

New Zealand Construction Industry Council
Presentation
on
International Construction Industry Council
Examples

Supplementary questions
April
2009

Prepared by
Andrew Minturn
Qualtech International Limited
PO Box 26696
Epsom, Auckland, New Zealand
Ph: 09 625-6985
Mob: 021 669-528
email: andrew.minturn@qualtech.co.nz
Web: www.qualtech.co.nz

Example 2:

Ontario Building Advisory Council (BAC)

1. *How was the Ontario Building Advisory Council formed?*

- Establishment of the Building Advisory Council (BAC) was recommended by the Building Regulatory Reform Advisory Group (BRRAG) in its report dated 2000.
- BRRAG recommended far reaching reforms that were largely implemented through Bill 124. One of the recommendations of BRRAG was to establish an advisory body composed of representatives from industry and the regulatory sector. The purpose of BAC as conceived by BRRAG, was to monitor and provide on-going advice related to the implementation of the reforms proposed by BRRAG and implemented for the most part through Bill 124. Its other related role was to provide strategic advice on matters related to the Building Code Act and Building Code.
- Several years later after reforms under Bill 124 were largely implemented in 2006, BAC was established largely in accordance with the recommendations of BRRAG.

2. *Who are its members and what fields of building and construction do they represent?*

- The members of BAC represent the following stakeholder associations:
- The stakeholders come from three general sectors : building and construction; design sector; municipal, regulatory and consumer sector.

BUILDING AND CONSTRUCTION SECTOR:

- Homebuilders and developers -the Ontario Home Builders Association (OHBA) and the Building Industry and Land Development Association (BILD); and the Residential Construction Council of Central Ontario (Rescon).
- Contractors – the Ontario General Contractors Association (OGCA), the Council of Ontario Construction Associations (COCA).

DESIGN SECTOR:

- Associations representing professional engineers including Professional Engineers Ontario (PEO) -the regulator, the Ontario Society of Professional Engineers (OSPE) – the lobby group, and Consulting Engineers of Ontario (CEO).
- The Ontario Association of Architects (OAA).
- Other designer associations -the Association of Architectural Technologists of Ontario (AATO), the Ontario Association of Engineering Technologists (OACETT), the Association of Registered Interior Designers (ARIDO).

MUNICIPAL, REGULATORY AND CONSUMER SECTOR:

- The municipal sector – the Association of Municipalities of Ontario (AMO).
- Building officials – the Ontario Building Officials Association (OBOA), the Large Municipalities Chief Building Officials Association (LMCBO), the Ontario Plumbing Inspectors Association (OPIA), the Toronto Area Chief Building Officials Association (TACBOC).
- Consumers – the Consumers Association of Canada (CAC).
- Office of the Fire Marshall (OFM) as an ex officio member.

REPRESENTATIVES FROM OTHER ORGANISATIONS OFTEN ATTEND AS OBSERVERS INCLUDING:

- Tarion (the mandatory warranty provider for homebuilders) and the Ministry that oversees Tarion, the Ministry of Small Business and Consumer Relations.

3. *What is the structure of the BAC and who does it report to or is responsible for?*

- BAC has two co-chairs – one from the industry side and one from the regulator side.
- The industry co-chair is from the Ontario Society of Professional Engineers and the regulatory sector co-chair is from the Ontario Building Officials Association.
- The co-chairs along with the BAC members are selected by the Minister from the membership of BAC.
- BAC reports to the Minister of Municipal Affairs and Housing.
- All BAC members are selected by the Minister. Stakeholder organisations are asked to identify 2 persons available to sit on BAC – the Minister chooses one of these individuals.
- Members of BAC sit on the Council for a term set by the Minister and at the pleasure of the Minister.
- The role of the co-chairs is primarily to facilitate the meetings and reflect in their reports to the Minister, the view of the majority on BAC (along with any significant dissenting views that BAC members would wish to convey to the Minister).
- BAC can establish working groups and has already done so to address two major issues identified by the Minister as priority issues - establishing a standard for complete building permit applications and introducing a mandatory final inspection and occupancy permit.
- BAC can invite non-BAC members to make presentations to the Council.

4. *What are the fundamental reasons for the BAC existence?*

BAC was established in part because the Building Regulatory Reform Advisory Group (BRRAG) which made sweeping recommendations that led to bill 124, recommended that such a group be established to monitor the implementation of the reforms, their impact and to provide on-going advice to the Minister on strategic issues relating to the Building Code Act and Building Code.

After bill 124 was introduced industry representative continued to pressure the government to establish the BAC.

Industry saw BAC as a way to draw the government's attention to a range of concerns around the implementation of bill 124 reforms (time frames for municipal permit review, mandatory qualifications for designers and others, mandatory inspections etc), along with other concerns around code development and municipal building code enforcement generally (consistency of enforcement, consistency of interpretations, unpredictable municipal responses to approved innovative products, etc). To a lesser extent regulators saw this as an opportunity to raise issues of concern.

Another consideration in establishing BAC, while not stated explicitly, is that when stakeholder requests/demands are subject to the analysis of a multi-stakeholder group, self-serving demands from regulatory or industry groups are likely to be weeded out or modified to benefit the broader community.

Similarly good ideas from a single stakeholder group that has broad public interest benefits will be more likely to be considered if such a proposal has broad multi -sector support.

5. *What activities do they undertake?*

Some key initiatives of BAC since 2006 include:

- Establishing a working group on “complete building permit applications” and making recommendations to the Minister to “raise the bar” on what constitutes a complete application (the Ministry had set a low bar for municipalities to reduce the ability of municipalities to refuse applications but this has not worked.
- Establishing a working group on “mandatory final inspections” – this working group examined whether final inspections should be mandated (currently they are not) – the group recommended mandatory final inspections and occupancy certificates.
- BAC examined a recommendation from building officials to allow for a longer limitation period for initiating prosecutions for offences under the Building Code Act – currently prosecutions must begin within one year of the date of the offence – in the case of persons building without a permit, for example, the courts see the date of the offence as the last day of construction – this date may be in dispute – the regulators wanted a 2 year discovery based limitation period BAC recommended a one year discovery based limitation period – most in the industry sector did not oppose this.
- BAC has also commented on other matters in its annual report.

5. *How is the BAC funded?*

- BAC is not funded.
- Persons travelling in from beyond a certain distance will have their expenses reimbursed but otherwise there is no per diem for members.
- Research, analysis and report-writing for BAC and its working groups is done mostly by Ministry staff.

6. *What is the scope of the BAC's influence within the sector?*

- BAC is well known in the sector – it does have profile.
- However, it is not as influential as BAC members say they would like it to be.
- The government has not yet acted on some of the recommendations of BAC which has been a matter of considerable concern to BAC which feels that its influence is less than it should be.
- A significant part of the reason for this is a heavy workload on Ministry staff with new initiatives from the government arising from economic recession (reducing regulatory burden, stimulating the green economy, agreement on internal trade --reducing barriers to labour mobility, illegal building etc).

7. *What influence does Government have over the BAC and Vice Versa? Can you describe some notable examples of tangible influence?*

- The government has influence because it can select individual members of stakeholder associations who sit on BAC – associations offer two names and the Minister chooses one.
- The Minister chooses the co-chairs.
- The Minister chooses the stakeholders on BAC.
- The Minister can identify priority items it wants BAC to address.
- BAC sits at the pleasure and for the term set by the Minister.
- The Minister can change the terms of reference of BAC.
- Under its terms of reference BAC writes an annual report to the Minister in which it can offer advice to the Minister.
- The co-chair can set up working groups to address any issues BAC wants to address. BAC can set its own priority issues.

8. *How well regarded is the BAC for its work by the sector?*

The two major reports prepared by BAC working groups for BAC and endorsed by BAC – on complete building permit applications and final inspections – are well regarded by the industry and regulatory community – a consensus was achieved in both areas.

However, there is some concern among industry and regulatory sectors as to how seriously the government is about acting on the recommendations of BAC.

9. *Is the BAC a very visible group, i.e. is it well known, does it regularly feature in building and construction media and would most building and construction practitioners know who the BAC was and what they did?*

Most stakeholders and practitioners will know about BAC but many continue to rely on making direct representation to the govt and lobbying through their associations.

Quite often stakeholder groups – whether industry or regulatory – will have objectives or goals that may not easily fare well if these demands are subject to close analysis by a multi-stakeholder group.

10. *Are the members appointed by the Minister?*

As above.

Yes. The stakeholder group identifies two or more nominees and the Minister (on the advice of staff) chooses one.

11. *Who appoints the BAC Chairperson?*

As above. The Minister.

12. *Has the BAC made a significant difference to how the Construction Sector behave and performs? Can you describe some notable examples where behaviour or performance has been improved?*

There have been two notable working group reports endorsed by BAC which involved concessions by industry and regulators to create a better outcome.

The complete applications recommendation requires industry to do more up front work to develop more complete and code compliant applications to benefit from mandatory permit timeframes (compliance with applicable law, and including drawings with required content) Industry agreed with this to get better municipal performance. Regulators will provide more guideline information to applicants to support this higher standard for completeness.

Regulators agreed to accept certain liabilities with final inspections and industry agreed to hold back on occupancy until the building had met a higher standard of completeness.