

Practice Note: Site Photographs and Privacy

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Background

After having a renovation done, a homeowner noticed some issues, which dictated an inspection and review by the contractor's engineer. In the course of inspection to determine the cause of the issues, photographs were taken. The inspector obtained permission to take photos in a particular area, but then, unknown to the homeowner, took additional photos in another area that he believed was related to the engineering issue. However, the homeowner felt their privacy had been compromised with these additional unauthorized photos, and launched a complaint with the Association against the engineer.

What to Do

Practicing members are reminded that photos they take on any jobsite, in any client's or third party's place of business or residence, must only be taken after obtaining expressed consent to do so, preferably in writing. Further, the practitioner should advise their client or third party, what will be photographed, why it needs to be recorded, and how it will be used. It would also be prudent to indicate what controls will be in place to protect the confidentiality and privacy of the client or third party. The Federal Personal Information Protection and Electronic Documents Act (PIPEDA) governs the handling of personal information by Canadian organizations. It applies to any personal information collected, used, and/or disclosed in the course of commercial activities. Although the legislation doesn't specifically define how it applies to a sole proprietorship or individual, it would simply be good business practice for any practitioner to follow. Provincial legislation also addresses the statutory rights of clients or third parties with respect to breach of privacy under the Privacy Act, C.C.S.M. c. P125.

Further information and a clear outline of the practitioner's responsibilities can be found in the toolkit for compliance with PIPEDA for businesses, which is available online.