

This document will be updated periodically as other questions are raised regarding the *Personal Information Protection Act* (PIPA).

This document is not a substitute for legal advice.

1. Is a Condominium Corporation subject to PIPA?

Yes. In IPC Order P2005-005, the Information and Privacy Commissioner found that a Condominium Corporation is an organization subject to PIPA. Condominium Corporations do not fall under the Act's special rules for non-profit organizations as they are not incorporated under the *Societies Act*, the *Agriculture Societies Act* or registered under Part 9 of the *Companies Act*. Condominium Corporations are established under the *Condominium Property Act*.

2. Can a Condominium Corporation collect and use personal information in order to manage the Corporation?

Yes. PIPA permits an organization to collect and use personal information for purposes that are reasonable. When an organization collects and uses personal information, it may do so only to the extent that is reasonable for the purpose.

The Corporation will normally need the individual's consent to collect and use his or her personal information. However, PIPA provides exceptions to consent. In particular, if the *Condominium Property Act* authorizes or requires the collection and use of personal information, consent is not required.

3. Can the Board record a meeting of the Board of Directors or the Owners?

Yes. The secretary of the meeting can take notes or record the meeting to assist in drafting the minutes. Individuals who participate in the discussions are considered to have consented to the collection, use and disclosure of their personal information (section 8(2) of PIPA).

As a best practice, attendees should be provided with notification when their names and other personal information may be recorded, and for what purposes (e.g., at the beginning of the meeting).

The notes or electronic recording should only be kept until the minutes are approved.

4. What personal information can a Condominium Corporation collect at the meetings of the Corporation or the Board and include in the minutes?

Under PIPA, an organization may collect personal information only for purposes that are reasonable. It would be reasonable for the Corporation or the Board to collect personal information to show, for example, that there was a quorum for a meeting, who moved and seconded a motion, and that a vote was properly conducted.

If the roll is called or proxies are certified, an individual who volunteers his or her personal information is considered to have consented to the collection, use and disclosure of that information (section 8(2) of PIPA). This is also the case if an individual makes a motion or participates in a vote.

A Corporation or Board should not record personal information is not necessary for business or legal purposes. If there is a general discussion about a particular issue or agenda item, it is a good practice to provide a summary of the discussions without attributing comments to a specific individual.

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

If an individual does not want his or her name or unit number recorded in the minutes, then the individual is not able to move or second a motion.

6. Can a Condominium Corporation record the name and unit number of an individual leaving a meeting?

Yes, if the name of the individual and the unit number are needed for procedural reasons, such as documenting that there was a quorum when a vote was conducted. If the roll is called to establish that a meeting was properly convened, an individual who volunteers his or her personal information is considered to have consented to the collection, use and disclosure of their personal information for that purpose (section 8(2) of PIPA).

If there is no legal requirement under the *Condominium Property Act* to record the individual's personal information, the Corporation will need the consent of the individual.

7. Does PIPA affect the Condominium Corporation's use of proxy votes at meetings?

No. An owner or mortgagee may exercise the right to vote by proxy (section 26 of the *Condominium Property Act*). PIPA does not affect this process.

It is a good idea to keep a note of what information was used to authenticate the proxy and verify the identity of the proxy holder.

8. Section 44 of the *Condominium Property Act* allows an owner to request a copy of the minutes of a general meeting. Do names and other personal information need to be severed before the minutes are released?

No. Because the *Condominium Property Act* requires disclosure of the minutes, personal information recorded in the minutes can be released in accordance with section 20(b) of PIPA, so long as the personal information in the minutes is relevant to the carrying out of the Condominium Corporation's duties or powers under the *Condominium Property Act* (see IPC Order P2009-003).

The minutes are the permanent official legal record of the resolutions and decisions made and normally would not need to be altered.

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

9. Can a Condominium Corporation collect and disclose personal information when conducting a signed special resolution?

Yes. The collection of the voter's signature is considered a collection of personal information with consent, since the voter has volunteered to provide his or her signature in accordance with section 8(2) of PIPA.

A Condominium Corporation must be able to show that a special resolution was passed by the required number of eligible voters (section 1(1)(x) of the *Condominium Property Act*). The signed resolution should be retained to show that the special resolution was "properly passed." The result of the vote is recorded in the minutes.

If a signed resolution is used, the Corporation can disclose the names of voters in accordance with section 20(b) of PIPA.

10. Can the Condominium Corporation disclose the statement of account to a purchaser or mortgagee of a unit?

Yes. Section 44(a) of the *Condominium Property Act* allows a purchaser or mortgagee of a unit to request this information.

The Corporation should require evidence that the person making the request for this information is in fact a purchaser or mortgagee of that unit before the information is disclosed. The Corporation should document that the information was verified and keep a note of the information that was disclosed.

11. Can the Condominium Corporation allow a mortgagee to inspect the records of the Corporation and minutes of meeting as required under section 45 of the *Condominium Property Act*?

Yes, section 45 of the *Condominium Property Act* obliges the Condominium Corporation to allow a mortgagee to inspect minutes of meetings and records relating to the management and administration of the corporation.

PIPA does not affect this process.

12. Can the Condominium Corporation provide a copy of the policy of insurance or insurance certificate under section 48 of the *Condominium Property Act*?

Yes, the Condominium Corporation can provide a copy of the insurance policy or certificate. Typically these documents do not contain personal information other than the business contact information of the representative of the insurer. Consent is not required to disclose business contact information (section 4(3)(d) of PIPA).

13. Can a Condominium Corporation provide an owner, purchaser, mortgagee or their representative with a copy of the Estoppel certificate?

Yes. Sections 39(6) and 44 of the *Condominium Property Act* allow an owner, purchaser, mortgagee or their representative to request this information.

The Corporation should require evidence that the person making the request for this information is in fact the owner, purchaser, or mortgagee of that unit or their representative before the information is disclosed.

The Corporation should document that the information was verified.

14. Can an owner use the personal information of other owners to convene a meeting of the Condominium Corporation to elect a Board of Directors?

Yes. The *Condominium Property Act* requires a Corporation to have a Board of Directors.

An owner may convene a meeting of the Corporation to elect a Board if the developer has not done so (section 29(2) of the *Condominium Property Act*).

As an owner is not an organization, PIPA would not apply to the collection or use of personal information by an owner. The owner would be able to obtain the name and address of the owners through Land Titles or could directly notify the other owners once the units are occupied.

15. Can the Board of Directors collect personal information to verify the eligibility of members of the Board?

Yes. The *Condominium Property Act* requires a Condominium Corporation to be able to show that two-thirds of the Board members are either owners or mortgagees, unless the bylaws specify otherwise. PIPA permits the collection of personal information to comply with an Act (section 14(b)).

If other eligibility criteria are specified in the bylaws of the Corporation, the Board of Directors would need the consent of the individual to collect his or her personal information to verify eligibility.

16. Can the names and contact information of the members of the Board of Directors be disclosed to anyone who asks, or published in a newsletter or on a web site?

Yes, the names and contact information of the members of the Board of Directors can be disclosed as business contact information under PIPA. A Board member can decide what information to provide; for example, which telephone number he or she wishes to use for corporation business. However, the collection, use or disclosure, as the case may be, must be limited to the purposes of enabling the individual to be contacted in relation to the individual's business responsibilities and for no other purpose.

For example, owners, purchasers, and mortgagees will need contact information to conduct business with Board members. Notices can be served on the Corporation or a member of the Board.

Board members' names and addresses are also filed with Land Titles and members of the public may obtain a copy of the "Notice of Change of Directors" form.

17. Can a Condominium Corporation keep records of the concerns or activities relating to a particular unit?

Yes, if the records pertain to the management of the Corporation or possible contravention of the Corporation's bylaws.

Records containing personal information of a previous owner or renter should be kept separate from the general records on a unit file to which an owner, purchaser or mortgagee is entitled to access under the *Condominium Property Act*.

18. Can a resident have access to a letter of complaint about them?

The individual may make an access request to the Corporation for recorded personal information about the individual. The individual must make the request in writing.

If the information requested is a complaint, the record is likely to include facts, views or opinions about the resident. The complaint may include the complainant's personal information, such as his or her name, unit number and other information that may reveal the complainant's identity. The record of the complaint may also include information about an individual other than the resident or complainant.

The resident is only entitled to his or her own personal information. The resident is not entitled to the information about the complainant or others, unless these "third parties" provide their consent. Without consent, the personal information of others must be severed from the document before it is released to the resident. The entire letter may need to be withheld if the contents would reveal the identity of someone who provides an opinion in confidence – section 24(3)(c) (see IPC Order P2005-005).

PIPA establishes certain rules that organizations must follow when processing a request for access to records under the Act. The Office of the Information and Privacy Commissioner has prepared several PIPA Advisories on processing requests. These should be reviewed before any records are disclosed. Obtain these online at www.oipc.ab.ca or call 1-888-878-4044.

19. Does PIPA affect the Condominium Corporation's ability to collect outstanding debts?

No. The Board of Directors or its management company can levy fees and collect the fees or recover costs from current or former owners or the mortgagee or redirect payment of rent to the Corporation.

PIPA permits the collection, use and disclosure of personal information to collect a debt (sections 14(i), 17(j) and 20(i)).

20. Can a Condominium Corporation recover expenses incurred in producing and providing a document requested under the *Condominium Property Act*?

Yes. Owners, purchasers and mortgagees may make a written request for documents specified in section 44 of the *Condominium Property Act*. The Condominium Corporation may charge a fee for any expenses incurred in producing and providing the documents (section 74).

PIPA does not affect this process.

21. Can a Condominium Corporation collect, use and disclose personal information for purposes arising in the rental of units?

Yes. The *Condominium Property Act* authorizes the Corporation to obtain the address of the owner, name of the tenant and amount of rent to be paid, to serve documents and conduct business with the owner (section 53).

PIPA permits the collection, use and disclosure of personal information to comply with another Act (section 14(b), 17(b) and 20(b)).

22. Can a Condominium Corporation notify an owner when his or her tenant is required to give up possession of the unit?

Yes. PIPA permits the use and disclosure of personal information to comply with another Act (section 17(b) and 20(b)).

The *Condominium Property Act* requires the Corporation to notify the tenant's landlord of any action relating to eviction of the tenant.

The Corporation can disclose only as much personal information as is reasonable for the purpose.

23. Can a Condominium Corporation obtain the personal information required when the condominium status of a building or parcel is being terminated?

Yes. PIPA permits the collection and use of personal information to comply with an Act (section 14(b) and 17(b)). The *Condominium Property Act* requires the Corporation to obtain the written consent of parties with an interest in the parcel and to verify that the special resolution terminating condominium status was properly passed (section 54).

24. Does PIPA affect a Condominium Corporation's ability to enforce its bylaws and pursue sanctions or lawsuits?

No. A Corporation can impose monetary or other sanctions on owners, tenants or their invitees for contravening the Corporation's bylaws (section 35). If a person fails to comply with a sanction, the Corporation may take legal action through the courts.

PIPA permits the collection and use of personal information for an investigation or legal proceeding (sections 14(d) and 17(d)).

25. Can a Condominium Corporation release personal information to an arbitrator or mediator to resolve a dispute?

Yes. Condominium disputes can be resolved using mediation or arbitration (section 69 of the *Condominium Property Act*).

Once the parties have agreed to participate in the dispute resolution process, the Corporation will need to obtain the parties' consent for disclosure of contact information and any other personal information that is necessary to allow the mediator or arbitrator to initiate the dispute resolution process.

26. Can a Condominium Corporation disclose personal information to an investigator appointed by the Court to review improper conduct?

Yes. PIPA permits an organization to disclose personal information in order to comply with an order of the Court or for the purposes of an investigation or civil, criminal or administrative proceeding (sections 20(e) and 20(m) of PIPA).

The Corporation should make a note of what personal information was disclosed.

27. Can a Condominium Board give personal information to a property management company it has hired?

Yes. The property management company is the agent of the corporation and acts with the delegated authority of the condominium corporation to manage the property. Consequently, the property management company acts as the Condominium Corporation in relation to management of the corporation (see IPC Order P2009-003).

That said, the information must be limited to that which is reasonably required to carry out the purposes.

28. Where can I obtain more information?

Additional information and resources about PIPA are available on the websites of Access and Privacy, Service Alberta, and the Office of the Information and Privacy Commissioner.

**Access and Privacy
Service Alberta**

Phone: 780-644-PIPA (7472) Toll free dial 310-0000
E-mail: pspinfo@gov.ab.ca
Website: pipa.alberta.ca

Office of the Information and Privacy Commissioner

Phone: 403-297-2728 Toll free dial 1-888-878-4044
E-mail: generalinfo@oipc.ab.ca
Website: www.oipc.ab.ca