

VISOA Webinar: Creating a Strata Privacy Policy

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Question	Answer
Where do I get a copy of this power point presentation to share with my council for discussion?	On VISOA's website in the webinar links and handouts: https://www.visoa.bc.ca/?page_id=3405
Can you please copy and paste the list of resources links?	Scroll down to the Privacy section on this page of VISOA's website: https://www.visoa.bc.ca/?page_id=264
Where can I get a copy of the privacy policy template?	The template is on the VISOA website in the above locations or go directly to: http://www.visoa.bc.ca/wp-content/uploads/2021/01/Privacy-policy-template-for-stratas.doc Note that the Word document will download automatically. If you don't see it, look in your downloads folder.
Where is the PrivacyRight podcast you mentioned?	The OIPC podcast series had an episode called: "Strata privacy: Rights, cameras and taking action". It's in VISOA's list of resources or you can go to it directly: https://anchor.fm/privacyright/episodes/Episode-3---Strata-privacy-Rights--cameras-and-taking-action-eb7u2d/a-a1khlol

Question	Answer
Does a Bare Land Strata require a Privacy Policy?	Yes, all stratas are required to have a privacy policy.
In a sectioned strata who would develop the privacy policy? The overall strata council, or each section's executive?	The strata corporation and each section should each have their own privacy policy as they are each separate legal entities. Their privacy policies could be very similar to one another.
We live in a co-op. I assume all these rules apply. If we have been distributing contact lists for years, can we assume we have consent to continue distributing contact list?	PIPA applies to cooperative associations but the Cooperative Association Act may have different requirements than the SPA for what information must be kept and what must be disclosed. You shouldn't assume you have consent to continue giving out a list of contacts. Perhaps send out an email or hand out forms to ask residents to confirm that they want their contact info to be given to all residents. We can't comment further on this because we are not familiar with the Cooperative Association Act. The BC Co-op Association may be able to help you: https://bccca.coop/ , or check resources at the OIPC's PrivacyRight website: https://www.oipc.bc.ca/privacyright/
How is a privacy policy adopted? Once we have it drafted, does it need to be approved by the owners at an AGM or SGM?	Council votes at a council meeting to approve the policy. The council would also vote each time there is an update to the policy.
What is the difference between a privacy policy and a bylaw or rule? Does the privacy policy become part of the bylaws?	A privacy policy is not part of bylaws but the bylaws could refer to the policy. For example you could have a bylaw allowing the strata to have CCTV cameras and the bylaw could say see the privacy policy about where the cameras are located, when the recording can be accessed, how long recordings are kept etc.
How often does the privacy policy have to be updated?	There is no regulation about the frequency of updates however a best practice would be for council to review it annually, or if there is a privacy breach. Also, you should review it each time your bylaws are updated in case there is some overlap to be updated.

Question	Answer
<p>Can council elect a privacy officer on its own? Or does this require a vote of the owners at an AGM or SGM?</p>	<p>This does not require a vote of the owners. The strata council should elect or appoint the privacy officer, as it is the council who are elected to manage the business of the strata corporation. It is common for the current secretary to be the privacy officer.</p>
<p>What are the responsibilities of the privacy officer? Does PIPA require the strata to have a privacy officer?</p>	<p>A strata corporation is required to have a privacy officer. Their responsibilities should be spelled out in the privacy policy, for example: "The Privacy Officer or designated individual is responsible for ensuring [strata number]'s compliance with this policy and the Personal Information Protection Act."</p>
<p>Personal and Contact information</p>	
<p>Is there a need or requirement for the strata to collect emergency contacts of owners?</p>	<p>Emergency contacts are not required, however the strata can request them. It is optional for the owners to provide this information. But let the owners know the ramifications of not providing it. For example, if an owner cannot be reached in an emergency and there is no emergency contact, the police or fire department might have to break down the suite door.</p>
<p>You said that "contact information" is not considered "personal information" under PIPA, however, authorization is required to share contact information. Please expand as I find this confusing.</p>	<p>Slides 24-32 clarify the difference between personal information and contact information, as well as what information the SPA requires the strata to disclose. Slide 33 gives examples of consent.</p>
<p>With regards to an owner's personal information, some owners have jobs or personal reasons for wanting to keep their information unknown to other owners. How do you deal with that?</p>	<p>An owner is not required to provide any personal information that is not required by the SPA or required to run the business of the strata corporation. But do let them know the ramifications of not providing it.</p>

Question	Answer
<p>What kind of insurance information might stratas be collecting?</p>	<p>It is fairly common for stratas to have a bylaw that requires owners to have insurance. However a bylaw that requires owners to provide a copy of their insurance policy may not be enforceable. If an owner is doing renovations, the strata's indemnity agreement or assumption of liability agreement may require them to provide the name of their insurance company and the amount of liability coverage they have. If there is a claim under the strata's insurance policy, and the owner's policy is also triggered, the strata might have information about the owner's policy as it relates to the claim. In another example, you could have a bylaw that requires proof of storage insurance for a motor vehicle with expired plates.</p>
<p>What if there is a potential safety risk to owners? e.g. can the strata disclose information that an owner is experiencing some mental health challenges and has a history of verbal confrontation?</p>	<p>We understand your concerns about safety however we do not think that PIPA would not permit disclosure of personal medical information under any circumstances. You could contact the OIPC (Office of the Information and Privacy Commissioner) to ask if there are any circumstances that would allow this. https://www.oipc.bc.ca/privacyright/</p>
<p>Owners and Tenants list</p>	
<p>Please clarify. You said that, if requested, Council must share all owners' addresses but council does not need to share phone numbers and email addresses unless council has consent?</p>	<p>Phone numbers and email addresses are personal information protected by PIPA so they cannot be disclosed unless the owners have given consent. Section 35 and 36 of the SPA requires the strata to keep and, upon written request, disclose a list of owners' names, addresses, strata lot numbers, unit entitlements, parking stall numbers, locker numbers, names of tenants, assignment of voting or other rights, and certain mortgagees.</p>
<p>On the owners' list, could the strata list initials instead of the full names? e.g. J.A. Doe</p>	<p>No. Full names should be used. Remember that owners' names are public information listed on the title record at the Land Titles Office.</p>

Question	Answer
<p>If tenants do not have any owner/voting rights assigned to them, are you required to provide their information along with the list of owners when another owner requests that info?</p>	<p>SPA section 35 requires that the list include the names of tenants. This section of the SPA does not require any other information about tenants. However section 146 requires the landlord to provide a Form K signed by the tenant within 2 weeks of renting all or part of a strata lot. This is a prescribed form and it collects one more piece of information: the date the tenancy commences. It does not require the tenant's phone number or email address.</p>
<p>Minutes</p>	
<p>How should you reflect sensitive information in council minutes? For example, reference to a unit number in a complaint can be connected to an individual owner.</p>	<p>Best practices are to use the strata lot number, not the unit number or person's name. See page 17 of the Privacy Guidelines for Strata Corporations and Strata Agents: https://www.oipc.bc.ca/guidance-documents/1455 The guidelines include this note: 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.</p>
<p>We have put the phone numbers of council members in the minutes. Is this ok or should we never put any phone numbers?</p>	<p>If your strata doesn't have a property management company, having phone numbers in the minutes may be helpful to the owners, however each council member that has their phone number shown would have to give consent. Minutes must be kept for a minimum of 6 years and people may not be happy with having their phone number listed there for all that time. Instead of including phone numbers in the minutes, your strata might circulate a contact list to owners each year, assuming you obtain the consent of that year's councillors.</p>
<p>In the past, our minutes have included owner's names, addresses and phone numbers. I assume minutes should be kept forever? Does the requirement to destroy personal information affect how long these minutes are kept?</p>	<p>It sounds like you are putting the information of all owners in the minutes, not just council members. For council meeting minutes, the names of the council members should be listed, but not a list of the owners. The unit number is typically beside the name of each council member. We cannot think of any reason to list their full addresses in the minutes and you should not be including phone numbers in the minutes unless you have consent of each individual. Minutes must be kept for a minimum of 6 years but council can keep them longer if you wish. Since many owners have copies of the minutes, it would be impossible to destroy every copy that contains the personal information.</p>

Question	Answer
Keeping/storing records	
To ensure important paper copies of documents are not lost in a fire or flood, does PIPA allow our strata to keep copies of records in the home of a second council member?	You could specify this practice in your privacy policy. You could say something like two council members will store copies of the strata's documents. You could also specify when a past council member is required to pass the records on to a current council member.
Are you allowed to maintain records including personal information longer than the time periods noted in the presentation? e.g. email records for 10+ years.	Section 4.1 of the Strata Property Regulations requires that records be retained for a minimum amount of time but the strata may keep records longer if you wish. Emails between owners and council are correspondence. Correspondence must be kept for a minimum of 2 years. It may be advisable to keep some correspondence longer than 2 years depending on the subject matter.
Re personal information (an owners name and phone numbers and address), does that mean the stratas keep prior owners information for 2 years?	First note that the retention time you are referring to is not 2 years - it is the "current copy" and a phone number is not required by SPA s35. Section 35 of the SPA requires the strata to keep a list of owners names, addresses, strata lot numbers, unit entitlements, parking stall numbers, locker numbers, names of tenants, assignment of voting or other rights, and certain mortgagees. Since SPA Regulation 4.1(6) only requires that the strata keep the current copy, there is no requirement to keep contact information for past owners. However, the strata is required to keep other records such as correspondence which is required to be kept for at least 2 years. These records might include personal information such as an email address.
Are strata corps allowed to use GMail and Google drive to store their records? Google houses data in the USA.	Unless it is specified in your bylaws or privacy policy, there is no requirement for your strata to store data in Canada. However council could inform owners that the data is stored in the USA if it wishes to do so.

Question	Answer
Working with a property management company	
<p>If our council is managed by a property management company, are we still legally obligated to have a privacy policy?</p>	<p>Yes, all stratas are required by law to have a privacy policy. PIPA applies to all organizations so the property management company must have their own privacy policy as well.</p>
<p>Does a property manager or strata need to collect names of all residents of a unit who are not owners? E.g. children's names or adult family members who not an owner?</p>	<p>The SPA requires the property manager/strata to keep a list of owners names, addresses, strata lot numbers, unit entitlements, parking stall numbers, locker numbers, names of tenants, assignment of voting or other rights, and certain mortgagees. The Act does not require the strata to keep a list of other occupants. However check your bylaws to see if a bylaw has been added that would require the additional info. That additional information might be helpful in the management of your strata's business, but it is not required by the SPA.</p>
<p>Our strata has 3 sections. The president of section 3 asked the property manager for the contact information of the president of section 2, in order to discuss strata business. The Property Manager refused this request, citing the Privacy Act. Is it legal for the property manager to refuse to provide this contact information?</p>	<p>Technically speaking PIPA does not permit the property manager to disclose the email address and phone number of the president of section 2 unless that person gives consent. The president of section 3 is allowed to have the mailing address so they could contact the president of section 2 by mail to request that they provide a phone number and/or email address. This would be practical however the president of section 2 is not required to do this. The property managers for section 2 and 3 could communicate with each other on behalf of the executive members of each section.</p>
<p>Are owners' emails to the property manager considered "private" under PIPA?</p>	<p>No. Correspondence between the manager and owners are correspondence and are records of the strata corporation that must be kept for a minimum of two years. Under SPA s36, upon written request, owners may request copies of correspondence.</p>

Question	Answer
Emails	
<p>Our strata would like to send informal information e-mails to our owners all year long, especially due to COVID. Although our strata management company has the official list of e-mail addresses, can council use these, or do we have to ask permission from the owners or acquire them separately?</p>	<p>Most property management companies require an owner to sign a form giving consent to the property management company to communicate by email. Check the wording of that form. It may say that it includes consent for the strata corporation to use their email address as well. Some stratas have the owners sign their own form to ensure that they have consent to communicate by email. If you think consent is implied, you might feel comfortable sending informal emails to owners and allowing them to opt-out of being on the council's email address by request. Don't send official correspondence like notices of bylaw complaints or notices of general meetings unless you have a signed form.</p>
<p>If council asks for an owner's email address and they give it, is that good enough or do we need their consent in writing?</p>	<p>If you think consent is implied, you might feel comfortable sending informal emails to owners and allowing them to opt-out of being on the council's email address by request. Don't send official correspondence like notices of bylaw complaints or notices of general meetings unless you have a signed form. See SPA s61:... to an email address provided by the person "for the purpose of receiving the notice, record or document". In other words the person providing the email address has to explicitly agree that their email address can be used for that purpose.</p>
<p>Do we need to communicate with owners by BCC so that email addresses are not revealed?</p>	<p>If you do not BCC, then you are providing personal information to everyone! Unless you have consent from each person to show their email address to everyone else, then you should BCC. The strata's privacy policy could specify that emails sent from council to an email list will have each owner's address in the BCC field.</p>
<p>I made a whoopsy a while ago and forgot to bcc. Should I do anything now or just going forward? We do not have a privacy policy yet.</p>	<p>Refer to slide 41. Acknowledge, investigate, report, change procedures and amend privacy policy. So best practices would be to let owners know of the breach and ask them to delete the email that contained the personal information. You could also explain how you will prevent this type of breach from happening again.</p>

Question	Answer
<p>Our strata has an email address for council's communications, including communications with owners. What can council do if a council member constantly and intentionally uses their private email address to communicate with owners? Council has requested on numerous occasions that this council member not use their personal email address.</p>	<p>Unfortunately, you cannot force this council member to adhere to best practices. You may want to inform all owners that any email coming from a councillor's personal email address is not considered to be coming from the council, but it's tricky depending on the culture of your strata. The council could call an SGM and ask the owners to vote on removing the individual from council if they believe the breach is that serious.</p>
<p>How do you deal with strata council members as they change, for example if a previous council member breaches the policy after they leave the council?</p>	<p>Good question. If they are no longer a council member, the breach is by a person, not by the strata corporation. You could put something in your privacy policy that specifies that past council members cannot use this information after ceasing to be a council member.</p>
<p>A former council member keeps emailing out to strata owners using the email addresses he had access to when he was a council member. Is there anything we can do?</p>	<p>See above. This would be a good question to ask the OICP (Office of the Information and Privacy Commissioner) or file a complaint. https://www.oipc.bc.ca/privacyright/ It sounds like this person is using a list. However, if they are logging into the council's email account, you should change the password for that email address. A good policy is to change passwords whenever there is a change of people the council has authorized to have access.</p>
<p>I'm on a social committee that organizes social events for our strata. We are volunteers, not council members. I ask new owners for their email address, if they want to receive email notices about our events. When they give me their email address, does that infer consent to send them notices? Is there anything I need to do to comply with a Privacy Policy?</p>	<p>Check your privacy policy to see if it addresses the situation of email communications between a committee and owners. Generally, if an owner gives you their email address, it infers consent. Perhaps the best practice here would be to have them send an email to you saying here is my email address and I give you permission to use it for communications regarding the social committee. Best practices would be to make it clear that they are giving their email address to the social committee, not to the council, and the purpose of the emails is limited to communications related to social activities only.</p>

Question	Answer
Video surveillance	
Who is allowed to access security video feeds, and when?	<p>Council can detail this in your strata's privacy policy. For example the policy could require that there must be two council members in attendance or the manager and a council member. The policy could specify that the recording can only be accessed when a safety or security issue is reported. These are just examples. Read the OIPC "Shoal Point" decision. https://www.oipc.bc.ca/orders/1417 which provides details on the usage of security footage.</p>
Are there rules on how and where video surveillance must be kept by the Strata Corporation?	<p>This should be detailed in your privacy policy. These recordings collect personal information such as the times that owners and guests enter or exit the building. The equipment should be in a locked room and only the persons specified in the privacy policy should have access to the key. e.g. council members, manager, caretaker.</p>
Should there be a bylaw about video surveillance?	<p>See page 19 of the Privacy Guidelines for Strata Corporations and Strata Agents: https://www.oipc.bc.ca/guidance-documents/1455 "Before installing or operating either a video surveillance or an access control system, the strata corporation should pass a bylaw authorizing its installation and operation. In the alternative, if the strata corporation does not pass such a registered bylaw, then it should ensure that all owners consent to its use. In all cases, a strata corporation should have a comprehensive written privacy policy in place that governs the use of such systems and the personal information they collect."</p>
Can owners use video surveillance? For example, an owner might have a doorbell camera or a camera which points over the common property beside their units. These are townhouses, and we do not have bylaws about owners having video surveillance.	<p>PIPA applies to the Strata Corporation not the actions of individual owners, however, your strata could create bylaws to allow or prohibit doorbell cameras etc. There are some CRT decisions about use of cameras by stratas and owners. Go to: https://decisions.civilresolutionbc.ca/crt/en/d/s/index.do and search "camera" or "surveillance". One example of owners using cameras is in this dispute: The Owners, Strata Plan 1769 v. Dagenais - 2020 BCCRT 957</p>