

Personal Supervision and Direction Related to Production of Construction Documents

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Summary

The act of affixing an OAA seal to a design that was prepared in its entirety under the personal supervision and direction of an OAA Memberⁱ or holder of a temporary licence has the same significance whether the preparation of the design was carried out within or outside of the holder's office.

Recent years have seen an exponential growth of third party drafting services. Some Certificate of Practice holders (holders) have been making use of these services.

This Regulatory Notice sets out the legal and professional requirements.

Background

The [Architects Act](#) and the [Regulation](#) thereunder govern who can engage in the practice of architecture.

For work considered the practice of architecture as defined in the *Architects Act*, a drafting services company, specification-writing company, or an individual who provides a plan, sketch, drawing, graphic representation, or specification to other than a holder of a Certificate of Practice (practice) may be in breach of Sections 11(1) and 11(2) of the *Architects Act*. A member or holder who aids or abets such an entity to provide the above services directly to the public may be in breach of the *Architects Act* and the Regulation thereunder.

However, Section 11(3)(d) does permit a company or individual to provide drafting services or specification-writing services directly to a holder of a Certificate of Practice. A holder who uses such services must ensure the services being provided are performed under the full personal supervision and direction of a member. This requirement relates not only to holders but also to members with an OAA seal who are engaging in the practice of architecture on behalf of their employers.

It is the OAA's strong recommendation that the preparation of a design should, whenever possible, be either by members and/or other staff or contract workers within the holder's office or offices to effect the best degree of personal supervision and direction. "Office" means one that complies with the standards of practice prescribed under the Regulation and is identified in accordance with the requirements for filing an application for a Certificate of Practice.

When the preparation of a design is carried out in a location other than the office of a holder, then a higher degree of personal supervision and direction by a member is required due to the problems related to immediate access and control. Also, there is a strong potential for additional liability to the holder in relation to conflicts between staff, their employer and the supervising and directing member, copyright, control of the issuance and use of documents, coordination of the design and related services, procedures for affixing an OAA seal and signature, disclosure of client's confidential information and permitting, counselling, assisting, aiding, abetting, or acquiescing in contraventions of applicable legislation, including the *Architects Act*.

Personal supervision and direction means the continual instruction, guidance, inspection, and examination of the design in progress at intervals appropriate to the stage of development that the member considers necessary to determine if the design meets the client's program of requirements and the requirements of the authorities having jurisdiction and reflects reasonable skill and judgment in its preparation.

Procedure

A member, while personally supervising and directing the preparation of a design, must be actively involved as a minimum in the following:

1. Reviewing and verifying the client's program of requirements or alternatively developing the program if retained to do so.
2. Developing and/or periodically instructing, guiding, inspecting, and examining the development of the schematic design, design development, and construction documents to determine whether the design meets the client's program of requirements and the requirements of the authorities having jurisdiction and reflects reasonable skill and judgment.
3. Meeting with and/or being in direct correspondence with the client to review progress and receive additional instructions.
4. Inspecting and examining all documents prior to issuance to the client, any authority having jurisdiction, or contractor involved in the construction or bidding and negotiation for a contract.
5. Maintaining proof of the required involvement in each project by way of minutes, memos, copies of marked-up documents, time sheets, etc., all of which should be sufficient to justify to the OAA that the full intent of the Regulation has been strictly complied with.

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).

References

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

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

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.
