

DIGITAL LAWS & REGULATIONS

Quayside Civic Labs

2

The Quayside Civic Labs Info Sheet Series

This is the second in a series of Info Sheets that Waterfront Toronto has developed to support a meaningful public discussion about the potential future of Quayside – specifically, its digital future.

What does that mean exactly? Info Sheet 1 explains some of the ways and places that technology can influence a city. Info Sheet 2 identifies relevant laws and regulations, and Info Sheet 3 goes into more detail on data collection and use.

Public Policies and Legal Frameworks

There are public policies and legal frameworks that ensure governments and corporations can collect, access, store, and use digital information and data in compliance with applicable law. These policies and frameworks keep organizations compliant and accountable for the use and protection of personal information on digital products and services in a way that respects laws on individual consent, transparency of use and exercise of privacy rights.

Developing New Frameworks

In recent years, governments across the world have been developing new regulatory frameworks to respond to the unprecedented amount of data that public institutions and private companies have been amassing about individuals: contact information, relationships, movements, purchase histories, communications, and much more. While this information enables exciting services that were impossible a decade ago, the collection, storage, and use of data has to be tightly managed to be contained to what is permissible under privacy law. Digital governance spells out this management duty.

Waterfront Toronto is working closely with leaders in the legal field and in government, as well as their Digital Strategy Advisory Panel (DSAP) to ensure that a current and comprehensive understanding of relevant laws informs the review of all proposals related to Quayside.

Read on to find out what feedback Waterfront Toronto needs from you.

Relevant Law in Canada

Legislation that is applicable to a smart city in Toronto includes (but isn't limited to):

Canadian Charter of Rights and Freedoms

Under Section 8 of the Charter, we are protected from unreasonable search and seizure by governments. Concretely, that means no government in Canada has the right to collect or use our personal information unless it is demonstrably justified in a free and democratic society. At the city level, this most often arises in relation to the use of CCTVs, which is allowed under strict conditions of necessity.

continued on page 2...



There are many public opportunities to learn more about the more traditional city-building elements being considered at Quayside, whether that be roads or buildings, parks or waste management, or housing and public realm. Visit the Waterfront Toronto website to learn more:

www.waterfronttoronto.ca



Relevant Law in Canada

Continued from page 1

Personal Information Protection and Electronic Documents Act (PIPEDA) (Canada)

PIPEDA creates obligations for the private sector to respect privacy of individuals in the course of commercial activities. These obligations include collecting, using or disclosing personal information only with valid consent, never using this information for other purposes than for what it was consented, being transparent about management of personal information, protecting the information at the level of its sensitivity and providing individual access upon request of the personal information that relates to the requester.

Privacy Act (Canada)

The Privacy Act applies to federal government institutions. It states the rules by which the government of Canada can collect, use or disclose personal information. The government can only collect or use personal information when it is related to its activities. The Charter of Rights and Freedoms applies as well to define that as meaning to what is necessary to its activities. Just like under PIPEDA, the government of Canada must provide individual access to a person's personal information upon request.

Municipal Freedom of Information and Protection of Privacy Act (Ontario)

This Act requires that local government institutions protect the privacy of an individual's personal information existing in government records. Under this Act personal information can only be collected if it is 1) expressly authorized by statute, 2) used for the purposes of law enforcement, or 3) necessary to the proper administration of a lawfully authorized activity. MFIPPA also gives individuals the right to request access to municipal government information, including most general records and records containing their own personal information.

Freedom of Information and Protection of Privacy Act (Ontario)

This Act applies the same obligations as MFIPPA to provincial institutions.

New Concepts in Smart Cities

The lingo of smart cities includes new concepts of “data trusts”, “privacy by design” and “open data”. This is how they are generally interpreted:

Data Trust

“Data trust” may refer to various structures because it is not a legally defined term. In relation to smart cities, a data trust is understood to designate an oversight structure for ensuring compliance with applicable laws within a smart city digital use framework.

Since the notion of data trusts is still evolving, some question its applicability to data, taking the term “trust” in its traditional legal application to the management of assets. Some equate a “data trust” to a compliance office that ensures, within an organization, respect for laws applicable to data.

Privacy by Design

Privacy by design (PbD) refers to the integration of privacy protection from inception of any product, service or initiative. The only existing legal definition of PbD is the General Data Protection Regulation. It requires the implementation of “appropriate technical and organizational measures (...) to integrate the necessary safeguards into processing.”

Open Data

Open Data refers to the principle of Open Government and being transparent without compromising personal identifiable information. The implementation of “Open Data” takes many forms. In the context of smart cities, which pursue, among other objectives, greater democracy and citizen participation, Open Data means data that is free from restrictions such as copyright or government control.

While many see Open Data as a way to empower citizens and share in the value of data, others argue that Open Data devalues data as an asset; that it escapes data value management and that the costs of making data open – which requires analysis of applicable restrictions such as privacy and copyright – is not recovered in value.

WHAT DO YOU THINK?

Waterfront Toronto will be reviewing the Master Innovation and Development Plan that will be submitted by Sidewalk Labs and will need to determine how well it reflects the public interest. Our questions for you:

1. What issues would you like to see Waterfront Toronto consider as they review digital proposals related to Quayside?
2. How do you think Waterfront Toronto can best determine what's in the public interest when dealing with the opportunities and challenges that are associated with smart cities?
3. Do you have any other feedback or advice related to smart cities that you'd like to share with Waterfront Toronto?

You can provide this feedback by emailing us at CivicLabs@waterfronttoronto.ca with a written submission. **Please send your thoughts by December 21, 2018** so that we can feed them into our decisions making process. A summary of all written feedback received will be shared publicly early in early 2019.

