  - a. Does the Organization require consent to collect that type of information, or
  - b. Does the Organization have the authority to collect, use and/or disclose the information without consent, as permitted by sections 14, 17 or 20 of PIPA?
4. Does the Organization require individuals to consent to the collection, use or disclosure of personal information beyond what is necessary to provide the product or service, in contravention of section 7(2) of the Act?
5. Does the Organization collect, use or disclose the information contrary to, or in accordance with, sections 11(1), 16(1) and 19(1) of PIPA (collection, use and/or disclosure for purposes that are reasonable)?

6. Does the Organization collect, use or disclose the information contrary to, or in accordance with, sections 11(2), 16(2) and 19(2) of PIPA (collection, use and/or disclosure to the extent reasonable for meeting the purposes)?
7. Are the Organization's notification practices in compliance with section 13(1) of the Act?

### III. DISCUSSION OF ISSUES

[para 6] I will consider the first two issues together.

- 1. Is the Organization a non-profit Organization within the terms of section 56(1)(b) of PIPA?**
- 2. If the Organization is a non-profit Organization, does it collect, use and/or disclose personal information in connection with a commercial activity within the terms of section 56(3) of PIPA?**

[para 7] Section 56(1)(b) defines “non-profit organization” as follows:

*56(1) In this section,*

...

*(b) “non-profit organization” means an organization*

*(i) that is incorporated under the Societies Act or the Agricultural Societies Act or that is registered under Part 9 of the Companies Act, or*

*(ii) that meets the criteria established under the regulations to qualify as a non-profit organization.*

[para 8] In my March 12, 2024 letter to the parties, I said that the Organization had stated in its submission that it is a non-profit organization within the terms of section 56(1)(b), but that it had not explained how it meets this provision.

[para 9] In its response, the Organization did not clarify the matter. It is possible that the Organization is a non-profit organization within the terms of section 56(1)(b) but I have insufficient evidence or argument to support that conclusion.

[para 10] Even if the Organization is a non-profit within the terms of section 56(1)(b), the Act applies to personal information collected, used or disclosed in connection with a commercial activity. Sections 56(1)(a), (2), and (3) delineate the application of PIPA to non-profit organizations; these provisions read as follows:

*56(1) In this section,*

*(a) “commercial activity” means*

*(i) any transaction, act or conduct, or*

*(ii) any regular course of conduct,*

*that is of a commercial character and, without restricting the generality of the foregoing, includes the following:*

*(iii) the selling, bartering or leasing of membership lists or of donor or other fund-raising lists;*

*(iv) the operation of a private school or an early childhood services program as defined in the School Act;*

*(v) the operation of a private college as defined in the Post-secondary Learning Act;*

...

*(2) Subject to subsection (3), this Act does not apply to a non-profit organization or any personal information that is in the custody of or under the control of a non-profit organization.*

*(3) This Act applies to a non-profit organization in the case of personal information that is collected, used or disclosed by the non-profit organization in connection with any commercial activity carried out by the non-profit organization.*

[para 11] In my March 12 letter to the parties, I pointed to Decision P2013-D-01, which includes a thorough analysis of the interpretation of “commercial activity” in past orders and case law. The adjudicator concluded that the term “commercial activity” should be interpreted broadly; he stated (at paragraph 23):

My interpretation that there is a relatively broad test for determining what constitutes a commercial activity is consistent with the definition that is set out in section 56(1)(a) of PIPA itself. A commercial activity is any transaction, act, conduct, or regular course of conduct that is of a commercial character. While admittedly somewhat circular, the definition does not say that a commercial activity is an activity that is “commercial”. Rather, an activity must have a commercial “character”. To me, the definition is meant to capture activities that are more or less commercial, or appear to be commercial by most accounts. To adapt a colloquial phrase, if it looks like a commercial activity, and walks like a commercial activity, then it is a commercial activity. In short, PIPA is meant to apply to non-profit organizations that are carrying out activities as though they are a business. Moreover, the idea that profit is not determinative or even relevant, when deciding whether an organization is carrying out a commercial activity, is even clearer under PIPA, given that the organization in question is already a “non-profit” organization (unlike the organizations in question under PIPEDA, which refers to the notion of “commercial activity” to decide whether *any* organization is subject to that legislation). Virtually all non-profit organizations under PIPA do not have the objective of making an overall profit that is distributed to individuals associated with the organization.

[para 12] I also pointed the parties to Orders P2010-021, P2014-03, P2016-08, and P2017-07, which considered whether various activities of organizations were properly characterized as commercial activities. In each case the relevant organization was a non-profit organization under section 56(1)(b) of PIPA.

[para 13] In Order P2010-021, a homeowners association was found to have carried on a commercial activity when it provided property maintenance services in exchange for a monthly fee. Therefore PIPA applied to the collection, use and disclosure of personal information in connection with that commercial activity.

[para 14] In Order P2014-03, a theatre society was found to have carried on a commercial activity when it sold tickets for productions and provided theatre programming for a fee. Therefore PIPA applied to the collection, use and disclosure of personal information in connection with that commercial activity.

[para 15] In Order P2016-08, the Alberta Assessors' Association was found not to be carrying on a commercial activity when it performed its regulatory functions, including assigning fines or costs as part of disciplining a member. Therefore PIPA did not apply to the collection, use and disclosure of personal information in connection with that activity.

[para 16] In Order P2017-07, a gaming lounge, which served food from a concession and operated VLTs, was found to be a commercial activity. Therefore PIPA applied to the collection, use and disclosure of personal information in connection with that activity.

[para 17] In my letter, I asked the Organization to explain why offering residential suites for rent is not a commercial activity given these past precedents. In its response, the Organization essentially repeated what it had said in its initial submission, stating:

Veterans Villa did not collect information for commercial purposes. Veterans Villa only used personal information of the tenants to ensure that all the tenants are living safely and peacefully in the project.

[para 18] Based on the precedent discussed above, providing residential suites for rent is a commercial activity. The Organization has not provided any reason for me to conclude otherwise.

[para 19] I find that PIPA applies to the collection, use and disclosure of personal information in connection with its rental activities.

**3. Does the Organization collect, use and/or disclose personal information contrary to, or in compliance with, section 7(1) of PIPA (no collection, use or disclosure without either authorization or consent)? In particular,**

- a. Does the Organization require consent to collect that type of information, or**
- b. Does the Organization have the authority to collect, use and/or disclose the information without consent, as permitted by sections 14, 17 or 20 of PIPA?**

[para 20] Before considering this topic, I will comment on the uncertainty regarding some of the Organization's practices at issue in this inquiry.

[para 21] In her initial submission, the Complainant states that the Organization no longer requires tenants to inform the landlord of overnight guests or their duration of stay.

[para 22] In its submissions, the Organization did not address this or otherwise confirm that it has made such changes to its practices. By letter dated May 2, 2024, I asked the Organization to clarify whether it continues to require tenants to inform the landlord of overnight guests.

[para 23] Counsel for the Organization responded, stating "[w]e are told that since June 2023 there is an informal understanding that if the resident of Veterans Villa had overnight guests, they would always inform [...], the Manager of Veterans Villa."

[para 24] The Complainant responded, stating again that the Organization agreed to stop collecting information about overnight guests in June 2023. In response to the Organization's statement about its "informal understanding", the Complainant states that she was not informed of this change and continues to object to the collection of this information.

[para 25] The Apartment Rules and Regulations provided with the Organization's rebuttal submission indicate that the practice of requiring tenants to inform the Organization of overnight guests remains. The Organization's most recent response indicates that this is an "informal" arrangement, without further explanation. As the Organization itself (or its counsel) seems unclear as to its own practices, I cannot consider this matter to have been resolved as the Complainant had believed at the time she made her initial submission. I will therefore address whether the practice that appears in the Apartment Rules and Regulations provided to me by the Organization is compliant with the Act.

[para 26] PIPA only applies to personal information which is collected, used and/or disclosed by an organization.

[para 27] "Personal information" is defined in section 1(1)(k) of PIPA as "information about an identifiable individual".

[para 28] If the information the Complainant complains the Organization is collecting, using and/or disclosing is "personal information" under PIPA, then the Organization must comply with the requirements of PIPA when it collects, uses, and/or discloses this information.

[para 29] In its submissions, the Organization has not argued that any of the information at issue in this inquiry is not personal information. It has also not argued that

it has authority under the Act to collect, use, or disclose personal information of its tenants without consent. Rather, the Organization argues that it obtains consent of its tenants via the Residential Lease Agreement and the Apartment Rules and Regulations.

[para 30] Sections 14, 17, and 20 of PIPA permit the collection, use, and disclosure, respectively, of personal information without consent in specified circumstances. For example, sections 14(d), 17(d) and 20(m) permit the collection, use and disclosure of personal information where reasonable for the purpose of an investigation or legal proceeding. These provisions may apply where an incident occurred that the Organization needs to investigate; in other words, the collection, use and/or disclosure of video surveillance footage or the names of overnight guests may be reasonable to investigate an incident. These provisions apply where an investigation or legal proceeding are existing or reasonably anticipated (see Orders P2008-010, P2020-05).

[para 31] This inquiry is regarding the Organization's practices, rather than a particular circumstance or incident. Therefore, sections 14(d), 17(d) and 20(m) are not applicable here. Seeing no other provisions that could apply, and without any argument from the Organization that any other provisions could apply, I conclude that the Organization is required to obtain consent in order to collect, use and/or disclose the personal information at issue in this inquiry.

[para 32] Section 8 of PIPA sets out the manner in which organizations can obtain consent from individuals. It states:

*8(1) An individual may give his or her consent in writing or orally to the collection, use or disclosure of personal information about the individual.*

*(2) An individual is deemed to consent to the collection, use or disclosure of personal information about the individual by an organization for a particular purpose if*

- (a) the individual, without actually giving a consent referred to in subsection (1), voluntarily provides the information to the organization for that purpose, and*
- (b) it is reasonable that a person would voluntarily provide that information.*

*(2.1) If an individual consents to the disclosure of personal information about the individual by one organization to another organization for a particular purpose, the individual is deemed to consent to the collection, use or disclosure of the personal information for the particular purpose by that other organization.*

*(2.2) An individual is deemed to consent to the collection, use or disclosure of personal information about the individual by an organization for the purpose of the individual's enrolment in or coverage under an insurance policy, pension plan or benefit plan or a policy, plan or contract that provides for a similar type of coverage or benefit if the individual*

- (a) has an interest in or derives a benefit from that policy, plan or contract, and*
- (b) is not the applicant for the policy, plan or contract.*

(3) *Notwithstanding section 7(1), an organization may collect, use or disclose personal information about an individual for particular purposes if*

(a) *the organization*

(i) *provides the individual with a notice, in a form that the individual can reasonably be expected to understand, that the organization intends to collect, use or disclose personal information about the individual for those purposes, and*

(ii) *with respect to that notice, gives the individual a reasonable opportunity to decline or object to having his or her personal information collected, used or disclosed for those purposes,*

(b) *the individual does not, within a reasonable time, give to the organization a response to that notice declining or objecting to the proposed collection, use or disclosure, and*

(c) *having regard to the level of the sensitivity, if any, of the information in the circumstances, it is reasonable to collect, use or disclose the information as permitted under clauses (a) and (b).*

(4) *Subsections (2), (2.1), (2.2) and (3) are not to be construed so as to authorize an organization to collect, use or disclose personal information for any purpose other than the particular purposes for which the information was collected.*

(5) *Consent in writing may be given or otherwise transmitted by electronic means to an organization if the organization receiving that transmittal produces or is able at any time to produce a printed copy or image or a reproduction of the consent in paper form.*

[para 33] I will first consider the Organization's practices with respect to the collection, use and/or disclosure of information about overnight guests, and then the Organization's practices with respect to video surveillance.

#### *Overnight guests*

[para 34] As discussed above, the submissions of the parties leaves the Organization's practices with respect to the collection, use and disclosure of information about overnight guests unclear.

[para 35] The Organization's initial and rebuttal submissions state that tenants are required to sign the Residential Lease in order to rent an apartment. Attached to the Lease as Schedule A is a document titled "Apartment Rules and Regulations" (Rules). The Rules state:

The Tenant must notify the Manager (Landlord) of any Overnight Guests. For safety and security purposes, the Tenant must advise the Manager (Landlord) of the duration of the guest's stay.

[para 36] It is not entirely clear what information the Organization requires tenants to provide regarding overnight guests. In my March 12, 2024 letter, I asked the Organization to clarify what information it requires from the tenant, both about the tenant and about the guest. For example, it is not clear whether the Organization collects the names of the guests, or just the fact that a tenant has an overnight guest, along with the duration of their stay. The Organization did not address this question in its rebuttal submission.

[para 37] In its initial submission, the Organization states that it collects information about overnight guests for two purposes: to prevent tenants from subletting without permission, and “to ensure that unwanted individuals who may be a threat to other tenants are not let onto the property.”

[para 38] With its rebuttal submission, the Organization provided a copy of the Complainant’s lease, which sets out the conditions of the lease. With respect to overnight guests and subletting, the lease states:

6.1 The Tenant agrees to use and occupy the Premises only as a private residence for occupation by the Tenant and not to assign or sublease this tenancy.

6.2 The Tenant must notify the Landlord of any Overnight Guests. For safety and security purpose [*sic*], the Tenant must advise the Landlord of the duration of the guest's stay. Should the Landlord determine, in the Landlord's sole discretion, that the presence of the Overnight Guest(s) will interfere with or is not conducive to the rights of the Landlord or the other Tenants, the Landlord may demand that the Overnight Guest(s) leave the Premises and the Tenant agrees to abide by the Landlord's decision and require the Overnight Guest(s) to leave.

6.3 The Tenant recognizes that the Landlord provides housing and accommodation for Veterans and seniors only. Illegal Tenancy applies to anyone staying longer than two (2) consecutive weeks or on a repetitive basis without the prior written consent of the Landlord or anyone failing to comply with a demand having been made by the Landlord under Section 6.2 herein. The Landlord will determine in the Landlord's sole discretion whether any individual is staying with the Tenant on a repetitive basis. Should the Tenant fail to comply with this Section, the Landlord may terminate the Tenant's Lease in accordance with Section 9 herein.

[para 39] Section 6.3 seems to indicate that the Organization is collecting the names of overnight guests; it is unclear how the Organization would determine whether a guest is staying on a repetitive basis unless the Organization were collecting the guest’s name.

[para 40] If the Organization collects the names of the guests, that is the personal information of the guests. The guests are not signatories to the Lease, and there is no indication that the Organization obtains consent from the guests in any other manner for the collection, use, or disclosure of their personal information. The Organization has also not identified any provision in the Act that would permit it to collect, use, or disclose personal information of guests without their consent, as a general practice.

[para 41] Therefore, I find that if the Organization's practices include collecting, using, or disclosing the names of guests, or any other personal information about the guests, the Organization does not have authority to do so as a general practice. I will order it to cease collecting this information where no circumstances exist that permit the collection, use or disclosure without consent under the Act.

[para 42] If I have misunderstood the Organization's Rules and the Organization is only collecting the fact that a tenant has an overnight guest and the duration of the guest's stay, then the information relates only to the tenant, and not the guest because the guest is not identified.

[para 43] In order to be personal information within the terms of the Act, information must be about an identifiable individual and not merely related to the individual (see Order P2006-004). Personal information includes information about an individual's choices, opinions or status (see Order P2012-05, upheld on this point in *Peter Choate & Associates Ltd. v. Dahlseide*, 2014 ABQB 117 (CanLII)). In my view, information about when and how long tenants choose to have overnight guests is their personal information.

[para 44] The Rules refer to the tenant providing the Landlord with the duration of the stay "for safety", but the meaning of this statement is unclear. Section 6.3 of the Rules indicates that the Organization's purpose for collecting this information is also to determine whether a tenant is contravening the rule against subletting without permission. I agree that by signing the Lease, tenants are providing written consent to the collection, use, and disclosure of this information for the purpose of determining whether the tenant is subletting.

[para 45] Even where an organization obtains consent to the collection, use and/or disclosure of an individual's personal information, the purpose for that collection, use and/or disclosure must be reasonable under sections 11, 16 and 19. I will consider these provisions later in this Order.

[para 46] Further, an organization cannot *require* an individual to consent to the collection, use or disclosure of their personal information beyond what is necessary to provide the relevant product or service, under section 7(2) of the Act. I will consider this provision later in this Order.

### *Video surveillance*

[para 47] Images of individuals captured by video surveillance footage is the personal information of those individuals. In Order F2008-020 the adjudicator commented (at para. 30):

An individual does not have to be identifiable by every person reviewing a particular record in order for there to be personal information about that individual; the individual needs only to be identifiable by someone. In this particular case, even if neither the Public Body nor I can conclusively identify the individual in the Video, he is identifiable by other persons viewing the Video, such as his friends, his family members and himself.

[para 48] This finding also applies to personal information captured by video surveillance under PIPA.

[para 49] The Rules attached to the Lease state that the premises are monitored by video surveillance cameras. The Rules also refer to a channel, on which the Complainant states tenants can view the surveillance footage. In its initial submission, the Organization states that “all tenants were allowed access to recorded surveillance records”.

[para 50] The Complainant states that in June 2023 signs were placed on the Organization’s premises at all entry and exit doors, stating that video surveillance is in place. In its submissions, the Organization refers only to the Rules attached to the Lease as the manner by which individuals are notified that video surveillance is used. That said, I accept the Complainant’s statement that notices now appear at the building entrances.

[para 51] Past Orders of this office have addressed the collection of personal information of individuals by way of overt video surveillance cameras. In Order P2016-02, the adjudicator discussed the use of video surveillance on the premises of a condominium. Similar to the facts presented by the Complainant in this case, the condominium had notices stating that the building was monitored by video surveillance. The adjudicator in Order P2016-02 found that video surveillance is ubiquitous and it can be reasonably understood that when a condominium collects personal information through surveillance, the purpose is to maintain security and the value of the building (against vandalism) and to deter criminal acts. She further states (at para. 23):

It may also be reasonably understood that footage from the camera may be used in legal proceedings or for investigations... For a residential condominium corporation such as the Organization to rely on section 8(2) as consent for its collection of personal information for particular and reasonable purposes of maintaining security and value and to deter criminal acts, it is sufficient to provide notice that the building is under surveillance. If individuals choose to visit the building despite the presence of surveillance cameras, or notice that surveillance is taking place on the premises, they may be deemed to agree to having their images collected by surveillance cameras for these purposes. However, if a residential condominium collects personal information for purposes other than these self-evident ones, it will be necessary for it to provide notice of these purposes in order to rely on section 8(2).

[para 52] The adjudicator’s reasoning was also applied in Order P2018-03; I find it also applies equally well in this case.

[para 53] The Organization states that the purpose of the video surveillance is for “protection and security”; this is the purpose also set out in the Rules attached to the Lease. Following the analysis above, both residents and visitors have notice of the video surveillance, such that they can be found to have provided consent to the collection of their personal information under section 8(2).

[para 54] Section 8(4) states that consent under section 8(2) cannot be construed as consent to the collection, use, or disclosure of personal information for purposes other than the particular purpose of the collection. The understood purpose of video surveillance is security of the premises, as the Organization has stated. The Organization can rely on the tenants' and visitors' consent to collect their personal information via video surveillance only for those purposes. This does not negate the Organization's authority to collect, use, or disclose that personal information in situations in which consent is not required, such as may be reasonable for an investigation or legal proceeding, should the need arise.

[para 55] In my March 12 letter, I asked the Organization what the purpose is of providing all tenants with access to the video surveillance footage. I noted that this appears to be a disclosure of personal information, and asked the Organization to clarify its authority for such disclosure. The Organization did not address these questions in its rebuttal submission.

[para 56] The Rules attached to the Lease include a reference to the footage being viewable on a particular channel; specifically, the Rules say:

For protection and security, this building will be monitored by video surveillance cameras. At this time we have sixteen (16) in color, channel 716.

It may be argued that this reference is sufficient to find that the tenants consent to the disclosure of their personal information in the video surveillance footage by agreeing to the terms in the Lease.

[para 57] I will first discuss the disclosure of personal information of visitors via this channel before turning to the disclosure of tenants' personal information.

[para 58] As noted above, visitors are not signatories to the Lease, and appear not to have otherwise been notified that their images will be disclosed to any tenant watching the footage.

[para 59] The Organization also cannot rely on section 8(2) to find that visitors are deemed to have consented to the disclosure of their personal information to all tenants because section 8(2)(b) limits the circumstances in which the provision can be relied on for consent, to situations in which it would be reasonable for the individual to voluntarily provide the information. The situation in Order P2018-03 is illustrative. In that case, an individual's actions at a property were caught on the property manager's overt video surveillance system, and used to investigate a complaint about the individual's actions. It was determined that the existence of the video surveillance and its purpose (to investigate incidents that occur on the property) were obvious to the individual at the time of his actions. He was therefore deemed to have consented to the collection and use of his information by the organization, for the purpose of ensuring the security of the premises.

[para 60] However, in that case, the organization subsequently disclosed the information to the individual's employer. The Order finds that the Complainant could not

be deemed to have consented to this disclosure as that disclosure could not be characterized as a purpose that would have been obvious to the Complainant at the time, as required to rely on section 8(2) (at para. 26).

[para 61] Similarly, in Order P2021-06, the adjudicator found that medical information provided by the complainant was too sensitive for the organization to rely on deemed consent. He found (at para. 75):

Regarding his personal family and medical information, I find that the Complainant cannot be deemed to have consented to collection or use of it. While the Complainant provided the information, apparently reluctantly, it is not reasonable that the Complainant would voluntarily provide the information that he did as required by section 8(2)(b). Here, I reiterate that the personal family and medical information provided by the Complainant was, as I earlier described, “extraordinarily sensitive.” It is conceivable that in other circumstances, involving less sensitive personal information, it may be reasonable for an individual to voluntarily provide personal information in order to make a compassionate case for loan (or other service).

[para 62] I agree with the above analyses. I find that the Organization has not obtained consent to disclose the personal information of visitors in this manner.

[para 63] With respect to the tenants who are signatories to the Lease, it is not clear to me that the mere reference to a channel is sufficient for tenants to understand that by signing the Lease they are consenting to the disclosure of any personal information captured via video surveillance to all other tenants.

[para 64] I do not need to come to a definitive finding on this point. As will be discussed in greater detail below, the Organization requires tenants to consent to the collection of personal information about overnight guests, as well as the collection, use or disclosure of video surveillance footage, as part of its conditions for providing its service. Where consent is required rather than optional, section 7(2) sets out additional limitations; specifically, it must be reasonable for the Organization to require consent in the circumstances. For the reasons discussed in the next section, I find that is not reasonable for the Organization to require tenants to consent to the disclosure of their personal information in the video surveillance footage to all other tenants. Therefore, I do not have to make a determination whether the reference to the channel on which video surveillance footage can be accessed found in the Rules attached to the Lease is sufficient to find that the tenants have consented to the disclosure of their personal information in this manner.

### *Conclusion*

[para 65] I find that the Organization obtains tenants’ consent to collect their personal information relating to overnight guests. However, for the reasons discussed below, requiring tenants to consent to this collection is beyond what is necessary under section 7(2).

[para 66] I find that the Organization does not obtain consent to collect the names or other identifying information of overnight guests.

[para 67] I find that that Organization obtains consent to collect, use and disclose personal information via its video surveillance footage, for purposes that are obvious (security of the premises). However, the Organization does not obtain the consent of visitors to disclose their personal information by making video surveillance footage accessible to all tenants. Whether or not the reference to tenants' access to the video surveillance footage in the Rules is sufficient to find that the tenants have consented to that disclosure, requiring tenants to consent to that disclosure is unauthorized for the reasons below.

[para 68] I have discussed above that none of the provisions permitting the collection, use and/or disclosure of personal information without consent appear to apply to the collection, use and/or disclosure of video surveillance footage *as a practice*. There may be particular circumstances in which the Organization may have authority to collect, use, or disclose the personal information without consent, such as if a crime occurred on the premises. However, the issues in this inquiry and my findings relate to the Organization's general practices.

**4. Does the Organization require individuals to consent to the collection, use or disclosure of personal information beyond what is necessary to provide the product or service, contrary to section 7(2) of the Act?**

[para 69] I have found that the Organization obtains consent from tenants to collect, use, and disclose their information in relation to overnight guests. I have also found that the Organization obtains consent from tenants and visitors to collect, use and disclose their personal information via video surveillance footage for the purposes of ensuring the security of the premises. It is also arguable that the Organization obtains consent from tenants to disclose their personal information by making the video surveillance footage accessible to all tenants.

[para 70] In this section, I will consider whether requiring tenants and visitors to consent in this manner is consistent with section 7(2) of the Act.

[para 71] I have also found that the Organization does not obtain consent to collect, use, or disclose personal information of overnight guests. Nor does it obtain consent from visitors to disclose their personal information by making video surveillance footage accessible to all tenants. Therefore, I do not need to consider the application of section 7(2) to those collections, uses or disclosures.

[para 72] Section 7(2) of the Act states:

*7(2) An organization shall not, as a condition of supplying a product or service, require an individual to consent to the collection, use or disclosure of personal information about an individual beyond what is necessary to provide the product or service.*

[para 73] The Alberta Court of Appeal discussed the application of section 7(2) in *Leon's Furniture Ltd. v. Alberta (Information and Privacy Commissioner)*, 2011 ABCA 94. The Court's analysis was subsequently discussed in several Orders.

[para 74] For example, in Order P2012-10, the Director of Adjudication considered whether it was reasonable for car rental companies to make and retain copies of customers' drivers' licenses before allowing the customer to rent a vehicle. She made the following comments regarding section 7(2) (at paras. 14-22):

Section 7(2) was the subject of extensive commentary in the decisions of the Alberta Court of Queen's Bench and the Alberta Court of Appeal in appeals of the decision of the Adjudicator in Order P2008-004.

To explain, all three levels of decision in the Leon's case discussed whether the collection of information had to be "necessary" or whether it only had to be "reasonable". The Adjudicator, whose decision was upheld by the Court of Queen's Bench, thought that section 7(2) requires that the information collection be shown to be "necessary". In contrast, the Court of Appeal thought that the legislation required that the purpose (in that case of preventing fraud) be necessary, but that the means used to achieve the necessary purpose needed only to be reasonable. The Court said:

If there is a risk of fraud, it is necessary to have policies in place to prevent fraud, and to assist in the detection of those responsible when fraud occurs. So long as those necessary policies are "reasonable" they are unobjectionable. While the adjudicator adopted this definition, she did not accept that the recording of driver's licence numbers was reasonably necessary to prevent fraud.

As well, the Leon's case dealt, at all levels, with the related idea that section 7(2) imports the notion that there must be no less privacy-intrusive means for achieving an organizational goal before the information can be required by the authority of the provision. The Adjudicator disapproved of the recording of driver's licences because she thought there were means of preventing fraud that did not involve collecting and retaining the licence number information. She also did not see how collecting and retaining the information could help prevent fraud or apprehend fraudsters. The Court of Appeal rejected the idea that only the least privacy-intrusive means for achieving the goal could be sustained; rather, it regarded any reasonable means as acceptable. The Court also regarded the collection and retention of this information as a reasonable way to prevent and detect fraud.

In my view, in the context in which the goal to be achieved is to deter or apprehend fraudsters or thieves relative to the goods or services, the necessity test is met where:

1. The goal of preventing or apprehending fraud or theft is necessary in the circumstances, and
2. The collection of the information provides a means that is of significant utility for achieving this goal.

Thus, assuming the goal is reasonable, even if it is the case that there are other means available by which perpetrators could be apprehended which do not involve collection of

this information (and thus which do not involve an intrusion on privacy of this type), as long as the information collection provides an important means for finding thieves or deterring them, it is, in my view, “necessary” to collect that information.

[para 75] While the issue in this case does not relate to drivers’ licenses or car rental agencies, I find the above analysis helpful. An organization can require an individual to consent to the collection, use, and/or disclosure of their personal information, if that collection, use, or disclosure is reasonably necessary to fulfill the stated purpose. The purpose of the collection, use, or disclosure must be necessary but the manner by which the organization meets that purpose need only be reasonable. In other words, the organization is not required to find the least privacy-intrusive means to meet the purpose so long as the means are reasonable.

[para 76] Two questions must be answered then: Are the Organization’s purposes for which consent is requested to collect, use and/or disclose personal information necessary for the service it is providing (in this case, providing rental units). If yes, are the methods used by the Organization reasonable to meet that purpose?

*Are the Organization’s purposes for which consent is requested to collect, use and/or disclose personal information necessary for the service it is providing?*

[para 77] In its initial submission, the Organization has provided two purposes for collecting personal information about tenants’ overnight guests. First, the Organization states that “it is reasonable to retain information about overnight guests to prevent tenants from subletting without the Landlord’s permission.” Second, the Organization states it is reasonable to obtain information about overnight guests “to ensure that unwanted individuals who may be a threat to other tenants are not let onto the property.” Similarly, the Organization states that the purpose of video surveillance is for security.

[para 78] The Organization did not state its purpose for providing access to video surveillance footage to all tenants; for this discussion I will assume that the purpose for this disclosure is also to ensure the security of the premises.

[para 79] In my view, enforcing rules regarding subletting and ensuring the security of the property and tenants are both reasonably characterized as necessary purposes for providing rental services.

[para 80] The remaining question is whether the means used by the Organization to meet these purposes are reasonable.

*Are the methods used by the Organization reasonable to meet its stated purposes?*

[para 81] In *Leon’s*, the Court emphasized that the Commissioner cannot find the collection of personal information by an organization to be unreasonable for the sole reason that there may be other ways to fulfill the stated purpose.

[para 82] However, what is reasonable will always depend on the circumstances of each case; the standard may be higher when the information at issue is particularly sensitive (see Order P2023-05).

[para 83] I will first consider the collection of information about overnight guests, then the collection, use and disclosure of video surveillance footage.

#### Overnight guests

[para 84] As discussed above, the Organization has provided two purposes for collecting information about overnight guests. The first purpose is to prevent subletting without the Landlord's permission.

[para 85] In my March 12 letter, I asked the Organization to explain specifically how collecting information about tenants' overnight guests prevents subletting. I asked if, for example, a rule against subletting would suffice. In its response, the Organization repeated the same information provided in its initial submission. The Organization provided a copy of the Complainant's lease, excerpted above.

[para 86] As stated above, it seems reasonable for the Organization to impose limits on a tenant's ability to sublet. However, it is not clear how requiring tenants to notify the Landlord of every overnight guest – including guests who stay for only one night – addresses the rule against subletting. Further, having the same overnight guest on multiple occasions is not the same as subletting.

[para 87] Having to inform the Landlord of every overnight guest reveals information about the tenant that is of a private or intimate nature. In my view, the Organization has not provided sufficient reason to find that there is a reasonable connection between the collection of this information and the Organization's stated purpose of preventing subletting.

[para 88] The second purpose for collecting information about overnight guests set out in the Organization's initial submission is "to ensure that unwanted individuals who may be a threat to other tenants are not let onto the property." This purpose also seems reflected in section 6.2 of the Rules, excerpted above. That section purports to give the Landlord the ability to reject a tenant's overnight guest if the presence of the guest "is not conducive to the rights of the Landlord or other tenants." It is not entirely clear what that phrase means; it seems to indicate that the Landlord may refuse to allow a tenant to have an overnight guest for unspecified reasons. It might be argued that section 6.2 of the Rules, excerpted above, indicates the Organization is attempting to exercise authority over which overnight guests a tenant is permitted to have or when. It is not clear that the Organization has authority to interfere with a tenant's ability to enjoy their home in such a manner; in any event, that is not the issue before me.

[para 89] It is not entirely clear what the Organization means by referring to unwanted individuals who may be at threat to other tenants. If a guest has exhibited threatening behaviour, the Organization has other legal avenues of dealing with that guest, such as banning them from the common areas of the premises. It is not clear why *overnight* guests would pose a problem that requires this level of documentation, as opposed to guests who visit but don't stay overnight. In my view, the Organization has not provided sufficient reason to find that there is a reasonable connection between the collection of this information and the Organization's stated purpose of ensuring that unwanted individuals are not let onto the property.

[para 90] A similar issue was considered by the Civil Resolution Tribunal in BC in *Wong v. The Owners, Strata Plan BCS 435*, 2020 BCCRT 53, wherein strata owners made a complaint under the *Civil Resolution Tribunal Act* to that Tribunal about a bylaw enacted by the strata requiring all overnight guests to provide their name, contact information and photo identification. The information was collected on a Temporary Resident Information Form (TRIF). The owners argued that the information collected in this form was not in compliance with BC's PIPA, specifically section 11 of the Act, which is substantially similar to section 11 of Alberta's PIPA. The Tribunal decided that it had jurisdiction to consider whether the information required by the TRIF contravened PIPA.

[para 91] In its decision, the Tribunal set out the strata's purposes for collecting the information in the TRIF as enforcing the strata's bylaw that prohibits short-term rentals, and "safety and security". The Tribunal reviewed past decisions of the BC Information and Privacy Commissioner, including Order P09-01, in which a nightclub collected personal information of all customers. In that Order, former Commissioner Loukidelis found that personal information that would not be sensitive by itself, such as names and contact information, may become sensitive when it is maintained in a manner such that it can be amassed and analyzed. He said:

[119] In addition to the initial collection of information upon entry to the establishment, the use of the TreoScope software also involves the collection of information about an individual's activities, for example, how often he or she attends the establishment and any activities in which he or she engaged, which are the subject of notes added to the profile by bar staff. This may, in some circumstances, be considered sensitive information. Of course, it is information which would be available to anyone simply observing and recording a patron's activities. In that sense, it is not in any way confidential. However, the ease of electronic recording of this kind of information means that it is amassed and analyzed much more readily than it would be through personal observation. The comprehensiveness of this collection makes it more intrusive than collection by physical observation.

[para 92] The Tribunal applied the above analysis in its consideration of the strata's collection of the name and contact information of overnight guests. It found:

48. What about the personal information on the TRIF itself? On its own, arguably none of the personal information on the form is particularly sensitive. However, I find the reasoning in *Wild Coyote Club* to be instructive. Based on the fact that the privacy policy

allows the strata to keep the TRIFs indefinitely, I find that the strata can accumulate data about who visits each resident overnight, for how long, and how often. This is not only the visitor's personal information, it is the resident's personal information as well. While the revised TRIF allows "frequent" guests to register only once, this exemption only applies to people who are "immediately related to the resident" and caregivers.

[para 93] The Tribunal found that it was not reasonable for the strata to collect and retain the information of overnight guests to prevent short-term renters as an 'honest' short-term renter would identify themselves to the concierge and a 'dishonest' short-term renter could easily identify themselves as someone other than a short-term renter. Regarding the strata's 'safety and security' purpose, the Tribunal found that the strata did not show any safety or security issues related to overnight guests.

[para 94] The Tribunal concluded that it was unreasonable under section 11 of BC's PIPA for the strata to collect the personal information in the TRIF. The strata sought judicial review of this decision. In *The Owners, Strata Plan BCS 435 v. Wong*, 2020 BCSC 1972, the Court upheld the decision on the standard of correctness. In that decision, the Court rejected the strata's argument that the Tribunal failed to account for the fact that the bylaw requiring information of overnight guests was enacted by the strata "pursuant to the democratic governance model mandated under the [*Strata Property Act*, S.B.C. 1998 c. 43]". The Court found that the fact that the bylaw was enacted by the strata "does not displace or modify the objective reasonable person test required under section 11 of PIPA" (at para. 87).

[para 95] The above analysis was undertaken in relation to section 11 of BC's PIPA, which is substantially similar to section 11 of Alberta's PIPA. That section, which I will discuss below in greater detail, asks whether the collection of personal information is for a reasonable purpose and to the extent reasonable for that purpose.

[para 96] The above analysis is also relevant to the analysis of section 7(2) insofar as the test for section 7(2) also asks whether the Organization's collection, use, and/or disclosures are reasonable for its stated purposes. In Order P2006-011, former Commissioner Work explained that section 7 does not enable individuals to consent to the unreasonable collection, use, or disclosure of their personal information. He said:

Section 7 must also be read within the context of section 11 of the Act. As the Act prohibits collection for unreasonable purposes, it does not matter whether the Complainant consented within the meaning of section 8 to the collection or not: the Organization is prohibited from collecting his driver's license information if its purpose for collection is unreasonable. The limit section 11(1) places on the collection of personal information would have no purpose if individuals consent to the unreasonable collection of personal information under sections 7 and 8.

[para 97] The conclusions reached in the BC case above are consistent with the conclusions I make in this case. I find that requiring tenants to inform the Landlord of every overnight guest and the duration of their stay is beyond what is reasonable to

provide rental units, and is therefore in contravention of section 7(2). I will order the Organization to cease this practice.

[para 98] Before leaving this topic, I will note that if a tenant were to voluntarily provide this information to the Organization – for example in order to ask whether they were running afoul of the rule against subletting – such a situation is not the same as requiring this information as a practice. In other words, while I have found that the Organization’s practice of requiring tenants to consent to the collection of this information contravenes the Act, it is not the case that the Organization can never collect this information with the tenant’s consent, or in circumstances in which consent is not required under the Act.

### Video surveillance

[para 99] As discussed above, the Organization obtains consent for the collection, use and disclosure of personal information via video surveillance only for the purposes that are reasonably obvious (where consent is obtained under section 8(2) of the Act) and for the purposes listed in the Rules, which are also protection and security.

[para 100] In my view, the collection of video surveillance is a reasonable approach to ensuring the security of the premises. If an incident occurs such that the Organization uses or discloses the footage to investigate the incident, that use or disclosure may be authorized without consent, as discussed above.

[para 101] I find that requiring tenants and visitors to consent to the collection, use and disclosure of video surveillance for the purpose of security does not contravene section 7(2) of the Act.

[para 102] With respect to the automatic disclosure of video surveillance footage to all tenants via the tv channel, the Organization has not provided any purpose for this disclosure. If the purpose of this disclosure is for security, the Organization has not specifically said so.

[para 103] Although the Organization has not said as much, it is possible that the purpose of this disclosure is for security; the Organization may believe that permitting tenants to have access to the footage increases the likelihood that should an incident occur, it would be noticed and reported quickly.

[para 104] I understand the rationale of such an argument (if the Organization were making this argument), but for the reasons below I find that requiring tenants to consent to the disclosure of their personal information to all other tenants by providing ready access to the video surveillance footage is not reasonable.

[para 105] This is not a situation in which there is a single video camera at the building entrance that the Organization has made accessible to tenants in order to permit tenants to

view who may be buzzing their suite. In this case, the Complainant states that there are 20 cameras throughout the building; she states (initial submission):

The placement of the video cameras captures every movement a tenant makes when they are outside of their apartment while inside the apartment building and when they are outside of the apartment building while on the perimeter of the apartment building. Specifically:

- Building corridors (basement, main floor, 2 floor and 3 floor);
- Entry and exit from the elevator that services all four floors;
- Entry and exit to the laundry rooms located on the main, 2 and 3 floors; and
- Entry and exit from the east door (main floor lobby), west door (allows access to the buildings loading dock, garbage bins, tenant parking lot and off of the property; south door (allows access to the buildings communal grass area, tenant parking lot and off of the property; exit from the north door in case of emergency.

[para 106] The Complainant states that making the video surveillance footage viewable by all tenants has led to harassment and stalking by some tenants. The Complainant states that she has brought a complaint in this regard to the Residential Tenancy Dispute Resolution Service (RTDRS). The Organization did not respond to the Complainant's submissions on these points.

[para 107] Permitting tenants to essentially keep tabs on the comings and goings of fellow residents can have serious implications, as the Complainant has illustrated. The Organization has not expressly stated a purpose for this disclosure; even if the purpose is for security, the disclosure of the video surveillance footage to all tenants without any means of controlling how tenants view or use the footage essentially creates a state of constant surveillance of the apartment building. In my view, requiring tenants to consent to this disclosure contravenes section 7(2) of the Act. I will order the Organization to cease this practice.

**5. Does the Organization collect, use or disclose the information contrary to, or in accordance with, sections 11(1), 16(1) and 19(1) of PIPA (collection, use and/or disclosure for purposes that are reasonable)?**

[para 108] I will consider this issue in conjunction with the next issue.

**6. Does the Organization collect, use or disclose the information contrary to, or in accordance with, sections 11(2), 16(2) and 19(2) of PIPA (collection, use and/or disclosure to the extent reasonable for meeting the purposes)?**

[para 109] Sections 11(1), 16(1) and 19(1) require an Organization to respectively, collect, use and disclose personal information only for purposes that are reasonable. These sections state:

*11(1) An organization may collect personal information only for purposes that are reasonable.*

*16(1) An organization may use personal information only for purposes that are reasonable.*

*19(1) An organization may disclose personal information only for purposes that are reasonable.*

[para 110] Sections 11(2), 16(2) and 19(2) limit an organization's collection, use and disclosure, respectively, to what is reasonable for meeting the purposes of the collection, use and disclosure. These sections state:

*11(2) Where an organization collects personal information, it may do so only to the extent that is reasonable for meeting the purposes for which the information is collected.*

*16(2) Where an organization uses personal information, it may do so only to the extent that is reasonable for meeting the purposes for which the information is used.*

*19(2) Where an organization discloses personal information, it may do so only to the extent that is reasonable for meeting the purposes for which the information is disclosed.*

[para 111] Section 2 defines reasonable as follows:

*2 Where in this Act anything or any matter*

- (a) is described, characterized or referred to as reasonable or unreasonable, or*
- (b) is required or directed to be carried out or otherwise dealt with reasonably or in a reasonable manner,*

*the standard to be applied under this Act in determining whether the thing or matter is reasonable or unreasonable, or has been carried out or otherwise dealt with reasonably or in a reasonable manner, is what a reasonable person would consider appropriate in the circumstances.*

[para 112] With respect to the collection, use, or disclosure of personal information of tenants and visitors via video surveillance, where the collection, use or disclosure is for the purpose of ensuring the security of the premises, the requirements of sections 11, 16 and 19 are met for the same reasons as discussed with respect to the application of section 7(2), above. The Organization states that the footage is reviewed by the Head of Security for security purposes. I find that the extent of the collection, use and disclosure as explained by the Organization is reasonable within the terms of sections 11(2), 16(2) and 19(2).

[para 113] I have found that requiring tenants to consent to the collection, use or disclosure of their personal information in relation to all overnight guests is contrary to section 7(2) of the Act.

[para 114] With respect to the disclosure of tenants' and visitors' personal information by making the video surveillance footage accessible to all tenants, I have also found that this practice is contrary to section 7(2) of the Act.

[para 115] As stated above, an organization cannot rely on consent to collect, use or disclose personal information where the organization does not have a reasonable purpose for the collection, use or disclosure (sections 11(1), 16(1) and 19(1)) or where the organization has collected, used or disclosed personal information beyond the extent reasonable to meet its stated purpose (sections 11(2), 16(2) and 19(2)).

[para 116] This means that even if the Organization obtains consent from visitors and/or tenants to collect information about overnight guests or disclose their personal information by making video surveillance footage accessible to all tenants, it cannot rely on consent as authority unless it has a reasonable purpose for that collection, use, or disclosure and the extent of the collection, use, or disclosure is reasonable to meet that purpose.

[para 117] I have already found above that requiring tenants to inform the Landlord of every overnight guest and the duration of their stay is beyond what is reasonable to provide rental units. If the Organization collects personal information of the overnight guests, I have found that it does so without consent or other authority under the Act. Even if the Organization obtained consent from overnight guests to collect their personal information, the same analysis that applies to the collection of information of tenants in relation to overnight guests would apply to information collected from or about the guests themselves. For the reasons discussed earlier in this Order, I cannot find that the collection, use or disclosure of personal information about overnight guests is consistent with the limitations set out in sections 11, 16 or 19 of the Act.

[para 118] I have also discussed the fact that the Organization has not provided any purpose for the disclosure of the video surveillance footage to all tenants. Even if the purpose of making the video surveillance footage accessible to all tenants is for security, and even if that purpose is reasonable under section 19(1), the Organization has not explained why the extent of the disclosure – to all tenants – is reasonable for the purpose of security. This is especially so given the consequences discussed above, regarding the potential safety concerns of tenants.

[para 119] Given this, I find that the Organization's practice of collecting information about all overnight guests and its practice of disclosing video surveillance footage to all tenants contravenes sections 11, 16 and 19 of PIPA.

**7. Are the Organization's notification practices in compliance with section 13(1) of the Act?**

[para 120] Section 13 of PIPA requires organizations to notify individuals of the collection of personal information in certain circumstances. The relevant provisions state:

*13(1) Before or at the time of collecting personal information about an individual from the individual, an organization must notify that individual in writing or orally*

*(a) as to the purposes for which the information is collected, and*

*(b) of the name or position name or title of a person who is able to answer on behalf of the organization the individual's questions about the collection.*

...

*(4) Subsection (1) does not apply to the collection of personal information that is carried out pursuant to section 8(2).*

[para 121] I have found that the Organization's requirement that tenants provide information about overnight guests contravenes the Act. Even if this weren't the case, the consent obtained by the Organization set out in the Lease (and the Rules attached to the Lease) do not fulfill the requirements of section 13(1).

[para 122] I make the same finding regarding the disclosure of video surveillance footage to all tenants via the tv channel.

[para 123] The Organization obtains consent under section 8(2) from tenants and visitors to collect, use, and disclose their personal information via video surveillance for the purpose of ensuring the security of the premises. Therefore, the requirements in section 13(1) do not apply to that collection of personal information.

**IV. ORDER**

[para 124] I make this Order under section 52 of the Act.

[para 125] I find that PIPA applies to the collection, use, and disclosure of personal information by the Organization in connection with its rental activities.

[para 126] I find that the Organization is authorized to collect, use and disclose personal information via video surveillance for the purpose of ensuring the security of its premises.

[para 127] I find that the Organization's practice of disclosing personal information by making video surveillance footage accessible to all tenants is not authorized under the Act. I order the Organization to cease this practice.

[para 128] I find that the Organization's practice of requiring tenants to provide information about all overnight guests is not authorized under the Act. I order the Organization to cease this practice.

[para 129] If the Organization collects personal information of overnight guests, I find that it does so without authority under the Act. I order the Organization to cease this practice.

[para 130] I further order the Organization to notify me and the Complainant in writing, within 50 days of its receipt of a copy of this Order, that it has complied with my Order.

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Amanda Swanek  
Adjudicator