



This submission relates to the discussion paper issued by
ON Ministry of Municipal Affairs and Housing (MMAH)
Regarding
Future Enhancements to the Qualification Program for
Ontario's Building Practitioners

Jan. 24, 2023

Please submit questions/comments to: info@canadiansforproperlybulthomes.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).

When CPBH refers to "homes" it refers to all types, such as single family, semi-detached, townhomes and condos.

Website: www.canadiansforproperlybulthomes.com

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Background:

Canadians for Properly Built Homes (CPBH) welcomes the opportunity to contribute to this discussion. Our organization has been raising concerns about the lack of enforcement of the Ontario Building Code for more than 19 years and it continues to be a very serious issue in various parts of Ontario. There are good builders, but there are also poor and marginal builders. Qualified building practitioners are key components to properly enforcing the Code.

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;
- Former 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.

"..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

CPBH overall response to the discussion paper:

Qualifications for Ontario's Building Practitioners must be strengthened, not watered down.

Related commentary:

1. We are pleased to see your discussion document acknowledge the following:

Page | 3

- "...Over the years, Ontario's Building Code has become increasingly complex and sophisticated regulation..." (page 1).
- "...The building permit application submission, review, issuance and inspection process supports public safety and is a critical pre-requisite before Ontarians can take occupancy of their new homes..." (page 3).

2. We are concerned that many of the points in your discussion document are:

- a. primarily focused on building faster and seem to suggest a watered-down approach to qualifications for Ontario's building practitioners;
- b. overly simplistic options that do not adequately address the complex issues involved in properly enforcing Ontario's Building Code during construction. Rather than responding to all of the details in your discussion document, our response offers critical higher level considerations.

3. In deciding how to move forward, we urge you to ensure that there are guiding principles to ensure that the qualifications for Ontario's building practitioners:

- a. reflect that safety of the occupants is the primary consideration.
- b. reflect the complexity of the Building Code and the sophistication of the regulations.
- c. are strengthened given the recognized existing problems, and the dire consequences often faced by purchasers when their homes do have Code violations.
- d. not be watered down for any reason, e.g., in order to approve homes more quickly.
- e. properly address all aspects of the Building Code. For example, we understand that while energy efficiency is now more prominent in the Code, it is not in the syllabus. We understand that current building practitioners' knowledge related to energy efficiency is often insufficient.
- f. have stronger ethical requirements.

4. We disagree with the proposal regarding further BCIN qualification exemptions. We understand that already architects, engineers and those who prepare energy submittals are not required to go

through the BCIN process. We also understand that this is already a problem in some instances for particular individuals in these professions. We are concerned that providing more exemptions could lead to further problems in proper Code enforcement.

5. We are disappointed that your discussion document does not adequately acknowledge the serious problems already present. For example, page 3 says “...while maintaining the current standards of public health and safety..” but does not state that there are times that the current standards are not met. (We referenced some acknowledgement in the background section of our response, e.g., from previous Critics in the PC Party of Ontario, and Minister Clark himself when they were in Opposition.)

CPBH continues to hear regularly from purchasers of newly built homes who have discovered Code violations once they moved into the home. For example, currently we are hearing about significant numbers of Code violations in the GTA, the Niagara region, and Ottawa. Your discussion document mentions rural and northern Ontario, but there continue to be serious issues across the province.

Examples of home purchasers’ suffering resulting from Code violations include financial hardship (up to and including bankruptcy), physical health issues e.g., from mould, and mental health issues including anxiety, stress and depression. Tragically, in extreme cases, some purchasers of newly built homes consider suicide as a result of Code violations and the inability to get anyone to take responsibility for getting them properly addressed. Far too often, municipalities simply tell the purchasers to take their Code violations to Tarion, rather than the municipality taking responsibility for getting the Code violations properly resolved, e.g., via Orders to Comply against the builder.

Municipalities forcing homeowners to go Tarion in order to have their Code violations properly addressed typically results in more time delays, more fighting and stress for the homeowner, and too often results in Tarion denying their claims. Even when homeowners are successful with their claims to Tarion, Tarion often forces homeowners to accept a cash settlement, which is too often inadequate to get the Code violations properly repaired, so the homeowner is out of pocket. It also leaves the homeowners stuck with getting the Code violations repaired themselves. In times of shortages of skilled trades, such as Ontario is currently facing, many homeowners simply can’t find skilled trades who are willing and able to fix the Code violations. Often skilled trades simply refuse to take on the job of trying to fix someone else’s mistakes. When homeowners can’t find skilled trades, this leaves the occupants in an unsafe home. This is an example of where stronger ethical requirements for Building Practitioners should be useful. Building Practitioners should use all of the tools in their toolbox to address Code violations, e.g., Orders to Comply against the builder, rather than sloughing off Code violations to Tarion.

6. We agree that there must be regular mandatory Continuing Professional Development requirements for all Ontario Building Practitioners to ensure that they are sufficiently knowledgeable about new Code requirements.
7. There must be a complaints process for those who hold the view that a BCIN Building Official is not competent or sufficiently qualified. Over the years we have heard from homeowners that when they raised a complaint, they were simply told to sue the municipality. Clearly lawsuits are not the answer. Most homeowners do not have the resources (financial, emotional, or mental) to sue a deep-pocketed municipality. That said, it is interesting to note that for a recent Freedom of Information request made by CPBH of the City of Ottawa that sought information about lawsuits against the City of Ottawa related to newly built homes, e.g., for insufficient/faulty/inadequate municipal inspections conducted by the City of Ottawa, the response was:

“...We have provided the attached listing of litigated building code claims from the last 10 years where negligent inspections have been alleged. What we cannot tell you is whether any of these related to ‘newly built homes e.g. for insufficient/faulty/inadequate municipal inspections’ as we do not track that specific information. One would need to review the pleadings of each of these litigated claims to determine this, and that information would be publicly available via the court using the attached court file numbers on the list...”

There were 20 lawsuits over the past 10 years included on the list provided by the City of Ottawa’s Freedom of Information process. We encourage you to obtain the related details of those lawsuits (including outcomes where available) as you consider qualifications for Ontario’s Building Practitioners.

What about related lawsuits against other Ontario municipalities? This should be a key indicator of interest to MMAH. This leads to our point #8.

8. In addition to Building Practitioners qualifications, there must be a system to ensure the competence of building departments as a whole, to monitor their performance and require improvements if standards are not met. We have raised this important issue with MMAH a number of times over the years.

As a very basic example, we will again refer to the City of Ottawa and its recordkeeping. The City of Ottawa’s website says:

“...In keeping with the spirit of the legislation, the City of Ottawa is committed to providing individuals with the right of access to information in its custody and control including most

operational records as well as records containing their own personal information, where applicable. This process is called "business as usual" and allows many records to be disclosed, without having to make a formal request under the Act. Only under limited circumstances does the City require an individual to make a formal MFIPPA request..."

Given the importance of Orders to Comply, it was assumed that they would be considered key "business as usual" records. But when CPBH recently requested this information regarding Orders to Comply for the past 10 years, we were advised that the City of Ottawa does not specifically track these records, and that we would need to process a Freedom of Information request. There was a similar response when CPBH also asked the City of Ottawa about homeowners' complaints to the City of Ottawa about their newly built homes. CPBH did process related Freedom of Information requests but ultimately the estimated related costs were prohibitive and we had to abandon our Freedom of Information requests.

9. To assist in making Ontario's housing more affordable, MMAH and municipalities must ensure that there are no Code violations when the homeowner takes possession of the newly built home. Builders have advised that costs to repair increase approximately seven times once the home is occupied.

10. To address the shortage of Building Practitioners, MMAH and municipalities should maximize usage of recruiting and retention management practices typically used by other organizations. These include increasing compensation, offering better working conditions, etc.

Thank you for the opportunity to provide input.