



Ontario Association of Architects

Delivered via E-mail

December 20, 2017

Mr. Greg Zimmer, Manager
Building Code Policy Development Unit
Building and Development Branch
Ministry of Municipal Affairs
777 Bay Street, 16th Floor
Toronto, ON M5G 2E5

Re: Bill 177 / OBC Changes Consultation: Parking Structures

Dear Mr. Zimmer,

The Ontario Association of Architects (OAA) has worked with the Government to make important changes in the wake of the Algo Centre Mall tragedy from the outset. We appreciate having been involved throughout the process and being consulted over the current proposals around Building Condition Evaluations.

As an overarching comment, the OAA would like to commend the Government for implementing this program. We are pleased to see recognition of the expertise of both architects and engineers who the Ministry has proposed will perform these Building Condition Evaluations.

In doing so, it is important that architects and engineers are bound by standards of professionalism and practice as established by their own regulatory bodies i.e. the OAA and Professional Engineers Ontario (PEO) respectively, and that this be recognized within the regulations that will be drafted.

Through the course of discussions with staff at the Ministry of Municipal Affairs, the OAA and PEO jointly stressed that all Building Condition Evaluations should be addressed to the Chief Building Official and not only to the owner, similar to how general review reports are currently addressed.

In the same vein, all Evaluations should be sent to the Chief Building Official—not just reports flagging “an immediate danger to the health or safety of persons.” This is critical to protecting life safety; for instance, in cases where a particular risk is not yet an immediate danger on the day of the inspection but is anticipated to become so shortly thereafter if unaddressed, before the next inspection interval, etc.

To recall past submissions of the OAA, we continue to maintain that Building Condition Evaluations must not only focus on structural adequacy. This was a concerning oversight of the Elliot Lake Commission of Inquiry which subsequently shaped the narrow structural adequacy mandate of the Building Safety Technical Advisory Panel (BSTAP).

The tragedy of the Algo Centre Mall does not appear to have been predominantly caused by a structural failure, but rather a failure of the building envelope whereby the penetration of water subsequently led to a structural failure. Protecting buildings from such failures will require a holistic evaluation which, put simply, cannot exclude the building envelope. As we have previously cautioned, “developing legislation that does not take the full scope of Life Safety issues into account will not yield the result that the Report anticipates.”

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We would also like to stress that it would be appropriate for the Ministry to consult with the OAA and PEO where there is an intent to develop any prescribed forms related to the Building Conditions Evaluation program. As the professionals who will be performing these Evaluations, the standards of practice and professional requirements as noted above need to be considered in the context of any prescribed documents, or in the alternative the Ministry should be prepared to delegate the development of the prescribed forms to the OAA and PEO for their respective members.

Finally, we have appended direct responses to the questions posed in the "Potential Changes to Ontario's Building Code" document as compiled by an OAA Subcommittee on Building Codes and Regulations. We hope these comments will be of assistance to Ministry staff as they seek to develop the necessary regulations.

While we feel some further amendments would benefit the program, the OAA does again wish to recognize Government for beginning this process. We look forward to continuing this important work with you.

Sincerely,

A handwritten signature in black ink, appearing to read "John Stephenson". The signature is fluid and cursive, with a large initial "J" and "S".

John Stephenson, Architect, OAA, MRAIC
President

Cc: Thinesh Varatharajah, Senior Policy Advisor
Minister's Office, Ministry of Municipal Affairs

Attach: Comments OAA SCOBCAR re. Bill 177 / OBC Changes Consultation: Parking Structures



Potential Changes to Ontario's Building Code:

PARKING STRUCTURES

Fall 2017 Consultation

Comments from Ontario Association of Architects – Subcommittee on Building Codes and Regulations

1. Type 1 and Type 2 Buildings to be Subject to Building Condition Evaluation Program

Guiding Questions:

1a. Can you suggest other types of parking structures at higher risk for endangering public safety if not adequately maintained?

The protocol should apply to stand-alone parking structures; parking structures with another occupancy above; parking structures with another occupancy below; and parking structures which share a common structural wall. In addition, consideration should be given to swimming pools and arenas as there has been a history of failures in these types of buildings.

1b. Should the ministry consider prescribing a size threshold for the parking structures that would be subject to the proposed Building Condition Evaluation Program? If yes, what is the threshold that should be considered?

Safety is safety regardless of the size of the parking structure. The protocol should apply, except to houses, triplexes, and boarding or rooming houses, and where there are five or fewer parking spaces.

2. Maintenance Standards

Guiding Question:

2a. Do you agree with the above proposed maintenance standards as minimum safety requirements? If not, why? What would you change?

In part. The Committee thinks it too ambiguous to rely on reasonably anticipated loads. Who determines what's reasonable? The Committee recommends re-wording the sentence to read: 'It is capable of supporting the originally designed loads.'

The deterioration of many materials can impact the health and safety of occupants and the public long before they become structurally unstable. The Committee further recommends revising the wording to broaden the intent as follows:

“Moisture is prevented from causing deterioration, degradation or any other adverse impact on the integrity of the building's structural components, connectors or other elements essential to the structural integrity of the building, or that are necessary to maintain non-structural components, the failure of which could adversely impact *health or life* safety.”

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3. Conducting a Building Condition Evaluation on Prescribed Parking Structures

Guiding Question:

3a. What role, if any, should the government play in prescribing the details of how a Building Condition Evaluation should be conducted?

The government should prescribe the requirement for evaluation, the timing of the evaluation, the minimum content and organization of the evaluation reports, and what the Chief Building Official, or other authority having jurisdiction should do with the reports when they see it.

Details of how the building evaluation should be conducted should be left to the professionals conducting the evaluation, allowing them to respond to individual situations. The evaluation should be holistic and include building envelope issues that, if left unattended, may lead to structural instability or failure.

Further comment

The reference to “as established by the Professional Engineers of Ontario (PEO)” should be removed, and the sentence in the second paragraph “it is proposed that the professional undertaking a Building Condition Evaluation use this guideline” should also be removed.

4. Who can Conduct a Building Condition Evaluation on Prescribed Parking Structures

Guiding Question:

4a. Do you agree with the ministry's proposal to require that building condition evaluations be coordinated by licensed engineering practitioners or architects licensed to practice in Ontario, in accordance with their professional guidelines or protocols? If not, why not and what would you recommend as an alternative?

Yes, we agree.

5. Frequency of Building Condition Evaluations on Prescribed Parking Structures

Guiding Questions:

5a. Do you agree that requiring the initial building condition evaluation within three years of the proposed regulation taking effect is a reasonable amount of time for owners of existing buildings to have the proposed prescribed parking structures be correctly identified and evaluated? If not, what amount of time would you recommend, and why?

Yes, from a public safety perspective having all existing structured reviewed within three years of the regulation taking effect would be appropriate. Given however that there is no hard data on the number of structures the need to be assessed or the ages of the structures, we are not in a position to comment as to whether this is logistically reasonable. One approach may be to prioritize the structures to be reviewed in the three year time period based on their age.

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5b. Is a six-year evaluation cycle following the initial evaluation an appropriate amount of time to ensure that buildings maintain their structural sufficiency? If not, what amount of time would you recommend, and why?

For pre-1988 buildings, a six year cycle seems appropriate. For post-1988 buildings, an eight year cycle should be considered as they would have been built to the requirements of the CSA standard. For buildings built after the evaluation protocol is implemented, a 10 year cycle should be considered as it is expected that maintenance of such buildings will be improved.

Where the professional evaluating the building is concerned that the conditions observed may lead to serious deterioration before the next evaluation takes place, the professional should recommend in the report such shorter interval for the next evaluation as they deem appropriate.

6. Document Retention

Guiding Questions:

6a. Do you agree that requiring a building owner to retain copies of evaluation reports for the duration of their ownership of the building is reasonable? If not, why not?

Yes. The building owner should be required to provide copies of the evaluation reports to prospective purchasers of the property, and to potential lessees or tenants.

6b. Is it reasonable for these reports and related information or documentation to be kept on site? Please explain your rationale.

Yes, a copy should be kept on site as long as there is a management office on-site, and another copy should be accessible elsewhere.

The legislation should clarify what the responsibility of a professional or an authority having jurisdiction is, should they discover that there is no copy on-site.

6c. Should Chief Building Officials be notified when an evaluation report finds that the maintenance standard has been met?

Yes, and they should receive a copy of the full evaluation report as there may be pertinent observations in the report that, while not imminent on the day of the Evaluation, should still be assessed.

7. Prescribed Publicly Available Documents

Guiding Questions:

7a. Is the list of proposed documents that would be made publicly available appropriate?

Yes.

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7b. Are there other documents that should also be made publicly available upon request?

No.

8. Principal Authority's Duties and Powers Related to Complaints

Guiding Question:

8a. Do you agree with the proposed process for principal authorities dealing with complaints from the public with respect to buildings that are proposed to be subject to the Building Condition Evaluation Program? If not, why not?

Yes. In response to a complaint, for the purpose of assessing compliance with the Building Condition Evaluation Program, Chief Building Official or Inspector should have right of entry.

Further comments

It may be necessary to revise the Municipal Act in order to ensure that Chief Building Officials and other authorities having jurisdiction comply with the requirements herein.

It is important to recognize that through the course of a Building Condition Evaluation, many elements of the building enclosure and structural system will be concealed when the evaluation is conducted. A professional will issue an evaluation and any subsequent report in conformance with the standards of practice prescribed by the appropriate regulatory bodies. In instances where recommendations from a professional are declined (e.g. if the professional requested or recommended disassembly or destructive testing), the regulations should clearly spell out what happens as a result.