



ONTARIO BUILDING OFFICIALS ASSOCIATION

pro bono publico “for the public good”

ELLIOT LAKE INQUIRY

PART 1 – PHASE 2

ONTARIO BUILDING OFFICIALS ASSOCIATION

BRIEFING NOTE

“MANDATORY CERTIFICATION”

ROUNDTABLE NO. 1 - PUBLIC SAFETY

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OBOA BRIEFING NOTE

ELLIOT LAKE INQUIRY – ROUNDTABLE NO. 1

“MANDATORY CERTIFICATION”

REQUESTED OUTCOME:

That the *Building Code Act, 1992*, S.O. 1992, c. 23, as amended, and the Building Code be further amended to require that, in order to practise in Ontario, all building officials must:

- (i) obtain and maintain a mandatory certification; and
- (ii) possess and meet minimum educational, training and work experience criteria in order to obtain one’s certification. In addition, maintenance of such certification would be required and achieved by satisfying appropriate on-going professional development and knowledge maintenance criteria.

RATIONALE:

The purpose of the *Building Code Act, 1992* is directed towards public safety by ensuring buildings adhere to approved standards and guidelines.

- *Gordon v. North Grenville (Municipality)*, [2011] O.J. No. 1632 (Div. Ct.)
- *Essex Condo Corp No. 43 v. LaSalle (Town)*, [2009] O.J. No. 5745 (S.C.J.)
- *Gratton-Masuy Environmental Technologies v. BMEC*, [2002] O.J. No. 4252 (Div.Ct.)
- *Ingles v. Tutkaluk Construction Ltd.*, [2000] S.C.J. No. 13 (S.C.C.)

We live, work, shop and play in buildings. We teach, pray, adjudicate and tend to the sick and vulnerable in buildings. Ensuring that buildings are properly designed, built and inspected is fundamental to addressing the public safety purpose of the Act and Code. Ensuring that buildings are properly maintained, once constructed, is equally important.

Those charged with applying the Ontario Building Code, examining and approving building plans, and inspecting the construction of buildings, ought to possess and meet minimum educational, training and work experience criteria in order to better ensure that the goal of public safety is achieved.

BACKGROUND:

The role of Building Officials has been an evolving one over the last 60 years, spanning the development of National Building Codes, the implementation of the Ontario Building Code, the establishment of Mandatory Qualifications for Building Officials and the development of Provincially-approved Internship programs.

Mirroring this progression is the establishment of the OBOA in 1956, the passing of legislation in 1992 recognizing the CBCO and BCQ certifications for Building Officials by the OBOA, provincial recognition of



OBOA as an educational provider in Ontario and the provincial approval granted to the OBOA-OBC Internship program in 2006.

Dating back to 2002, OBOA has discussed proposals with the Ontario Government regarding the potential for mandatory certification/professional regulation of Building Officials.

It is recognized that additional professional requirements for Building Officials, in conjunction with the provincial qualification requirements introduced in the 2006 OBC (which OBOA embraced) are a source of concern with regard to administrative oversight and cost to municipalities. Yet, the evolution of Building Code content and complexity as well as the base competency required of Building Officials to interpret and apply this expanding body of knowledge must also be recognized. It is critical that this recognition be province wide, in all jurisdictions, not just those with the resources and/or expertise to do so.

Recently, Ontario has either pro-actively implemented or is working toward the implementation of various forms of professional certification/regulation for practitioners such as construction trades and private home inspectors. What is ironic about this is that further to tradespersons (Ontario College of Trades), and Private Home Inspectors (public consultation in progress), condominium property managers are now the third group of practitioners in Ontario who have either achieved or have the government seriously considering some form of mandatory practice regulation.

Why are those professionals responsible for reviewing plans and inspecting buildings to ensure public safety (i.e. Municipal Building Officials) not the subject of similar consideration? Further, it still seems to be held that it is acceptable to only require the passing of 3 hour, multiple choice exam, without any requirements for mandatory experience/internship and/or education, to ensure a building official is competent.

If there was a definition of “competent” that could be best applied to Building Officials, it would be based on their fellow municipal safety enforcement staff: drinking water system operators. The Walkerton Inquiry Part Two Report, chapter 12, focused on the competence of municipal operators, indicating that “mandatory certification” needed to be enhanced by ongoing, high-quality technical training. Specifically, Section 12.2 of the report states “*The Ministry of Environment should continue to require the mandatory certification of persons who perform operational work in water treatment and distribution facilities. Education, examination and experience are essential components of ensuring competence.*”

All the compelling reasons for moving forward with these initiatives for other practitioners are just as applicable, if not more applicable, to Building Officials. It has been interesting to observe that the Provincial Government deems it appropriate to raise the bar for those involved in the "hands-on" construction of buildings, the property management of "completed" condo buildings, and the inspection of "completed/existing" homes, while the professionals who ensure public safety and compliance of design and construction of these buildings through plans review and inspection procedures are left to advocate for change on their own.

In fact, current MMAH modernization efforts thus far appear to simply propose increased fees and add additional annual fees, outsource training activities relied upon by practitioners (with little or no information on delivery schedules), and yet certainly do nothing to enhance the professionalism and support of Ontario's Building Officials. MMAH qualification requirements are still based on an examination program only, and have no regard for mandatory education and experience, unlike other 'public safety' practitioners.

The OBOA Self-Management was submitted to the Government of Ontario in 2009. While the model was not adopted, several of the principal positions in that report are continuing as issues today and solutions to



concerns raised by this inquiry are, we believe, present in those pages. The two-part report in question, dated July 14, 2009 was put before the ELI by the OBOA in response to a summons from the ELI to produce all relevant information in its possession. OBOA responded on February 5 by supplying a detailed cover letter and certain documentation, including the two-part 2009 self-management report.

OBOA has for some time advocated for full professional regulation of Building Officials, and still does. The objectives of enhanced public safety and more consistent OBC interpretation/application through measured competency, mandatory experience and continuing education have always been the mainstay of OBOA's policy platforms. Please refer to Part Two of the OBOA Self-Management Proposal, section 3.2 (pg 13), "The Case for Self-Management", for a description of these objectives.

LEGISLATIVE EXAMPLES:

Nova Scotia:

**Nova Scotia Building Code Regulations
made under Section 4 of the
Building Code Act
R.S.N.S. 1989, c. 46
N.S. Reg. 322/2009 (November 19, 2009, effective December 31, 2009)
as amended up to N.S. Reg. 184/2012 (October 2, 2012, effective November 1, 2012)**

2.4 Obligation of Authority having Jurisdiction

2.4.1. Qualifications of *Building Officials*

2.4.1.1. Appointment

A person appointed or eligible to be appointed by a municipality as a *building official* shall

- (1) hold a valid diploma from the Nova Scotia Building Code Training and Certification Board, and
- (2) be a member in good standing of the Nova Scotia Building Officials Association.

2.4.1.2. Administration and Enforcement of the Building Code Act and Regulation

- (1) *Building Officials* are required to administer and enforce the provisions of the *Building Code Act* and Regulation.
- (2) *Building Officials* may only administer and enforce the provisions of the *Building Code Act* and Regulation within the scope for which they hold a valid diploma from the Nova Scotia Building Code Training and Certification Board.

New Brunswick:

BILL 15 [which received Royal Assent June 10, 2011]

An Act to Amend An Act Respecting Building Officials and the New Brunswick Building Officials Association



WHEREAS the New Brunswick Building Officials Association prays that it be enacted as hereinafter set forth;

THEREFORE, Her Majesty, by and with the advice and consent of the Legislative Assembly of New Brunswick, enacts as follows:

1 Subsection 2(1) of An Act Respecting Building Officials and the New Brunswick Building Officials Association, chapter 56 of the Acts of New Brunswick, 2002, is amended

(a) by repealing the definition “CBCO”;

(b) by adding the following definition in alphabetical order:

“NBCBO” means New Brunswick Certified Building Official, as identified in the bylaws of the New Brunswick Building Officials Association;

2 Subsection 2(2) of the Act is repealed and the following is substituted:

2(2) The words “Building Official”, “New Brunswick Certified Building Official”, “Building Code Qualified Official” and the initials “NBCBO” or “BCQO” used alone or in any other combination with other words or expressions when used in any provision of an Act of the Legislature or any regulation, rule, order or bylaws made under an Act of the Legislature enacted or made before, at or after the commencement of the Act or when used in any public document, shall be read as including a person whose name is entered in the register.

3 Section 11 of the Act is repealed and the following is substituted:

11 Any person whose name is entered in the register, subject to any conditions, limitations or restrictions set out in the bylaws shall be entitled to engage in the occupation of building inspection in the province, to hold themselves out as a Building Official registered under this Act and to use the designations “NBCBO” or “BCQO” indicating that the person is a Member entered on the register of the Association.

4 Section 18 of the Act is repealed and the following is substituted:

18 Except as provided in the Act or the bylaws, no person other than a person whose name is entered in the register shall

(a) publicly or privately, whether or not for hire, gain or hope of reward, hold himself or herself out in any way as being a Building Official, or

(b) assume or use any title, name, designation, initials or description, including “Building Official”, “New Brunswick Certified Building Official”, “Building Code Qualified Official”, “NBCBO” or “BCQO”, and those referred to in this Act, that does or could lead the public to believe that person is a Building Official.

Note: Bill 15 removed the conflict in the use of the “CBCO” certification. Section 18 above, which requires mandatory certification to practise as a building official in New Brunswick, has been the law since June 7, 2002.



Alberta:

Safety Codes Act

<http://www.qp.alberta.ca/documents/acts/s01.pdf>

Designation

31(1) On receipt of an application, an Administrator may designate a person who holds an appropriate certificate of competency and meets the requirements of the regulations as a safety codes officer with respect to all or part of this Act and may designate the powers that a safety codes officer may exercise.

The Safety Codes Council has been delegated responsibility for establishing certificates of competency and qualifications for those certificates by way of the Safety Codes Act and Ministerial Order. These certification requirements themselves are established in Safety Codes Council policy, which is found at:

<http://www.safetycodes.ab.ca/Council/Pages/PolicyManual.aspx>.

The Building SCO certification policy as well as the certification checklists for each level of certification can be respectively accessed at:

http://www.safetycodes.ab.ca/Council/Documents/4_30%20Certification%20Levels%20Building.pdf

and <http://www.safetycodes.ab.ca/SCO/Certification/Pages/default.aspx>. The checklists identify, in somewhat more straight forward and current terms, the training courses that an applicant must meet to obtain certification.

The Council requires an applicant to meet entry qualifications (education and experience) plus complete the Council training program in order to obtain certification. Each training course provided by the Council includes an examination component, and the pass mark is 80%.

Alberta currently has 2 primary certification “Groups” for building safety codes officers and three progressive levels of certification within each of those groups (“progressive” meaning that an individual must start at level 1 and work their way up to level 3 – an individual cannot jump right in at level 3 regardless of the education and experience that they bring to the table). Group B is specifically for HVAC while Group A covers most other content of the Code. Alberta also has separate “specialty” certifications for Medical Gas Piping Systems, Relocatable Industrial Accommodation, and Exterior Acoustic Insulation.

The Council is currently working on a revised certification policy for building safety codes officers. The new Group A certifications will be more consistent with the ACBOA model than is currently the case as it is intended that the province will be establishing Residential, Part 9, and Part 3 certification levels. While maintaining the Group B HVAC certifications, there will now only be two levels of certification (HVAC Residential and HVAC All) instead of the current three. It is anticipated that these changes will be adopted when the next edition of the Alberta Building Code is adopted.

The Safety Codes Council has sub-councils for each of the nine technical disciplines governed by the Safety Codes Act. Each sub-council is comprised of experts in their respective discipline and come from various segments of industry (municipalities, manufacturers, developers/builders, labour and training organizations, etc). The sub-councils must approve the certification requirements (entry qualifications, Council training courses, etc) for safety codes officers within their respective disciplines. Certification is mandatory to practice as a safety codes officer.



Another site of interest, <http://www.aboa.ab.ca/>

British Columbia:

The following is a link to the BC government white paper on Building Official certification.
http://www.housing.gov.bc.ca/mod/WhitePaper_Certification.pdf

Australia:

The accreditation of Australian Building Surveyors is for both Private and Government Inspectors.
http://www.aibs.com.au/index.php?option=com_content&view=article&id=54&Itemid=308

New Jersey:

The designation is Certified Building Official. System is courses, exams and experience. Main training/education available through Rutgers University. System is paid for by a building permit fee surcharge. Certification is free for the individual. There are three levels of certification – lowrise, highrise, complex buildings. Certifying body covers other disciplines besides building officials.
http://www.state.nj.us/dca/divisions/codes/forms/pdf_licensing/licens_info_bklet.pdf

General Requirements for Licensure

Generally speaking an applicant must possess a specified number of years of acceptable experience, and successfully complete an educational and testing program in order to qualify for a particular technical license.

See Also:

Licensing Guide for Operators of Wastewater Facilities:

http://www.ene.gov.on.ca/stdprodconsume/groups/lr/@ene/@resources/documents/resource/std01_086684.pdf

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