



OFFICE OF THE
INFORMATION &
PRIVACY COMMISSIONER
for British Columbia

Protecting privacy. Promoting transparency.

PIPA and Strata Corporations: Frequently Asked Questions

Introduction

This FAQ is intended to accompany the *Privacy Guidelines for Strata Corporations and Strata Agents* (<https://www.oipc.bc.ca/guidance-documents/1455>) to assist strata corporations and strata agents in discharging their duties under the *Strata Property Act* ("SPA") in a manner that respects the privacy of owners and tenants under the BC *Personal Information Protection Act* ("PIPA").

Check out the full guidelines for more detailed information regarding how strata corporations, and strata agents acting on their behalf, must adhere to the privacy rules contained in PIPA.

Q: Is a strata corporation subject to PIPA?

Yes. A strata corporation is considered an "organization" under PIPA.

Q: Can a strata corporation collect and use personal information in order to manage the corporation?

Yes. Strata corporations should only collect and use the minimum amount of personal information that is reasonable for the operation of the strata corporation or to fulfill its obligations under SPA and other relevant legislation.

Strata corporations will normally need an individual's consent to collect and use his or her personal information. However, PIPA provides exceptions to consent. In particular, if SPA authorizes or requires the collection and use of personal information, consent is not required. For example, section 35 of SPA provides authority for the strata corporation to collect personal information, including a list of owners, with their strata lot addresses and mailing addresses (if different than the strata lot address), names of tenants, and a list of strata council members.

Q: What personal information can a strata corporation collect at strata council meetings and include in the minutes?

PIPA does not prescribe what personal information should or should not be included in a strata corporation's minutes. Strata councils should ensure that only the minimal amount of personal information required to provide an accurate and objective account of its decisions is recorded in the meeting minutes.

If a strata council member or a guest attends a strata council meeting, they have provided implied consent to have their name and unit number or strata lot number recorded in the strata council minutes. Similarly, the names of any authorized people in attendance at the meeting, such as the strata manager can be noted in the minutes. The name, strata lot number and/or unit number of each strata council member, who is not attending the meeting, may also be recorded.

Section 18(3) of the Standard Bylaws states that "the results of all votes at a council meeting must be recorded in the council meeting minutes." Minutes of strata council meetings should record all decisions made by the strata council, but need not include the exact discussions leading up to any votes. It is important that the strata council minutes clearly document how resolutions are amended and the outcome of any votes. Our guidelines have more detailed practical guidance on what should not be included in council meeting minutes.

Q: How should minutes be prepared when an individual making or seconding a motion objects to having his or her name recorded?

When an individual makes or seconds a motion, they are providing implicit consent for the collection of their personal information pursuant to s. 8(1) of PIPA. If the individual withdraws his or her consent then the individual is not able to move or second a motion.

Q: Can a strata council make an electronic recording of a council meeting?

Unless the majority of owners or strata council members pass a resolution in favour of allowing meetings to be recorded with an audio or visual recording device, strata council or general meetings should not be recorded either by the strata corporation or by an individual. However, PIPA does not apply to the acts of a private individual, but only applies to the actions of an organization, such as a corporation. Therefore, a strata corporation may wish to consider passing a bylaw forbidding any audio or visual recording device to be used at a strata council meeting or general meeting without the prior approval of the majority of eligible voters, who are present in person or by proxy at the time that the vote is taken.

Q: Section 36 of SPA allows an owner to access a copy of the minutes of annual and special general meetings and council meetings. Do names and other personal information need to be removed before the minutes are released?

No. Section 36 of SPA states that upon receiving a request, the strata corporation must make records and documents available to owners and other authorized individuals. Because the disclosure is expressly authorized by another law, the personal information in the minutes can therefore be disclosed pursuant to s. 18(1)(o) of PIPA.

Since minutes may be shared with individuals not living in the strata corporation, such as realtors and prospective strata lot owners, it is important that the minimal amount of personal information is disclosed in the minutes.

When drafting minutes, the best practice is not to record personal information that is not necessary for business or legal purposes.

Q: When an owner writes to a strata council requesting approval of a renovation, may the strata minutes record the unit number, lot number, or other identifying description of the unit that will be doing the renovation?

The strata minutes need to accurately reflect what decision was made. As long as the unit number or strata lot number is mentioned and the owners are not individually named, the minutes would not contravene PIPA. To be transparent, you may wish to advise the strata lot owner that this will happen if approval is granted.

Q: Can a resident have access to a letter of complaint about them?

Under s. 36 of SPA strata councils must disclose records and documents to owners and other authorized individuals, including correspondence received by the strata corporation. PIPA authorizes this disclosure pursuant to s. 18(1)(o).

A resident may also make an access request pursuant to s. 23 of PIPA for his or her own personal information that is under the control of the strata corporation.

As strata corporations are at liberty to disclose complaint letters to the person who is the subject matter of the complaint pursuant to SPA, it is advisable for strata corporations to have clear policies explaining to all owners and tenants that the strata corporation will disclose complaint letters upon receiving a written request pursuant to SPA by an authorized individual. This includes disclosure to the person who is the subject matter of the complaint should they make a request under the SPA.

Q: What obligations does a strata corporation have to redact third-party personal information in correspondence when requested by a strata property owner?

Section 36 of SPA is a mandatory disclosure provision — strata corporations must disclose documents and records upon request by owners and other authorized individuals. PIPA authorizes this disclosure pursuant to s. 18(1)(o). As this disclosure is expressly authorized by SPA there is no authority under PIPA to redact personal information contained in correspondence.

Q: Can a strata corporation recover expenses incurred in producing and providing a document requested under SPA?

Yes. If a person has requested copies of strata records under s. 36 of SPA, the strata corporation may charge a fee that complies with s. 4.2 of the Strata Property Regulation, which is 25 cents per page. PIPA does not affect this process.

Q: Can the names and contact information of the members of the strata council be disclosed to anyone who asks, or published in a newsletter or on a web site?

The names and mailing addresses of strata council members may be disclosed to any strata lot owner or other authorized person in order for that council member to be contacted. However, neither SPA nor PIPA stipulate that the telephone number or email address of each strata council member must be made publicly available.

Q: Can a strata corporation provide an owner with the contact information for other owners?

Strata corporations are required to keep a list of the names and mailing addresses of strata lot owners and make the list available to other owners and other authorized individuals pursuant to ss. 35 and 36 of SPA. This list does not include an owner's phone number, email address, or other contact information beyond mailing addresses if different from their strata unit. If a strata corporation wants to disclose additional contact information of owners, it must ensure that the disclosure is for a reasonable purpose and that the individual has consented to such a disclosure and for such a purpose.

Q: Does PIPA affect a strata corporation's ability to collect outstanding debts?

No. PIPA permits the reasonable collection, use and disclosure of personal information to collect a debt (ss. 12(1)(j), 15(1)(j) and 18(1)(g) of PIPA).

Q: Does PIPA affect a strata corporation's ability to investigate and enforce its bylaws or rules?

A strata corporation can investigate and impose fines or other sanctions on owners, tenants, or their invitees for contravening the corporation's bylaws or rules (Part 7, Division 3 of SPA).

PIPA permits the reasonable collection, use and/or disclosure of personal information for the purpose of an "investigation" or "proceeding" (ss. 12(1)(c), 15(1)(c), and 18(1)(c)) as defined in PIPA. However, PIPA would not permit the collection or use of personal information through measures such as video surveillance to investigate and enforce minor bylaw infractions.

Please refer to Order P09-02 (Shoal Point Strata Council) on our website for examples of minor bylaw infractions: <https://www.oipc.bc.ca/orders/1417>

Q: Can a strata corporation install video surveillance on strata property?

PIPA allows the use of video surveillance on strata property where that collection of personal information is for a purpose that a reasonable person would consider appropriate in the circumstances. Depending on what other less privacy invasive measures have been previously attempted to address the issue, the OIPC has found that the use of video surveillance for security purposes may be reasonable but its use to enforce minor strata bylaws is not.

Before installing or operating either a video surveillance or an access control system, the strata corporation must pass a bylaw authorizing its installation and operation. A strata corporation must also have a comprehensive written privacy policy in place that governs the use of such systems and the personal information they collect.

Please refer to Order P09-02 (Shoal Point Strata Council) on our website for examples of minor bylaw infractions: <https://www.oipc.bc.ca/orders/1417>

Q: Can a strata corporation give personal information to a property management company it has hired?

Yes. Under s. 18(2) of PIPA, a strata corporation may disclose personal information to a property management company if:

- individuals consented to the original collection by the strata corporation;
- the personal information is disclosed solely for the purposes for which the information was originally collected; and

- is limited to that which the property management company needs to carry out work on behalf of the strata.

Q: Can a strata corporation disclose account and payment statements to an owner, a purchaser, or a person authorized by an owner or purchaser?

Yes. Section 59 of SPA requires a strata corporation to issue an Information Certificate that includes any amount the owner owes the strata corporation, other than an amount paid into court or to the strata corporation in trust under s. 114. A strata corporation is also required to issue a Certificate of Payment pursuant to s. 115 of SPA. These disclosures are subject to conditions in SPA. PIPA authorizes these disclosures pursuant to s. 18(1)(o).

Section 35(1)(d) of SPA also states that the strata corporation must prepare books of account showing money received and spent and the reason for the receipt or the expenditure. Section 36(1) of SPA states that these books of account can be disclosed to an authorized individual. This means that if a neighbouring strata lot owner makes a request to the strata corporation for its books of account, he or she may know whether or not you owe the strata corporation money.

Q: Can an owner use the personal information of other owners to convene a meeting of the strata corporation to elect a council?

Yes. Owners may hold the first annual general meeting and elect a council if the owner developer has not done so pursuant to s. 16 of SPA. As the owners are not an organization, PIPA would not restrict their collection and use of personal information.

Q: Are owners who rent their strata units subject to PIPA?

Yes. Landlords are organizations as defined by PIPA and must adhere to the privacy and access rules in that Act.

Q: Can an owner provide the name of a tenant to the strata corporation?

Under Section 146 of SPA (Strata Property Act), landlords must give prospective tenants the current bylaws and rules and a **Form K Notice of Tenant's Responsibilities** Within 2 weeks of renting the strata lot, the landlord must give the strata corporation a copy of the *Form K* signed by the tenant. As well, under Standard Bylaw 4(2) on request of the strata corporation, a tenant must inform the strata corporation of his or her name.

Q: My strata council claims that under privacy law they cannot disclose the names of companies that provided quotes for maintenance. Can they refuse to provide me with this information?

PIPA governs the collection, use and disclosure of personal information by organizations. Information about maintenance fees or quotes is not personal information; therefore PIPA does not restrict the disclosure of such information.

Q: I believe my personal information was shared in an unauthorized way by my strata. How should I follow up?

PIPA allows individuals to make privacy complaints to the Office of the Information and Privacy Commissioner for British Columbia (OIPC).

Before complaining to the OIPC, you should attempt to resolve your complaint directly with the strata. Submit your complaint in writing directly to the strata's privacy officer. Provide as much detail as you can in order to assist them to understand the nature of your complaint.

Give the strata at least 30 business days to respond. If after 30 business days you have not received a response from the strata or if you are unsatisfied with how the strata addressed your complaint, you can make a complaint to the OIPC.

Q: If an individual sends an email to a strata manager, and requests that the email remain private, is the strata manager allowed to share the email including personal information with the strata council?

If the email contains strata related information, then it cannot remain private. The strata manager presumably is contracted to act on behalf of the strata council and strata corporation. Sections 35 and 36 of SPA specify the strata must keep copies of correspondence that it receives. If an owner or strata council member requests access to those pieces of correspondence, they are entitled to view them and/or obtain copies.

Q: Can the signatures of a strata corporation petition be disclosed to another owner?

Yes, the presumption is that a petition is a publically available document. By signing the document, people are publicly stating their support for a position. Best practice is for the person accepting signatures to inform the people signing this petition that it may become a public document once the petition is given to the strata corporation.

Q: Is there anything in PIPA that prevents a strata corporation from entering a strata lot to conduct a fire inspection for which proper notice has been provided?

There is nothing in PIPA that prevents such an inspection from occurring. The issue is whether the inspection is properly authorized by the strata corporation, which is a separate issue over which the OIPC does not have jurisdiction.

Q: Can a strata corporation store its owner data and records with a cloud provider if the cloud provider's servers are located outside of Canada?

PIPA does not prevent the storage of personal information outside of Canada. Ideally, the strata corporation should inform individuals where their information is being stored. The strata corporation may only collect personal information for purposes that a reasonable person would consider appropriate in the circumstances and that fulfill the purposes that the strata corporation discloses to the individual or pursuant to PIPA.

If personal information of owners is going to be stored outside of British Columbia, the strata corporation should ensure that the contract governing the storage of personal information ensures that the legal protections afforded by PIPA are provided for in that contract.