



## **Building Code Commission and MMAH to Discuss Publication of 92 Unpublished Rulings**

On March 19, 2015, three members of the Building Code Commission of Ontario met to hear evidence concerning a project located in a city in Ontario. This project is a large multi-storey residential building. The three members of the Commission made a ruling, which was delivered to the applicant and the respondent the following month, but the ruling remains unavailable to the general public, despite requests for its release.

**Why are Building Code Commission rulings important?** Commission members continue to be highly regarded as wise and technically competent individuals. The Commission used to provide a timely, low-cost and non-adversarial process for resolving technical Building Code disputes on a project specific basis. Although the rulings are made on a project by project basis, the Commission's rulings were widely followed by enforcement officials and the design and construction industry. The rulings provided guidance for similar projects throughout Ontario. The Building Code Commission was an important element of the building regulatory system that promoted the uniform application of the Building Code in Ontario.

Building Code Commission rulings used to be published on the Building and Development Branch's website but this practice appears to have been abandoned, since only 20 rulings have been published out of the 112 rulings that were made in the past 5 years. Municipal building inspectors and plans examiners, looking for guidance, are using the Ontario Building Officials Association's internal bulletin board to post questions about where to locate the unpublished Building Code Commission rulings.

It appears that you, the public, will not be able to access this or any of the other 92 rulings made by the Commission in the last 5 years, as they remain unpublished secret. If you contact the Building Code Commission, you will be told that no date has been set for the release of these 92 rulings.

Prior to 2010, the Building Code Commission earned a reputation of being an effective, useful and quality service provider within the construction industry. The Commission's 2014-2017 Business Plan recognized that the Commission's services have deteriorated and the plan contains measures to improve timely service to hearing applicants and respondents. The business plan indicated that the Commission's commitment for the past fiscal year, ending on March 31, 2015, was to post full written decisions on the Building Code Commission webpage within 10 working days of completion for 85% of all hearings. Clearly, that has not happened, since only 2 rulings out of an estimated 25 rulings have been published during that time period.

The Commission's business plan incorrectly claims that it met its target of posting 85% of the full written decisions on its webpage for the fiscal year, ending on March 31, 2013. The last time I checked the website, only 25% of the rulings had been published. The Commission's business plan is posted at: <http://www.mah.gov.on.ca/Asset9537.aspx>

The Building Code Commission needs to take immediate steps if:

- it is to remain an effective asset to all users of the Building Code
- it wants to dispel the growing perception that it is operating as a private and confidential arbitration service solely for the benefit of the applicant and respondent, while being funded by our tax dollars to the tune of \$7,500 per unpublished secret hearing (it costs about \$225,000/yr. to maintain the Commission, which hears about 30 cases each year).

The Commission's business plan states that each ruling is: "communicated to the parties to the hearing and is **EVENTUALLY** [my emphasis] posted on the website..." So, how long is "eventually"? Current practice indicates an unacceptable 5 years and counting.

**The good news is** that the Ministry of Municipal Affairs and Housing and the Building Code Commission have recognized that the Commission's rulings are important to the wider universe of enforcement officials and the design and construction industry. The Ministry has advised that it has developed a potential approach to the publication of rulings of the Building Code Commission to assist the broad scope of building practitioners. The Commission will be reviewing this issue at its annual meeting on June 4, 2015.

In case you were wondering about the subject of the Commission's ruling on the large multi-storey residential building, made on March 19, 2015:

The 2010 edition of the National Building Code requires standpipe hose connections to be located in exits. The 2012 edition of the Ontario Building Code does not include this provision on account of concerns from associations representing fire fighters. Many progressive engineers and code consultants have advocated the installation of standpipe hose connections in exit stairs in multi-storey residential buildings. It is reported that a number of large Ontario cities had been approving hose connections in exit stairs. When a certain large city refused to approve hose connections in exit stairs, the permit applicant applied for a BCC hearing.

The Building Code Commission ruled in favour of the city's building department because:

- that city would have to alter its methodology of fighting a fire in the building and would have to retrain its first responders; and
- locating the hose connections in the stairs would increase the likelihood of smoke entering the stairwell in the event of a fire.

It will be interesting to see how the other cities react to this BCC ruling, if/when the ruling is published.

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About the author: Alek Antoniuk is best known for co-ordinating and managing the technical development of the 2006 and the 2012 editions of the Ontario Building Code. He also played a lead role in managing the code advisory services of the Ontario Ministry of Municipal Affairs and Housing since 1989. He is a building code consultant, a policy advisor, and the publisher of a web site for information about construction codes at: [www.codenews.ca](http://www.codenews.ca).