



OFFICE OF THE
INFORMATION & PRIVACY
COMMISSIONER
— for —
British Columbia

Order P09-02

SHOAL POINT STRATA COUNCIL

Jay Fedorak, Adjudicator

December 2, 2009

Quicklaw Cite: [2009] B.C.I.P.C.D. No. 34

Document URL: <http://www.oipc.bc.ca/PIPAOrders/2009/OrderP09-02.pdf>

Summary: Residents of a strata condominium complained about aspects of the use of video surveillance in the building. Section 14 of PIPA permits the use of video surveillance on exterior doors and in the parkade for the purposes of preventing unauthorized entry, theft or the threat to personal safety or damage to property, but not for bylaw enforcement. Section 14 does not permit the use of video surveillance in the pool area or outside the fitness room. Nor is it appropriate to provide access to the video surveillance system to residential units through the television cable system, or to conduct a routine review of the previous day's footage, in the absence of a complaint or evidence of unauthorized entry, theft or the threat to personal safety or damage to property. Shoal Point failed to demonstrate compliance with the requirement to provide notice of collection of personal information in accordance with s. 10(1) through the failure to provide details of the signs posted to notify individuals of video surveillance.

Statutes Considered: *Personal Information Protection Act*, ss. 10(1), 11 and 14.

Authorities Considered: **B.C.:** Order P07-02, [2007] B.C.I.P.C.D. No. 37; Order P05-01, [2005] B.C.I.P.C.D. No. 18; Order P09-01, [2009] B.C.I.P.C.D. No. 16; Investigation Report P98-012, <http://www.oipc.bc.ca/investigations/reports/invrpt12.html>.
Alta.: Order P2006-008, [2007] A.I.P.C.D. No. 16.

Cases Considered: *Eastmond v. Canadian Pacific Railway*, [2004] F.C.J. 1043.

1.0 INTRODUCTION

[1] This order arises from a complaint by several residents of a condominium governed by the Shoal Point Strata Council ("Shoal Point"). The complainants allege that Shoal Point was gathering personal information through video

surveillance cameras contrary to s. 14 of the *Personal Information Protection Act* ("PIPA"). The residents were not concerned with the use of the information for security purposes, such as protecting outside entrances to the condominiums. Rather, they were concerned about Shoal Point using footage from the cameras to enforce strata council bylaws. This Office investigated the complaint. During the investigation, the issue arose as to whether Shoal Point was in compliance with s. 10(1) of PIPA.

[2] As a result of the investigation, Shoal Point made revisions to its policy on using video surveillance. The complainants were not satisfied with these revisions, however, and requested that the matter proceed to an inquiry.

2.0 ISSUE

[3] The issues before me are:

1. Whether Shoal Point's collection of personal information through the use of video surveillance cameras is in compliance with s. 10(1) of PIPA; and
2. Whether Shoal Point's use of personal information collected through the use of video surveillance cameras is in compliance with s. 14 of PIPA.

[4] Sections 51(a) through (c) address the burden of proof in only three kinds of cases. As noted in Order P07-02,¹ PIPA has no burden of proof provision for other issues that can arise for adjudication in a Part 11 inquiry, meaning that each party should provide information and arguments to justify its position on the issue.

[5] The relevant provisions of PIPA are:

- 10(1) On or before collecting personal information about an individual from the individual, an organization must disclose to the individual verbally or in writing
- (a) the purposes for the collection of the information, and
 - (b) on request by the individual, the position name or title and the contact information for an officer or employee of the organization who is able to answer the individual's questions about the collection.
- 14 Subject to this Act, an organization may use personal information only for purposes that a reasonable person would consider appropriate in the circumstances and that
- (a) fulfill the purposes that the organization discloses under section 10(1),

¹ Order P07-02, [2007] B.C.I.P.C.D. No. 37, para. 6.

- (b) for information collected before this Act comes into force, fulfill the purposes for which it was collected, or
- (c) are otherwise permitted under this Act.

3.0 DISCUSSION

[6] **3.1 Background**—The Shoal Point condominium is a strata title development, consisting of 162 residential units and eleven commercial units constructed between 1999 and 2003. The building has fifteen exterior doors and other potential access points, such as ground floor windows and skylights. When first constructed, it included eight cameras: three focussed on the entrance to each of the three lobbies (one for each), one on the loading dock, one on the upper parking gate, one on the hallway outside of the fitness centre door, and two on the pool. The cameras that are aimed at external access points provide a snapshot of anyone coming into or out of the area.²

[7] Originally, there was a live feed from all of the cameras to the Concierge Desk and a live feed from the three lobby cameras to each residential unit. In each unit, the live feed could be seen on a four panel split-screen. Later, two cameras were added: one at the service entrance door and the other at the entrance to one of the parkades. At that time, the live feed from all remaining cameras, except for the two at the pool, was added to the feed to each residential unit. The feed from each camera is stored on a computer hard drive, in a digital video recorder system, which automatically overwrites the images approximately every three weeks. Unless an image is extracted from the system, it is destroyed when it is overwritten.³

[8] The extent and use of the video surveillance of recorded images has been debated by the residents. Strata council minutes, over several years, make numerous references to video surveillance. Shoal Point developed a formal “Policies and Procedure for Video Monitoring” (a copy of which was included with the Portfolio Officer’s Fact Report) to govern the use of the video surveillance equipment. Shoal Point subsequently revised and updated the document in response to the investigation by this Office.

[9] **3.2 Submission of the Complainants**—In this case, there are three complainants. One made a lengthy, substantive submission. The other two made short submissions concerned largely with specific bylaw enforcement issues concerning themselves. These two shorter submissions did not include any significant arguments not contained in the first submission. Therefore, I will refer to their submissions collectively, but will provide footnote references to the specific submissions.

² Affidavit of R. P., paras. 2-6.

³ Affidavit of R. P., paras. 10-14.

[10] The complainant's submissions do not directly address ss. 10(1) and 14 of PIPA. Nevertheless, some of their comments are relevant to the determination of whether Shoal Point's use of video surveillance is in compliance with these provisions. This is particularly with respect to whether the use of the cameras in each of the locations is reasonable and appropriate.

[11] The complainants do not object to video surveillance in general. They merely take issue with the locations of some of the cameras and some of the uses that Shoal Point makes of the footage. They assert that:

Surveillance cameras were obtained and installed for security purposes. S[hoal] P[oint] has had security issues, most of which were related to unauthorised access to the building from outside SP. Cameras in the move-in door, parking areas, and loading dock have contributed to enhanced security. ... Security, and the use of surveillance cameras in the parking areas, is of benefit to both commercial and residential sections of SP.⁴

[12] Their primary concern is that the video footage is being used for other purposes. They object strongly to Shoal Point using video surveillance to enforce strata council bylaws. They make reference to a number of occasions where residents received reprimands for such infractions as dress code violations, smoking or drinking in prohibited areas and allowing their dogs to walk into the building instead of carrying them. The complainants perceive a change, over time, from the original uses of video surveillance. The focus, in their view, shifted away from possible outside security threats and towards the residents themselves, because Shoal Point and its security staff began to monitor the daily footage to uncover strata bylaw infractions. In the complainants' words, "[t]he most frequent use of the images from the cameras in the lobbies and recreation/pool area has been for rule enforcement."⁵

[13] They are also sceptical of its use for purposes of safety, particularly with reference to the cameras in the pool area. The concierge desk is not staffed at all times and, even when a security guard or concierge is on duty, they spend only about half of their time at the desk.⁶ In the event of an accident, the complainants contend, there is only a moderate chance that the concierge or security guard would be viewing the monitor at the time, and it would take them some time to reach the pool. The complainants point out that there is an emergency telephone installed by the pool, which they believe would be more useful than video surveillance as a means of obtaining assistance in the event of an emergency.⁷ The video surveillance is therefore, in their opinion, an ineffective safety tool.

⁴ First complainant's submission, para. 53.

⁵ First complainant's submission, para. 58.

⁶ First complainant's submission, para. 24.

⁷ First complainant's submission, para. 82.

[14] The main thrust of the complainants' case is that they have general concerns about the adverse impact of unnecessary surveillance. They touch on the social and personal costs of surveillance:

The common areas are where we gather to socialise, where we play bridge, where we exercise. It is like a family space. ... Although we do not expect the same level of privacy in our shared space, we do expect to be free from unwanted monitoring or surveillance, whether overt or covert, by the S[trata] C[ouncil]. ... In common property areas, residents should not have their associations with other residents or family members monitored by SC members. There are adverse psychological effects of real and perceived privacy invasion. People react differently to being under surveillance. ... They feel self-conscious and nervous. They may feel humiliated, and certainly many are intimidated. There can be a sense of personal violation. The psychological impact of feeling under constant observation can be enormous, incalculable. It causes people to alter their social behaviour. Casual behaviour can no longer be casual – the person viewing the camera is not anonymous; it is a neighbour or the concierge who is most likely to be monitoring the DVR.⁸

[15] They add that:

Surveillance by video cameras has a different effect than other forms of collection of information. Being under a state of constant observation has real psychological effects.⁹

[16] The complainants' submission places these concerns within the context of privacy rights in general and the purposes of PIPA in particular. The complainants assert that the purpose of PIPA is "to balance the right of individuals to protect their own personal information, against the need of organizations to collect and use personal information."¹⁰ They also assert that organizations "must use the personal information in a way that a reasonable person would consider appropriate in the circumstances."¹¹ They agree that s. 12(1)(c) of PIPA authorizes the use of camera to collect personal information for security purposes. They believe, however, that the use of cameras should be restricted to cases where there are *bona fide* investigations of "significant offences" and this would not include strata council bylaw infractions. According to them, s. 12(1)(c) of PIPA:

reflects the important balance that underlies the statutory regime – personal information can only be collected without an individual's consent when the counter-balancing interest in security is sufficiently important. ... Cameras can serve a valuable purpose in pre-existing investigations. However, the statute does not justify the use of cameras for

⁸ First complainant's submission, paras. 68-69.

⁹ First complainant's submission, para. 107.

¹⁰ First complainant's submission, para. 186.

¹¹ First complainant's submission, para. 86.

“fishing expeditions” in the absence of pre-existing knowledge, nor does it justify investigations of petty or insignificant offences.¹²

[17] The complainants also reference the *Public Surveillance System Privacy Guidelines* this Office issued in 2001.¹³ One stipulation in these guidelines is that video surveillance should be used only as a last resort after all other reasonable measures have been exhausted. The complainants assert that video surveillance should be used only in response to a real and substantiated threat and the benefits of using the cameras must substantially outweigh the loss of privacy they entail.¹⁴

[18] The complainants believe that Shoal Point has taken other measures to address security concerns that have been effective, such as installing proper locks on doors and ensuring that they close properly, as well as hiring a night security guard to conduct patrols.¹⁵ The complainants feel, however, that video surveillance in the pool area has not enhanced security there in any meaningful way. The purpose for those cameras was never for security, but rather to address property damage. In the complainants’ opinion, damage incidents were limited and partially the responsibility of Shoal Point. Two examples that Shoal Point commonly cites are an instance of damage to a stone bench and an instance where the lift for disabled persons over the pool was damaged when someone used it as a swing. The complainants believe that the bench was poorly placed and physical changes to the lift have reduced the threat of future damage. Moreover, they claim that the parties responsible for the damage were identified, not by the video footage, but rather through the electronic tracking of key fob use.¹⁶

[19] The complainants conclude that these security cameras “do not meaningfully enhance security. As such, [Shoal Point] is trading the fundamental human right to privacy for the mere illusion of greater safety.”¹⁷

[20] The complainants suggest changes to the current arrangements for video surveillance that they believe would “minimise privacy intrusion to what is absolutely necessary to achieve lawful goals.” To achieve this aim, they suggest that camera image recordings should not be reviewed unless someone registers a specific complaint or there is specific evidence of crime or significant damage to common property.¹⁸

¹² First complainant’s submission, paras. 101, 103.

¹³ Information and Privacy Commissioner of British Columbia, *Public Surveillance System Privacy Guidelines* (OIPC Reference Document 00-01, January 2001), [http://www.oipc.bc.ca/advice/VID-SURV\(2006\).pdf](http://www.oipc.bc.ca/advice/VID-SURV(2006).pdf).

¹⁴ First complainant’s submission, para. 110.

¹⁵ First complainant’s submission, para. 54.

¹⁶ First complainant’s submission, para. 83.

¹⁷ First complainant’s submission, para. 115.

¹⁸ First complainant’s submission, paras. 128.

[21] With respect to the areas of the pool and the fitness centre, they feel that either the cameras should be removed or the images should no longer be provided on the monitors in the office or concierge desk and accessed only if a major incident, a crime, or major damage occurs.¹⁹ They also add that only officials should view the footage and it should not be made available generally to residents.²⁰

[22] **3.3 Submission of the Organization**—Shoal Point states that, because the Portfolio Officer's Fact Report does not identify which provisions of the revised "Policies and Procedure for Video Monitoring" the complainants are concerned about, its submission addresses the entire document. Shoal Point also understands the complainants' only objection is to the use of video surveillance records to enforce the bylaws and that there is no complaint about the existence of the cameras or their use for security purposes.²¹

[23] Shoal Point identifies the purposes for which it uses video surveillance as:

the detection and investigation of significant breaches of the rules and bylaws of Shoal Point, which are defined in the Policies and Procedure for Video Monitoring as involving security, safety or protection of Common Property, or in response to Complaints relating to excessive noise, suspicious behaviour, property damage, vandalism, theft, or other concerns.²²

[24] Shoal Point's "Policies and Procedure for Video Monitoring" provide a description of the uses of video surveillance. Shoal Point has given a copy of this document to all owners.

[25] There are ten video cameras, seven of which cover external points of entry. These seven are on a feed to the concierge desk, and can be reviewed by television in each unit.

This ensures that any suspicious behaviour in these areas, such as individuals loitering outside the doors, and illegal or unauthorized entry into the buildings, can be observed, and the safety of the residents and their property maintained.²³

[26] Shoal Point also uses these cameras to identify individuals responsible for vandalism or accidental damage to the property.

¹⁹ First complainant's submission, para. 138.

²⁰ Third complainant's submission, para. 27.

²¹ Shoal Point's submission, para. 5.

²² Shoal Point's submission, para. 6.

²³ Shoal Point's submission, para. 14.

[27] The video feed from the fitness centre door and the two pool cameras is viewable at the concierge desk, but not in the individual units.²⁴

[28] Shoal Point says the cameras in the pool area are a substitute for a lifeguard, to assist in the event of a medical or other emergency. The camera at the fitness centre is intended to prevent individuals from accessing the building through external doors nearby that do not have video surveillance. Shoal Point has explored the option of moving the camera to focus on the external doors, but found it would be problematic and expensive because it would involve installing external lighting (which would annoy some residents) and a weatherproof housing for the camera. There are also a number of windows and skylights located near the doors that would be out of the view of cameras focussed on the doors.²⁵

[29] Shoal Point states that it reviews the footage from the seven external cameras and the fitness centre door camera from the previous day to identify potential security breaches and what it considers to be other serious concerns, including the following:

- a. Obvious attempts to break in;
- b. Exterior doors propped open;
- c. People loitering outside of exterior doors and the parking ramp;
- d. People who appear to be casing the building;
- e. People appearing to follow cars into the parking area;
- f. Attempts to abuse or damage common property;
- g. Safety hazards;
- h. Potential theft or removal of common property.²⁶

[30] Shoal Point submits that, if the daily review uncovers evidence of serious breaches of the Shoal Point rules and bylaws, it investigates. Any events involving security, safety or protection of common property are considered to be serious breaches. The video footage would also be reviewed in response to a complaint of a breach of the bylaws to determine if the complaint is valid, or the discovery of property damage to determine the identity of the perpetrator. Shoal Point submits that the kind of complaints that would warrant investigation would include theft, wilful damage, excessive noise and suspicious behaviour, though these are not specified in the "Policies and Procedure for Video Monitoring".²⁷

²⁴ Shoal Point's submission, para. 17.

²⁵ Shoal Point's submission, para. 18-19; Affidavit of R. P., para. 18.

²⁶ Shoal Point's submission, para. 21.

²⁷ Shoal Point's submission, para. 23.

[31] Shoal Point provides some examples of incidents in which the video footage has proved useful:

- a. Three instances where vehicles have struck the entry gate to the parkade, causing damage;
- b. One instance where a vehicle backed into and broke a window in a vestibule in the parkade;
- c. One instance where the handicapped lift over the pool was damaged when used as a "swing";
- d. One series of instances where weights were being dropped in the weight room, causing damage to the weight room floor and a noise disturbance for the upstairs neighbour;
- e. One instance where a stone bench was damaged;
- f. Two instances where break-ins to the parkade occurred, allowing recovery of stolen property in one case, and also disclosing the mode of entry, resulting in physical changes to the building structure to prevent further incidents;
- g. Theft of keys and a vehicle, resulting in the identifying of the individual and recovery of the vehicle;
- h. One occasion where a fight broke out in the parkade;
- i. Diving into the pool which is some 3 feet deep, creating a significant health risk.²⁸

[32] Shoal Point asserts that the video footage helped to identify individuals responsible, to recover costs and stolen property, and provoke changes to the building to improve security.

[33] Shoal Point claims that, by providing all owners with a copy of the "Policies and Procedure for Video Monitoring", it meets PIPA's requirement to disclose the purposes for the collection of personal information. This document explains why there is video monitoring, where the cameras are located, how the video images are recorded, what it uses the video images for, and how it ensures the security of the video recordings.²⁹ In addition, it has posted signs at all external entrances to Shoal Point and at the entrance to the fitness centre indicating the existence of video monitoring.

[34] Shoal Point submits that the "Policies and Procedure for Video Monitoring" meets PIPA's requirement to use personal information for purposes a reasonable person would consider appropriate in the circumstances. It notes there have not been any previous orders in British Columbia dealing with video monitoring. However, Shoal Point believes that its use of video surveillance is consistent with a decision of the Federal Court of Appeal under the federal

²⁸ Shoal Point's submission, para. 33.

²⁹ Shoal Point's submission, para. 44.

Personal Information Protection and Electronic Documents Act (“PIPEDA”).³⁰ This legislation regulates the collection, use and disclosure of personal information in the federally-regulated private sector and the private sector in provinces that do not have their own substantially similar legislation, like PIPA. This decision confirmed the use of video surveillance for security purposes at a railyard.

[35] Shoal Point asserts its use of video surveillance is necessary to meet the need to ensure the safety and security of the building for owners and other residents and to help maintain the common property. Previous court decisions, according to Shoal Point, have held that strata corporations are obliged “to maintain the common property and common assets.” Shoal Point argues that it has a legal obligation to protect the common property. It follows, according to Shoal Point, that this duty includes “keeping the premises safe and secure.” It asserts that video cameras focussed on the entrances and door to fitness area provide “a low cost, safe and efficient means of meeting the obligations of the strata corporation to maintain and repair the common property, and keep the premises safe and secure.” Furthermore, Shoal Point submits that its routine daily review of the video footage is necessary to enable it to be proactive in “discovering threatened or actual security breaches and to take appropriate steps in response to those breaches.” Shoal Point’s interpretation of the complaints at issue in this inquiry is that the use of video surveillance for these purposes is not at issue. Regardless, it concludes the security cameras and the daily review of those records are necessary to meet a specific “need” of the Shoal Point.³¹

[36] Shoal Point says it has found the video surveillance to be effective in: protecting the common property; enabling it to recover costs for damage and repair from the individual responsible; identifying individuals who have obtained access unlawfully; and recovering stolen property.³²

[37] Shoal Point considers the loss of privacy is proportional to the benefit gained. The loss of privacy from the surveillance cameras and the review of the video records is, in its opinion, extremely limited:

Surveillance is not continuous, but consists of a snapshot of an individual as that individual enters or leaves the building or the Fitness area. Surveillance is not limited to owners, but anyone seeking access to the premises. The recorded material is kept under lock and key, and access is limited. Within a reasonable period of time the recorded material is recorded over or destroyed. The daily security review of the video records is also limited to serious breaches of security or property damage.³³

³⁰ *Eastmond v. Canadian Pacific Railway*, [2004] F.C.J. 1043.

³¹ Shoal Point’s submission, paras. 446-47, 50-52.

³² Shoal Point’s submission, para. 54.

³³ Shoal Point’s submission, para. 55.

[38] Shoal Point claims that it has considered less intrusive measures, but argues that it cannot meet the same needs with less privacy-invasive means. It dismisses the option of hiring fulltime security staff because, it contends, this would be more expensive and less able to provide continuous monitoring at the entrances and other locations of the video cameras.³⁴

[39] Shoal Point does concede, however, that the cameras in the pool area are used primarily for health and safety reasons, rather than security. The concerns with the pool include its shallow depth, which makes diving dangerous. Shoal Point argues that protection of health and safety of residents is a necessary priority. It also cites the *Occupiers Liability Act*, which requires it and the residents of any premises to keep them safe for users. In the opinion of Shoal Point, this requires preventing individuals from diving into the pool and risking injury. These cameras also promote the security of the building, as there are external doors just outside the view of the cameras. Video surveillance enables “an individual at the Concierge Desk to take appropriate action, and avoid the risk that an owner or other legitimate user of the fitness centre does not confront an intruder in that area”.³⁵

[40] Shoal Point argues these cameras serve another useful purpose by protecting common property from damage. As the complainants noted above, Shoal Point cites the examples of damage to the lift for the pool and stone bench. In summary,

The two pool cameras are therefore necessary to meet the "needs" of the Strata Corporation to protect the health and safety of the owners, the security of the owners, and to protect against damage to common property. While there has not yet been an instance where an individual using the pool area has required emergency assistance, this is a risk, and the pool cameras, by allowing the employee at the Concierge Desk to see what is happening in the pool, give that employee the opportunity to observe the fact an individual is in need of assistance, and to provide that assistance.³⁶

[41] Shoal Point argues these cameras are not as “privacy-invasive” as the rest, because their recorded images are not reviewed daily, as are the others. Shoal Point cannot envision any viable alternatives to the cameras in the pool area. Without the cameras, Shoal Point claims that it would have to hire a life guard to be on duty. The drawbacks of this option, it argues, are that it would cost more, and in its opinion result in a greater loss of privacy. The lifeguard would be able to hear what users are saying, while the video cameras do not record sound.³⁷

³⁴ Shoal Point's submission, para. 58.

³⁵ Shoal Point's submission, paras. 62-64.

³⁶ Shoal Point's submission, para. 67.

³⁷ Shoal Point's submission, para. 71.

[42] The remaining issue is the use of the video recordings where there is a complaint or damage to common property. Shoal Point argues that strata corporations have a duty to repair and maintain common property and enforce their own rules and bylaws. Shoal Point submits that using video assists it to meet these duties. It also asserts that video surveillance has proven useful in recovering the costs of repairing damage to common property.³⁸

[43] Shoal Point states that it has an obligation to investigate complaints of serious breaches of the rules and because, it submits, there are often no witnesses, video surveillance provides the only means of discovering whether a complaint was valid and the identity of who was responsible.³⁹ It contends that there are no alternative methods of addressing serious complaints and property damage that would be less privacy invasive.

[44] In summary, Shoal Point concludes that its use of video surveillance for the purposes of security, safety, and bylaw enforcement is consistent with *Eastmond v. Canadian Pacific Railway*. Therefore, it asserts, its collection of personal information is reasonable and in compliance with PIPA.

[45] **3.4 Reply Submission of the Complainants**—The first complainant was the only one to make a reply submission. She takes issue with a number of details in the submission of Shoal Point. I have fully considered all of the first complainant's arguments and will discuss the most substantive ones. The first is a qualification about the claim of Shoal Point that the complainants do not object to the use of video surveillance for security purposes. While agreeing in principle, the complainant contends that not all of the cameras are actually required for security purposes. She states that:

there has not been a demonstrated security need for most of the cameras, hence, some of the cameras should be removed, and other cameras should be assessed to see if they, or their records, have contributed, or are likely to contribute, significantly to security.⁴⁰

[46] The complainant also takes issue with use of the cameras to detect vandalism and accidental damage. She claims that, to her knowledge, none of the residents have yet been found responsible for any vandalism. She also thinks that there have been no examples, other than the accidental damage to the lift for disabled persons and the bench in the pool area, of any significant damage to the building or common property. Furthermore, she believes that identifying individuals responsible for "accidents and other incidents that would represent normal ageing or 'wear and tear' is an inappropriate use of surveillance cameras".⁴¹ Moreover, the security cameras did not prevent this damage. In conclusion on this point, she argues that these few incidents "spread over

³⁸ Shoal Point's submission, paras. 73, 76.

³⁹ Shoal Point's submission, para. 78.

⁴⁰ Complainant's reply submission, para. 5.

⁴¹ Complainant's reply submission, para. 10.

a 4½ year period, hardly constitute a sufficient reason to monitor the area daily”.⁴²

[47] She also disputes Shoal Point’s contention that video surveillance is cost-effective. Based on the amounts cited in the strata council minutes of 2004, the cost of implementing the video surveillance was about \$11,500. She believes that this amount “is probably higher than all of the common property costs incurred from 2004-date as a result of resident negligence or accident.”⁴³

[48] The complainant disagrees with Shoal Point on whether the cameras in the pool area actually enhance safety. She allows that video footage might help to understand how something happened, but they do not prevent accidents. In the event of an accident, it is not certain that the concierge or security guard would be viewing the monitor. She believes that Shoal Point already takes all reasonable steps to address any liability concerns. For example, it has posted signs indicating that there are no lifeguards on duty. It also stipulates that children under twelve years of age may not use the pool without adult supervision, and that residents use the pool at their own risk. In addition, Shoal Point schedules daily inspection and cleaning of the pool area, and an annual closure of the pool for inspection and maintenance. She concludes that, having taken all of these precautions, Shoal Point has addressed any liability risks, rendering video surveillance in the area unnecessary. She also disagrees that the only alternative is to hire a life guard. She states that many other facilities with swimming pools have neither lifeguards nor video surveillance. They have seen no evidence that the swimming pool at Shoal Point requires more extensive monitoring than these other facilities.⁴⁴

[49] **3.5 Reply Submission of the Organization**—Shoal Point’s reply submission focuses on the use of video surveillance for bylaw enforcement. It asserts that it made substantive changes to the “Policies and Procedure for Video Monitoring” in December 2005. It contends that the examples of bylaw infractions that the complainants cite in their submissions all happened prior to the revisions of “Policies and Procedure for Video Monitoring.” It does not defend the use of video surveillance in these circumstances. It argues, however, that all uses of the video surveillance that occurred after the change to the policy and procedure were in compliance with that document.

[50] Shoal Point counters the complainants’ criticism of the effectiveness of video surveillance by making reference to its value for deterrence. It asserts, without offering supporting evidence, “the mere presence of video surveillance is a well known deterrent to crime, used routinely in stores, other apartment or strata

⁴² Complainant’s reply submission, para. 14.

⁴³ Complainant’s reply submission, para. 15.

⁴⁴ Complainant’s reply submission, paras. 37-41.

complexes, private homes, and various public places for both crime prevention and investigation purposes.”⁴⁵

[51] **3.6 Did Shoal Point Give Adequate Notice?**—Section 10(1) of PIPA requires that organizations, prior to collecting personal information from someone, disclose to that person, either verbally or in writing, the purpose for collecting their information. In the case of video surveillance, I accept that it would not be practicable for this organization to provide this notification verbally, because it has a large number of units with a regular turnover of ownership. Therefore, it must provide this notification in writing. Shoal Point indicates that it provides notification about the collection of video surveillance by giving a copy of its “Policies and Procedure for Video Monitoring” to all residents and owners. This document gives a description of the purpose for which it collects personal information through the video camera.

[52] While all residents and owners have received a copy of the policy and procedure document, there is no evidence that Shoal Point has provided notification to visitors. Section 10(1) of PIPA requires that everyone whose image is recorded by the video surveillance receive the appropriate notification. Shoal Point states that it addresses this shortfall by posting signs to this effect at all external entrances to the building and at the entrance to the fitness centre. Neither Shoal Point nor any of the complainants, however, provided the wording used for these signs, nor evidence as to their prominence or visibility. Thus, I am not able to determine whether the notification on these signs meets the requirements of s. 10(1) of PIPA. Therefore, on this point, Shoal Point has failed to demonstrate that it is in compliance with that section. I note in making this finding that in a decision of the Alberta Information and Privacy Commissioner, Frank Work, under the Alberta *Personal Information Protection Act*, signage that only notifies the public of the existence of security cameras, without explaining the purpose, did not meet the requirement for notification under the Alberta legislation.⁴⁶

[53] Therefore, I find that Shoal Point has not demonstrated compliance with its duty under s. 10(1) of PIPA to provide notification of the collection of personal information because it has not provided the wording included on the signs. Shoal Point must provide me with a description of the location, prominence and wording of its signs or if, as a result of reading this order, it decides to revise the text on the signs, a description of the revised information.

[54] **3.7 Appropriate Use in the Circumstances?**—Although the issue of the original collection of personal information was not included in the notice of inquiry as a matter at issue, it follows that in order to use personal information for purposes that are in compliance with PIPA, it is necessary to first collect that personal information for purposes that are in compliance. In other words, lawful

⁴⁵ Shoal Point’s reply Submission, para. 15.

⁴⁶ Alberta Order P2006-008, [2007] A.I.P.C.D. No. 16.

use is contingent on lawful collection in the first place. This is also evident from a reading of PIPA in which the language used in the provisions governing the collection and the use of personal information are almost identical. Section 11 stipulates that an organization may collect personal information for purposes that it has already disclosed in accordance with s. 10(1), and these purposes must be ones that a reasonable person would consider appropriate in the circumstances.⁴⁷

[55] In this case, the parties' submissions state that they are addressing the issue of compliance with s. 14, but the language they use speaks as much to the purposes of collecting the information, as it does to the purposes of using the information. Therefore, while my findings will address compliance with s. 14, my conclusions will apply equally to s. 11.

[56] I also mention, parenthetically, that PIPA includes a requirement, under ss. 6, 7, and 8, to obtain the consent of individuals before collecting their personal information. It also provides limited circumstances, in accordance with s. 12, that authorize the collection of personal information without consent. While compliance with these provisions is not at issue in this inquiry, I note that, based on the evidence before me, Shoal Point has not demonstrated that it has met them. Therefore, Shoal Point (and all organizations) should ensure that the collection of personal information meets these requirements. I also note that strata corporations have the authority under the *Strata Property Act* to pass bylaws to authorize the collection of personal information under s. 12(1)(h) of PIPA. There is no evidence before me that Shoal Point has passed such a bylaw. It might wish to consider doing so, if it has not already. This would avert the need to justify whether it has already obtained the explicit or implicit consent of individuals whose images it collects on the video surveillance system.

Reasonable person standard

[57] As the wording of both ss. 11 and 14 of PIPA focuses on purposes that a reasonable person would consider appropriate, the question can be framed as to whether Shoal Point uses personal information collected by video surveillance for purposes that meet the reasonable person standard.

[58] The Commissioner introduces and applies this standard in Order P05-01 and expands on the concept in Order P09-01⁴⁸:

This is an objective standard—the idiosyncrasies, likes, dislikes or preferences of a particular individual do not determine the outcome. As s. 2 affirms, PIPA aims to balance the “right” of individuals to protect their personal information and the “need” of organizations to collect, use and disclose personal information. Under s. 11, one has to decide whether the hypothetical reasonable person, knowing the purposes for collection and

⁴⁷ See the wording for s. 14 above.

⁴⁸ [2009] B.C.I.P.C.D. No. 16.

the surrounding “circumstances”, would consider the purposes for collection to be “appropriate”. Relevant circumstances may include the kind and amount of personal information being collected, the uses to which it will be put and any disclosures the organization intends at the time of collection.⁴⁹

[59] The reasonable person test considers the nature of the information collected, the purposes and circumstances surrounding collection and use of the information, and how the organization handles the information.

[60] Shoal Point’s video surveillance system does not record text: it records images. In that sense, the system is enabling viewers to infer information about identifiable individuals.⁵⁰ If the individual is clearly identifiable from the image, the viewer can infer information about their arrival and departure, their physical appearance, to some degree their physical condition, and any activities that they undertake while in view of the camera. This information will not generally be as sensitive as other types of personal information, such as medical information or information about criminal history. Nor is it likely to facilitate identity theft or fraud, as can be the case with names, addresses, SIN numbers or financial information. It can reveal, however, patterns of arrival and departure or use of the swimming pool and fitness centre, style of dress, personal behaviour, associations with other individuals and quite possibly physical condition (including intoxication) and other aspects of appearance. Accordingly, while recorded images are not generally highly sensitive, they can and do constitute personal information of individuals and that information can, particularly viewed cumulatively or over time, convey a great deal of information about the filmed individuals, their personal lifestyle and habits. It is also reasonable to conclude that the video surveillance systems of this kind have personal and social effects on individuals while they are under surveillance.

[61] The “Policies and Procedure for Video Surveillance” notifies residents that the purposes for the use of video surveillance with the following wording:

The Video Security System at Shoal Point was installed primarily because of security and safety reasons and for the protection of Common Property.⁵¹

[62] Shoal Point can collect personal information only for these purposes because these are the only purposes for which it has provided notification.⁵² I will now examine the purposes for which Shoal Point states that it collects personal information through video surveillance.

⁴⁹ Order P05-01, [2005] B.C.I.P.C.D. No. 18, para. 55.

⁵⁰ From Shoal Point’s submissions it is clear that the video surveillance system is intended to identify individuals, to hold them accountable for theft, property damage and other violations of its bylaws.

⁵¹ Affidavit of R. P., Exhibit 3, p. 1.

⁵² Section 14(c) of PIPA also allows organizations to use personal information as otherwise permitted under PIPA, but Shoal Point has not identified any other provision of PIPA that would allow other uses.

Security

[63] Shoal Point asserts that ensuring security is an appropriate purpose for using video surveillance. It did not, however, provide any evidence of legitimate security concerns that existed prior to the implementation of the surveillance.

[64] Based on the parties' submissions, it appears that at least eight of the cameras were installed while the complex was being built. It seems that they were incorporated into the building design and were put into use once the building opened. This means that the original decision to implement the surveillance was taken before there was any evidence of security threats. There might have been evidence at the time the building was constructed that would lead to a reasonable expectation that there would be break-ins at the main entrances, but Shoal Point did not provide any such evidence in its submission. In other words, it appears there was merely an assumption, as yet unsupported, of any security threat.

[65] Several years after the building was occupied, there were incidents of theft as the result of unauthorized entry from a service door that was not subject to surveillance. There were also two incidents of unauthorized entry into the parkade and four incidents of accidental damage to the building caused by vehicles in the parkade. The decision to install video cameras in these areas was taken in response to these incidents.

[66] To place the implementation of video surveillance at Shoal Point into context within the reasonable person test as developed under PIPA, it is useful to consider two decisions regarding the use of video surveillance under other Canadian private sector privacy laws. The first, cited by Shoal Point, is *Eastmond v. Canadian Pacific Railway*, which was decided under PIPEDA. The second, decided under the *Alberta Personal Information Protection Act*, confirmed the restricted use of video surveillance for security purposes.

[67] In *Eastmond v. Canadian Pacific Railway*, which involved video surveillance of a rail yard, the complainant was an employee of CPR. There was evidence of a significant problem that could not be addressed by other means. The video surveillance was installed at a rail yard that covered 432 acres. Over a five-year period, there had been 148 incidents of "break-ins, thefts, trespassers, mischief, workplace violence, harassment, tampering with equipment, vehicle accidents and personal injury."⁵³ The personal information, consisting of images of individuals entering the rail yard, was limited. The cameras were located only at the two entry points. Access to the recordings was restricted and limited. The records were not viewed unless there was a report of an incident requiring investigation.

⁵³ *Eastmond v. Canadian Pacific Railway*, [2004] F.C.J. 1043, para. 33.

[68] The Alberta decision arose from a complaint concerning the use of video surveillance in a men's changing room at a fitness club.⁵⁴ In that case, Commissioner Work took into account the fact that the fitness club had installed the cameras after more than 900 incidents of theft and property damage over a three-year period and only after other measures to prevent such incidents had been tried and had failed. The range of vision for the cameras was limited to the lockers, which were the subject of the theft and damage. The cameras were not actively monitored, and the records were only reviewed when there was a report of criminal activity where a Calgary Police case and number had been assigned. Over ten years after the implementation of the surveillance, there was a need to view images on only nineteen occasions. Incidents of theft declined from 400 per year to ten per year over the two years after the equipment was installed.

[69] Commissioner Work found that the level of theft and property damage created a legitimate issue and that the organization had gone to great lengths to find alternative solutions before resorting to video surveillance. These alternative solutions included modifying the lockers, installing alarms in the lockers, posting notices and putting custodians and security guards in the locker rooms. The organization provided satisfactory explanations as to why these measures had not worked. The remarkable reduction in incidents of theft and damage indicated that video surveillance had been effective. He also found that the limitations on the capabilities and usage of the surveillance system limited the privacy intrusion to an appropriate level. In his view, it was significant that access to the images was limited to a few personnel and then only in the event of an incident actually being reported.

[70] Here, it is clear that the security concerns at Shoal Point are comparatively minor. The fitness club had 900 incidents and the rail yard 148 in less time than it took for Shoal Point to have fewer than ten.

[71] The other striking point of this case is the paucity of substantial evidence to justify Shoal Point's implementation of video surveillance. Other than the installation of cameras by the service door and in the parkade, Shoal Point's implementation of video surveillance has been pre-emptive, not in response to demonstrated problems. The reported incidents that have occurred are not exceptional and are spread over several years.

[72] Decisions about whether to implement video surveillance should not be swayed unduly by the general appeal of technological solutions. They should be based on an assessment, in the circumstances of each case, of the real need for surveillance of this kind, its reasonably expected benefits and the impact of its use on privacy. Video surveillance should be used only in response to a real and significant security or safety problem. In saying this, I note as an aside that one of the inherent risks of video surveillance is "function creep", which is the extension of the uses of a technology beyond the use for which it was

⁵⁴ Alberta Order P2006-008, [2007] A.I.P.C.D. No. 16.

implemented in the first place. There are cases, for example, in which surveillance cameras originally installed to deter burglary were subsequently used to enforce minor infractions.⁵⁵

[73] I do, however, find it significant that the incidents of unauthorized entry leading to theft occurred through doors that originally were not subject to video surveillance. This suggests that video surveillance at the other doors might have deterred the perpetrators. Therefore, I conclude that, if the incidents of unauthorized entry justified the reactive implementation of video surveillance at some of the external doors, it would be reasonable to retain the cameras previously installed by the other external doors.

Safety and damage to property

[74] Shoal Point also identifies safety and protection of common property as issues that it believes warrant video surveillance. It points out that, as the swimming pool is only three feet deep, diving can be dangerous. The cameras were installed in the pool area when the pool was built, and this was based on the assumption, it seems clear, that some individuals would dive into the pool. Shoal Point admits that there have been no incidents of injury in the pool area, and it is not entirely clear how the recording of images of individuals diving into a shallow pool would stop them from doing that. Nor is there evidence that the warning notices routinely seen in swimming pools would not suffice to warn individuals of the danger.

[75] As for damage to common property, the material before me indicates that there have been a small number of incidents throughout the building, probably fewer than twenty, of damage to common property throughout the ten-year life of the building.

[76] This is not enough evidence, I find, to support the conclusion that physical safety or damage to property are significant issues with respect to the pool area for which it would be reasonable to implement video surveillance. The complainants cite the fact that there are many pools in other buildings that have neither a lifeguard nor video surveillance. Shoal Point has not demonstrated that there is a safety risk associated with this pool that can only be addressed effectively through video surveillance.

[77] The complainants also rightly point out that strata councils must expect that buildings will suffer from normal wear and tear and the occasional accident. Shoal Point has provided no evidence of either wilful or excessive damage to common property for which video surveillance would be a reasonable response. The complainants allege that Shoal Point has spent more on video surveillance

⁵⁵Information and Privacy Commissioner of British Columbia, *Investigation Report P98-012: Video Surveillance by Public Bodies: a discussion* (March 1998).

than the value of damage to common property that has occurred. Even if Shoal Point could demonstrate that video surveillance has been cost-effective, saving money alone is not a sufficient justification for video surveillance.

Bylaw enforcement

[78] I noted above that Shoal Point indicated in its submissions that it uses video surveillance for the purpose of enforcing strata council bylaws. It states that, during the review of the footage for the above-described purposes, the person reviewing footage may incidentally observe violations of strata bylaws. Shoal Point acknowledges that it used video footage for enforcing minor bylaws in the past, but insists that it changed its practices and revised its policies and procedure after the original investigation by this Office. It states that it uses video footage to enforce only “serious” bylaw violations, relating to security, safety or damage to property. This includes bylaws relating to “excessive noise, suspicious behaviour, property damage, vandalism, theft, security breaches or other similar concerns.”⁵⁶ Shoal Point also admits that it uses personal information collected through video surveillance for “repeated breaches of the rules or bylaws, where the repeated behaviour is sufficiently frequent to make what might otherwise be a less serious breach more serious, and bring it into the requirements of the Policies and Procedure for Video Surveillance.”⁵⁷

[79] The first issue regarding the use of video surveillance for bylaw enforcement relates to the requirement under s. 10(1) of PIPA to provide notice of the purposes for which information is collected. The collection of personal information under s. 11 and the use of personal information under s. 14 is contingent on this notification. I noted above that I have reviewed the “Policies and Procedure for Video Surveillance” and found that it fails to identify strata council bylaw enforcement in the section where it identifies the purposes for which it uses video surveillance. It also fails to identify repeated violations of less serious bylaws or excessive noise as an issue for which video surveillance would be used to address. The failure to cite these purposes in its notification results in a failure to comply with s. 10(1) and a failure to comply with ss. 11 and 14, unless Shoal Point can demonstrate that another provision of PIPA authorizes the collection and use of personal information for these purposes. Shoal Point has not identified any other provision of PIPA that would provide it with such authority.

[80] I also find the use of video surveillance footage, in general, for the enforcement of strata council bylaws to be problematic. Security issues exist independently of whether or not the strata corporation has adopted a bylaw. It is one thing to use the system for legitimate security purposes by deterring unauthorized entry and assisting police in prosecuting theft; it is another to use

⁵⁶ Affidavit of R. P., para. 30.

⁵⁷ Affidavit of R. P., para. 31.

the system for the sake of issuing a resident with a bylaw violation citation. Whether bylaw violations are minor or serious (and Shoal has not identified specific bylaws that qualify as “serious”), Shoal Point has not provided sufficient evidence to support the contention that bylaw violations themselves have become a legitimate problem for which the use of video surveillance would be justified as a means of enforcement.

[81] Moreover, the complainants’ evidence shows that the concierge at Shoal Point continued to use video surveillance to investigate incidents of minor bylaw enforcement after Shoal Point told this Office that it had ceased to use video surveillance for this purpose. Shortly after the revision to the “Policies and Procedure for Video Surveillance”, a number of residents received an email containing a picture of a resident and the comments of the concierge identifying the individual and mentioning that the picture indicated violations of the dress code. Shoal Point counters that, although the picture was circulated, no discipline resulted from this infraction. There was also an incident where a picture of one of the residents carrying furniture through the lobby was circulated.⁵⁸ I find that the former use of the information collected through video surveillance to enforce minor bylaws was not a purpose for which it provided notification of collection under s. 10(1) and would not be within the meaning of PIPA’s reasonable person test. I also find the same, based on the material before me, with respect to the continued use for bylaw enforcement.

Other considerations

[82] The reasonable person standard also takes into account how the organization handles the information it collects. One consideration is whether the system is implemented in a way that minimizes the privacy intrusion to that which is necessary to achieve the objective for which the system attempts to address. In the Alberta case, the video images were recorded but not monitored. They were viewed only by a limited number of authorized staff and only in response to a reported incident. The same applied in the rail yard in *Eastmond v. Canadian Pacific Railway*. There was no general review or browsing of footage. At Shoal Point, some of the camera footage is monitored, not only by staff, but also by residents in their own units. Most of the footage is routinely reviewed the following day, even if no incident has been reported or complaint received. Shoal Point has attempted to address privacy concerns by excluding some of the footage from the daily review. Nevertheless, it has provided no evidence to support the need for daily pre-emptive review of any of the footage.

[83] Video surveillance is a measure that is reasonable only in response to significant matters as discussed above. I do not consider it reasonable to scan footage to find evidence of incidents that no one has noticed. There might be cases, such as where a resident was being stalked, when it would be reasonable to be viewing the footage to look for a stalker, but this is an example and not the

⁵⁸ First complainant’s submission, Exhibits 29-6, 38; Shoal Point’s reply submission, paras. 8, 10.

reality of the situation based on the evidence at hand. I should also note that it was this pre-emptive review of the footage that was formerly being used to identify minor bylaw violations, such as “dress code” violations.

[84] Another area of concern is that there is a live feed from some of the cameras to televisions in the units of the residents. Shoal Point has not demonstrated how this is reasonable for the purpose of security. It has not provided any evidence of residents ever having prevented a crime because they were viewing the camera feed. Such a practice certainly enables residents to monitor aspects of the lives of their neighbours, but no demonstrable benefit has been shown for the security of the building or safety of residents through this live feed.

[85] As for how Shoal Point handles the video surveillance, I conclude that the security measures to prevent unauthorized access to the system are adequate. Shoal Point does not indicate precisely how many individuals have access, but it appears to be limited to the concierge, security staff and a few officials of the strata council. Shoal Point needs, however, to designate and identify the employees and strata council officials who should have access and restrict it to the minimum number that is reasonable.

[86] I have no concerns about length of retention of information on the system. It appears to be no longer than three weeks. Given that it is likely that residents are sometimes away for a few weeks, in the event of a break-in to a unit, it is possible that a crime could go undetected for that length of time.

[87] In conclusion, as a general observation in passing only, Shoal Point’s submission significantly understates the value of privacy and overstates the benefits of video surveillance. The complainants, by contrast, make a persuasive case for the personal and social costs of surveillance that speaks to the issue of quality of life. In *Eastmond v. Canadian Pacific Railway*, Lemieux J. stated that a main factor in deciding that the loss of privacy was proportional to the benefit to be gained from the surveillance in that case was that “the recordings are never viewed unless an incident requiring an investigation occurs.”⁵⁹ Without stronger evidence of legitimate concerns regarding security, safety or damage to property, I conclude that a reasonable person would find the current video surveillance system at Shoal Point, in general, to be inappropriate.

[88] I will now turn to my findings about specific aspects of Shoal Point’s use of personal information collected through video surveillance.

1. I find that the surveillance cameras on the exterior doors and in the parkade for the purpose of preventing unauthorized access and protecting the personal safety of residents and the security of property do meet the minimum threshold of the reasonable person standard, provided that

⁵⁹ *Eastmond v. Canadian Pacific Railway*, para. 181

Shoal Point makes some modifications as to the use of the system, as indicated below. Shoal Point has provided evidence of unauthorized entry and resulting theft which occurred at entrance points lacking surveillance. The number of incidents is not out of the ordinary and, while I do not find the case compelling, it is sufficient to be considered reasonable. I find it to be a relevant consideration that the complainants in this case support the use of the video surveillance to prevent unauthorized entry through external doors and the parkade.

2. I find that using video surveillance footage formerly to enforce the minor bylaw enforcement specified in the submissions to this inquiry does not meet the reasonable person standard. Shoal Point explains that it now uses the video footage to enforce serious rules and bylaws involving security, safety or protection of Common Property, but does not explain what these bylaws are or how or why they justify the use of video surveillance to enforce them. Therefore, I am unable to find that the use of video surveillance to enforce any bylaws meets the reasonable person standard.
3. I find that the surveillance cameras inside the building in the pool area and near the fitness centre do not meet the reasonable person standard. Shoal Point has not provided sufficient evidence of the threats to personal safety or to common property to justify the level of surveillance. While some small damage has occurred, the incidents appear few and far between. I agree with the complainants that there is a substantive difference between training a camera on an external door in order to identify intruders, and through which individuals would be seen only briefly, and subjecting residents and authorized guests to constant surveillance while swimming in what is essentially the residents' own pool. The privacy invasion around the pool is significantly higher. Shoal Point recognized this fact when it removed the footage from the pool from the live feed to cable television in the residents' units. While the privacy invasion involved with the camera outside the fitness centre is less extensive than the pool, it is more extensive than the cameras on the exterior doors. Shoal Point states that there are external doors just beyond the view of this camera that are not subject to video surveillance and this camera would likely capture the image of anyone who broke in through those doors. Nevertheless, Shoal Point has not provided evidence to suggest that there is a threat of unauthorized entry through those doors. Unlike the main entrance doors, these doors are not used as entry points and are more secure. Moreover, I am not persuaded that Shoal Point has fully explored all possible options for locating the cameras in direct proximity to the external doors.

4. I find that providing the live feeds from the cameras on the external doors and parkade to all residents through the television cable system does not meet the reasonable person standard. Shoal Point claims that having more pairs of eyes viewing the footage enhances the security the system provides, but does not provide any evidence in support of this assertion. It certainly does, however, increase the level of privacy invasiveness of the surveillance system. I realize that this feature might be popular with some residents, but I have received no evidence as to how this has increased the security of the building.
5. I find that the routine, daily viewing of footage from cameras in the absence of a complaint or evidence of unauthorized entry, theft or the threat to personal safety or damage to property does not meet the reasonable person standard. It is reasonable to expect that the footage not be viewed unless there is a legitimate reason to expect that there has been a specific threat of unauthorized entry, threat to personal safety or damage to property for which there would likely be relevant footage stored on the hard drive of the system.

4.0 CONCLUSION

[89] In light of the above findings, under s. 52 of PIPA I make the following orders:

1. I require Shoal Point to provide me in writing, within 20 working days, a description of the location, prominence and wording of its signs as posted to notify individuals of video surveillance, or if it amends the text, the revised version of the text.
2. I require Shoal Point to provide me in writing, within 20 working days, a list of the employees and strata council officials, by title, who have access to the video surveillance system.
3. I confirm that Shoal Point is in compliance with s. 14 of PIPA with respect to the video surveillance on the exterior doors and the parkade for the purposes of preventing unauthorized entry, theft or the threat to personal safety or damage to property.
4. I require Shoal Point to comply with s. 14 of PIPA by disabling the two video cameras in the pool area and the one outside the fitness room. This does not preclude Shoal Point from restoring video surveillance in these or other areas in future, in the event that there is sufficient new evidence of threats of unauthorized entry, theft or the threat to personal safety or damage to property or other cases that would meet the reasonable person test outlined in this order.

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5. I require Shoal Point to comply with s. 14 of PIPA by discontinuing the use of the video surveillance system for strata council bylaw enforcement.
 6. I require Shoal Point to comply with s. 14 of PIPA by discontinuing the use of the video surveillance system to provide access to residential units via their television cable system.
 7. I require Shoal Point to comply with s. 14 of PIPA by discontinuing the practice of security staff or members of the strata council conducting routine, daily viewing of footage from cameras in the absence of a complaint or evidence of unauthorized entry, theft or the threat to personal safety or damage to property. I require Shoal Point to restrict access to the footage to security staff and a few number of designated strata council officials.

December 2, 2009

ORIGINAL SIGNED BY

Jay Fedorak
Adjudicator

OIPC File No. P07-29307