

BOABC 2010 Conference

Proper use of Letters of Assurance

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Key Topics

- Licensing of Registered Professionals
- Letters of Assurance
- Field Review
- Project Conclusion
- Delegated Responsibilities – Schedule 'S' or 'S-B / S-C'
- Qualifying Letters of Assurance
- Phased / Staged Occupancies

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Introduction - assumptions

assume:

- project classified complex BCBC Division B Part 3 building
- project not under CP program
- architect is Coordinating Registered Professional (CRP)
- standard contractual arrangements / project delivery methods
- client architect agreement RAIC 6
- client contractor / construction manager contract CCDC 2
- standard client consultant agreements

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Introduction - License to Practice

- AIBC / APEGBC self regulating professions - govern professional practice
- practice restricted to persons who have demonstrated competence – deemed qualified to practice by licensing
- professionals obligated to uphold public safety, act in the public interest, and seek to improve the environment and human condition

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Introduction – License to Practice

- professionals expected to perform to higher standard of care and obligation than that of a non-professionals - through education, training and experience
- professionals obliged to comply with all applicable laws / regulations, professional standards of practice and codes of ethics
- failure to meet professional obligations can result in legal and / or professional association discipline - reprimand, fines, restriction / withdrawal of the right to practice and / or other punitive measures

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Letters of Assurance

- professional design and review formally enforced in the building codes through 'Letters of Assurance', referred to as '**Schedules**'
- includes explicit and implicit professional duties

Div C - 2.2.7.3
AIBC practice notes 1 & 4

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Letters of Assurance

when required:

- buildings within scope of Div B Part 3
- structural components within scope of Div B Part 4
- geotechnical components beyond scope of Div B Part 9
- sprinkler systems designed to NFPA 13
- standpipes systems designed to NFPA 14
- buildings designed with common egress systems for the occupants and requires use of *firewalls* per Div A Part 1, 1.3.3.4

Div C Part 2, 2.2.7.1.(1)

Letters of Assurance

generally not intended to apply to Part 9 buildings, except for:

- structural components within scope of Div B Part 4
- geotechnical components beyond scope of Div B Part 9
- sprinkler systems designed to NFPA 13
- standpipes systems designed to NFPA 14
- buildings with common egress system and requiring use of *firewalls*

Div C Part 2, 2.2.7.1.(1)

Letters of Assurance

generally not intended to apply to tenant improvements

however may apply when for example any of following involved:

- significant scope of construction
- fire and life safety components
- changes to fire separations
- significant changes to common egress systems
- requirements for persons with disabilities
- structural components within the scope of Div B Part 4
- structural, mechanical or electrical components requiring retention of registered professional
- change in use or occupancy

Letters of Assurance

2.2.7.2. Owner Responsibilities

- 1) before an *owner* obtains a *building* permit, the *owner* shall
 - a) retain a *coordinating registered professional* to coordinate all design work and *field reviews* of the *registered professionals* required for the project in order to ascertain that
 - i) the **design will substantially comply with the BC Building Code** and other applicable enactments respecting safety, and
 - ii) the **construction of the project will substantially comply with the BC Building Code** and other applicable enactments respecting safety, **not including the construction safety** aspects,
 - and
 - b) deliver to the *authority having jurisdiction* letters, in the forms set out in Schedules A and B.

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Letters of Assurance

- do not increase professional responsibilities of registered professionals beyond those **they already have**
- do not relieve the Authority Having Jurisdiction (AHJ) from their respective responsibilities.
- require owners to retain registered professionals, for both design and field review, and reinforce what is expected of the key participants on a project.
- enables registered professionals to negotiate proper agreements with their clients
- facilitates the appropriate scope of professional services necessary to protect the interests of the client and general public in the construction of a project.

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Letters of Assurance

- wording of the Schedules is critical, should not be modified by AHJ or registered professionals
- deletions can occur only when a particular component listed on the Schedule does not occur on the project
- not appropriate for architect to delete a building envelope item listed, even if building envelope specialist is retained on the project

AIBC practice note 34

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Letters of Assurance

review for:

- correct versions used: BCBC 2006 vs VBB 2007
- original seals and signatures (some AHJs may accept electronic seals)
- schedule B author matches sealed building permit drawings
- correct project name, civic address & legal description
- acceptability of amendments if any (AIBC Practice Note 12)
- CRP must initial all RP Schedules
- building permit number

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Letters of Assurance – termination

- **CRP** – owner and CRP to notify AHJ
- **RPR** – RPR to notify CRP and AHJ,
CRP to notify AHJ
- **notification must be before termination, and if not possible, then ASAP**
- **owner must not terminate unless replaced immediately, or owner delivers letters of assurance**

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other accountability documents – ‘rogue’ letters
(not endorsed by key professional & other associations)

- redundancies
 - development permit compliance
- unreasonable responsibilities / liability / risk transfer
 - guarantee / warranty
 - Indemnity / hold harmless
 - assure / ensure / certify
 - inspect
- mandating insurance coverage

etc

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Field Review

CRPs and RPRs responsible for field review must keep records of such review, including records of corrective action taken pursuant to field reviews and must make field review records available to the AHJ if so requested.

Div C - 2.2.7.3.(2)

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Field Review

means a review of the work

- a) at a project site of a development to which a building permit relates, and
- b) where applicable, at fabrication locations where building components are fabricated for use at the project site

that a registered professional in his or her **professional discretion** considers necessary to ascertain whether the work **substantially complies in all material respects** with the plans and supporting documents prepared by the registered professional for which the building permit is issued.

Div A – 1.4.1.1

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Field Review Reports

- project progress, circumstances *(this alone insufficient)*
- record field reviews of the various RPs *(confirm site involvement as appropriate)*
- record observations
- record any testing, mockups reviewed
- record coordination issues *(requisite coordination taking place)*
- record unacceptable / non-complying conditions, and corrective measures required
- record corrected conditions
- record accepted completion of components
- comment on anticipated works next period

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Project Conclusion

Owner Responsibilities

Before an owner obtains an occupancy permit or final inspection from AHJ, the owner shall deliver to that authority letters in the forms set out in Schedules C-A and C-B

Div C - 2.2.7.2

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Project Conclusion

Schedule C-A provides confirmation that the CRP has completed the obligation to **coordinate the various registered professionals** engaged in the project.

It also **confirms that the testing of the interrelated fire and life safety systems, such as fire alarms and sprinklers, have been completed and the systems function** as intended.

Div C App A - A-2.2.7.2.(2)

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Project Conclusion

A *registered professional* who is retained to undertake design work and *field reviews* and who is required to provide letters pursuant to Clause 2.2.7.2.(1)(b) shall

.....

- b) provide to the *authority having jurisdiction* the Schedule C-B after ascertaining that the components of the project for which the *registered professional* is responsible are constructed so as to **substantially** comply, in all material respects, with
 - i) the **plans and supporting documents**, and
 - ii) the requirements of the **BC Building Code** and other applicable enactments respecting safety, not including construction safety aspects,
 and
- c) ensure that the *field reviews* that are necessary to comply with Clause (b) are properly completed.

Div C – 2.2.7.3.(3)

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Project Conclusion

Draft AIBC practice note 16, schedules S-B & S-C
APEGBC Bulletin K, Appendix A

- delegated responsibilities, under primary consultant group
- specialty engineers' schedules being developed for endorsement by CoV, Province of BC, AIBC, APEGBC, BOABC, UBCM
- supplemental registered professionals (SRPs) not forming part of the primary design consultants (RPR) team, such as contractors' engineers
- schedule S-B & S-C not intended for submittal to AHJ, but retained in respective RPR file, made available if AHJ requests schedule S-B, S-C or other similar documentation.

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Project Conclusion

during 'conditional occupancy' process, RP often pressured by the AHJ or owner, to provide qualified / amended Letters of Assurance.

qualified / amended or conditional LoA's are inappropriate, are not supported, nor condoned.

AIBC practice note 12

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Project Conclusion

*"Letters of Assurance, when issued, are **not to be qualified** as to their being (e.g.) "interim" or "partial" or "conditional" or "pending resolution of deficiencies" or "to expire by a given date should the deficiencies remain outstanding by that date".*

The state of the design or of the construction in relation to the building code and the permit being sought either merits the architect's assurance, in keeping with the language of the schedules and the RP's professional judgment, or it does not."

AIBC practice note 12

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Phased / Staged occupancies

- **complete occupancy**
ideal situation where all works covered under building permit is completed
- **conditional / provisional occupancy**
sometimes granted where a project, or portion thereof, is considered safe to occupy but is incomplete
- **phased / staged occupancy**
where a distinct, or stand-alone / separate, portion of a project is complete

Phased / Staged occupancies

examples:

- multiple-highrise developments
- multiple buildings on a common underground parkade or podium roof slab
- staged developments of subdivisions
- complex, mixed-use projects whose uses involve different schedules or completion criteria
- projects requiring phased occupancy due to schedule or other demands.

Phased / Staged occupancies

AHJ may require multiple building permits for complex multi structure projects, in an effort to avoid the necessity to manage phased / staged occupancies.

However, issuing LoA's for distinct phases can simplify the multiplying of the building permit submission package and avoid redundant permits administration.

Phased / Staged occupancies

Letters of Assurance for phased / staged occupancy to be submitted **only for applicable phases or stages of the project**, and are not intended to be used as 'qualified' or 'interim' or 'conditional' Letters of Assurance.

AIBC Practice Note 12, October 2008

Phased / Staged occupancies

Clear annotation of Schedules C-A and C-B to support phased / staged occupancy of project.

- **Clearly defined** scope of phase / stage, either through **exclusion** or **inclusion**, as appropriate to project; but must be clear & definable. Clarifying documentation such as a phasing plan, should be submitted along with Letter of Assurance.
- Each phase sufficiently complete as to allow LoA to be issued, without qualification, indicating that the phase substantially complies in all material respects with the BC Building Code, the drawings / supporting documents submitted in support of the application for the building permit.
- Upon completion of the entire project, a final Letter of Assurance without exclusions or inclusions must be submitted for the **entire** project and related building permit(s).

Phased / Staged occupancies

Granting authorization to occupy is role of the AHJ.

Requirements for issuing an Occupancy Permit set out in the building code, local bylaws, and industry practice.

Registered Professionals' responsibilities carried out through the coordination and review process and through respective Letters of Assurance.

Further Questions?

thank you

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