

The New Ontario Building Code Act: The Long and Don Short Of It...Redux

Introduction

Since the mid-1970's, the *Ontario Building Code Act*, and its regulation, the *Ontario Building Code*, have provided rules for property owners, municipalities and the building community to establish and improve building standards and processes, and ensure public health and safety.

With a view to speeding up approvals, improving technical knowledge of key practitioners, encouraging innovation and creating a more level playing field in construction-related liability, the previous Ontario Government undertook the most significant and comprehensive amendments of the Building Code, since it was first introduced almost 30 years ago.

In the beginning, the then Minister of Municipal Affairs and Housing, the Honourable Tony Clement established the Building Regulatory Reform Advisory Group ("BRRAG") to review and propose revisions to the Act. The committee included representatives such as builders, designers, engineers, consumers and building officials. After four months of examining the building regulatory process and consulting regional stakeholders, the committee issued a report to the Minister in July of 2000 entitled *Knowledge, Accountability and Streamlining: Cornerstones for a New Building Regulatory System in Ontario* (the "BRRAG Report").

In response to the recommendations of the BRRAG Report, the government introduced Bill 124, the *Building Code Statute Law Amendment Act, 2002*. On July 25, 2003, the Bill was proclaimed and Ontario Regulation 305/03 was eventually filed to implement the Province's building regulatory reforms.

Over the course of this speech, I will highlight major amendments to the *Building Code Act* and the responses of Building Code users to these changes. More specifically, I will address the timing of the new Act; the implications of outsourcing enforcement to Registered Code Agencies ("RCA"); qualifications prescribed under the Act; codes of conduct and roles; insurance; liability; proposals to improve service levels; the Minister's new power to release binding interpretations of the Code; and the process for approving alternative materials and designs. *For those of you who may have heard me speak on this topic last year, I will also identify some of the key changes to the legislation that have occurred since that time and otherwise give you a "refresher" overview of the new statutory environment.*

Timing of the new Act

When I chaired the previous edition of this conference, the new Act had been proclaimed and Ontario regulation 305/03 had been filed to implement the Province's building regulatory reforms. Since that time there have been two further regulations filed, ON Regulation 23/04 dealing with plumbing fixtures and hot water temperatures, and ON Regulation 245/04 which removes a number of regulatory provisions, originally set to take effect on July 1, 2005. These removed provisions would have allowed builders to appoint their own RCAs. Bill 124 and the supporting

regulations will take effect in two steps. On September 1, 2003, certain provisions came into force, including:

- Provisions allowing building officials and other building practitioners to take examinations related to Building Code knowledge;
- Provisions that govern the qualifications of on-site sewage inspectors and installers who are already required under the *Building Code Act, 1992*, to have qualifications (in order to allow for a smooth transition); and,
- Provisions which provide for certain “housekeeping” changes, including: changing the name of the Housing Development and Buildings Branch to the Building and Development Branch; changing name of the Housing Development and Building Branch to the Building and Development Branch; and changing name of the court from the Ontario Court (General Division) to the Superior Court of Justice; as well as slight modifications to the powers and duties of property standards committees.

Most provisions of Bill 124 will take effect on **July 1, 2005**, including:

- Qualifications for building officials which become mandatory on this date;
- Mandatory registration for certain classes of designers and private building inspectors, known as Registered Code Agencies (RCA’s), including mandatory qualifications and professional indemnity insurance;
- Authority to allow municipalities to appoint RCA’s;
- New rules governing building permit fees to enhance transparency;

- The use of a common building permit application form;
- Time frames within which decisions must be made on issuing a building permit;
- Stages of construction when a building must be inspected; and
- An expedited route to the Ontario Municipal Board in the case of site plan disputes.

The two-year implementation period is intended to give sufficient time for a smooth transition to the new system. The Ministry of Municipal Affairs contends that the implementation period will give municipal plan examiners and inspectors, designers, and RCA's, time to comply with qualification requirements and complete any courses they may wish to take. The transition period is also intended to allow designers and RCA's to become registered and insured, as well as providing municipalities time to adapt to the new regulatory regime.

Qualifications

The new Building Code Act establishes qualification requirements for building practitioners. The Province contends that such provisions are necessary to ensure public safety. Sections 15.11 and 15.12 of the amended Act require Chief Building Officials, inspectors, RCAs, designers, and on-site sewage system installers and servicers to meet qualifications set out in the Building Code.

Section 34 of the new Act governs the qualification requirements. It provides for: (1) the prescription of different qualifications for different classes of practitioners; (2) assessments and examinations required to obtain those qualifications;

(3) the establishment of registers identifying qualified parties; and (4) the payment of fees in connection with the qualifications.

The BRAGG Report recommended that qualifications be based upon actual knowledge of the Act and the Code, and that the Act include a provision for grand-fathering during a transition period, based on reasonable previous experiential criteria or formal qualifications (ultimately, though, all practitioners should be required to demonstrate base competency with the Building Code).

Qualification Examinations and Supportive Training

In May of 2004 the Ministry released updated policies and procedures regarding the examination program. On-site sewage inspectors and installers who are not already qualified under the *Building Code Act, 1992* must complete a technical examination entitled “On-site Sewer Supervision 1997”. Building Officials, inspectors, RCAs, and designers must complete a legal/process examination based upon the amended *Building Code Act*, the amended *Building Code*, and the amended Supplementary Guidelines to the *Ontario Building Code, 1997*.¹ In addition to a legal/process examination, the program requires that some Building Officials, inspectors, RCAs, and designers (depending on their duties) successfully complete a technical examination that corresponds to their category of qualification.²

¹ Currently there are three different legal/process examinations: (a) “General Legal/Process – 2003”; (b) “Powers and Duties of CBO – 2003”; and (c) “Powers and Duties of RCA – 2003”.

² The technical classes are: House; Small Buildings; Plumbing-House; Plumbing-All Buildings; HVAC House; Building Services; On-Site Sewage; Large Buildings; Complex Buildings; Building Structural; and Fire Protection.

The examinations are multiple-choice, and an overall grade of at least 70% must be obtained in each examination in order to successfully complete the program. Each participant must also file his or her qualification information with the Ministry of Municipal Affairs and Housing. Moreover, the Code will require practitioners to maintain their qualifications over time under a regular review cycle.

The content of the exams was developed based on three criteria: (1) difficulty; (2) the importance of achieving Code objectives; and (3) the frequency of application. Participants in the examination will be tested on their ability to search the code, to comprehend the structure and intent of the Code, and their ability to apply the Code to a scenario.

The examination program recognizes successful completion of certain Ministry of Municipal Affairs and Housing OBC training courses, which are defined as “Advanced Standing Alternatives”. Building Officials, inspectors, RCAs, and designers that successfully complete these Advanced Standing Alternatives will not be required to write the corresponding technical examinations. A complete description of Advanced Standing Alternatives is available from the Ministry on the OBC website (www.obc.mah.gov.on.ca).

Both the legal/process exams, as well as the technical exams are now available across the province. The Ministry has developed two types of courses to prepare practitioners for the issues and topics addressed in the exams: detailed technical courses, and overview/refresher courses. Courses are available through authorized delivery agencies, as well as industry partners. The Ministry has also developed self-guiding

courses for individuals residing in remote locations or who prefer to work from their home.

Finally, the Ministry has created QUARTS (Qualification and Registration Tracking System), a web-based system that allows building practitioners to apply online for their examinations and to file their qualification information with the Ministry online. It also allows the public to access a registry of building practitioners and organizations (firms and municipalities) in order to verify their qualification information.

These assessments should allay concerns expressed by municipalities following the passage of Bill 124 that the Act did not adequately ensure knowledge of the Code by those parties who are closest to the building process and who most need to know when a building is unsafe.

Plumbing Fixtures and Hot Water Temperature

The Building Code was recently amended to permit plumbing fixtures with a smoke developed classification of over 300 provided that certain conditions are fulfilled. These provisions came into effect on February 20, 2004.

The Code has also been amended to specify that the maximum hot water temperature supplied to plumbing fixtures in residential occupancies, with the exception of dishwashers and clothes washers, shall not exceed 49 degrees Celsius. These provisions came into effect on September 1st, 2004, however, they do not apply to projects where: (a) a building permit was issued prior to September 1st, 2004; or (b) the working drawings, plans and specifications were substantially complete prior to September 1st, 2004 and a building permit application is submitted before December 1st,

2004. The provisions will only affect existing buildings if a domestic water heater is replaced, or an existing plumbing system is extended or materially altered.

Outsourcing Enforcement to a Registered Code Agency (RCA)

Currently, the provisions of the *Building Code Act* and Building Code are enforced by the Crown, municipalities, counties, boards of health, planning boards and conservation authorities. Under the new Act, these parties are referred to as “principal authorities”. Each principal authority has a chief building official (CBO) and inspectors who have powers and duties under the Act and Code.

Under the new Act, principal authorities may outsource Building Code enforcement to RCAs. Section 4.1 authorizes a principal authority to appoint an RCA to perform specified functions in connection with the construction of one or more buildings. This provision allows principal authorities to contract with qualified third parties to deliver certain services where these authorities do not have the necessary resources.

Functions, Powers and Duties of RCAs

The functions, powers and duties of RCAs are outlined in sections 15.14 to 15.22 of the Act. Section 15.15 provides that an RCA may be appointed to perform the following functions:

1. Review designs and other materials to determine whether the proposed construction of a building complies with the building code;
2. Issue plans review certificates;
3. Issue change certificates;

4. Inspect the construction of a building for which a permit has been issued under this Act;
5. Issue final certificates; and
6. Perform additional functions as authorized under the Act or Building Code.

However, RCAs are not responsible for permit issuance and undertaking prosecutions. These functions remain with municipalities. Once appointed, an RCA cannot be terminated except in accordance with the Building Code.

Enforcement by Applicant-Appointed RCA

Initially, section 4.2 of the new Act would have allowed certain classes of applicants for permits under section 8 of the Act to appoint an RCA themselves. This provision would have allowed builders, for example, to retain their own Code agents.

Enforcement by RCA's: Criticisms

While the use of RCAs has faced some opposition from privatization critics, the bulk of the criticism was levelled at the original language of section 4.2, which would have authorized permit applicants to appoint their own RCA.

The ability of builders and others to retain their own code agents would have created a number of safety concerns. First, critics charged that the provision would have encouraged "RCA shopping," and consequently, safety might have been compromised as builders and others attempted to find the most complacent RCA. In addition, critics of the Code also asserted that the absence of municipal contact and control might have impaired the prosecution of Code violations. Finally, opponents

noted that the proposed regime gave rise to a potential conflict of interest in that RCAs would face competitive pressure to be client-directed while at the same time remaining responsible for enforcing the Code.

On August 24th, 2004, O. Reg. 245/04 was filed, amending Part 2 of the Building Code. The amendment repeals the provisions that would have allowed builders to appoint their own inspection agencies. According to the Ministry, the amendment is “intended to protect public safety by removing the potential for conflict of interest in building plan review and construction inspections.”³ The amendment comes into force July 1st, 2005. The amendment does not affect the ability of municipalities to appoint RCAs.

Enforcement by RCAs: Conflicts of Interest

Despite these changes, the Province recognizes the continued potential for conflicts of interest to arise in the appointment of RCA's. To address this potential problem, the Act was amended to include conflict of interest provisions, which specify that an RCA shall not accept an appointment if it would create a conflict of interest as determined in accordance with the Code.

With the filing of Ontario Regulation 305/03, the Code is no longer silent. An RCA or an officer, director, partner or employee of the RCA or any person engaged by the RCA to perform functions for it, is in a conflict of interest if it:

³ *Code Change: Preventing Builder-Appointed RCAs*, Ministry of Municipal Affairs and Housing, online: <http://www.obc.mah.gov.on.ca/userfiles/HTML/nts_4_21639_1.html>.

- has participated or participates, in any capacity, in *design activities* or *construction* relating to any part of the *building*,
- is or has been employed within the previous 180 days by a person who carried out *design activities* or *construction* relating to any part of the *building*,
- has a professional or financial interest in: (i) the *construction* of the *building*, (ii) the *building*, or (iii) the person responsible for the design of the *building*,
- is an elected official, officer or employee of a *principal authority*.

Involvement with a *building* as an RCA and entitlement to any fee paid for acting as a RCA in respect of a *building* is not considered to be a professional or financial interest in the *building*, and is therefore not a conflict of interest.

Accountability: Code of Conduct and Roles

In addition to promoting public safety through qualification requirements, the amended Act attempts to increase accountability through the imposition of Codes of Conduct and the clear definition of roles for different building practitioners.

(a) Code of Conduct

Under section 7.1 of the Act, each principal authority will be required to establish, enforce, and make public, a code of conduct for the chief building official and inspectors. The purpose of codes of conduct is to promote appropriate standards of behaviour and enforcement actions, prevent abuses of power, including unethical or illegal practices, and to promote appropriate standards of honesty and integrity. A code

of conduct must provide for its enforcement and include policies to be used when responding to allegations of a breach and disciplinary actions that may be taken in response to a breach.

The provision for codes of conduct has come under fire because the BRRAG Report never recommended this course of action. In addition, critics note that a code of conduct will apply only to CBOs and inspectors (including RCAs), and not to the entire building sector and provincial government officials.

(b) Roles of Various Building Practitioners

Section 1.1 of the new Act defines the roles of designers, builders, manufacturers, RCA's, chief building officials and inspectors, and every person who causes a building to be constructed.

Insurance

The new Building Code regime requires both RCA's and designers to maintain insurance coverage specified in the regulations. These insurance requirements should mean that Building Code authorities will be better protected in cases of joint and several liability.

In order to be "qualified" under the Act and Code, RCA's and designers must be covered by insurance. The regulations exempt certain designers from the requirement to obtain insurance. For example, those who design their own home, and those who provide design activities relating to the extension, material alteration or repair of certain structures, are both exempted.

The Building Code requires designers and RCA's to maintain prescribed levels of insurance coverage. RCA's must maintain coverage of at least \$1 million per claim and \$2 million in aggregate per year. Designers must maintain coverage of up to \$1 million per claim and \$2 million in aggregate per year depending on fees billed in the last 12 months. The Code also limits the deductible payable by the insured to the lesser of \$70,000 or 5% of the fees billed in the last 12 months. In addition, the Code provides for an extended reporting period of two years for the purposes of giving notice of a claim in relation to RCA's. This extended notice period does not apply to designers.

What is noticeably absent from the newly filed Building Code is any provision requiring builders to carry insurance. The BRRAG report had recommended it and the Bill 124 was drafted to allow its introduction through the regulations. The regulations accompanying Bill 124 do not require insurance for builders in the institutional, commercial and industrial (ICI) sector. To address issues related to building contractor accountability, the Ministry indicated that an advisory committee of stakeholders would be formed with a mandate to develop options for improved accountability for builders. At this time, no such committee has been formed.

Homebuilders will be covered by warranty insurance provided by the *Ontario New Housing Warranties Plan Act* – the insurance provisions under the new Building Code are not, therefore, required to maintain additional insurance.

The issue of whether builders, generally, will be required to maintain insurance remains live.

The Association of Municipalities of Ontario (AMO) have expressed concern that the Code does not implement an insurance scheme adequate to ensure that all builders will be held accountable for their work.

Liability: The BRRAG Report Recommendations

The BRRAG Report recommended that an ultimate limitation period of 10 years be introduced for claims for damages other than bodily injury resulting from construction defects (economic loss). This 10-year period would also apply to existing buildings from the date of enactment. The Report recommended that the limitation period begin to run upon the issuance of an occupancy permit.

Bill 124 did not introduce this 10-year limitation period recommended by BRRAG. *Initially, this was because the Province had begun implementing the BRRAG Report recommendations concurrently with its introduction of Bill 10, the Limitations Act 2002. Some of the provisions in Bill 124 would have conflicted with those in Bill 10, and Bill 124 was therefore revised accordingly.* Ultimately, Bill 10 died in the Fall session of 2002, however, the limitations provisions were reintroduced through Bill 213, an omnibus legislation that primarily governs contingency fees.

Highlights of Bill 213, the Justice Statue Law Amendment Act

Bill 213 received Royal Assent on December 9, 2002, and the portion relating to Building Code liability was proclaimed and came into force January 1, 2004. Bill 213 sets an ultimate limitation period of 15 years (in contrast to the 10-years recommended by the BRRAG Report). While the BRRAG Report recommended an

ultimate limitation period for economic loss alone, Bill 213's limitation period applies to both economic and personal injuries.

Liability: Immunity re RCA's

The new Building Code Act provides principal authorities with immunity for the acts of RCA's. Sections 31 (3) and (4) provide that the Crown, a municipality, an upper-tier municipality, a board of health, a planning board or a conservation authority is not liable for any harm or damage:

1. Resulting from any act or omission by an RCA or an RCA-authorized person in the performance or intended performance of any section 15.15 function; or
2. Resulting from any act or omission in the execution or intended execution of any power or duty under the Act or regulations by their respective chief building official or inspectors if the act was done or omitted in reasonable reliance on a certificate issued or other information given by an RCA or an RCA-authorized person.

Thus, the amended immunity provisions attempt to shield the principal authorities from liability for the negligent acts of RCA's, RCA-authorized persons, and CBOs and inspectors relying on information given by an RCA or an RCA-authorized person. By contrast, under the current Act principal authorities are liable for torts committed by their CBOs and inspectors.

Assessment and Criticisms

Not only is the Province privatizing Building Code enforcement, but these provisions appear to be an attempt to privatize liability. Moreover, the immunity provisions may conflict with current case law. In *Kamloops (City) v. Nielsen* [1984] 2 S.C.R. 2, which draws heavily on the reasoning of the House of Lord's in *Anns v. Merton London Borough* [1978] A.C. 728, the Supreme Court of Canada found the City of Kamloops liable for the negligence of one of its building inspectors. The amended Act takes away this right to sue.

In addition, there is a lack of clearly defined liability where an RCA is terminated or goes out of business; Bill 124 does not expressly deal with joint and several liability. Under section 15.20 of the amended Act, if an RCA appointed under section 4.2 is terminated, the person who made the appointment becomes responsible to ensure that the remaining agency functions are performed by another RCA or by a consenting principal authority, or that construction is halted. On the other hand, if an RCA appointed by a principal authority is terminated, the principal authority is responsible to ensure that the principal authority or another RCA performs the remaining agency functions. Even with immunity from liability for work conducted by RCAs, public authorities fear that joint and several liability may require them to assist in paying large settlements even if only minor issues are related to work performed by them.

Fees

Users have long complained that under the current *Building Code Act* municipalities have used fees for applications and the issuance for permits to generate

income for municipal activities other than those pertaining to the Code. However, in a 1993 decision, the Supreme Court of Canada held that the Constitution restricts provinces and municipalities that regulate through licenses to using fees only to defray the actual costs of regulation.⁴ Section 7 of the Act brings the *Building Code Act* in line with the constitutional limits articulated by the Supreme Court by requiring that the fees that principal authorities charge on applications for and the issuance of permits must reflect the “cost of service delivery.” In addition, reduced fees must be payable for the construction of a building for which an RCA is appointed under section 4.2. Principal authorities will be required to report annually on permit fees and Code enforcement costs, and will also be required to hold a public meeting before changing their fees under the Act.

While these amendments are obviously good news for those paying the fees, municipalities have voiced a number of concerns. First, they warn that a reduction in fees may give rise to property tax increases. Secondly, municipalities argue that they ought to be permitted to factor (1) the need for a reserve fund (since building department costs and permit fee revenues fluctuate over time), and (2) municipal responsibility for ensuring safe buildings after the completion of building projects, into the cost of service delivery. *The Ministry had responded to these concerns by proposing to allow municipalities to build reserve funds and the cost of administration, prosecution and enforcement of the Code into the price of permit applications.*⁵ These provisions are now contained in the newly enacted Building Code.

⁴ *Allard Contractors v. Coquitlam (District)*, [1993] 4 S.C.R. 371, [1993] S.C.J. No. 126 (QL) at para 52.

⁵ *Ibid.*

Time Frames for Permit Decisions

For the first time, the new Building Code prescribes time frames within which decisions must be made on issuing building permits. After a building permit application containing prescribed information is received, the municipality must make a decision within a specified period of time ranging from 10 days for houses to 30 days for complex buildings. At the end of this time period, a permit must be issued or all reasons for denying the permit must be provided. Where a municipality fails to meet the prescribed time limit, an applicant may lodge a complaint with the Building Code Commission, which must hear the complaint within five days of notification.

Common Application for Building Permits

As anticipated, the new Code prescribes a standardized permit application for all municipalities across Ontario. This application will allow builders who operate in several municipalities to use the same forms. This should reduce paperwork and facilitate the use of the internet for submitting permit applications and related information. The submission of the completed application will start the clock running on the time frames outlined above.

Mandatory Inspections

Mandatory inspections at key stages of construction as specified in the Building Code must be completed within two working days of notification of readiness for inspection.

Reviewing Substantially Similar Plans

To allow for the faster approval of plans, the re-enacted section 6 provides that principal authorities may enter into reciprocal agreements providing for the review of substantially similar building plans. It is not yet clear just how similar is “substantially similar.” Ontario’s diverse communities often require that plans be altered slightly.

Under this arrangement the question arises as to who ought to bear liability in the event of negligence. Municipalities fear that litigation will become necessary to resolve the appropriate apportionment of liability. On the other hand, the reciprocal agreements between the municipalities may themselves resolve the matter by speaking to the issue of liability.

Municipalities suggest that those who wish to use similar plans in different areas should take larger share of liability since they are benefiting from the expedited review and are paying reduced fees as required by the new Act.

With respect to “franchise plans,” or plans that are to be used throughout the province, some have suggested that Minister “sign off” on such plans, and the Province would therefore assume some of the liability.

Binding Interpretation by the Minister

Under section 28.1 of the Act, the Minister of Municipal Affairs and Housing is given authority to issue written interpretations of the Building Code, which are binding on any person exercising a power or performing a duty under the Act and on any person subject to the Act. This power will allow the Minister to clarify technical

requirements and to achieve greater uniformity and predictability in how the Building Code is used and applied.

While this provision has generally been supported, municipalities have again expressed some concerns. The primary concern arises with respect to liability. The legislation does not make clear whether the Minister will assume liability for these decisions. Principal authorities have, predictably, opposed being subject to liability arising from decisions over which they have no control.

Finally, although the Minister's use of this power gives rise to issues surrounding training, public safety and liability, principal authorities were unable to secure agreement that they would be consulted prior to the implementation of Ministerial interpretations.

Alternative and Equivalent Building Designs and Materials

In an effort to encourage innovation, the Province introduced amendments pertaining to the use of new and innovative building designs and materials. For example, section 29 of the Act is amended to allow the Minister to approve the use of alternative materials, systems and building designs, which, in the opinion of the Minister, will achieve the level of performance required by the Code. This substantially broadens the conditions under which the Minister can issue a ruling approving the use of innovative items.

Under the earlier Ontario *Building Code Act*, a decision of the Building Code Commission was necessary before the Minister could authorize the use of an alternative material, system or building design. The amended Act removes the

requirement for a Commission decision, allowing the Minister to exercise his or her discretion prior to the origination of a dispute.

If the Minister finds that a municipality has approved an alternative material, system or design, he or she may issue a ruling authorizing its use throughout Ontario.

In addition, the new Act amends the provisions addressing the use of equivalent materials, allowing for faster administrative approval. Under section 9 of the earlier Act, only a CBO could authorize the use of proposed equivalent materials. Under the new section 9, RCAs are also permitted to approve the use of materials, systems and building designs that are not authorized in the Building Code.

The amendments in Bill 124 also restrict the discretion of authorizing parties (CBOs and RCAs) to place conditions on the use of equivalent materials. The conditions imposed on the use of the materials are subject to the conditions imposed in the Building Code. While not changing the criteria in the Building Code for assessing equivalency, the amendments in Bill 124 do alter the administrative process to achieve greater efficiency for Building Code users.

The provisions relating to the use of alternative and equivalent materials form part of a Code-wide shift to an *objective-based* Building Code, in which the Code would move from dictating construction processes to establishing objectives and encouraging the use of alternatives to achieve them. A focus on *objectives*, rather than detailed compliance requirements, should increase the opportunities for innovation and design flexibility.

Unfortunately, it is not clear from the amended Act how liability may be impacted through ministerial and municipal approval of alternative and equivalent items.

Amendments to the Planning Act

In addition to amending the *Building Code Act*, Bill 124 introduced amendments to section 41 of the *Planning Act*. The new subsection 41(4.3) of the Act allows property owners and municipalities to apply to the Ontario Municipal Board to resolve a dispute about whether a matter is subject to site plan control.

Enforcement of Requirements for Plumbing and Sewage Systems, Unsafe Conditions

Bill 124 consolidates current provisions of the Act. For instance, sections 6.1 and 6.2 provide the provisions relating to the enforcement of requirements for plumbing and sewage systems, while sections 15.9 and 15.10 provide the provisions relating to unsafe buildings.

What do the new Act and regulations leave out from the BRRAG Report?

As the new Act and Code have evolved, fewer of the recommendations issued by the BRRAG Report remain unincorporated into the new building regime. Recommendations made, but not implemented, include:

1. Minimum numbers and types of inspectors; and
2. Process standardization checklists for designers and builders, which set out elements required for Code compliance;

Conclusion

Bill 124 has introduced significant changes to the Building Code Act and Building Code. The amendments are designed to improve the accessibility of the process, to reduce costs to users, to more fairly allocate liability, and most importantly, to improve the level of safety and quality in construction. Whether or not these lofty objectives will be achieved remains to be seen. What is clear, however, is that Building Code users must familiarize themselves with the new provisions before the amended Act comes into force so that they are in position to succeed under the new regime.

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