



Order P25-06

LARCO INVESTMENTS LTD.

Emily Kraft
Adjudicator

April 14, 2025

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Summary: Under the *Personal Information Protection Act* (PIPA), an applicant requested that Larco Investments Ltd. (Larco) provide him with access to his personal information. Larco did not respond. The adjudicator found that Larco failed to meet its obligations under s. 29(1) (time limit for response) of PIPA and ordered Larco to respond to the request within one week, in compliance with the requirements of ss. 28 and 30 of PIPA.

Statutes Considered: *Personal Information Protection Act*, SBC 2003, c 63, ss. 28(b), 29(1), and 30(1).

INTRODUCTION

[1] Under the *Personal Information Protection Act* (PIPA), an individual (applicant) made a request to Larco Investments Ltd. (Larco) for access to his personal information.

[2] Larco did not respond to the applicant's request.

[3] The applicant requested that the Office of the Information and Privacy Commissioner (OIPC) review Larco's failure to respond to his request within the timeline required by PIPA.

ISSUES AND BURDEN OF PROOF

[4] The issues I must decide in this inquiry are as follows:

1. Did Larco comply with its duty to respond to the applicant's request within the timelines in s. 29 of PIPA?

2. If Larco did not comply with its duty under s. 29, what is the appropriate remedy?¹

[5] PIPA does not assign a burden of proof under s. 29. Previous OIPC orders have stated that, as a practical matter, each party should submit arguments and evidence to support their positions under s. 29.² I adopt that approach here.

DISCUSSION

Preliminary matter – alleged inadequate notice

[6] Larco says that it did not receive adequate notice from the OIPC about this matter.³ It says that, given the short notice, it “reserve[s] the right to provide further submissions, documentation, and information” regarding this matter prior to any decision of the OIPC.⁴

[7] Inquiries into an organization’s failure to respond to an applicant in accordance with s. 29 are expedited.⁵ This means that they are given priority over other types of OIPC inquiries and the period for the parties to provide submissions is shorter.

[8] I can see that the deadline for Larco’s initial submission for this inquiry was set for one week after the OIPC sent the notice of inquiry to the parties.⁶ On the date of Larco’s deadline, counsel for Larco told the OIPC registrar of inquiries that it had not previously received notice of the deadline and requested a three-week extension. In response, the registrar of inquiries granted a one-week extension to Larco.⁷

[9] If Larco received inadequate notice about this matter, like it says, then I find any potential prejudice to Larco has already been remedied by the extension granted by the registrar of inquiries. Regardless, the only issue in this inquiry is whether or not Larco responded to the applicant’s request for his personal information in accordance with the timeline under s. 29. Larco does not say what “further submissions, documentation, and information” it would provide if given the opportunity. I conclude that Larco has been provided with adequate time to make its submissions in this inquiry, and I decline to offer it another opportunity to make further submissions.

¹ These were the issues listed in the notice of written inquiry, dated March 5, 2025.

² For instance, Order P24-12, 2024 BCIPC 109 at para 11.

³ Larco’s initial submission at pp 1-3.

⁴ Larco’s initial submission at p 5.

⁵ See the OIPC’s guidance document titled, *Guide to OIPC processes (PIPA)* at p 12: <https://www.oipc.bc.ca/documents/guidance-documents/1520>.

⁶ Notice of written inquiry, dated March 5, 2025.

⁷ Email from registrar of inquiries dated March 12, 2025.

Background

[10] The applicant is a former tenant in a building owned by Larco. The parties are involved in several ongoing legal disputes related to the tenancy.

[11] The building owned by Larco where the applicant was a tenant has surveillance cameras in common areas as well as an access fob system that generates activity logs.⁸ The applicant requested that Larco provide him with “all records related to [his] image and fob activity, including photos, videos, and fob activity logs” as well as “a complete list of all parties with whom [Larco] has shared [his] images, photos, videos, and fob activity logs.”

[12] Larco did not respond to the applicant’s request, and the applicant requested a review from the OIPC.

[13] Based on the parties’ submissions for this inquiry, I understand that the applicant also complained to the OIPC about Larco’s collection, use, and retention of his personal information (OIPC Files P24-98745 and P25-00316). To be clear, those matters are not at issue in this inquiry, and I will not make any findings about Larco’s collection, use, or retention of the applicant’s personal information.

Did Larco comply with its duty to respond to the applicant’s request within the timelines in s. 29?

[14] Section 29(1) imposes obligations on organizations to respond to requests for information. Section 29(1) reads as follows:

29(1) Subject to this section, an organization must respond to an applicant not later than

- (a) 30 days after receiving the applicant's request, or
- (b) the end of an extended time period if the time period is extended under section 31.

[15] Section 31 of PIPA reads as follows:

31 (1) An organization may extend the time for responding to a request under section 23 for up to an additional 30 days or, with the commissioner's permission, for a longer period if

- (a) the applicant does not give enough detail to enable the organization to identify the personal information requested,

⁸ Larco’s initial submission at p 4.

- (b) a large amount of personal information is requested or must be searched and meeting the time limit would unreasonably interfere with the operations of the organization, or
 - (c) more time is needed to consult with another organization or public body before the organization is able to decide whether or not to give the applicant access to a requested document.
- (2) If the time is extended under subsection (1), the organization must tell the applicant
- (a) the reason for the extension,
 - (b) the time when a response from the organization can be expected, and
 - (c) the rights of the applicant to complain about the extension and request that an order be made under section 52 (3) (b).

[16] For the reasons that follow, I find that Larco failed to perform its duty under s. 29(1).

[17] The applicant emailed his request to Larco on Tuesday, November 26, 2024, at 6:32pm. Since the request was emailed after normal business hours, I find that Larco received the request on the following business day, which was Wednesday, November 27, 2024.⁹

[18] Larco does not submit that the time limit for responding to the applicant's request was extended under s. 31. Therefore, I find that Larco's deadline to respond to the applicant's request was January 13, 2025.¹⁰

[19] Neither party says that Larco has responded to the applicant's request. Nonetheless, Larco says that it did not fail to comply with the timeline in s. 29 because it is not required to provide the applicant with the information he requested.¹¹ Specifically, it says that it is not required to provide the applicant with some of the information he requested because it was already disclosed to him during certain Residential Tenancy Branch proceedings. It further submits that it is relying on ss. 23(3)(a) and 23(3)(c) of PIPA to refuse access to the remaining requested information.¹²

⁹ Order F20-34, 2020 BCIPC 40 at para 37 establishes that an access request that is sent by email to a public body under FIPPA after the public body's business hours is deemed to be received the next business day. I find the same applies for requests for personal information under PIPA.

¹⁰ Section 1 of PIPA says that "day" does not include a holiday or a Saturday. The *Interpretation Act*, RSBC 1996, c 238 at s. 29 says that "holiday" includes Sunday, Christmas Day, December 26, and New Year's Day.

¹¹ Larco's reply submission at p 4.

¹² Larco's initial submission at p 5 and reply submission at pp 3-4.

[20] Based on Larco's submissions, I understand that it decided to refuse access to the requested information, but it never actually communicated that decision to the applicant. Therefore, I conclude that Larco failed to respond to the applicant's request in compliance with the time limit under s. 29(1).

What is the appropriate remedy?

[21] In cases where an organization has failed to perform its duty under s. 29, the usual remedy is to order the organization to respond to the request, in accordance with ss. 28 and 30 of PIPA, by a particular date.¹³

[22] Sections 28 and 30 of PIPA establish what is required of an organization when responding to a request from an applicant. Section 28(b) requires an organization to make a reasonable effort to respond to each applicant as accurately and completely as reasonably possible. The requirements of s. 28(b) are informed by s. 30(1). Section 30(1) reads as follows:

30 (1) In a response under section 28, if access to all or part of the personal information requested by the applicant is refused, the organization must tell the applicant

(a) the reasons for the refusal and the provision of this Act on which the refusal is based,

(b) the name, position title, business address and business telephone number of an officer or employee of the organization who can answer the applicant's questions about the refusal, and

(c) that the applicant may ask for a review under section 47 within 30 days of being notified of the refusal.

[23] Larco says that an order requiring it to provide a response to the applicant would serve no practical purpose. It says that it has already set out in its submissions for this inquiry the provisions of PIPA under which it is refusing access to the information requested by the applicant.¹⁴ It also says that, by way of its inquiry submissions, it has provided the applicant with the contact information for its legal counsel. Finally, it says that there is no purpose in notifying the applicant about his right under s. 47 because he has already made complaints to the OIPC about Larco's collection, use, and retention of his personal information.

[24] Larco seems to be saying that its submissions for this inquiry qualify as a response for the purposes of s. 29.

[25] For the following reasons, I find Larco's inquiry submissions do not satisfy the requirements for a response under ss. 28 and 30. First, I am not persuaded

¹³ Order P24-02, 2024 BCIPC 6 at para 9.

¹⁴ Larco's reply submission at p 4.

that providing the applicant with contact information for Larco's legal counsel for the purposes of this inquiry satisfies the requirement under s. 30(1)(b). Second, whether or not the applicant is already aware of his right to request a review under s. 47 is irrelevant – under s. 30(1)(c), Larco is required to tell the applicant about his right to request a review within 30 days, and it has failed to do so. Finally, I note that Larco says that it is refusing access to some of the requested information because the information has already been disclosed to the applicant during certain Residential Tenancy Branch proceedings. However, I am not aware of any provision of PIPA that allows an organization to refuse access on such a basis, and Larco does cite the relevant PIPA provision in accordance with s. 30(1)(a).¹⁵ I conclude Larco's inquiry submissions do not qualify as a response to the applicant's request.

[26] I find that there is no basis to depart from the usual remedy, and accordingly, I find the appropriate remedy in this case is to require Larco to respond to the applicant's request, in compliance with ss. 28 and 30, by April 22, 2025. Given that Larco has apparently already decided to refuse access to the requested information and determined, at least in part, which provisions of PIPA it is relying on to refuse access, I find this deadline is reasonable.

CONCLUSION

[27] For the reasons given above, I make the following order under ss. 52(3) and 52(4) of PIPA:

1. I require Larco to respond to the applicant's request by April 22, 2025. In doing so, Larco must comply with ss. 28 and 30 of PIPA.
2. I require Larco to copy the OIPC registrar of inquiries on its response described at item 1.

April 14, 2025

ORIGINAL SIGNED BY

Emily Kraft, Adjudicator

OIPC File No.: P25-00062

¹⁵ I note that, under s. 28(c) of PIPA, an organization must make a reasonable effort to provide an applicant with the requested personal information unless s. 23(3), (3.1) or (4) applies.