



This submission relates to the proposal by
ON Ministry of Municipal Affairs and Housing (MMAH)
for remote inspections
by municipalities during construction of homes

Regulation Number(s): O. Reg. 332/12

Instrument Type: Regulation - LGIC

Bill or Act: Building Code Act, 1992

Oct. 21, 2021

Please submit questions/comments to: info@canadiansforproperlybuilthomes.com.

Founded in 2004, Canadians for Properly Built Homes (CPBH) is a national, independent, not for profit corporation dedicated to healthy, safe, durable, energy efficient residential housing for Canadians, and is the only organization of its kind in Canada. Working for consumer awareness and protection, CPBH is run by a volunteer Board of Directors and is supported by a volunteer Advisory Council of industry experts and other key stakeholders. CPBH earned "partner" status with the Canadian Consumer Information Gateway (Industry Canada).

Website: www.canadiansforproperlybuilthomes.com

Facebook: <https://www.facebook.com/pages/Canadians-for-Properly-Built-Homes/1613240682226191>

Twitter: @cpbh01

Introduction:

Canadians for Properly Built Homes (CPBH) welcomes the opportunity to contribute to this discussion regarding remote municipal inspections. Our organization has been raising concerns about the lack of enforcement of the Ontario Building Code for more than 16 years and it continues to be a very serious issue in different parts of Ontario. There are good builders, but there are also poor and marginal builders.

From MMAH: “Amendments are being proposed to the Building Code (O. Reg. 332/12) to clarify building officials' ability to use remote inspection methods and to update the Building Code requirements to facilitate the construction of "tiny homes".¹

CPBH response:

CPBH is opposed to the proposal for remote inspections.

Remote inspections will result in lower quality inspections, which will result in even more Ontario Building Code violations in newly built homes. Code violations result in serious health and safety issues for the occupants.

“..The Building Code’s purpose...is to establish minimum standards for people to survive in their homes...It’s basic, minimum standards...bare minimum...all building code deficiencies are considered serious...”. A. Gregoire, former City of Ottawa Chief Building Official

Remote inspections will lead to more ways for some municipalities to cut corners and for some to fill their bank accounts collecting revenue for inspection services not properly conducted or not conducted at all. As one example from the City of Ottawa:

“...It had a whole year’s budget, \$20 million, socked away in the bank, which was kind of embarrassing. Ottawa’s fees weren’t out of line with other municipalities’, the planners said, but we could cut them 10 per cent and still keep up with demand...” (Ottawa Citizen, Sept. 5, 2018)

¹ The title of the discussion paper is: “Discussion Paper – Proposed Changes to the Building Code for Tiny Homes and Remote Inspections”. On Oct. 12, 2021 CPBH wrote to Dr. Mahmood, Director of the Building Development Branch of MMAH advising that there is considerable confusion about whether the proposal for remote inspections is only for tiny homes, and requested clarification and an extension for this consultation. No response was received. This is unacceptable. Opinions about tiny homes among Ontarians may differ significantly from those concerning other types of dwellings.

<https://ottawacitizen.com/news/local-news/reevely-ottawas-desperately-short-of-building-inspectors-after-deciding-to-cut-fees-rather-than-hire-building-inspectors>

And

“..Construction has helped our economy weather the pandemic. Congrats to Building Code Services for their work getting us here.” Ottawa Mayor Jim Watson, Twitter, Oct. 19, 2021

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Unacceptably, it appears that the City of Ottawa is continuing to treat revenue generated by its Building Code Services as a “cash cow” for that municipality. Meanwhile serious Code violations in the City of Ottawa continue to be reported to CPBH by homeowners and by the media, e.g., “Homeowners forced out over construction flaws call for reform”

<https://www.cbc.ca/news/canada/ottawa/cardinal-creek-tarion-1.5252272> .

CPBH has previously provided considerable evidence of Code violations in newly built homes to the Ministry of Municipal Affairs and Housing (MMAH), and sadly, these issues continue today. These serious issues have been acknowledged by many including:

- MPP Hardeman when he was in Opposition as MMAH Critic;
- MPP McDonnell, former PC Critic for MGCS who responded for Interim Leader Fideli before the June 2018 election: “...Clearly we can do more with municipalities to ensure that home buyers and owners aren’t left without any recourse but the courts”; and
- Minister Clark who, when he was in Opposition, also agreed when we met with him that something needs to be done.

CPBH hears regularly from Ontarians who are suffering as a result of OBC violations in their newly built homes. Examples of suffering include financial hardship (up to and including bankruptcy), physical health issues from mould and excessive radon, and mental health issues including anxiety, stress and depression. Tragically, in extreme cases, some consider suicide.

Given the very limited information provided by MMAH with this paper regarding remote inspections, CPBH requested further information from Dr. Mahmood, the Director of the Building Development Branch. He advised that remote inspections are not being proposed due to the ongoing critical shortage of qualified municipal inspectors, and that remote inspections are regarded as an “additional tool” that building officials can use (letter dated Sept. 30, 2021).

An additional tool must not trump proper municipal inspections that ensure that the Ontario Building Code has been met, so that occupants may live in a safe and healthy environment which is the Code's purpose.

If remote inspections are being considered due to COVID-19, then this should be clearly stated as a reason.

We also asked MMAH's Dr. Mahmood: "...How can purchasers be assured that homes in Ontario are being built to Code using remote inspections?" but he did not answer that question either. As public servants paid by the taxpayers of Ontario, MMAH employees should be prepared to answer about this consultation. Refusal to do so casts suspicion on the process and inspires no confidence in the outcome.

CPBH also proposes the following as an important clause to be incorporated directly into the Building Code amendment:

In any case, the inspector shall carry out inspections that are necessary (including on-site inspections, where necessary) for the inspector to be reasonably satisfied that compliance with the Building Code Act, Building Code and permit has been achieved.

Regarding this discussion question: *"Can you suggest other options/alternatives that prescribed construction inspections can occur in a timely fashion while also ensuring inspections continue to safeguard public health and safety?"*

As noted above, and in many previous submissions by CPBH to MMAH, sadly far too many inspections are not safeguarding public health and safety. While MMAH continues to say "the province does not oversee how municipalities conduct their enforcement practices" (e.g., Mahmood email dated Sept. 30, 2021), we continue to maintain that the Province, at a minimum, needs to ensure that municipalities are accountable when they do not catch OBC violations.

Further, clearly oversight is needed by the Province. Here are some examples of ways the province can do that:

- Develop a meaningful set of performance indicators for all municipalities, e.g., sufficient, qualified building inspectors, spot inspections to check on municipalities' performance, etc.;

- Monitor those performance indicators regularly to ensure that the municipalities are all performing satisfactorily; and
- Take swift appropriate steps to ensure that municipalities are adhering to what is required of them and ensure accountability. These could include serious financial penalties levied to the municipality itself, publication of publication of offences to inform the public of a municipality's history of non-compliance, etc.

Thank you for the opportunity to provide input.