



LITTLE QUALICUM RIVER VILLAGE

Minutes of a Regular Council Meeting

Strata Corporation VIS 4673
Lighthouse Community Centre
240 Lions Way, Qualicum Beach, B.C.
October 7, 2019

Council Present:

Brian Gallagher, Trish Curtin, Doedy Reisler, Earl O'Hara

Lorraine Webb and Mike McDowell are away

Observers Present:

Evelyn Michor - Lot 40, Troy and Tamara Ladouceur – Lot 172, Judy Lewis - lot 190, Janet Sammon – Lot 192, Steve and Jody Lapp - Lot 193, Jeffrey Calvin and Jung Li Park – Lot 271, Alex Paralta and Marlyse Lafleur – Lot 273, Bod Lyford and Lynda Cowan – Lot 278 and Alexander Hapgood and Darlene Johnston – Lot 279

1. Call to Order

Brian Gallagher, President, called the meeting to order at 6:30 p.m.

2. Approval of Agenda

Trish requested the OIPC Order issue raised by lot 029 be added to the agenda under new business. It was moved that the agenda be approved with that addition.

Moved: Trish

Second: Doedy

CARRIED UNANIMOUSLY

3. Approval of minutes from the previous Strata Council meeting of September 23, 2019

Moved: Doedy

Second: Trish

CARRIED UNANIMOUSLY

4. Reports

a. Policies and Procedures

That Council request strata lawyer, Elaine McCormack review and assist with revising our Privacy Policy.

Moved: Trish

Second: Brian

CARRIED UNANIMOUSLY

b. Design Review Committee

- i. DRC applications & construction – There has been no information from the owner of SL 257 since the last council meeting. A Geotech from McElhanney Engineering assessed the site and gathered additional information from the Ministry of Forests and Aquaparian. The Ministry will not be providing a report to the strata, but said they recommended to the RDN that no further work be approved until a plan is in place for restoring the common property, which includes a watercourse. Approval of significant changes to common property such as those which will be required for the restoration require a $\frac{3}{4}$ vote by owners at an AGM or SGM. As Council is still awaiting the Geotech report, that issue will be not be ready for owners' determination at the November 24, 2019 AGM. The DRC application by SL 260 to remove trees has now been augmented with assessments by an arborist and a geotech. Some of the plan tree removal has been approved.
- ii. Inspections and maintenance schedules – The blocked culvert involving lot 15 has been dealt with.
- iii. Special Projects – The Wallace Wood Way culvert still needs to be extended on in the in flow side to re-establish the road width. The costs of the fobs was a barrier to completing the new Security Gates project because they put the project costs well above the budget. Brian suggested using the same entry electronics so owners could use their current clickers and inquired about boom-arm style gates because they open and close much quicker than swing gates. Doedy is going to contact the gate company about boom-arm style gates. Earl asked if the gates are on common property and/or whether the adjacent lot owners should be contacted. That was added to the list of gate replacement considerations.

- iv. **Water System:** The back-up generator has been installed and the electrical permit has been filed with B.C. Hydro. Water system reports are attached.

c. Financial Report & Expenditures for Approval

- i. No financial reports were prepared seeing only two weeks had passed since the last reports. Full financial reports are being prepared for the AGM. Our Contingency Reserve Fund is only 25% of what it should be, based on figures currently available.
- ii. Report on Collection Decisions &/or Directives – Doedy and Trish will review all collection and fine details once the AGM preparations are complete.
- iii. Depreciation Report – The expiring Depreciation Report does not provide the information required to plan for maintenance and repairs. Accordingly, quotes were secured for a new and appropriate Depreciation report. The quote provided by the firm with engineering expertise was accepted. It has been included in the budget for the upcoming year.
- iv. Contingency Reserve Fund Investments – Our investments were reviewed and found to be inconsistent with the Strata Property Act Regulation, which limits the term to maturity of bonds to no more than 5 years. We have several bond investments with terms many times the maximum. The matter will be revisited in more detail.

5. Unfinished Business

- a. Notice of Civil Claim Suit – Noel Stephen & Judith Munkholm – No update since our last meeting.
- b. CRT Cases. No new information since our last meeting.
- c. Waste and recycling – We received an offer to open, close and compress the bin contents.
- d. Telus and Shaw Proposals - Proposals from Telus and Shaw have been received. The Telus proposal will be presented at the AGM.

- e. Drainage Geotech assessment for Abbey Road – Dunwurkin. Funding for the appropriate assessments has been included in the budget for the upcoming year.

6. New Business

- a. AGM preparations – The **AGM** will be held on **November 24, 2019** at the **Lighthouse Community Hall** on Lions Way in Qualicum Bay at **12:00pm**. **Registration begins at 11:00 am**. Volunteers are required for setting up tables and chairs, as well as to help with registration. Please contact Lorraine via e-mail at vis4673@gmail.com or by dropping a note in the mail slot of the gate house door.
- b. As request by SL 029, the Office of the Information and Privacy Commission Order and the letter issued to SL 029 by Council, are being posted on the website under the 'LEGAL and TRIBUNALS' tab.

7. Events

- a. There will be NO HALLOWEEN PARTY at MEADOWOOD FIRE HALL this year.

8. Correspondence

SL 029 letter regarding OIPC Order.

SL 172 email requesting document copies

SL 193 email regarding unacceptable behaviour of observers at council meetings.

SL 264 email reporting deep potholes at Cameron Crescent/Abbey Road.

SL 266 email expressing disagreement with a Council bylaw decision.

SL 271 emails providing site development activities and tenant information

SL 273 emails requesting document copies, hearing, AGM agenda addition and hearing postponement.

SL 274 email requesting document copies

Various correspondence regarding keys, Form K, F and B issues, general inquiries by the public and realtors, was also received.

9. Bylaw Enforcement decisions and actions (discussion held in-camera)

SL 037 – reminder letter of bylaw 36 requirements and providing a Form K.

SL 271 - warning for bylaw 45 infractions.

SL 272 – letter advising of the need for a riparian area assessment before removing vegetation.

SL 274 – Weekly fines for continuous violation of bylaw 37 (10), and bylaw 3 (5) (b).

10. Next Meeting Date

The next meeting will be in December, 2019 with date to be announced after the November 24, 2019 AGM.

11. Adjournment

Meeting was adjourned at 8:15 pm

Moved: Brian

Second: Trish

CARRIED UNANIMOUSLY

Brian Gallagher, President

Date:

Lorraine Webb, Secretary

Date:

SEPT 2 2019 Daily Reservoir Readings

Date	Time	depth	Temp.	Well#1	Well#2	Well#9	Well#13	Res.Flow	total
Meter					69939	67848	6225	202395	
1	7 AM	10.6					31	202555	
2	705	10.8						202728	
3	730	10.5					17	202894	
4	730	10.8						203078	
5	705	10.8						203253	
6	700	10.6	14.0				36	203405	
7	715	10.6					42	203574	
8	700	10.7					30	203729	
9	700	10.6					15	203881	
10	740	10.5						204052	
11	705	10.7						204200	
12	640	10.8	14.0					204351	
13	655	10.8						204494	
14	705	10.8						204636	
15	715	10.9						204783	
16	705	10.8						204932	
17	715	10.7						205074	
18	700	10.8						205217	
19	705	10.6	13.75					205359	
20	700	10.8						205503	
21	700	10.7						205645	
22	710	10.9						205800	
23	720	10.6						205960	
24	710	10.8						206109	
25	700	10.8						206249	
26	730	10.7						206402	
27	725	10.9						206567	
28	700	10.8						206708	
29	705	10.9						206857	
30	720	10.8						207008	
31							171		
Meter Readings					71643	69338			
Total consumption					1804	1490			
comments									
Don Buchner								TOTAL = 4787 cm.	

• TOTAL USAGE for SEPT/2019 = 4787^{cm} or 1,053,140 IMP GAL.
 • DAILY USAGE = 159.6 cm or 35,104 IMP GAL. daily.
 • The PADS ARE POURED FOR THE GENERATOR & THE PROPANE TANK TO BE INSTALLED AT WELL #2. THE GENERATOR IS NOW IN PLACE. HARVEY SHOULD HAVE THE INSTALLATION COMPLETED WITHIN THE NEXT WEEK. WELL #13 IS NO LONGER NEEDED TO KEEP UP FOR THIS YEAR. ALL ELSE IS GOOD AND ALL TEST HAVE COME BACK CLEAN.

Don Buchner

OPERATOR # 6464

LQRV Residual Chlorine Readings

Residual Chlorine Readings for the Month of : <i>September</i> Year: <i>2019</i>					
Date	Location:	Location:	Location:	Location:	Location :
	Reservoir	Washrooms	Abbey Rd.	Alternate	Alternate
	Reading	Reading	Reading		Reading
1	.2			<i>1617 Lewis Lane</i>	.2
2	.2			"	.2
3	.2			"	.2
4	.2			"	.2
5	.2			"	.2
6	.2			"	.2
7	.2			"	.2
8	.2			"	.2
9	.2			"	.2
10	.2		.2		
11	.2		.2		
12	.2			<i>1617 Lewis L.</i>	.2
13	.2		.2		
14	.2			<i>1617 Lewis L.</i>	.2
15	.2		.2		
16	.2		.2		
17	.2		.2		
18	.2				
19	.2	.2			
20	.2	.2			
21		.2		<i>1617 Lewis L.</i>	.2
22	.2		.2		
23	.2	.2			
24	.2			<i>1617 Lewis L.</i>	.2
25	.2			<i>Kinnays Court</i>	.2
26	.2		.2		
27	.2	.2			
28	.2	.2			
29	.2		.2		
30	.2		.2		
31					

LQRV Arsenic Readings
Well Output

Arsenic Test Results on Reservoir Outflow							
For the Month of : <i>September</i> Year: <i>2019</i>							
		Well # 1,2,9	Well # 1,2,9	Well # 13	Well # 13	Total Resvr.	Arsenic
Date	Time	Meter	Total M ³	Meter	Total M ³	Input M ³	Reading
Previous Month Reading							
	9:00	202403		6228			2.0
1	9:00	202571	168	6259	31	199	2.0
2	9:00	202737	166	6259	-	166	1.0
3	9:00	202905	168	6276	17	185	1.0
4	8:45	203087	182	6276	-	182	<1.0
5	8:45	203266	179	6276	-	179	-
6	8:45	203417	151	6312	36	187	2.0
7	8:45	203586	169	6354	42	211	2.0
8	9:00	203739	153	6384	30	183	2.0
9	8:45	203895	156	6399	15	171	1.0
10	8:45	204061	166	6399	-	166	<1.0
11	9:00	204209	148	6399	-	148	-
12	9:00	204362	153	6399	-	153	-
13	9:00	204504	142	6399	-	142	-
14	9:00	204645	141	6399	-	141	-
15	8:45	204790	145	6399	-	145	-
16	8:00	204939	149	6399	-	149	-
17	8:45	205082	143	6399	-	143	-
18	8:45	205226	144	6399	-	144	-
19	8:30	205369	143	6399	-	143	-
20	8:30	205511	142	6399	-	142	-
21	9:00	205660	149	6399	-	149	-
22	8:45	205809	149	6399	-	149	-
23	8:45	205969	160	6399	-	160	-
24	8:45	206117	148	6399	-	148	-
25	8:30	206257	140	6399	-	140	-
26	8:30	206406	149	6399	-	149	-
27	8:30	206575	169	6399	-	169	-
28	8:45	206719	144	6399	-	144	-
29	8:45	206864	145	6399	-	145	-
30	8:45	207019	155	6399	-	155	-
31	-						



OFFICE OF THE
INFORMATION & PRIVACY
COMMISSIONER
for British Columbia

Protecting privacy. Promoting transparency.

Order P19-01

**LITTLE QUALICUM RIVER VILLAGE STRATA CORPORATION
(STRATA PLAN VIS 4673)**

Elizabeth Barker
Senior Adjudicator

January 24, 2019

CanLII Cite: 2019 BCIPC 03

Quicklaw Cite: [2019] B.C.I.P.C.D. No. 03

Summary: The applicant made a request to the strata corporation for copies of correspondence complaining about her dog. The strata corporation refused to disclose the parts of the correspondence that identified other individuals. The adjudicator found that s. 23 of the *Personal Information Protection Act* (PIPA) did not apply because the applicant's request was not for access to her own personal information under PIPA. The adjudicator found that the applicant's request was made pursuant to s. 36(1)(a) of the *Strata Property Act*. The adjudicator had no jurisdiction to decide the applicant's complaint about the strata corporation's failure to comply with its obligations under the *Strata Property Act*.

Statutes Considered: *Personal Information Protection Act*, ss. 1 (definition of "proceeding"), 18(1)(o), 23(1), 23(4). *Strata Property Act*, ss. 35(2)(k) and 36(1)(a).

INTRODUCTION

[1] This case is about how the provisions that address disclosure of personal information in the *Personal Information Protection Act* (PIPA) interact with a strata corporation's obligations under the *Strata Property Act* (SPA).

[2] The applicant owns a lot in a bare land strata corporation called Little Qualicum River Village - Strata Plan VIS 4673 (organization).¹ Her home is on a forested lot which ensures privacy and she rarely hears or sees her

¹ There was no dispute that Strata Plan VIS 4673 meets the definition of an "organization" in PIPA.

neighbours. The organization informed her in writing that it had received complaints about her dog roaming off leash on common property and it issued her a fine for contravening the related strata bylaw. The applicant made a written request under the SPA for full copies of the complaints. Specifically she said:

Further to the complaint letters of May and October 2017 you issued concerning our dog...we ask that you provide us with copies of these *alleged* complaints, indicating the name and address of the accuser, in accordance with SPA Div 2, s. 36, via return mail.²

[3] The organization gave her severed copies of the two complaints. The first complaint is a brief letter addressed to the strata council, and the organization severed the name of the complainant. The second complaint is a two sentence email, and the organization severed the complainant's name and email address as well as the names and email addresses of the email recipients. The organization told the applicant that its decision to sever information from the complaints was pursuant to its personal information protection policy, which was designed to comply with PIPA.³

[4] The applicant asked the Office of the Information and Privacy Commissioner (OIPC) to review the organization's decision to withhold information from the complaints. The organization informed the OIPC that it was withholding the information under ss. 23(4)(c) and 23(4)(d) of PIPA because it was personal information of other individuals. Mediation failed to resolve the matter and the applicant asked that it proceed to inquiry.

ISSUE

[5] The issue as stated in the fact report and notice of inquiry is whether the organization is required to refuse to disclose the severed information under ss. 23(4)(c) and (d) of PIPA.

DISCUSSION

Parties' submissions

[6] The parties' submissions are brief, so I will summarize them at the outset. The applicant submits that the withheld information must be disclosed pursuant to ss. 35(2)(k) and 36(1)(a) of the SPA and s. 18(1)(o) of PIPA.⁴ The applicant explains that she wants access to the identity of the complainants because she believes that council is issuing bogus complaint letters in order to improperly levy fines against strata lot owners. The applicant also complains about the organization failing to comply with the SPA's rules regarding photocopying and

² Applicant's December 4, 2017 request.

³ Organization's December 13, 2017 letter.

⁴ Applicant's submission p. 1.

she asks for an order that the organization revise the fee it charged her.⁵ She also asks that the Commissioner order the organization to amend its *Complainant Confidentiality Policy* to say that s. 36(1)(a) of the SPA and s. 18(1)(o) of PIPA require it to disclose complaint correspondence.

[7] The organization explains that its practice is to not disclose the identity of complainants. It says:

This is an issue that has caused our strata council great concern. Residents reporting bylaw infractions clearly expect confidentiality and protection from reprisal. I'm sure there would be an immediately [sic] cessation of complaints if privacy was ever breached. The council acts as an impersonal body to administer complaints and any potential penalties. I cannot emphasize enough the potential for personal, malicious reprisal if authors of bylaw complaint letters were stripped of their privacy. We have certainly done due diligence in obtaining guidance from two OIPC professionals over a 2 year period and have created our policies based on that advice.⁶

Personal information

[8] The purpose of PIPA is to govern the collection, use and disclosure of personal information by organizations in a manner that recognizes both the right of individuals to protect their personal information and the need of organizations to collect, use or disclose personal information for purposes that a reasonable person would consider appropriate in the circumstances.⁷

[9] Personal information is defined in PIPA as follows:

"personal information" means information about an identifiable individual and includes employee personal information but does not include

- (a) contact information, or
- (b) work product information;

"employee personal information" means personal information about an individual that is collected, used or disclosed solely for the purposes reasonably required to establish, manage or terminate an employment relationship between the organization and that individual, but does not include personal information that is not about an individual's employment;

"contact information" means information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual;

⁵ The applicant was charged \$8.50 and believes she was overcharged.

⁶ Organization's initial submission.

⁷ Section 2 of PIPA.

"work product information" means information prepared or collected by an individual or group of individuals as a part of the individual's or group's responsibilities or activities related to the individual's or group's employment or business but does not include personal information about an individual who did not prepare or collect the personal information.⁸

[10] In this case, the information the organization is refusing to disclose is the names and email addresses of several individuals, so it is about those individuals and is their personal information. It is not employee personal information, contact information or work product information. The withheld information is not about the applicant, so it is not her personal information.

[11] PIPA gives an individual a right to access their own personal information under the control of an organization. However, PIPA does not grant any rights regarding another individual's personal information.

[12] Section s. 23 of PIPA explains how an organization must respond to an individual's request regarding the individual's own personal information. Upon request of an individual, an organization must provide the individual with their own personal information under the control of the organization (s. 23(1)(a)). When providing the individual with their own personal information, the organization must not disclose personal information about another individual (s. 23(4)(c)) or the identity of an individual who has provided personal information about another individual and the individual providing the personal information does not consent to disclosure of his or her identity (s. 23(4)(d)).

Applicant's request

[13] The applicant's request for the complaint correspondence was specifically made pursuant to s. 36(1)(a) of the SPA. The SPA contains provisions that say that certain records must be retained by a strata corporation and made available to its members. The relevant provisions in this case are ss. 35(2)(k) and 36(1)(a), which state:

Strata corporation records

35 (2) The strata corporation must retain copies of all of the following:

...

(k) correspondence sent or received by the strata corporation and council;

Access to records

36 (1) On receiving a request, the strata corporation must make the records and documents referred to in section 35 available for inspection by, and provide copies of them to,

⁸ PIPA, s. 1.

(a) an owner,

...

[14] The applicant's allegation in this inquiry is that the organization is not complying with its obligations under ss. 35(2)(k) and 36(1)(a) of the SPA because it is refusing her unsevered access to the correspondence. In my view, the applicant's request to the organization was not a request under PIPA for access to her own personal information. Furthermore, the information she seeks is the personal information of other individuals. For that reason, s. 23 of PIPPA does not apply and the issue as stated at the outset of this inquiry is not something I can decide.

[15] Whether the organization's decision to only partially disclose the complaint correspondence to the applicant contravenes ss. 35(2)(k) and 36(1)(a) of the SPA is outside the Commissioner's jurisdiction to decide. The Commissioner has no statutory authority or oversight regarding the SPA. Any allegation that the organization is not complying with its disclosure obligations under s. 36(1)(a) of the SPA, or its obligations regarding photocopying fees, should be addressed through the dispute resolution mechanisms available under the SPA and the *Civil Resolution Tribunal Act*.

[16] By way of background, s. 189.1 of the SPA says that a strata corporation, owner or tenant may make a request under the *Civil Resolution Tribunal Act* asking the Civil Resolution Tribunal to resolve a dispute concerning any strata property matter over which the tribunal has jurisdiction. The *Civil Resolution Tribunal Act* says that the Civil Resolution Tribunal's jurisdiction includes claims concerning the interpretation or application of the SPA or a regulation, bylaw or rule under the SPA and decisions of the strata corporation, including the council, in relation to an owner or tenant.⁹ In fact, the applicant cites three Civil Resolution Tribunal decisions where the Civil Resolution Tribunal decided disputes regarding photocopying fees as well as the application of ss. 35(2)(k) and 36(1)(a) of the SPA and s. 18(1)(o) of PIPA.¹⁰

[17] Furthermore, the remedies the applicant seeks in this inquiry are also outside the Commissioner's powers under PIPA. The applicant wants access to other people's personal information. She also asks the Commissioner to order the organization to amend its *Complainant Confidentiality Policy* to say that s. 36(1)(a) of the SPA and s. 18(1)(o) of PIPA require it to disclose complaint correspondence. PIPA only gives an individual the right to access their own information, and contrary to what the applicant suggests, s. 18(1)(o) of PIPA does not require the organization disclose the complainants' personal information to her. Section 18(1)(o) provides that an organization *may* disclose an

⁹ SBC 2012, c. 25, s. 3.6.

¹⁰ *Betuzzi v. The Owners, Strata Plan K350*, 2017 BCCRT 6 (CanLII); *Mason v. The Owners, Strata Plan BCS 4338*, 2017 BCCRT 47 (CanLII), and *L.S. v. The Owners, Strata Plan ABC XXX*, 2018 BCCRT 376.

individual's personal information without their consent if the disclosure is required or authorized by law. There are simply no provisions in PIPA, including the Commissioner's order making powers under s. 52, which can compel an organization to disclose an individual's personal information to another individual.

[18] I would like to take this opportunity to also comment on the organization's *Complainant Confidentiality Policy* because it contains inaccurate information about PIPA. It suggests that PIPA requires the organization to remove personal information from complaint letters that it is required to provide under s. 36(1)(a) of the SPA. As explained above, this is not what PIPA says and I recommend the organization amend its policy.

CONCLUSION

[19] For the reasons provided above, I find that s. 23 of PIPA does not apply in this case. I also find that the Commissioner has no jurisdiction to decide if the organization failed to comply with its obligations under the SPA.

January 24, 2019

ORIGINAL SIGNED BY

Elizabeth Barker, Senior Adjudicator

OIPC File No.: P18-73857



Strata Corporation VIS4673
1773 Country Road
Qualicum Beach, BC
V9K 2S3

July 24, 2019

[REDACTED]
Qualicum Beach, B.C.
V9K 2S3

RE: RESCINDING OF FINE AND COPY CHARGES FOR BYLAW 38 (1) - DOG ON COMMON PROPERTY

Dear [REDACTED]

Council has received and reviewed a copy of Order P19-01 issued by the Office Of The Information and Privacy Commissioner (OIPC) on January 24, 2019. That Order was issued in response to your request that the OIPC review the strata corporation's decision to sever the names and email addresses of complainants regarding a strata bylaw issue, and order the strata corporation to provide you with that information, as per Sections 35(2)(k) and 36(1)(a) of the Strata Property Act (SPA).

Paragraph 15 of that Order relates that questions of compliance with the SPA are matters the Commission has no statutory authority regarding and that such matters are appropriately addressed under the Civil Resolution Tribunal (CRT) Act. Paragraph 15 also refers to three CRT decisions which are identified in the footnotes. Those CRT decisions were reviewed and in each case, CRT found the strata corporation could not redact information from requests made under sections 35(2)9K0 and 36(1)(a) of the SPA.

Paragraph 17 of that Order discusses PIPA and notes that "Section 18(1)(o) provides than an organization may disclose an individual's personal information without their consent if the disclosure is required or authorized by law." The SPA is provincial law and in light of the CRT decision findings as above, it is reasonable to conclude the disclosure is required by the SPA.

Paragraph 18 of the Order states the Commissioner wanted to "take this opportunity to also comment on the [strata corporation's] *Complaint Confidentiality Policy* because it contains inaccurate information about PIPA. It suggests that PIPA requires the [strata corporation] to remove personal information from complaint letters that it is required to provide under s. 36(1)(a) of the SPA. As explained above, this is not what PIPA says and I recommend the [strata corporation] amend its policy."

Council has added the issue of amending the strata corporation's Complaint Confidentiality Policy as recommended by the OIPC to its 'to do' list and may secure legal advice regarding proper content and wording of the policy.

Council also decided to rescind the \$50 fine that was previously assessed against you under bylaw 38 (1) and refund the \$8.50 you paid for copies of redacted documents. A copy of the Resident Aged Detail dated July 24, 2019 has been provided herewith to illustrate those decisions have been implemented and there is currently no balance on your account.

We trust this meets with your approval and that the matter is now at finality.

Sincerely,



Trish Curtin, Vice President

Strata Council