

General Review - Professional Standards for Building Code Related Matters

©2021, 2008 Ontario Association of Architects (OAA). OAA members in good standing may reproduce or distribute this Regulatory Notice provided this copyright notice is affixed to any reproduced or distributed copy. No rights are granted to any other person, except with express prior written consent from the OAA. The OAA reserves all other rights.

Summary

OAA Membersⁱ need to differentiate between general reviewⁱⁱ for Building Code (BC) and non-code matters, between general review and contract administration, and between the profession of architecture (professional standards of practice) and the business of architecture when contracting to provide general review services.

Background

There are essentially two broad categories of general review:

- matters governed by the BC where the Certificate of Practice (practice) is providing general review as required under the [Architects Act](#) and its [Regulation](#) and the BC; and
- contractual matters, which may include BC matters as well as non-BC matters including specific additional services.

The scope of services can be categorized as those that are a regulatory requirement and 'must be' performed, and those that are 'good practice.'

The 'must do' services are those that are required under the provisions in the BC as well as the Regulation under the *Architects Act*. The 'good practice' review services extend beyond the 'must do' and would properly be set out in a schedule of a scope of services in the client/member contract. These 'good practice' services typically include more than the general review of BC-related matters required by law, as well as specific non-code issues.

This Regulatory Notice is intended to provide advice to members and also to help clarify to clients, contractors, government officials, and the public the appropriate expectations with respect to general review services by a member for BC-related matters. Although it refers to the situation when a client engages a holder of a Certificate of Practice (holder), it also applies to those situations where a member is engaged in the practice of architecture as an employee of an organization that does not provide a service that is part of the practice of architecture to the public and therefore does not have a Certificate of Practice (i.e. a University Facilities or Capital Projects department). In those situations, the responsibilities of the member are the same in order to comply with the requirements of the BC and the Regulation under the *Act*.

The determination of the frequency, number, and extent of reviews necessary on a specific project is both the prerogative and the professional responsibility of the OAA member. Many claims have arisen from clients dictating the number of visits or alternatively the extent of fees for the general review services. Substantial settlements have resulted after best efforts were made in the defence of members who limited their general review visits. The Courts have made it clear that notwithstanding the limits on review stated in the contracts or the extent of fees for the service, that the expectation is for the professional to either transcend the external limitations and conduct a proper review, or, in the alternative, seriously consider withdrawing from the project as being in the best interests of all concerned.

As it is the responsibility of the member to exercise professional judgment to determine the extent of services required to meet the performance standards of the profession and the requirements of the client/member contract, there are situations where the scope of general review services may need to be revisited after construction has commenced due to circumstances unanticipated at the initial execution of the contract.

Performance standards for general review for matters governed by the BC on projects where the BC and the *Architects Act* require that a member perform general review services are prescribed in both the performance standards in the Regulation under the *Architects Act* and the BC. These standards apply irrespective of by whom the member has been

engaged (e.g. by the owner, owner's agent [such as a project manager], a design builder, another holder of a Certificate of Practice, or an engineer with a Certificate of Authorization).

If you are engaged to provide general review as prescribed in the *Architects Act* and Regulation and in the BC, you must, as a minimum, conduct your review in accordance with these performance standards.

There is a fundamental difference between the professional practice of architecture and the business of architecture. Whereas the business of architecture looks to a commensurate relationship between fees and services, the professional obligations do not. This has been borne out by judicial decisions that represent a professional service ought to have been provided irrespective of the fees for the service. The choice is to either provide the appropriate service to an acceptable standard of the profession or to not provide the service at all.

The typical essential elements of general review in regard to code-related matters are:

- site visits;
- reports;
- clarifications;
- changes;
- shop drawings; and
- coordination of or cooperation with consultants.

Procedure

Establish a reasonable extent of services and set out a definitive scope of services that you are obliged to provide under the BC and the *Architects Act*, as well as the fee commensurate.

Review the assumptions made in the establishment of the scope of services, and advise the client that if the scope of services will be required to change due to circumstances unforeseen at the time of execution of the contract with the client, the scope and fees must be revisited. The number, frequency, and extent of site visits can vary due to many factors such as the size and complexity of the project, varying weather conditions, quality of workmanship of the trades, performance of the general contractor or constructor and its personnel assigned to the project, experience of the client in construction matters, and the experience of the member's site representative.

The number and frequency of site visits required for proper general review is your decision and not that of your client. You must exercise professional judgment in ascertaining when the work needs to be reviewed so you can state with reasonable assurance the construction is in general conformity with the documents that formed the basis for the issuance of the building permit. It is readily understood that it is unreasonable to expect that neither driving slowly by the site once a month nor assuming full-time residency are anticipated by the performance standard.

Review and bring to the attention of the chief building official all changes that may affect building code compliance, including shop drawings for code-related matters that are at variance with the documents forming the basis for issuance of the building permit. It is prudent to consider the potential impact of changes on building code matters and obtaining the chief building official's approval before finalizing change orders.

Some municipalities require shop drawings of building code-related matters to be submitted to them for their records. Ascertain whether this is the case in the jurisdiction of your project and advise the client that you will, as part of your service, send a copy of reviewed material to the municipality as required.

Your review of and comment on shop drawings and samples for purpose of code compliance is for general conformity with the design of the work. You may, in addition, have specific interest in other matters not related to code.

If you are responsible for the coordination of the other consultants (whether or not you engage them) your services will include coordination of their general review activities, including site reviews, reports, and review and comment on changes to the work as well as shop drawings and samples for their respective disciplines.

If you are not engaged to provide coordination of other consultants, you are required by the Regulation under the *Architects Act* and BC to cooperate with the consultant providing the coordination services for the project.

Prepare and submit general review reports as required by the performance standards and the BC.

If your client,

- i) does not engage you to undertake the general review of the construction;
- ii) terminates your services during the general review of the construction; or
- iii) engages you to undertake general review that differs in any way from the responsibilities herein,

you should make the client aware in writing of the requirements of the BC, and also notify the chief building official in writing of your status in relation to the requirement for the general review of the construction to be undertaken by an OAA member.

In the final analysis, whether or not you have exercised appropriate professional judgment in providing general review will be determined by a panel of your peers in the case of complaints and discipline hearings, or by a judge or arbitrator in a matter of a claim against you.

ⁱ **OAA Member:** Every person licensed 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).

ⁱⁱ **General Review:** in relation to the construction, enlargement, or alteration of a building, means an examination of the building to determine whether the construction, enlargement, or alteration is in general conformity with the design governing the construction, enlargement, or alteration, and reporting thereon; (“examen de conformité”) from *Architects Act*

References

Architects Act, R.S.O. 1990, c. A. 26

Regulation 27, R.R.O. 1990, O. Reg 27

Canadian Handbook of Practice for Architects (CHOP)

The OAA does not provide legal, insurance, or accounting advice. Readers are advised to consult their own legal, accounting, or insurance representatives to obtain suitable professional advice in those regards.
