

PIPEDA Case Summary #342

Owner allowed to disclose tenants' rent information

(Principle 4.5 and paragraph 7(3)(i))

The owner of a townhouse complained when the property management company hired by her condominium corporation asked her to complete a "Summary of Lease or Renewal" form. The form was seeking information (such as the amount of rent paid) required under provincial condominium legislation. The complainant felt that the company's request was inappropriate and she refused to disclose the information.

The Assistant Privacy Commissioner disagreed with the complainant. She noted that the complainant, as a landlord, was in fact subject to the *Personal Information Protection and Electronic Documents Act*, as she was engaged in a commercial activity. The Assistant Commissioner determined that the disclosure of such information without knowledge or consent was allowed under the *Act* as the disclosure was required by law. She therefore concluded that the property management company had not contravened the *Act* by requiring such information from the complainant.

The following is a summary of the investigation and the Assistant Commissioner's deliberations.

Summary of Investigation

The complainant completed the form sent to her by the property management company but refused to provide any particulars on how much rent her tenants pay or when the payments are due, as she believed such information was of no concern to the condominium corporation or the management board that acts on its behalf.

The Office reviewed subsection 83(1) of the *Ontario Condominium Act*, which states:

The owner of a unit who leases the unit or renews a lease of the unit shall, within 30 days of entering into the lease or the renewal as the case may be,

- a. *notify the Corporation that the unit is leased;*
- b. *provide the Corporation with the lessee's name, the owner's address and a copy of the lease or renewal or a summary of it in the form prescribed by the Minister;*
- c. *provide the lessee with a copy of the declaration, by-laws and rules of the Corporation.*

Subsection 83(3) requires that the Corporation "maintain a record of the notices that it receives under this section."

The Respondent stated that it has the right to attach or collect the rent from the tenant of an owner if the owner does not pay the prescribed common fees levied to each owner and that

this a "compliance issue of Section 83" of the *Ontario Condominium Act*.

Findings

Issued July 21, 2006

Application: Principle 4.5 states that personal information shall not be used or disclosed for purposes other than those for which it was collected, except with the consent of the individual or as required by law.

Paragraph 7(3)(i) states that an organization may disclose personal information without the knowledge or consent of the individual only if the disclosure is required by law.

In making her determinations, the Assistant Commissioner deliberated as follows:

- The Assistant Commissioner first pointed out that, for the purposes of the *Personal Information Protection and Electronic Documents Act*, the complainant, as a landlord, is an organization engaged in a commercial activity. During the course of the commercial activity, she is collecting, using or disclosing personal information, namely, the personal information of her tenants. Accordingly, she is responsible for ensuring her compliance with the Act.
- The information that the property management company was seeking was the personal information of the complainant's tenants. Under the Act, an organization (in this case, the complainant) shall not disclose individuals' personal information unless the organization has their knowledge or consent or it is required by law.
- In this instance, the property management company cited the relevant legislation that obliges it to collect this information and the complainant to disclose it.
- The Assistant Commissioner therefore found that the property management company did not contravene the Act by requesting the information in question. Similarly, she was satisfied that the exception to consent provided under paragraph 7(3)(i), applied and she noted that the complainant would not have been in contravention of this law had she disclosed the information without her tenants' knowledge or consent.

The Assistant Commissioner concluded that the complaint was not well-founded.
