



Professional Opinion & Independent Opinion

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Regulatory Framework

OAA members¹ (members) are required to maintain high standards of objectivity, competence, confidentiality, and ethical behavior when providing independent opinions regarding the work of another member or practice. The [Architects Act \(the Act\)](#) and Ontario [Regulation 27](#) (the regulations) include the following:

From the Act:

“architectural services” means services that are part of or are related to the practice of architecture;

“practice of architecture” means,

- (a) the preparation or provision of a design to govern the construction, enlargement or alteration of a building,*
- (b) evaluating, advising on or reporting on the construction, enlargement or alteration of a building, or*
- (c) a general review of the construction, enlargement or alteration of a building.*

From the regulations:

42. *For the purpose of the Act, “professional misconduct” means,*

9. Failing to maintain the standards of practice of the profession.

15. Signing or issuing a false or misleading certificate, report, or other document.

16. Having a conflict of interest.

31. Misrepresenting the practice of architecture carried on by the member or holder, or the qualifications, experience, or capabilities of the member or holder or an officer, director, partner, or employee of the member or holder.

38. Doing or failing to do anything while engaged in the practice of architecture that shows a deliberate or reckless disregard for the rights and safety of others.

44. Disclosing confidential information received from a client or employer except as authorized by law or with the consent of the client or employer.

54. Conduct or an act relevant to the practice of architecture that, having regard to all of the circumstances, would reasonably be regarded by members of the Association as disgraceful, dishonourable, or unprofessional.

49. *The following are prescribed as standards of practice:*

1. No holder or officer, director, employee, or partner of a holder, shall solicit or accept any work in respect of a building project knowing or having reason to believe that another holder has been engaged on the same building project for the same purpose by the same client.

2. Paragraph 1 does not apply to prevent a holder from,

i. advising or reporting on any aspect of the practice of architecture if an independent opinion is being sought and the other holder has been so informed in writing by the client

Background and Considerations

OAA members must provide professional opinions that distinguish among facts, assumptions, and their opinions and conclusions. This commentary is directed at a relatively narrow band of formal professional opinions—not the day-to-day advice and judgments that members provide in various formats, whether written or verbal. However, members are reminded that as professionals, providing opinions (or statements that may be interpreted as opinions) in any forum carries risks.

This commentary relates specifically to:

- **Expert opinion/witness:** including expert reports provided for purposes of litigation (court cases), tribunals and other administrative decision-makers (e.g. professional conduct proceedings), inquests, and arbitrations; one of the hallmarks of such opinions is providing clear separation of facts, assumptions, and opinions.
- **Independent opinion and peer review:** specific requests for professional opinions under a professional engagement. Professional opinions are conclusions calling for independent, objective judgment and are founded on facts, assumptions and the training and experience members bring to a commission.
- **Sitting on boards, committees, or similar bodies** (e.g. advisory design panels, appeal and variance boards, interpretation committees): opinions in these settings attract the expectation of clarity among facts, assumptions, and opinions.

Members should ensure that professional opinions and the relevant facts and assumptions underlying opinions are identified when preparing reports. Reports should be prepared in a manner that is understandable by non-members.

When a member provides expert witness testimony or prepares an expert opinion, the following obligations apply:

- **Objectivity and impartiality:** members must be impartial, unbiased, and objective. Their duty is to the adjudicator. Their evidence must be truthful and objective and based on their professional expertise. Members must disclose any actual or perceived conflicts of interest. They should be transparent about any prior involvement with the case or project in question. If members believe there is a conflict or there could reasonably be a perceived conflict, they should decline to provide the opinion or withdraw from the engagement.
- **Competence and knowledge:** members must limit their opinions to those areas in which they have appropriate qualifications and experience. Under the regulations, they are required to perform their work with the competence and skill that can reasonably be expected of a member.
- **Thoroughness and accuracy:** Their opinions must be grounded in comprehensive knowledge, careful analysis, and adherence to professional standards.
- **Confidentiality:** Members must not disclose client information without permission, except when required by law.

When conducting peer reviews or preparing independent opinion of the work of another member/practice, the following obligations must be observed:

- **Impartial evaluation:** Peer reviews must be conducted fairly, impartially, and objectively. Members must be neutral in reviewing the work of another member/practice work to ensure compliance with professional standards and requirements, including, for example, the Ontario Building Code.
- **Confidentiality:** Members performing peer reviews must maintain confidentiality regarding the reviewed practice's work, designs, and business practices. This is essential to protect the intellectual property and proprietary information of the practice being reviewed.
- **Ethical conduct:** Peer reviews should be constructive and professional. Members must not unfairly criticize or disparage a colleague's work, but members must be honest and provide truthful opinions regarding the work of the member/practice.
- **Professional competence:** Members should not undertake peer reviews unless they have the necessary expertise in the specific area being reviewed. The regulations prohibit members from offering services in areas where they are not adequately qualified.

- **Detailed and accurate reporting:** Peer reviews must be based on detailed and thorough evaluations. Members should document their findings and conclusions clearly. Reviews (including any recommendations) must be consistent with members' professional obligations and applicable rules, standards, regulations, and legislation.

The OAA does not provide legal, insurance, or accounting advice. Readers should consult their own legal, insurance, or accounting advisors to obtain appropriate professional advice. OAA members are responsible for ensuring that they comply with all applicable laws, regulations, policies, and bylaws. Regulatory Notices do not comprehensively address all laws, regulations, policies, and bylaws that may apply in a particular scenario.

ⁱ **OAA member:** Every person issued a licence or limited licence by the Ontario Association of Architects is a member of the Association, subject to any term, condition, or limitation to which the licence is subject. R.S.O. 1990, c. A.26, s. 5 (1).