



Ontario Association of Architects

August 20, 2008

The Honourable Harinder Takhar
Minister, Small Business and Consumer Service
Suite 1306, Whitney Block
Queen's Park, 99 Wellesley St. W.
Toronto ON M7A 1W2

Dear Minister:

I am writing to you on behalf of the Ontario Association of Architects (OAA). As you may not be aware the OAA is the licensing body and professional association for Ontario's architects established under the *Architects Act* to regulate the practice of architecture "...in order that the public interest may be served and protected." The OAA has a membership that comprises 2,550 licensed architects and 1,500 intern architects. As part of its regulatory mandate, the association provides a wide range of services to its members and the public.

As Minister responsible for the *Condominium Act*, I would like to bring to your attention an ongoing issue relative to that legislation that is of considerable concern to the architectural profession in Ontario. Specifically, Ontario Regulation 48/01 under the *Condominium Act* requires under section 5 that all declarations for registration of a condominium must include a number of schedules, including 'G' which is to be completed by an architect.

Under subsection 5(8) "*Schedule G shall contain,*

- (a) *a certificate, in Form 2, of an architect certifying that all buildings on the property have been constructed in accordance with the regulations made under the Act, with respect to all or some matters listed in the paragraphs of the definition of "has been constructed" in subsection 6 (1);"*

When the Regulation was put into place along with the accompanying forms and schedules, Schedule G was designed for new condominiums and did not take into account conversions of previously constructed buildings.

Under Schedule G, a declaration from the architect is required such that they are to 'certify' that specific aspects of the building(s) have been constructed in accordance with the regulations under the *Condominium Act* and in general conformity with the construction documents.

As you can appreciate it is unreasonable to request an architect to certify critical aspects of construction that are not visually apparent or work that can not be assessed given that the structure is complete.

.../2

August 20, 2008
Honourable Harinder Takhar
Page 2 of 2

Architects being asked to sign this document as required under the legislation may be putting themselves at risk by assuming liability for work (potentially deficient) that they had not originally observed during construction or that has subsequently deteriorated.

Over the past number of years we have been contacted by an increasing number of our members requesting advice on this matter given that more and more existing buildings are being converted to condominium structures. We understand that this may also be an issue of concern to the engineering profession given that a signed declaration from a professional engineer may also be acceptable/requested.

For your information, we have advised members that the wording of Schedule G be amended to address this situation before signing, however in some cases clients and/or their legal counsel have not accepted amendments to an official Ministry form.

I would like to request that you give consideration to making a formal change to this Schedule of the *Condominium Act* in order to rectify this situation and so that the architectural profession can appropriately provide the necessary services that protect the public interest, without placing themselves in a situation of unreasonable transfer of risk.

We trust that should an opportunity arise in the near future to make amendment to the *Condominium Act* you will give consideration to our request. In the interim however, a statement from your Ministry that amendments to Schedule G that would address this particular situation are legally acceptable is requested.

Please not hesitate to contact me if you require any additional information.

Thank you.

Sincerely,

A handwritten signature in black ink that reads "S. O'Reilly". The signature is written in a cursive, slightly slanted style.

Sean O'Reilly, Architect
B.E.S., B.Arch., OAA, MRAIC
President

c. OAA Council