

***R. v. Ngai*, 2010 ABCA 10**, per
Cote, McDonald, Kent, JA - T.
Judge: Clark, J:

Conviction appeal from charge of production of marihuana – 1600 plants seized. Trial judge erred in finding no breach of s. 8, given that the police engaged in an unauthorized seizure of DRA information. Issue being whether evidence ought to be excluded.

Held: Appeal dismissed, evidence not excluded.

Grant [2009] SCR 353 analysis undertaken by Court of Appeal. Police acted in good faith. Case authorities had been divided as to whether a warrant was required to obtain DRA information. Not a “suspicion-based search”, and not a serious breach. The house in question was unoccupied. The information revealed by the DRA was neither private nor personal. No serious impact on the Charter protected interests. Society’s interest in adjudication of the merits also favoured admission.