

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER PIPA2025-03

October 10, 2025

Condominium Corporation 1111807

Case File Number 018783

Office URL: www.oipc.ab.ca

Summary: The Complainant alleged that Condominium Corporation 1111807 (the Organization) collected and used his personal information in contrary to the *Personal Information Protection Act* (PIPA) when it installed video cameras in the common areas of the complex where he resides.

The Organization did not make a submission in the inquiry. Based upon the evidence in the inquiry, the Adjudicator found that the Organization collection and use of personal information via video camera did not comply with PIPA. The Adjudicator ordered the Organization to cease collecting the Complainant's personal information and to take steps to comply with PIPA prior to resuming collection and use of the Complainant's personal information via video camera.

Statutes Cited: **AB:** *Personal Information Protection Act*, S.A. 2003, c. P-6.5 ss. 7(1), 11, 11(1), 8, 8(1), 8(2), 8(2)(a), 8(3), 8(3)(a), 8(3)(b), 8(3)(c), 11(2), 14, 16, 16(1), 16(2), 17, 36(2)(e), 51, 52; *Personal Information Protection Act*, SBC 2003, c 63.

Authorities Cited: **AB:** Orders P2006-008, P2016-02, P2024-05; **BC:** Orders P21-06, P22-08

I. BACKGROUND

[para 1] The Complainant made a complaint that Condominium Corporation 1111807 (the Organization) breached his privacy by collecting personal information contrary to the *Personal Information Protection Act*, S.A. 2003, c. P-6.5 (PIPA). The Complainant alleged that the Organization collected personal information via video surveillance in the common areas of a condominium complex. The Complainant also complained that a door entry system, in

combination with vehicle parking tags and video surveillance, is able to track the movements of identifiable individuals throughout common areas of the complex.

[para 2] The Complainant asserts that the Organization uses or will use its ability to track individuals and enforce “unapproved rules” and generate “illicit fine levies” and that in doing so the Organization is using its surveillance capabilities for purposes other than those for which, in the opinion of the Complainant, surveillance is justifiably conducted, for example, safety.

[para 3] Investigation and mediation were authorized to attempt to resolve the issue, but did not do so. The matter proceeded to inquiry.

II. ISSUES

- A. Did the Organization collect and/or use the 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. Did the Organization have the authority to collect and/or use the information without consent, as permitted by sections 14 and 17 of PIPA?**
 - b. If the Organization did not have the authority to collect and/or use the information without consent, did the Organization obtain the Complainant’s consent in accordance with section 8 of the Act before collecting or using the information? In particular,**
 - i. Did the individual consent in writing or orally? or**
 - ii. Is the individual deemed to have consented by virtue of the conditions in section 8(2)(a) and (b) having been met? or**
 - iii. Is the collection and/or use permitted by virtue of the conditions in section 8(3)(a), (b) and (c) having been met?**
- B. Did the Organization collect or use the information contrary to, or in accordance with, sections 11(1) and 16(1) of PIPA (collection and/or use for purposes that are reasonable)?**
- C. Did the Organization collect or use the information contrary to, or in accordance with, sections 11(2) and 16(2) and of PIPA (collection and/or use to the extent reasonable for meeting the purposes)?**

III. DISCUSSION OF ISSUES

Preliminary matter – Complainant

[para 4] The Complainant asserts that he is the voice of the 240 owners of the condominium and uses language in his submissions to suggest that he is representing all of them. It is not clear to me whether he has taken up the mantle of “the voice” himself or whether the other owners have formally acclaimed him as their representative. In any event, since there does not appear

to have been endorsement of the video cameras among a required majority of owners, determination of the issues in this inquiry relate to whether the owners have provided their individual consent. As the Complainant has provided evidence only to the extent that *he* does not consent to the Organization's operation of video cameras, I consider the issues in this case with regard to the Complainant alone.

Preliminary matter – no submissions from the Organization

[para 5] The Organization did not provide any submission in the inquiry. It had clear notice of its opportunities to do so.

[para 6] The Organization initially elected to have its property manager, Rancho Realty (Rancho), represent it in this matter. I refer to the original contact person for Rancho as “the first representative”.

[para 7] The Original Notice of Inquiry in this matter was sent on June 20, 2022; it set a schedule for submissions.

[para 8] Per the Notice of Inquiry, the Complainant made the first submission, following which the Organization's deadline for its first submission was August 23, 2022. It did not provide a submission, request for extension, or any other communication by that date.

[para 9] Considering the possibility that the Organization missed its deadline by reason that Rancho Realty was no longer its agent, on September 9, 2022 the Registrar of the Office of Information and Privacy Commissioner (the OIPC) attempted to contact the first representative regarding Rancho's status. It was then discovered that the first representative was no longer with Rancho, and that the property manager who now handled the Organization's affairs had changed; I refer to the new property manager as “the second representative”. This Office was advised that the second representative would be able to clarify whether Rancho was still representing the Organization once she returned to the Rancho office on September 13, 2022.

[para 10] This Office attempted to reach the second representative on or around September 12, 2022, but was unable to make contact, and so left a message. On October 13, 2022, this Office received a call from the second representative, apologizing for the delay in responding; only on October 11, 2022 did she receive the message left earlier. The second representative informed this Office that Rancho's copy of the file was incomplete, and that she needed a chance to get familiar with the matter. The Registrar offered to resend the Notice of Inquiry package previously sent to the first representative, along with change of contact/address service form and a Request to Extend the Submission Deadline form. Unfortunately, this Office did not send the Notice of Inquiry package and forms at that time. That error came to my attention in April 2024.

[para 11] In order to remedy the situation, I sent the parties a letter dated April 18, 2024 informing them that the time to make submissions would remain open in light of the above circumstances. I stated,

...I find that despite its failure to make an initial submission by the proper deadline, the Organization must have one more opportunity to do so. The reason for this is that while

the Organization missed the deadline, the subsequent discussions with the Registrar undoubtedly left the Organization the impression that it would still have the opportunity to make a submission, with the benefit of the correspondence that the OIPC would provide. It would be procedurally unfair to represent to the Organization that it would have a further opportunity to make a submission and then deny that opportunity.

The documents this Office had committed to send the Organization were enclosed with the letter.

[para 12] The same letter informed the Organization that its new deadline for an initial submission was May 22, 2024. The consequences of missing the deadline were made clear. I stated in the April 18, 2024 letter,

If the deadline is missed and the Organization does not request and receive an extension to that deadline, I will make decision in this case with only the Complainant's initial submission. *A Request to Extend the Submission Deadline* form and other related forms are included in the Inquiry Procedures document (See the attached Notice of Inquiry) and are also available on the Forms page of the OIPC website at www.oipc.ab.ca.

If a submission is received, the parties will have the opportunity to make rebuttal submissions as indicated in the Notice of Inquiry.

[para 13] The April 18, 2024 letter was received by Rancho, which by that time was operating as Rancho Management Services (Alberta) Ltd. For consistency, I will also refer to Rancho Management Services as "Rancho." The letter found its way to the hands of Rancho's Director, Property Management (the Director). At the time, the Director was in communication with a Senior Information and Privacy Manager (the SIPM) at this Office concerning another matter under a different file number. The Director was puzzled by the letter, and by e-mail of May 10, 2024 asked the SIPM for clarification. The SIPM informed the Director that the letter concerned the inquiry into this matter, and brought the Director's questions to the attention of the OIPC Registrar.

[para 14] The Registrar explained the letter and the inquiry to which it pertained in an e-mail to the Director on May 13, 2024. The e-mail clearly set out the May 22, 2024 deadline and again provided notice of the issues in the inquiry and the process for requesting an extension to the deadline for submissions. Forms to request an extension as well as to update contact information for the Organization's representative were attached to the e-mail.

[para 15] The Organization did not make a submission, request an extension, or provide any other communication by May 22, 2024. In light of that development, I informed the parties that submissions were closed by letter on May 27, 2024. The letter went out on the morning of May 27, 2024. It stated,

For the reasons stated in my letter of April 18, 2024, the Organization was given one further chance to make a submission, with a deadline of May, 22, 2024. The Organization has missed that deadline, and has not made a request to extend that deadline. Accordingly, absent any extraordinary circumstances explaining the Organization's failure to meet the deadline, I will not accept any submissions from the Organization. I will

proceed to make my decision on the basis of the submissions I have received from the Complainant.

[para 16] Later, at 4:52 pm on May 27, 2024, the SIPM received an e-mail about this file from a Senior Condominium Manager at Rancho, who I refer to as “the third representative”. The e-mail quoted the file number for this case, included a copy of the April 18, 2024 letter, and stated, “Please note that Cooperation’s Insurance brokage [sic] has been advised and legal counsel was requested to address the matter at hand.” The e-mail offered no explanation for missing the second submission deadline, nor did it indicate any submission was forthcoming, or request an extension for a submission. That e-mail came to my attention on May 29, 2024. In the event that the letter of May 27, 2024 had not yet reached the Organizatin, a further copy was sent to the third representative by e-mail. No further contact from or on behalf of the Organization or any legal counsel was received.

[para 17] Through the above communications the Organization has had ample and repeated notice of the issues in this inquiry, submission deadlines, the process for requesting an extension to the deadlines, and the consequences of failing to do so. Despite that, it has never provided a submission, requested an extension, or offered any explanation for its failure to meet any of the submission deadlines. Accordingly, as stated in my letter, I will make my decision on the basis of submissions received from the Complainant. I am satisfied that the Organization has had a fair opportunity to make representations in this case.

[para 18] I observe that during the investigation and mediation process the Organization made some representations about the purposes of its collection and use of personal information. Even had those representations been put before me in a submission in this inquiry, it would not have made a difference to the outcome. In the present case, none of the provisions of PIPA permit collection or use of personal information without the Complainant’s consent, and as described in the reasons below, the Complainant has not consented, and cannot be deemed to have consented to collection and use under PIPA.

Preliminary Matter –Burden of Proof

[para 19] Section 51 of PIPA addresses the burden of proof for cases where an applicant makes an access request for certain information. PIPA does not explicitly address which party carries the burden of proof in complaints regarding collection, use, and disclosure of personal information.

[para 20] The approach to the burden of proof in cases of complaints under PIPA was set out in Order P2006-008 at paras. 10 and 11:

Relying on these criteria in Order P2005-001, I stated that a complainant has to have some knowledge of the basis of the complaint and it made sense to me that the initial burden of proof can, in most instances, be said to rest with the complainant. An organization then has the burden to show that it has authority under the Act to collect, use and disclose the personal information.

This initial burden is what has been termed the “evidential burden”. As I have said, it will be up to a complainant to adduce some evidence that personal information has been

collected, used or disclosed. A complainant must also adduce some evidence about the manner in which the collection, use or disclosure has been or is occurring, in order to raise the issue of whether the collection, use or disclosure is in compliance with the Act.

[para 21] I agree with the paragraphs above. The Complainant has an initial evidential burden to point to evidence that supports his complaint that information is being collected contrary to PIPA. If the Complainant meets that burden, the Organization then has the burden to demonstrate that its practices comply with PIPA.

Complainant's Burden of Proof not met for some allegations

[para 22] I find that the Complainant has not met the evidential burden in respect of allegations that the combination of video surveillance, a door entry system, and vehicle parking tags enables the Organization to track identifiable individuals throughout the condominium. The Complainant provides no information about the vehicle parking tags or door entry system other than that the video camera system is "designed to be integrated" with them. The Complainant makes the assertion that tracking is possible but provides no other information to indicate that it is actually or likely occurring.

[para 23] Similar to the above, the Complainant has also not met the evidential burden regarding the Organization's use of tracking to enforce unapproved rules or generate "illicit" fines or levies. He does not provide evidence of any enforcement, unapproved rules, or fines, illicit or otherwise. Neither does he state that he has received such a fine, nor does he specify anyone else who has.

[para 24] In view of the above, I do not consider the Complainant's allegations of tracking or use of surveillance to generate illicit fines. The burden has not shifted to the Organization to explain those alleged activities.

[para 25] The Complainant has established that the Organization collects personal information via video camera. The Complainant states that the Organization installed video cameras throughout the common areas of the condominium, and that they capture the activities of those who venture into the common areas. The Common areas include spaces where individuals would regularly appear, such as the foyer, lobby, and parking areas, as well as storage areas. As a resident of the condominium complex, the Complainant would be able to observe the cameras first-hand. In the absence of any evidence to the contrary, the Complainant has established the presence of the cameras. The Complainant also asserts that he has not consented to any collection of his personal information and that the Organization did not obtain consent from a required quorum of owners of the condominiums in the complex. Whether the Organization's collection and use practices comply with PIPA are thus in question.

[para 26] It is also significant that the Complainant must endure surveillance to which he objects in order to access the unit where he resides in the complex. That sort of surveillance is particularly intrusive upon the Complainant's privacy. While the common areas are not the Complainant's private property, surveillance there achieves the same practical effect as monitoring the unit that he owns in the complex. The Organization may monitor his coming and going, as well as his visitors, where he resides. Absent some specific connection to a reasonable purpose for collection, gathering personal information about tenants' overnight visitors is not

reasonable, even where an organization has obtained the consent of tenants and/or visitors to that collection has been obtained (Order P2024-05 at paras. 115 – 116).

[para 27] I find that the presence and operation of the cameras in circumstances in which the Complainant's consent is in question meets the evidential burden. The Complainant has provided sufficient evidence to suggest that the Organization is collecting personal information in circumstances that are not in compliance with PIPA, which are circumstances that the Information and Privacy Commissioner may investigate and attempt to resolve per section 36(2)(e) of PIPA:

(2) Without limiting subsection (1), the Commissioner may investigate and attempt to resolve complaints that

...

(e) personal information has been collected, used or disclosed by an organization in contravention of this Act or in circumstances that are not in compliance with this Act;

...

[para 28] Prior to considering whether the Organization's operation of the cameras complies with PIPA, I comment on one other argument made by the Complainant.

Complainant's argument regarding Organization's authority to install cameras

[para 29] The Complainant argues that the Organization is not charged with maintaining the common areas of complex, and as such its board of managers do not have the authority to collect or disclose personal information without consent by placing video cameras in those areas. The Complainant asserts that the owners of the units in the condominium have charge over the common areas and make their decisions via a voting process, which, according to the Complainant, was not followed when the cameras were installed.

[para 30] In my view, the above argument is irrelevant to the case at hand. The argument relates to whether or not the Organization overstepped its role in managing the common areas of the condominium complex, not whether its collection and use activities contravene PIPA. Based upon the very limited information provided by the Complainant in this case, I do not see how overstepping that authority is itself indicative of a contravention of PIPA. As well, determining whether the Organization properly passed a resolution to install the cameras is a matter outside of my jurisdiction (Order P2016-02 at para. 30).

- A. Did the Organization collect and/or use the 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. Did the Organization have the authority to collect and/or use the information without consent, as permitted by sections 14 and 17 of PIPA?**

b. If the Organization did not have the authority to collect and/or use the information without consent, did the Organization obtain the Complainant’s consent in accordance with section 8 of the Act before collecting or using the information? In particular,

iv. Did the individual consent in writing or orally? or

v. Is the individual deemed to have consented by virtue of the conditions in section 8(2)(a) and (b) having been met? or

vi. Is the collection and/or use permitted by virtue of the conditions in section 8(3)(a), (b) and (c) having been met?

[para 31] The pertinent sections of 7(1) for this inquiry are sections 7(1)(a) and (c); those sections state,

7(1) Except where this Act provides otherwise, an organization shall not, with respect to personal information about an individual,

(a) collect that information unless the individual consents to the collection of that information,

...

(c) use that information unless the individual consents to the use of that information, or

...

[para 32] “Personal Information” is defined in section 1(1)(k) of PIPA as “information about an identifiable individual.” Earlier orders have found images captured by video camera are personal information. See, for example, Orders P2006-008, P2016-02 and P2024-05.

[para 33] Sections 14 and 17 of PIPA provide circumstances wherein an organization may collect and use personal information without the consent of the person it is about.

[para 34] The Organization did not explain how collection or use may comply with PIPA in the absence of consent as provided for in sections 14 or 17 of PIPA. I cannot find that the Organization complied with these sections.

[para 35] Section 8(1) of PIPA provides that an individual may consent either orally or in writing. The Complainant did not provide such consent.

[para 36] Neither can I conclude that the Complainant is deemed to have consented to collection under section 8(2) or that collection is permitted via posting proper notice under section 8(3). Those sections state,

(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.

...

(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).

[para 37] In regard to section 8(2), I note its application to visitors in contrast to owners in Order P2016-02, which also considered video surveillance in common areas of condominiums.

[para 38] In Order P2016-02, the Adjudicator found that visitors to a condominium complex may be deemed to consent to collection of personal information via video surveillance for the purposes of security and deterring crime under section 8(2). However, the circumstances between visitors and unit owners differ substantially. Key to the finding that visitors are deemed to consent was that, once provided with proper posted notice of video surveillance, visitors may choose whether or not to visit and by subsequently entering the complex could be understood to have voluntarily provided their personal information as required by section 8(2)(a) (Order P2016-02 at paras. 23 and 24). However, since the Complainant is forced to appear in front of the cameras in order to access his own unit, he is not in the same position as a visitor. He has no choice but to enter regardless of any posted notice.

[para 39] Regarding owners, in Order P2016-02 the unit owners voted to install the video cameras and were thus found to have consented to collection via operation of them for the organization's reasonable purposes of addressing theft, mischief, and to increase safety and security of the building. (Order P2016-02 at paras. 27 – 29). Despite consent, the individual

complainant was found not to have voluntarily provided his information in circumstances where safety and security were not threatened since there was no reason for him to believe information would be collected in those circumstances; thus he was not deemed to consent under section 8(2) (Order P2016-02 at para. 41). The same approach applies in this case. The complainant cannot be said to have voluntarily provided any information outside of those circumstances in which the evidence suggests he would have volunteered such information. Given his broad objection to the video cameras, I do not see that he can be said to have volunteered any information in any circumstances.

[para 40] Section 8(3) permits an organization to collect and use personal information where organizations comply with all of sections 8(a), (b), (c). I have no evidence from the Organization that it has complied with those sections even if that is the case.

[para 41] In closing on this issue, I consider that it is possible that the Organization may have, at one point, obtained deemed consent from the Complainant. At the investigation/mediation stage of the review process, there was suggestion of a newsletter affording residents the opportunity to provide feedback about the possible installation of the video cameras. However, even if that was the case, and the complainant could have been deemed to consent, his subsequent complaint about the operation of the cameras makes clear that he has withdrawn or varied any consent, as permitted under section 9(1) of PIPA.

- B. Did the Organization collect or use the information contrary to, or in accordance with, sections 11(1) and 16(1) of PIPA (collection and/or use for purposes that are reasonable)?**

- C. Did the Organization collect or use the information contrary to, or in accordance with, sections 11(2) and 16(2) and of PIPA (collection and/or use to the extent reasonable for meeting the purposes)?**

[para 42] Since the Organization has no authority to collect or use the Complainant's personal information, it cannot be said to have complied with sections 11(1), 11(2), 16(1), and 16(2).

Order with respect to operation of video cameras

[para 43] The present case is similar to that of the British Columbia Information and Privacy Commissioner in B.C decision P22-08. In that case, the Adjudicator found that the Respondent – Bellevue West Building Management Ltd. (Bellevue) - was not authorized to collect personal information via video camera under the *Personal Information Protection Act*, SBC 2003, c 63. The Adjudicator ordered Bellevue to disable its cameras in all areas where it could reasonably conclude the Complainant would visit (P22-08 at para. 52).

[para 44] In another B.C. case, P21-06, the Adjudicator ordered the respondent organization to cease collecting information via video camera, save for certain authorized purposes. In so ordering, the Adjudicator specified that the order was not a blanket prohibition against future use of electronic surveillance by the organization and that future surveillance could be permitted if there were appropriate circumstances and evidence to demonstrate compliance (P21-06 at paras. 271 – 272).

[para 45] Given that I have found on the limited evidence before me that the Complainant has neither consented, nor is he deemed to have consented to collection, and the Organization has not demonstrated any authority to collect personal information via video camera without his consent, I will order the Organization to cease such collection. This may entail disabling its video surveillance systems if no other reasonable means of ceasing collection of the Complainant's personal information is available. Since this order concerns cameras placed in common areas, and as a resident of the condominium the Complainant should have access to all of its common areas, the Organization may be required to disable all of its cameras.

[para 46] As in B.C. case P21-06, this order is not a blanket prohibition of future collection of personal information via video camera; it only addresses whether the Organization complied with PIPA in the circumstances discussed in this case. It is open to the Organization to take steps, or demonstrate that it has already taken steps, to comply with PIPA in the circumstances discussed in the case. This includes collection of personal information in circumstances where consent is not required as specified in PIPA.

IV. ORDER

[para 47] I make this Order under section 52 of the PIPA.

[para 48] I order the Organization to cease collecting and using the Complainant's personal information via video camera.

[para 49] In the event the Organization wishes to continue collection of Complainant's personal information via video camera, I order the Organization to do one or more of the following prior to doing so:

- Obtain written or oral consent from the Complainant.
- Take steps to comply with sections 8(2) or 8(3) in respect of the Complainant.
- Demonstrate to the Information and Privacy Commissioner that it has taken either or both of the above actions already, or taken other reasonable steps to determine that its current collection and use practices via video camera otherwise comply with PIPA.

[para 50] I order the Organization to comply with this order within 50 days of receiving a copy.

[para 51] I order the Organization to provide written confirmation to me and the Complainant that it has complied with this order within 50 days of receiving a copy of it.

John Gabriele
Adjudicator