

DESIGN & REVIEW OF BUILDINGS

QUALIFIED, RESPONSIBLE, ACCOUNTABLE PRACTITIONERS

Submitted to Municipal Insurance Association of BC (MIABC)

By the

Applied Science Technologists and Technicians of BC (ASTTBC)
&
Building Designers Institute of BC (BDIBC)

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SUMMARY

‘Professional reliance’ in the design and review of buildings must be fully embraced to achieve the confidence of the public and regulatory bodies.

ALL building designers must be qualified and then fully recognized and regulated within an enhanced professional reliance system, providing municipalities and other regulatory bodies and the public access to those qualified to carry out building design in British Columbia.

All designers must be ‘BC Building Code competent. To demonstrate competency ALL professional associations must administer, ideally in cooperation with the Building Officials Association of BC (BOABC), a code-competency examination for all designers.

Building designers registered with ASTTBC as a Registered Building Designer (RBD) or Certified Residential Designer (CRD) must be fully recognized to carry out building designs. The RBD is certified by ASTTBC as being competent to perform and assume responsibility for the design <<AND REVIEW...?>> of all Part 9 buildings; the CRD for the design <<AND REVIEW>..?>> of single and two family residential buildings.

Field reviews/inspections must be completed for all building construction. Appropriately qualified practitioners must be involved, including ASTTBC-registered designers (RBD & CRD) and inspectors (Certified House Inspectors – CHI & Certified Property Inspectors – CPI). ‘Letters of Assurance’ must be introduced for all Part 9 building designs.

Errors and omissions insurance must be required for all building designers. Liability for all design and construction must be appropriately assigned. Municipalities should only attract liability if they play an active role in the design and construction process.

BACKGROUND

Municipal governments have historically played a number of roles in the design-build process, from land use planning, the review of building designs and issuing of a building permits to conducting building inspections. With increasing exposure to liability, especially as a consequence of 'joint and several' liability claims, municipal governments are, quite legitimately examining their role. This review comes at a time when the BC government is redefining its role, signaling that it will be placing a great deal more onus on professionals through enhanced 'professional reliance' to carry out and assume responsibility for professional services.

In recent years we have seen the construction industry change course too, in partnership with various stakeholders. The Home Owner Protection Office (HPO) was introduced to bring greater accountability to the work of contractors in BC. Mandatory registration resulted.

With building construction now much more technical and complex than construction of a few decades ago, it is not surprising that the standards of those doing work throughout the design-build process would be under much greater scrutiny. Consumers cannot be expected to be knowledgeable about the science, technology and construction of buildings, regardless of the size. Simply impossible. Consumers should not have to rely upon the old adage, 'buyer beware', as a backdrop to purchasing decisions. It is widely recognized that the industry needed some 'fine-tuning' in order to more effectively deliver a safe, affordable living environment for all British Columbians. This process is well under way, and includes the issue of the role of the designers, the focus of this brief.

The 'Vision Statement' for a safety system as suggested in the report, 'The Next Horizon: A New Vision for Delivering Safety in British Columbia' provides a solid foundation upon which to move forward: *"The safety system provides a safe environment that is available to all British Columbians. The system is based upon an integrated and working cooperation between public and private sectors, and is achieved through the establishment and use of clear roles, responsibilities and processes that extend services which are delivered with equity, efficiency and effectiveness."*

The industry is working diligently toward this Vision. New developments include:

- ? mandatory warranty program
- ? builder licensing
- ? commitment by provincial government for a uniform Building Code

These are critical foundations for a safe living environment for all British Columbians.

With these positive developments as the backdrop, we also see municipal governments 'under fire' because of their 'hands on' role in building plan review and inspections. This has caused great concern with municipal governments, whose primary role it seems is to provide a building environment and community that meets the 'test' of the foregoing 'Vision Statement'.

Architects and Professional Engineers are recognized and licensed professionals providing services in the design and review of buildings. There are many buildings that fall outside the restrictions in the statutes governing these professionals. In the public interest all buildings must be designed and reviewed/inspected by qualified, certified/registered professionals.

In addition to the Architect and Professional Engineer, there are other well-established and well-qualified practitioners, including ASTTBC-certified designers who must be recognized within the scope of their qualifications. ASTTBC and its members have a legitimate and important role to play in the construction of 'smaller' buildings – defined herein and in the MIABC briefing document as a PART 9 (BC Building Code) building. This expertise should be utilized to its full potential.

**Brief to MIABC
ASTTBC and BDIBC
May 31, 2002**

The recommendations presented in this brief will go a long way toward achieving the goal of a safe, affordable environment... *achieved through the establishment and use of clear roles, responsibilities and process...delivered with equity...*” ASTTBC looks forward to discussing with other stakeholders the proposals outlined in this paper.

RECOMMENDATIONS

A. PROFESSIONAL QUALIFICATIONS

1. All participants in the system must have the knowledge, skills and abilities to carry out their roles.
2. All designers must be ‘BC Building Code competent. To demonstrate competency ALL professional associations must administer, ideally in cooperation with the Building Officials Association of BC (BOABC), a code-competency examination for all designers.

COMMENT:

Because of a concern about code competency the Ontario government is introducing code competency exams. The professional associations have been given the option of administering the exams. Where associations choose not to administer the exam for their members, the exams will be administered by government.

B. ROLES & RESPONSIBILITIES - GENERAL

3. Roles, responsibilities, authorities and accountabilities must be indivisible. Roles and responsibilities assigned to participants must be clear, realistic, practical and equitable.
4. Roles, responsibilities, authorities and accountabilities for designers, and inspectors must be defined and regulated.

COMMENT : A key recommendation of the Safety Systems Review process was that the roles and responsibilities of all workers needs to be defined and assigned. The integrity of the system rests in large measure with the practitioners involved, from design and construction, to use.

C. ROLES & BRESPONSIBILITIES – DESIGN

5. The role of designers other than Professional Engineers and Architects must be defined and recognized within the bounds of their experience, knowledge, skills and abilities.
6. The ASTTBC – certified Registered Builder Designer (RBD) and Certified Residential Designer (CRD) must be recognized to practice within the scope of Part 9 of the BC Building Code.
7. The *Architects Act* must be amended to remove a number of exemptions which currently allow ‘any person’ to design buildings of a significant scope, size and public use. The *Architects Act* must provide a clear exemption for ASTTBC- certified designers to undertake that work for which they are qualified. This must include the design of buildings covered by Part 9 of the BC Building Code for the ASTTBC – certified RBD and up to two family residential for the CRD. The *Architects Act* must be amended to provide for a ‘limited license, similar to that available in professional engineering, for ASTTBC- registered designers to practice ‘architecture’ within a defined scope.

COMMENTS:

(a) At present under the Architects Act 'any person' can design buildings up to 470 sq m gross area. As well there are many buildings of various sizes that can be designed by 'any person', eg, up to an 11-bed community hospital. This does not effectively serve the public interest.

(b) With respect to those areas of practice which are exempted under the Architects Act and the BC Building Code, practitioners should be required by statute to be licensed to practice in those areas based on skill, knowledge, education and experience and should be governed by a code of conduct and ethical standards. The upper limit of these licensed practitioners should be based upon criteria that specify the use, occupancy and areas of building which their practice may include. Architectural firms would be able to practice within this limited realm by virtue of their registration without further license.

(c) The Association of Professional Engineers and Geoscientists of BC (APEGBC) and ASTTBC signed a joint statement in May 1999 on the design of Part 9 buildings. This statement says, "Subject to the requirements of the Architects Act and the Professional Engineers and Geoscientists Act, the minimum qualifications for "designers" who provide design and field review of buildings within the scope of Part 9 of the B.C. Building Code is registration by either APEGBC, AIBC or ASTTBC". (underlined for emphasis)

8. A program similar to the 'Certified Professional' (CP) program must be established for those doing Part 9 design. This to include ASTTBC – certified practitioners.

D. ROLES & RESPONSIBILITIES – BUILDING INSPECTIONS / REVIEWS

9. Code-compliance inspections for new construction, and for warranty applications, must be carried out by a qualified practitioner. ASTTBC – certified practitioners, including RBD, CRD, Certified House Inspectors (CHI) and Certified Property Inspectors (CPI) to be included.
10. 'Letters of Assurance' must be introduced for all Part 9 designs.

COMMENT:

ASTTBC is inviting ASTTBC-registered designers to engage in a field review process for Part 9 buildings, providing 'letters of assurance' as with current practice for Part 3 buildings. This Part 9 Design Review Accountability Works (DRAW) program will be voluntary for RBDs and CRDs and their clients. ASTTBC will invite the Building Policy Branch, Ministry of Community, Aboriginal and Women's Services and the Building Officials Association of BC to work as partners in this initiative.

E. ACCOUNTABILITIES

11. Practitioners providing design and inspection/review services must carry appropriate professional errors and omissions insurance.

COMMENTS:

(a) *ASTTBC-registered building designers have access to errors and omissions insurance through ENCON, the largest insurer of architects, engineers, technologists and technicians in Canada.*

(b) *The majority of the building designers registered with ASTTBC carry E&O insurance.*

12. Liability for all design and construction must be appropriately assigned. Municipalities should only attract liability if they play an active role in the design and construction process.

BACKGROUND ON ASTTBC AND BDIBC

ASTTBC is a self-governing association of technology professionals registered under the Applied Science Technologists and Technicians Act. Current registrations number some 9,000 technologists, technicians and 'technical specialists' of which the building designers are one.

Professional registration with ASTTBC is as an Applied Science Technologist (AScT) or Certified Technician (CTech), who may also acquire a special certification such as Registered Building Designer (RBD) or Certified Residential Designer (CRD). The RBD may practice within all of Part 9 of the BC Building Code while the CRD is to practice to two family dwellings.

BDIBC is an 'institute' within ASTTBC whose primary purpose is promoting excellence in building design. ASTTBC members who acquire their RBD or CRD become members of BDIBC. There are 80 registered building designers.

All professionals registered with ASTTBC are required to adhere to a Code of Ethics and are held accountable to the Code through legislated disciplinary processes.

Designers registered with ASTTBC have access to, and by policy are encouraged to carry, Errors & Omissions Insurance.

ASTTBC-registered designers are responsible for a significant amount of building construction in BC. In a 1998 survey of the design practice of ASTTBC-registered building designers, designers report that for 1997, their designs resulted in an average building construction of \$9,050,000. The maximum was \$45,450,000 and the minimum was \$400,000. Over the past 5 years (1997 – 1992) the average building construction was \$52,380,000. The maximum was \$228,000,000 and the minimum was \$900,000.

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