



**ONTARIO BUILDING OFFICIALS ASSOCIATION**

pro bono publico “for the public good”

**ELLIOT LAKE INQUIRY**

**PART 1 – PHASE 2**

**ONTARIO BUILDING OFFICIALS ASSOCIATION  
INITIAL RESPONSE TO ROUNDTABLE QUESTIONS**

**ROUNDTABLE NO. 2**

**IMPROVED SHARING OF  
REPORTS AND INFORMATION**

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## ROUNDTABLE 2 – IMPROVED SHARING OF REPORTS AND INFORMATION

[TUESDAY NOVEMBER 19, 2013]

- 1) Should the Owner of a building be required to keep a secure record of and provide the information relating to the condition of a building (all private, as well as public, documents and information dealing with the condition of those buildings over their lifetime, including information on the nature and extent of the services provided by an engineer and an architect, the name, identity and contact information of those professionals and any remedial actions taken as a result of inspections)
- a. to any purchaser or other person seeking to acquire an interest in the building, financial or otherwise
  - b. to any person or agency conducting or supervising any inspection, assessment, repair or renovation of a building before any such inspection, assessment, repair or renovation begins
  - c. To the municipality whenever a building permit is required for repairs and renovations?
  - d. to a provincial agency.

OBOA Response:

If regulated to undertake mandatory periodic inspections of their buildings, the owner should be required to keep a secure record and provide all documents and information regarding the building to any person undertaking the inspection for the time frame between mandatory inspections. Documents provided by the owner should form part of the inspection report and be noted as such.

All mandatory periodic inspections should be kept for the life of the building and be made available upon request to a Chief Building Official or any authority having jurisdiction. If deficiencies raising unsafe structural issues are discovered and noted, the owner and engineer should be required to submit the report to the Chief Building Official or any authority having jurisdiction.

The record should also note any reports that have been prepared as a result of orders under the *Building Code Act* and Property Standards By-Laws.

Owners should also provide copies of all such reports at the time of transfer of ownership of title.

- 2) Should the Owner of a building (and perhaps those who prepared the building information?) be required to register the information (i.e. Reports) relating to the condition of a building on the title to the property?

OBOA Response:

Although property standards orders can be registered on title, there is no express ability to do so with *Building Code Act* orders. As such, we would welcome an amendment to the *Building Code Act* to allow for such.

We take no position as to whether these reports ought to be registered against title to the property.

We see the value of and would recommend that a central provincial registry be established to store these mandated reports. See our response to Question 4 below.



3) If so, should the availability of this information apply to all buildings or just commercial buildings?

OBOA Response:

If this is to be pursued, it should only be required for those buildings that have been identified as requiring mandatory periodic inspections. See Recommendation No. 5 of the OBOA's Roundtable No. 1 Submission.

4) If there is no requirement to register the information (i.e. Reports) relating to the condition of a building on title to the property, should the information be made accessible to the public by some other means such as a central registry? Or should they at least be filed with the Chief Building Official?

OBOA Response:

Municipalities do not have the capabilities or resources to review and file all reports relating to the condition of a building and we would not support such a request. However, if reports submitted to the municipality are limited to those reporting deficiencies raising unsafe structural issues, municipalities would expect that such reports would be provided to them for appropriate action.

An alternative approach might entail establishing a central provincial repository of such reports, registered by the building's municipal address, which operates similar to the existing environmental registry respecting Records of Site Condition [RSC].

5) Should the building owner be required to complete an Affidavit as mandatory closing document that states at a minimum the following:

1. The owner has disclosed all engineering reports that have been conducted while the building has been owned by the present owner.
2. That the owner has undertaken appropriate inquiry in order to obtain the history of all engineering reports on the property and there are stated here.
3. There are no report or document that the owner is aware of with respect to this real property that deal in any way with the structural assessment or condition of this building that has not been disclosed to the purchaser.

OBOA Response:

We would find no objection to this.

6) Should any and all engineers and architects who have provided services to an owner of a building make available all information in their possession to successor engineers or architects requesting such information?

OBOA Response:

We would find no objection to this.

Are there any existing requirements or plans for requirements [as a standard of professional practice] that would obligate an architect or engineer to make information respecting a building's structural insufficiency available to a Chief Building Official or authority having jurisdiction?



7) Should municipal governments be required to document all oral and written complaints, even if the person wishes to remain anonymous? Should municipal governments be required to keep a public registry of all property standards bylaw violations that deal with the safety and soundness of a building structure, including any follow up action taken by the municipality and remedial action taken by the owner or municipality?

OBOA Response:

We support the keeping of municipal records documenting all received complaints, whether oral or written. However, in the case of repeat unfounded complaints from one individual, many municipalities will require written complaints over oral at some point to avoid claims of harassment.

Municipalities must be allowed some flexibility in how they react to anonymous complaints. We would encourage the requirement that municipalities develop policies regarding the handling of anonymous complaints rather than having it mandated at a provincial level. Whatever policy a municipality adopts respecting anonymous complaints, it should be publically and effectively advertised to its citizens.

We would support a public registry for all unresolved Property Standards By-Law violations and outstanding orders. However, several questions arise. How would “historical” data be treated [i.e. past orders that have been resolved? When would same be removed from the registry?] How detailed would any notation be required about the “action taken” by a municipality. How often would this need to be updated? Issues related to freedom of information and privacy protection would have to be carefully examined.

As well, see Recommendation No. 4 of the OBOA’s Roundtable No. 1 Submission. Structural sufficiency should not be a subject matter of municipal Property Standards By-Laws.

8) The *Occupational Health and Safety Act* (sections 51 and 52) currently provides for certain obligations on employers to provide notice to the Ministry of Labour where a person is critically injured or killed at a workplace or a person is disabled from performing his/her work or requires medical attention because of an accident, explosion, fire at a workplace. Should these notice obligations be expanded to include situation of imminent danger, accident or injury? In addition, should an employer be required to report to the Ministry of Labour any health and safety recommendation made by a joint committee or a health and safety representative which is not followed and may lead to critical injury?

OBOA Response:

In the case of a building or structure, we would recommend that Chief Building Officials remain solely responsible for the review and determination of “unsafe” buildings under the *Building Code Act* [s. 15.9].

Should an MOL inspector deem a workplace to be unsafe under the *Occupation Health and Safety Act* due to the structural insufficiency of a building, the MOL be required to advise the municipality’s Chief Building Official of such.

9) Considering the information you have gleaned from the proceedings of the Elliot Lake Commission of Inquiry, can you provide your top five recommendations as to what should be done to ensure that a similar tragedy does not occur again in Ontario or Canada? If possible, identify the sort of buildings or occupancies which should be the highest priority?

OBOA Response:



In consideration of the above responses and for further reasons which will be discussed at the Roundtable, the top five OBOA recommendations respecting improved sharing of reports and information are listed below.

- 1) Establish a requirement that any qualified persons who have inspected a building and/or prepared a report addressing a building's structural sufficiency to contemporaneously report any structural deficiencies to the Chief Building Official or the authority having jurisdiction.
- 2) The Province should either:
  - (i) establish, pursuant to the *Building Code Act, 1992*, S.O. 1992, c. 23, s. 34(2), a Building Maintenance Code setting minimum standards for the maintenance, retrofit, operation, occupancy and repair of existing buildings; or
  - (ii) make it mandatory that all municipalities enact a Property Standards By-Law which includes Province-established minimum standards for the maintenance, retrofit, operation, occupancy and repair of existing buildings.
- 3) Mandate owners to undertake periodic inspections by qualified persons and prescribe the required report/format to be used. Include the requirement that owners provide all relevant information, documents and previous reports to the qualified person conducting the inspection.
- 4) Require owners to produce these mandated periodic inspection reports to a Chief Building Official or the authority having jurisdiction upon their request. Such reports should also be provided to any successors in title.
- 5) See Recommendation No. 1 above.

The OBOA looks forward to participating in the upcoming Roundtable discussions to elaborate upon this submission and comment upon the responses of the other participants.

Further material may be prepared and presented as is deemed necessary.

Respectfully Submitted this 1<sup>st</sup> of November, 2013

Ontario Building Officials Association