

**ALBERTA**

**OFFICE OF THE INFORMATION AND PRIVACY  
COMMISSIONER**

**ORDER P2021-10**

September 30, 2021

**DIRECT ENERGY REGULATED SERVICES**

Case File Number 008250

**Office URL:** [www.oipc.ab.ca](http://www.oipc.ab.ca)

**Summary:** Under the *Personal Information Protection Act* (PIPA), one Corporate Complainant and one Personal Complainant, complained that Direct Energy Regulated Services (the Organization) contravened PIPA when it collected and used their information.

The Organization disputed that the Personal Complainant was actually a complainant. The Adjudicator found that the Personal Complainant had been a complainant from the outset of the complaint, and, in the alternative, there was no prejudice to the Organization by adding him as a complainant in the Inquiry, and so he was added.

The Personal Complainant and the Corporate Complainant alleged that the Organization contravened PIPA when it used their information to contact them in relation to a property, 16 years after they ceased being involved with the property.

The Organization argued that a corporation was not an individual under Part 5 of PIPA, and therefore could not make a complaint. The Adjudicator considered that issue, and also whether collection and use of the information in question was exempt from PIPA as collection and use of “business contact information” under section 4(3)(d).

The Adjudicator found that a corporation is not an individual and therefore could not make a complaint under PIPA.

The Adjudicator found that the information in question was the Personal Complainant's personal information and also business contact information used by him as a representative of the Corporate Complainant when dealing with the Organization. The Adjudicator found that the Organization collected and used the business contact information for the purposes of contacting the Personal Complainant in relation to his business responsibilities; as such, collection and use were exempt from PIPA under section 4(3)(d).

The Adjudicator retained jurisdiction to consider the further issue of whether the Organization contravened section 35 of PIPA when it retained the Personal Complainant's personal information for so long after the Personal Complainant was no longer involved with the property in question.

**Statutes Cited: AB:** *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25; *Interpretation Act*, RSA 2000, c I-8 s. 28(1)(nn); *Personal Information Protection Act* S.A. 2003, c. P-6.5 ss. 1(1)(a), 1(1)(d), 1(1)(i)(i), 1(1)(i)(v), 1(1)(k); 3; 4(3)(d); 5(2); 35; 36(2)(e); 46; 46(2); 52;

**Statutes Cited: ON:** *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990 s. 2.

**Authorities Cited: AB:** Orders 96-019, 2001-001, P2005-001, P2008-009 **ON:** Order MO-2724

## I. BACKGROUND

### *Number and Identity of the Complainants*

[para 1] The identity of the Complainants has changed as this matter has proceeded through the Office of the Information and Privacy Commissioner (OIPC). At the outset of this Inquiry, the Complainants consisted of one private individual and three corporate entities. The relationships between them, as well as between them and their legal representation, appear to have complicated the matter of determining who was making the complaint.

[para 2] The complaint form containing the allegations against Direct Energy Regulated Services (the Organization) was sent to the OIPC via the offices of legal counsel. The complaint contains a letter, on letterhead from the law firm operating as legal counsel which opens with a paragraph stating, "Our office acts on behalf of ..." and then lists three corporate entities as complainants.<sup>1</sup>

---

<sup>1</sup> Customarily, the identity of individual complainants is not revealed in the orders of the Information and Privacy Commissioner. The identity of all three corporate entity complainants is not revealed in order to preclude the possibility that an individual complainant may be identified by association with them.

[para 3] One of the partners at the law firm representing the corporate complainants operates through a professional corporation. That professional corporation is one of the corporate entities making the complaint (the Corporate Complainant).

[para 4] Beyond asserting that the Organization used the corporate entities' information in contravention of the *Personal Information Protection Act* S.A. 2003, c. P-6.5 (PIPA), the complaint also contains allegations that the Organization used the personal information of the individual (the Personal Complainant) who operates through the Corporate Complainant as a partner at the law firm representing the corporate entities. The letter accompanying the complaint does not explicitly state that legal counsel is representing the Personal Complainant; however the Personal Complainant is the one who authored and signed the letter, and as discussed further, it contains allegations that the Organization mishandled his personal information.

[para 5] The OIPC accepted the initial complaint as it was written. In the earlier investigation and mediation stages of the complaint process, the OIPC appears to have handled the complaint on the understanding that the Personal Complainant was a complainant.

[para 6] Subsequently, in the Request for Inquiry, the Personal Complainant, acting in his capacity as legal representative for the corporate entities, stated that the complainants in this matter are the three corporate entities. The Complainants were concerned about uses of their information arising from two incidents with the Organization: one concerning a property in Edmonton (the Edmonton Property) and the other concerning a property in St. Albert (the St. Albert Property). Like the initial complaint, the Request for Inquiry contained the allegations that the Organization misused the Personal Complainant's personal information, but did not explicitly state that the Personal Complainant was representing himself, as an individual, in addition to the corporate entities, as legal counsel.

[para 7] In view of the fact that the complainants were identified as three corporate entities, the Organization argued that corporations were not "individuals" for the purposes of PIPA, and as such could not bring a complaint under it. In respect of this argument, Issue G, below, was added to this Inquiry.

[para 8] In their submission regarding Issue G, the Personal Complainant, in his role as legal representative for the corporate entities, then stated that he, as a private individual, remained a complainant in this matter; a position which I accepted upon review of the initial complaint. As such, at the outset of this Inquiry there were four complainants: the Personal Complainant and three corporate entities. To clarify and recap who they were:

[para 9] The Personal Complainant is an individual who alleges that the Organization used his personal information in contravention of PIPA, in relation to the incidents concerning the Edmonton Property and the St. Albert Property.

[para 10] The Corporate Complainant is one of three corporate entities who initially made the complaint. It is a professional corporation, incorporated by the Personal

Complainant. It also acts as the Personal Complainant's "family holding company." The facts alleged in the complaint suggest that the Organization used the Corporate Complainant's information in relation to the incidents involved concerning the Edmonton Property and the St. Albert Property.

[para 11] The other two corporate entities who initially made the complaint are:

- 1) A professional corporation incorporated by an acquaintance of the Personal Complainant; and,
- 2) A corporation in which another acquaintance of the Personal Complainant worked during his career, which is now used as his family holding company.

Collectively, I refer to these two corporate complainants as "the Other Corporations".

[para 12] Though the Complainants maintain that the Other Corporations are complainants in respect of the incidents involving both properties, the facts alleged in the complaint suggest that the Organization used the Other Corporations' information only in relation to the incident concerning the St. Albert Property.

[para 13] At the same time as legal representatives for the complainants clarified that the Personal Complainant was a complainant, all of the Complainants dropped the inquiry into the incident involving the St. Albert property. As allegations related to the incident concerning the St. Albert property were the only allegations that alleged a contravention of PIPA in respect of the Other Corporations' information, there are no longer any allegations that the Organization contravened PIPA when it used the Other Corporations' information. Accordingly, the Other Corporations are effectively complainants no more. The remainder of this Inquiry concerns only the allegations that the Organization contravened PIPA when it used the Personal Complainant's information and the Corporate Complainant's information in connection with the incident related to the Edmonton Property.

#### *Background Events*

[para 14] The incident concerning the Edmonton Property unfolded as follows:

[para 15] The Corporate Complainant and the Other Corporations each owned 1/3 of the Edmonton Property from October 3, 1991 to September 1, 2000, at which time it was sold. During that time, the Organization was the energy provider to the Edmonton Property.

[para 16] As owners of the Edmonton Property, the corporate entities, or one of them, entered into a "Premise Vacancy Agreement" (PVA) with the Organization. The PVA stipulates what will happen in the event that the Edmonton Property became vacant. Under the PVA, the owner of the property may have the Organization bill it directly for electricity, turn off the power to the property, or contact the owner when the premises become vacant. Property owners are not required to enter into a PVA with the

Organization, but the corporate entities elected to do so regarding the Edmonton Property.

[para 17] In the course of this Inquiry, I requested a copy of the PVA signed by the Corporate Complainant and/or Other Corporations during the period of time when they owned the Edmonton Property, but the Organization was unable to provide it. The Organization states that the PVA practices it describes in its submissions were in place at the “relevant times for the purposes of the complaint in 2016 and before.”

[para 18] Under the PVA, a property owner is required to provide contact information for a person authorized to deal with the Organization. In this case, the authorized person was the Personal Complainant.

[para 19] Once a PVA is entered into, the Organization creates an “Owner Allocation Profile” (OAP) containing the instructions about what to do in the event that property becomes vacant, as well as the name and the contact information of the authorized person. The OAP regarding the Personal Complainant contains the following information:

- First and Last Name
- Home Address
- Home Telephone Number
- Work Telephone Number

[para 20] I note that the Personal Complainant’s home address is different than the Corporate Complainant’s registered address. The Personal Complainant’s home telephone number is also different from his work telephone number. The Complainant’s work number is the number he uses when practicing law through his professional corporation.

[para 21] According to the Organization, under the terms of the PVA, the owner bears the responsibility to contact it in order to modify the PVA in the event that the owner sells the property or wishes to alter the terms of the PVA.

[para 22] The Complainants do not comment upon or deny the Organization’s assertions regarding the operation of the PVA. The Personal Complainant states that he would not have made the mistake of identifying himself personally as the owner of the Edmonton Property, and therefore would not have provided personal contact information as the authorized person listed in the OAP. I consider though that, here, the Personal Complainant is speaking to what he would have done decades ago, without indicating a clear memory of what actually transpired. The preponderance of the evidence before me leads me to conclude, on the balance of probabilities, that he did provide his personal information as the authorized person in the OAP. There is no basis in the evidence to conclude, on the balance of probabilities, otherwise.

[para 23] According to the Organization, no one contacted it regarding the PVA when the Corporate Complainant and the Other Corporations sold the Edmonton Property in 2000. The Organization further states that even though subsequent customers enrolled for services at the Edmonton Property, no further PVA was ever issued, and the OAP containing the Personal Complainant's information was not changed.

[para 24] In October 2016, it became apparent to the Organization that the Edmonton Property was vacant. As such, it engaged its "vacancy process." The first step of the vacancy process is to see if there is an OAP for a vacant property, and then, if so, to follow the instructions recorded therein. In October, 2016 the Organization still had the OAP containing the Personal Complainant's information.

[para 25] On October 24, 2016, a representative from the Organization called the Personal Complainant at his home telephone number to inquire if he still owned the Edmonton Property. Being wary of being contacted about the Edmonton Property 16 years after selling it, the Personal Complainant did not answer the question. The Organization's representative informed the Personal Complainant that the Edmonton Property may be "de-energized." The Organization's representative also used the Personal Complainant's name during the call, and provided the Personal Complainant's previous home address as the billing address that the Organization had on record.

[para 26] During the telephone call, the Personal Complainant asked the Organization's Representative how the Organization obtained his home telephone number. The Organization's Representative was not certain, but suggested that the Organization likely obtained it through a Land Titles Office. The Complainants produced a land titles search for the Edmonton Property and notes that it does not contain any telephone number, or his home address. The Personal Complainant surmises that the Organization's Representative obtained his personal information from the Organization's own records.

[para 27] The Personal Complainant alleges that the Organization collected and used his name, previous home address, and home telephone number in contravention of PIPA when it made the telephone call on October 24, 2016. The Personal Complainant also alleges that the Organization was prohibited from retaining his personal information for so long, after the Corporate Complainant ceased being involved with the Edmonton Property.

[para 28] While the majority of the allegations made by the Corporate Complainant relate to events concerning the St. Albert property, my understanding is that the Corporate Complainant also alleges that the Organization contravened PIPA when it made the October 24, 2016 telephone call, and retained the contact information in the OAP for so long after it ceased being involved with the Edmonton Property.

### **III. ISSUES**

[para 29] The issues as initially set out in the Notice of Inquiry for this matter were:

**ISSUE A: Is the information that is the subject of the complaint "personal information" within the terms of section 1(l)(k) of PIPA?**

**ISSUE B: Is the information that is the subject of the complaint "business contact information" within the terms of section 1(l)(a) of PIPA? If so, is collection and use of it outside of the application of PIPA under section 4(3)(d)?**

If the Commissioner finds collection and use are not excluded from the Act by virtue of section 4, the Commissioner will also decide the following issues:

**ISSUE C: Did the Organization collect and use the information contrary to, or in compliance with, section 7(1) of PIPA (no collection or use without either authorization or consent)? In particular,**

**a. Did the Organization have the authority to collect and use the information without consent, as permitted by sections 14 and 17 of PIPA?**

**b. If the Organization did not have the authority to collect and use the information without consent, did the Organization obtain the Complainant's consent in accordance with section 8 of PIPA before collecting and using the information? In particular,**

**i. Did the individual consent in writing or orally? Or**

**ii. Is the individual deemed to have consented by virtue of the conditions in section 8(2){a) and (b) having been met? Or**

**iii. Is the collection and use permitted by virtue of the conditions in section 8(3)(a), (b) and (e) having been met?**

**ISSUE D: Did the Organization collect or use the information contrary to, or in accordance with, sections 11(1) and 16(1) of PIPA (collection and use for purposes that are reasonable)?**

**ISSUE E: Did the Organization collect or use the information contrary to, or in accordance with, sections 11(2) and 16(2) and of PIPA (collection and use to the extent reasonable for meeting the purposes)?**

**ISSUE F: Did the Organization comply with section 35 of the PIPA (retention and destruction of information)?**

[para 30] In the course of the Inquiry, the Organization argued that the Corporate Complainants were not "individuals" under PIPA, and thus could not bring a complaint under it. As a result, the following issue was added:

**ISSUE G: Are the Corporate Complainants “individuals” for the purposes of bringing a complaint under part 5 of PIPA?**

**IV. DISCUSSION OF ISSUES**

*Preliminary Matter – Organization Objects to adding the Personal Complainant*

[para 31] Upon receipt of the submission from the Complainants clarifying that the Personal Complainant was a complainant in this matter, in February 2020, I sent a letter to both parties stating my view that he was a complainant. I stated in the letter:

After reviewing the initial complaint, it appears that [the Personal Complainant] did the [sic] make the complaint as his own person; he is therefore added as a complainant to this matter, along side the three corporate complainants.

[para 32] The Organization challenges my decision to add the Personal Complainant.

[para 33] The Organization argues that the initial complaint to the Office of the Information and Privacy Commissioner did not include the Personal Complainant. While, as described above, the relationships between all of the Complainants and their legal representation is confusing, it is nevertheless clear that the Personal Complainant was complaining that the Organization misused his personal information from the outset.

[para 34] The complaint contained the allegations regarding the October 24, 2016 telephone call, including the following passage from the Personal Complainant, regarding the telephone call:

Our goal is to clearly satisfy you that it is totally impossible that Direct Energy could have obtained my personal information from the Land Titles office. However, this is the explanation that Direct Energy gave and was accepted by the Alberta Utilities Commission. The personal information was my name, my home phone number and my personal address, none of which could be obtained in any way whatsoever from the Land Titles Office.

[para 35] In the above passage it is clear to me that the Personal Complainant is alleging that the Organization used *his* personal information in contravention of PIPA. While it is true that the law firm did not state that it was representing the Personal Complainant, it is evident that the Personal Complainant, as the one who prepared the letter accompanying the complaint, was representing himself as well.

[para 36] In the alternative, even if the Personal Complainant was not technically a complainant in this matter from the outset, I stand by my decision to add him in the course of this Inquiry. Regardless of the technicalities of who was a complainant at the outset, the Organization has been aware of the allegations that it misused the Personal Complainant’s personal information from the beginning of the complaint process, and no later than my letter of February 2020 was aware that he was added as a complainant. Throughout the process, the Organization has had the opportunity, and taken the



opportunity, to defend itself against those allegations. Adding the Personal Complainant will not result in any new allegations, and will not prejudice the Organization at all.

*Preliminary Matter – Scope of this Inquiry*

[para 37] Since Issues A, B, and G are jurisdictional matters that may resolve this Inquiry on their own, this Inquiry was split into two parts. The first part will consider Issues A, B, and G. If needed, the remaining issues will be addressed in the second part of this Inquiry.

[para 38] Since the determination of Issue G will affect the scope of analysis required under issues A and B, I consider Issue G first.

**ISSUE G: Are the Corporate Complainants “individuals” for the purposes of bringing a complaint under part 5 of PIPA?**

[para 39] Part 5 of PIPA describes the process through which the Information and Privacy Commissioner handles complaints made under PIPA. Section 46 of PIPA, in Part 5, states that “individuals” may make complaints. Section 46 states:

*46(1) An individual who makes a request to an organization respecting personal information about that individual may ask the Commissioner to review any decision, act or failure to act of the organization.*

*(2) An individual may initiate a complaint with respect to the issues referred to in section 36(2).*

*(3) If the Commissioner is satisfied that there are other grievance, complaint or review procedures available for the purposes of resolving issues for which a review may be requested or a complaint may be initiated under this Part, the Commissioner may require that an individual asking for a review or initiating a complaint under this Part must first exhaust those other procedures with a view to resolving the matter before the Commissioner proceeds to hear or otherwise deal with the review or complaint.*

[para 40] The complaint by the Corporate Complainant is made under section 46(2) of PIPA. Section 36(2)(e) of PIPA lists improper use of information as an issue:

*(2) Without limiting subsection (1), the Commissioner may investigate and attempt to resolve complaints that*

*(e) personal information has been collected, used or disclosed by an organization in contravention of this Act or in circumstances that are not in compliance with this Act;*

[para 41] The Organization argues that “individual” does not include corporations. It cites Order P2005-001 in support of its position. In that Order, Former Commissioner Work, Q.C. stated, at para. 19:

For the purposes of section 46(2) of the Act, I must define what is meant by an individual. To assist me with the meaning of individual, I turned to the FOIPP decisions found in Orders 96-019, 2001-001 and F2002-011. As a result of my review of the Act and of the specified FOIPP Orders I find, for this Act, that the word “individual” means a single human being. Therefore, as corporations are not single human beings, they may not file a complaint as an individual under section 46(2) of the Act.

[para 42] While the Personal Complainant and the Corporate Complainant assert that the Corporate Complainant may make a complaint under PIPA, they do not address whether the term “individual” as used in PIPA includes corporations, or provide any other argument on this issue.

[para 43] I concur with the conclusion reached in Order P2005-001. A corporation is not an individual under PIPA, and cannot make a complainant under Part 5 thereof. The “FOIPP” orders referred to by the Former Commissioner canvassed the plain language understanding of what is an “individual”, and the reasoning in those orders applies equally well to the use of term “individual” in PIPA. In particular, the conclusion from Order 2001-001 at para. 33 that a corporation, or any entity, other than a human being cannot have personal information, underscores the fundamental difference between a corporation and an individual under PIPA. Since PIPA is concerned with the regulation of personal information, the privacy rights, and right to complain about violations of them under Part 5, adhere to human beings, rather than legally constructed entities. I observe that a similar conclusion was reached by the Ontario Information and Privacy Commissioner in Order MO-2724.

[para 44] The relevant issue in Order MO-2724 was whether corporations or other forms of business entities have personal information under section 2(1) of the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990 (MFOIP). In the course of considering that issues, the Adjudicator considered whether such entities were “individuals” for the purposes of the definition of personal information in section 2 of MFOIP (MO-2724 at para. 58). Similar to what was decided by the Former Commissioner in Order P2005-001, the Adjudicator in Order MO-2724 canvassed earlier decisions which drew a distinction between personal information that applies to human beings, and business information that would apply to a corporate entity (MO-2724 at paras. 59 to 65). The Adjudicator in MO-2724 concluded at para. 66 that corporate entities were not individuals, and even if they were, they do not have personal information.

[para 45] I also note that while PIPA does not define the term “individual” it uses two terms that explicitly include corporations. The first term is “organization” which is used throughout PIPA and is defined to include corporations in section 1(1)(i)(i):

- (i) “organization” includes
  - (i) a corporation,

[para 46] The second term that explicitly includes a corporation is “person”, which is defined in section 28(1)(nn) of the *Interpretation Act*, RSA 2000, c I-8:

*28(1) In an enactment,*

*(nn) “person” includes a corporation and the heirs, executors, administrators or other legal representatives of a person;*

[para 47] The term “person” appears in numerous sections of PIPA, including, for example, section 5(2) which renders organizations responsible for the actions of “persons” that provide services to it:

*(2) For the purposes of this Act, where an organization engages the services of a person, whether as an agent, by contract or otherwise, the organization is, with respect to those services, responsible for that person’s compliance with this Act.*

[para 48] The use of two terms that explicitly include corporations suggests that the legislature was quite particular about delineating which sections of PIPA would apply to corporations, and that it only intended PIPA to apply to corporations where those two terms were used. Thus, even if “individual” is not defined, the presence of the terms “organization” and “person” suggest that “individual” does not include a corporation.

[para 49] Finally, even if a corporation were an individual, it is evident that any corporate information in this case is also business contact information, and PIPA does not apply to the Organization’s collection and use of it. I discuss this matter further under Issue B, below.

**ISSUE A: Is the information that is the subject of the complaint "personal information" within the terms of section 1(l)(k) of PIPA?**

[para 50] Since I have concluded that the Corporate Complainant is not an individual, I only consider whether the Personal Complainant’s information is personal information.

[para 51] “Personal Information” is defined in section 1(1)(k) of PIPA:

*(k) “personal information” means information about an identifiable individual;*

[para 52] It is clear that the information in the OAP, and that was used to make the October 24, 2016 telephone call is the Personal Complainant’s personal information. An individual’s name, address, and home telephone number is information about an identifiable individual.

**ISSUE B: Is the information that is the subject of the complaint "business contact information" within the terms of section 1(l)(a) of PIPA? If so, is collection and use of it outside of the application of PIPA under section 4(3)(d)**

[para 53] Business contact information is defined in section 1(1)(a) of PIPA:

*(a) “business contact information” means an individual’s name, position name or title, business telephone number, business address, business e-mail address, business fax number and other similar business information;*

[para 54] It is clear that “business contact information” and “personal information” are not completely separate categories of information. An individual’s name is personal information, and is explicitly included in the definition of “business contact information.” That is to say that information can be both personal information and business contact information. As stated by the Director of Adjudication in Order P2008-009, at para. 5,

If a person is conducting a business from their home, a home address and telephone number can at the same time be business contact information. "Business contact information" is defined in section 1(a) of the Act as including an individual's business telephone number and business address. Section 4(3)(d) of the Act provides that the Act does not apply to collection, use and disclosure of "business contact information" if it is collected, used or disclosed for the purposes of contacting an individual in their capacity as an official of the organization and for no other purpose. A collection, use or disclosure of a home address or telephone number that is also the contact information for a business, if it is done solely for the aforementioned purpose, could be excluded from the scope of the Act even though the home address and telephone number are also personal information.

[para 55] Indeed, an interpretation of PIPA that understands that business contact information does not exclude personal information is necessary to fulfilling its purpose.

[para 56] One aspect of the purpose of PIPA, stated in section 3, is to allow organizations to collect, use, and disclose personal information for purposes that are reasonable. Using personal information that is business contact information for business purposes is undoubtedly a reasonable purpose. Section 4(3)(d) removes the application of PIPA, and its regulation of personal information, where an Organization uses business contact information for business purposes.

[para 57] In the present case, it is clear that the Personal Complainant used his name, home address, and home telephone number in his role as a representative of the Corporate Complainant, despite that the Corporate Complainant has separate addresses and telephone numbers. The Personal Complainant provided his information to the Organization for the purposes of managing the provision of energy services to the Edmonton Property, partially owned by the Corporate Complainant, and specifically for the purposes of being contacted per the PVA. Regardless of the fact that the information is the Personal Complainant’s personal information, it is also his individual business contact information as a representative of the Corporate Complainant, vis-à-vis the Organization.

[para 58] I now consider whether collection and use are exempt from PIPA per section 4(3)(d).

[para 59] Section 4(3)(d) of PIPA states,

*(3) This Act does not apply to the following:*

*(d) the collection, use or disclosure of an individual's business contact information if the collection, use or disclosure, as the case may be, is for the purposes of enabling the individual to be contacted in relation to the individual's business responsibilities and for no other purpose;*

[para 60] Regarding collection of the Personal Complainant's business contact information, the evidence indicates, on a balance of probabilities, that the Organization obtained it long ago when the Personal Complainant, as a representative of the Corporate Complainant, initially agreed to be the authorized individual under the PVA. While the PVA between the parties cannot be located, the Organization's explanation of its practices and the fact that a Land Titles search does not reveal the Personal Complainant's personal information, indicate that the Organization retained the information.

[para 61] It is clear that the Organization collected the Personal Complainant's business contact information in order to contact him in relation to his business responsibilities. The Personal Complainant was the authorized individual under the PVA; as such the Organization collected his information in order to contact him in the event that the Edmonton Property became vacant.

[para 62] The Organization used the Personal Complainant's business contact information when it contacted him at his home telephone number on October 24, 2016, and referenced his name and home address in order to determine if he still owned the Edmonton Property. I find that this is a use of the Personal Complainant's business contact information in relation to business responsibilities. The Personal Complainant was still listed as an authorized individual in the OAP. When the Organization contacted him to confirm whether he was still the owner of the Edmonton Property, it was, in effect, inquiring as to whether his business responsibilities in respect of that property continued, as a representative of the Corporate Complainant.

[para 63] Since the Organization collected and used the Personal Complainant's business contact information in order to contact him about his business responsibilities, per section 4(3)(d), PIPA does not apply to the Organization's collection and use of the Personal Complainant's business contact information even though it is also his personal information. Accordingly, and I do not consider the matter further.

[para 64] As far as any information used in respect of the events surrounding the Edmonton Property might be construed as the Corporate Complainant's information<sup>2</sup>, it is evident that it was collected and used vis-à-vis the Corporate Complainant in the same manner as it was vis-à-vis the Personal Complainant. As such, it is business contact

---

<sup>2</sup> I note that it could be argued that since the Personal Complainant's personal information was given as contact information in respect of his duties with the Corporate Complainant and its dealings with the Organization, the information might be considered to be the Corporate Complainant's information as well. I do not make a determination on this point, as my conclusions that a corporation is not an individual, and that the information is business contact information eliminate the need to do so.

information, and PIPA does not apply to collection or use of it, even if the Corporate Complainant was an individual.

## V. REMAINING ISSUES

[para 65] In light of my above findings, I cannot consider Issues C, D, and E. Those issues relate to collection and use which are exempted from PIPA under section 4(3)(d).

[para 66] I find that my reasons here are not sufficient to dispose of Issue F. The parties have not had the opportunity to fully argue, and there is no definitive precedent clarifying, whether, on the facts of this case, retaining personal information is a use of information under PIPA. If it is not a use, then retaining the information is not exempted from the application of PIPA under section 4(3)(d). If not exempted, I must consider whether the Organization contravened section 35 of PIPA when it retained the Personal Complainant's information for so long. Section 35 of PIPA states,

*35(1) An organization may retain personal information only for as long as the organization reasonably requires the personal information for legal or business purposes.*

*(2) Within a reasonable period of time after an organization no longer reasonably requires personal information for legal or business purposes, the organization must*

*(a) destroy the records containing the personal information, or*

*(b) render the personal information non-identifying so that it can no longer be used to identify an individual.*

*(3) Subsection (1) applies notwithstanding any withdrawal or variation of the consent of the individual that the personal information is about under section 9.*

[para 67] Once the applicable period for any reviews or subsequent appeals of this Order are passed, I will resume the Inquiry and consider Issue F. I retain jurisdiction over this matter to consider Issue F, and any other issues that may arise further in the course of this Inquiry.

## VI. ORDER

[para 68] I make this Order under section 52 of PIPA.

[para 69] I find PIPA does not apply to the Organization's collection and use of information in this case.

---

John Gabriele  
Adjudicator