



CITY OF RICHMOND

REPORT TO COMMITTEE

TO: Planning Committee
FROM: A.L. (Rick) Bortolussi
Manager, Building Approvals Department
RE: **CERTIFIED PROFESSIONAL PROGRAM**

DATE: November 29, 1999
FILE: 8000-01

STAFF RECOMMENDATION

That Council direct staff to bring forward a further review of the Certified Professional Program when the Architectural Institute of BC and the Association of Professional Engineers and Geoscientists of BC have completed their transition review of the program.

A.L. (Rick) Bortolussi
Manager, Building Approvals Department

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STAFF REPORT

ORIGIN

Staff have been requested to report on implementing the Certified Professional (CP) Program in Richmond as a component of overall efficiencies and customer service options that are being sought at the direction of the Chief Administrative Officer. The CP program was initiated by the City of Vancouver under its Charter to address major projects designed under the scope of Part 3 of the Vancouver Building Bylaw. These are large buildings having a building area in excess of 600 square metres or more than three stories in building height. The program was created to address:

- the large backlog of building permit applications resulting from the high construction activity;
- and
- a labour disruption which occurred in 1978.

ANALYSIS

DISCUSSION PAPER

Staff drafted a discussion paper on the CP Program. The paper contains various factors that are present or suggested for further review during a consultation process. Attached is a copy of the "Discussion Paper on the Certified Professional Program". This report addresses those impacts.

ALTERNATIVES

During the review of the current CP Program, three options were considered for providing the service of plan review and building inspections on large buildings designed under Part 3 of the BC Building Code. They are delivery of the service with the CP Program and two alternatives with current staff ; one as the status quo and the other implementing an efficiency review.

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The program allows a CP to review building permit applications and compile a detailed report to facilitate building permit issuance. This function is recognized in the Municipal Act. The additional function of having the CP undertake building inspections and submit necessary reports on the construction should be considered from a liability factor. Monitoring the CP's involvement on a building project would be undertaken by City Staff. The CP would be required to:

- submit detailed plan review reports to support building permit applications;
- recommend adequacy of building code equivalents;
- undertake regular inspections and report findings;
- facilitate monthly monitoring site visits with the building inspector; and
- recommend to the building inspector that a building is ready for occupancy.

Advantages

- Provides the owner/developer an alternative method of submitting building permit applications which during high construction periods could reduce the processing time.
- Provides an alternate method of delivering the service of plan review and inspections for Part 3 buildings during a labour disruption.

Disadvantages

- The City may not be able to discharge the duty of care it owes to future occupants of a building by reliance on certification by a CP. This can be addressed by reviewing various types of insurance coverage, such as project insurance, which could assist in reducing liability to the City.
- There is potential conflict between the duty a CP owes under common law and any directions that may be given by the owner of a project, however the CP's Professional Association's code of ethics should address this factor.
- There would be no reduction of City staff initially, however there should be little or no increase in staffing during high volumes of construction activity. This has been the experience in other Cities that have a CP Program.
- The financial impacts for both the City and the Owner require further review.

Currently the CP Program is undergoing a reorganization of the overall program. The Architectural Institute of BC (AIBC) and the Association of Professional Engineers and Geoscientists of BC (APEGBC) are in the process of negotiating an agreement for administering all facets of the program and have formed a committee to look into the transition of the CP Program which was previously administered by UBCM. There is no time line set for the transition to occur.

CITY STAFF DELIVERY OF SERVICE

There are two alternatives considered under this option.

A.) Status Quo

The delivery of the plan review and building inspection service level to remain the same as described in the Richmond Building Bylaw.

Advantage

- The customer would be provided the same level of service.
- There would be no change in liability to the City.
- Through City delivery, provides the customer with the only true "Third Party" health, fire and life safety and structural sufficiency review on the construction.

Disadvantage

- Slow to react during high construction periods to increase staff levels.
- Impact on construction community during labour disruptions.
- Does not take opportunity of looking into improving efficiencies or customer service.
- Limits the customer to one option.

B.) Efficiency Review

This option would require a review of the service delivered, including obtaining input from stakeholders.

Advantage

- Incorporates stakeholder input to address customer service and permit processing time.
- Enhances the departments action of reviewing its processes to improve efficiencies.
- As in the Status Quo option, through City delivery, provides the customer with the only true "Third Party" health, fire and life safety and structural sufficiency review on the construction.

Disadvantage

- Impact on construction community during labour disruptions.
- Limits the customer to one option.

PREFERRED OPTION(s)

Consideration for a combination of options should be undertaken through a phased approach. The first phase should be the “Efficiency Review” option with City Staff to address efficiencies and customer service.

The second phase should be the review with stakeholders on the feasibility of implementing the CP Program. This review is to commence upon completion of the AIBC and APEGBC transition committee undertaking.

FINANCIAL IMPACT

Richmond Impact

The Municipal Act mandates that if a municipality relies on certification of compliance for a plan review, the municipality must reduce the fees collected to reflect the costs of the work that would otherwise be done by staff. It can be anticipated that in implementing a CP Program, that the reduction in building permit revenues will not be offset by a similar decrease in expenditures resulting in a negative net income for the department.

Owner's Impact

There could potentially be a net increase in direct overall costs for the owner and eventually the consumer through a CP Program. The benefit of the increased cost would presumably be faster permit processing time.

CONCLUSION

Local government is the only participant in the building safety system which may be considered an independent third party having the protection of the public with respect to health and life safety as its sole interest. It is desirable to maintain and enhance these services, rather than reduce the role of local government. There is a need however to provide service options for the stakeholders to address periods of high construction activity and also during labour disruptions.

Implementation of the recommended phased option will address stakeholder needs and address liability.

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attach.



BUILDING APPROVALS DEPARTMENT
DISCUSSION PAPER

on the

CERTIFIED PROFESSIONAL
PROGRAM

NOVEMBER 10, 1999

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CERTIFIED PROFESSIONAL PROGRAM

1.) Scope

Staff have been requested to report on implementing the Certified Professional (CP) Program in Richmond. The CP Program was initiated by the City of Vancouver under its Charter, to address major projects designed under the scope of Part 3 of the Vancouver Building Bylaw. These are large buildings having a building area in excess of 600 square metres or more than three stories in building height. The program was created to address:

- the large backlog of building permit applications resulting from high construction activity; and
- a labour disruption which occurred in 1978.

2.) Background

The CP Program was initially developed as an alternative method for submitting applications for building permits. The City of Vancouver allowed those registered professionals, who demonstrated a sound code knowledge through the CP Education Program and achieved a CP status, to review building permit applications on behalf of the city in order to "fast track" the architectural/code review processing time frame that an application for permit would require through normal processing. Under the Vancouver Charter, the CP was also given the ability to undertake field reviews.

An educational program was developed initially between the City of Vancouver and UBC for registered professionals wishing to become a CP. Since then, the educational program has been developed with participation from the Architectural Institute of BC (AIBC); the Association of Professional Engineers and Geoscientists of BC (APEGBC) and Building Officials' Association of BC (BOABC). The scope of the educational program covers Part 3 buildings only.

3.) CP Program in other Municipalities

Discussions with municipalities that have a CP program revealed that staff levels remained the same at the commencement of the program and did not increase when construction activity increased. Vancouver is in the midst of re-engineering their development permit and construction permit process to reduce current turn around times.

Vancouver and Surrey have the highest program participation with in excess of 80% of their major projects being CP. In Surrey, this amounts to approximately one third of all projects designed under Part 3 of the BCBC. To date, Coquitlam has processed five projects under their program and their inspection process is carried out the same as for non-CP projects. Delta has processed three CP projects since 1989. Kelowna has not received any building permit applications under their CP program.

Generally these municipalities have a shorter processing time of up to two weeks for issuance of building permits for CP projects when the applications are complete applications and the drawings being submitted are working drawings as compared to submitting preliminary drawings. The various cities have differences in their program to address their specific needs. The CP is also responsible for obtain approvals from the various departments (for example: public works, transportation, fire, health, etc.). In Richmond the plan reviewer co-ordinates the processing of the various internal departmental/divisional approvals.

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4.) Current Status of the CP Program

In 1993, UBCM took over the administration and sponsorship of the program from the City of Vancouver. UBCM had their legal counsel review the program to address concerns pertaining to potential liability for UBCM should a CP fail to perform his/her responsibility. UBCM had no prior liability regarding the CP Program as they were not directly involved. In administering the program, they now have a liability. As a result of their review, UBCM terminated their participation in February 1999.

Since then, AIBC and APEGBC have been negotiating on how to continue the program. To date a full agreement has not been concluded, however they have agreed to jointly sponsor the delivery of the CP educational course scheduled to commence in February 2000. This course is proposed to be delivered through UBC Continuing Education, however UBC has not confirmed they will deliver the course. There is a verbal agreement that AIBC will be responsible for co-ordinating the education function while APEGBC will provide the registrar's function for the program.

The administration of the program will be handled by the CP Committee comprising of three representatives from AIBC, APEGBC, BOABC and a representative from Vancouver and Surrey. It appears that this committee will continue to operate as an interim measure until the two associations conclude their agreement. AIBC and APEGBC are in the process of establishing a new committee mandated to look into the CP Program and determine its transition into a new program believed to be somewhat different from the current program. The outcome of this undertaking is not known at this time, nor has there been a time line developed for completion of the task.

5.) BC Building Code (BCBC) Requirements

The 1998 edition of the BCBC requires that for certain classifications of buildings or structures and certain aspects of a building or structure, a registered professional is required to design and undertake field reviews of their design. The previous edition of BCBC(1992) further introduced Letters of Assurance which the registered professional must submit. The purpose of the Letters of Assurance is to further clarify the role and responsibility of the registered professional. The Letters confirm, firstly, that the design of the construction will be in compliance with the code and that he/she will undertake necessary field reviews during the construction to confirm compliance. At the completion of the construction, the registered professional must also submit a final Letter of Assurance confirming that the construction complies with their design and the code.

The role of the City inspection staff on these building, structures or components requiring design and field reviews by the registered professional is to monitor the registered professional's role from the standpoint of reviewing construction plans, the registered professional's field review notes and to conduct random inspections/monitoring to ensure the registered professional's field reviews are properly being conducted in addition to reviewing the construction for compliance with other regulations and city bylaws.

One of the concerns, that municipal staff throughout the province have, is that although the current building code made the Letters of Assurance mandatory, the registered professionals are still not fulfilling their role and responsibilities when it comes to design and field reviews on buildings. An example of this is water penetration problems on exterior envelopes.

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6.) Building Bylaw No. 6920

In June 1998, Building Bylaw 6920 was introduced and amended Building Bylaw 5882. Changes from the previous bylaw included both bylaw text and fee schedule amendments. These amendments were based on experiences gained since the adoption of the previous bylaw and benchmarking with other jurisdictions. The law firm of Lidstone, Young, Anderson was retained to provide legal input similar to the process utilized for the preparation of the previous bylaw.

Issues introduced which impact registered professionals include:

- Requirement of the design and field review of the building envelope to be undertaken by a registered professional having the experience and knowledge as a building envelope specialist. This was in response to the “leaky condo/water penetration problem” and the “Barrett Commission of Inquiry on the Quality of Condominium Construction in BC”. It is to be noted that the architect is responsible for this element as mandated by the Letters of Assurance.
- The department participated with the Province to revise the Letters of Assurance in the 1998 BC Building Code requiring the co-ordination of all fire and life safety concerns on large buildings/multi-use projects. This change mandates that one registered professional becomes accountable to ensure that all fire and life safety aspects operate properly at the completion of construction but prior to occupancy. The 1992 BC Building Code did not adequately address this life safety issue. For example, when a fire signal is activated in a building there are several disciplines impacted by this signal, such as; the elevator, sprinkler, fire detection, electrical, mechanical and the alarm and monitoring systems. These systems are the responsibility of several different registered professionals. Each discipline was required to look at only their respective life safety issues but there was no overall co-ordination required ensuring that all life safety systems functioned in a co-ordinated protocol.
- New requirements regarding equivalent applications to the BCBC were introduced for registered professionals. These requirements addressed the inability of staff to track existing equivalents and make new owners/occupiers aware that an equivalent existed in their building. Previously, a method of recording this information to ensure it became a public record had not been developed.

7.) Staff Levels

Current Building Approvals Department staff positions who review plans include three Plan Checkers who review small residential buildings; one Plan Reviewer who reviews small non-residential buildings, simple tenant improvements and equivalents; two Building Technologists who review large and multi-use buildings under Part 3 of the BCBC, complex tenant improvements and equivalents; one Plumbing/Gas Inspector-II who reviews site service and complex plumbing systems; one Building Code Engineer who reviews structural, mechanical and sprinkler components in addition to products, materials and assembly acceptances; and one Supervisor. It should be noted that currently one of the Technologists is on extended leave due to personal health problems and isn't planned to return to the workplace until the end of the first quarter of 2000.

Should a CP program be implemented in Richmond, the program would apply to large buildings designed under the scope of Part 3 of the BCBC. There would still be a need for the Building

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Technologists to undertake some level of cursory review of the building permit application and the CP's detailed code review report to ensure process compliance.

The overall impact on the job function of the staff two positions would be marginal, particularly as the CP submission can only be made for a Part 3 building designed in full compliance with the code. There are a very high percentage of building permit applications for Part 3 buildings submitted with building code equivalents incorporated within the design. **Only the "Authority Having Jurisdiction" or the City has legislative authority to accept building code equivalents, although a CP could provide a recommendation.** Permit applications for tenant improvements, which usually include interior finishing of tenant spaces on multi-use and commercial buildings, are not required to be designed by.

Current Building Approvals Department Inspection staff positions include seven Building Inspector-I positions who inspect all types of buildings; one Building Inspector-Minor Structures who inspects one and two family dwelling units (this position is considered a training position for the Building Inspector-I); one Building Inspector-II who inspects major projects and monitors and assists the other staff in problem resolution; and one Supervisor. One inspector retired the end of October. This retirement will facilitate a smaller staff compliment for the work section. The level of service provided by inspection staff is next day inspection. If a request is made prior to 3:00 pm on a business day, the inspection is undertaken on the next business day.

The number of staff positions is considered very lean, particularly in the plan review section. In the CP Program municipalities surveyed, there was no reduction in staff due to the change in work functions to undertake a monitoring role on the CP Program. It is however noted that with the implementation of the program there was no increase in staff during increased construction activity.

8.) Liability

External legal counsel reviewed the CP program and provided a legal opinion as to whether there is a liability concern. The opinion received indicated that there is a potential liability concern should Richmond have a CP Program. This is because, currently the Municipal Act and the BC Building Code (BCBC) do not provide the City with protection under a CP Program with regard to field reviews, supervision, final inspection nor issuance of any permission to occupy a building. One could assume, however that there would be no greater liability risk to the City as we are liable for the actions of staff.

Local government may not be able to discharge the duty of care it owes to future occupants of a building by reliance on certification of a registered professional or CP as opposed to its own inspections, nor should it. There may be a concern that the City could become liable as a consequence of failure by the Certified Professional.

The Municipal Act only provides statutory protection with respect to the plan review approval process for issuance of a building permit. The Act is silent with regard to the inspection function and is generally interpreted to mean that when a section of the Act states a duty, then those duties not addressed are not permitted. As such, there is no statutory exemption from liability where the City relies on a registered professional or a CP Program with regard to field reviews, inspections, supervision, occupancy or final inspection. Surrey is the only jurisdiction governed under the

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Municipal Act that has taken the risk of allowing the CP to undertake inspections, however their inspection staff monitor closely the CP's inspection activity.

There is the potential for conflict between the duty a CP owes under common law and any directions that may be given by the owner of the project. Although the CP is delegated municipal authority for plan review, and field review in Vancouver and Surrey, the CP has a direct contractual agreement with the owner. As such, the CP might be placed in a position of having to deal with opposing priorities. For example, economic owner's design factors versus life safety factors. It is assumed that the professional association's code of ethics would address this concern. The City could consider direct contract with a CP or a registered professional (architect or engineer), however this would be considered the same as hiring additional staff.

9). Reducing Liability

Consideration should be taken to review the liability position should a CP Program be implemented. Currently Building Bylaw #6920 requires registered professionals to confirm they have insurance including errors and omissions coverage. When this requirement was introduced, project insurance was considered as a preferred option of insurance coverage, however it was not the minimum required type of insurance. A further review of this type of insurance coverage should be undertaken to address liability.

10). Permit Processing Times

Richmond has a building permit application process which allows an owner/agent, prior to a Development Permit (DP) being issued, to submit the building permit application comprising of preliminary plans,. The customer can then proceed to submitting working drawings prior to DP issuance. As a result of this initiative, it is possible to have the building permit ready for issuance the day following Council resolution on the DP. With a CP program, the submission of a building permit application containing working drawings, could not occur until after issuance of the DP or at a stage in the DP processing when the CP feels the design will not be altered. This could occur after the first reading stage. A CP project, still can be affected by other departmental and divisional approvals, for example engineering, service agreements and transportation needs. There should be a review of the affect a CP program could have on the overall longer processing time for the customer to obtain necessary building permits to achieve optimum turn around time.

11.) Efficiencies

The department is reviewing its permit issuance procedures in order to optimize efficiencies and reduce building permit processing time frames. Staff have addressed communication concerns expressed by customers. Customers have been encouraged to meet with staff at an early stage in the Development Permit process to ensure that when construction drawings are submitted, major code issues have been resolved, as well as other documentation, such as Letters of Assurance, servicing agreements, Ministry of Transport's building elevation requirements, fire safety plans and application for equivalents. This measure facilitates a shorter permit review processing time.

Staff piloted a pre-construction on-site meeting for major projects to discuss with all the registered professionals, general contractor and owner/agent to discuss roles and responsibilities of all involved in the project and also the conditions or limitations of issued permits. This pilot actually

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paid dividends for a customer, in that during a meeting on one of the piloted projects, it was discovered that a submission for equivalents had not been made by one of the registered professionals. Had the meeting not taken place, construction would have commenced to a certain stage and then would have to stop, pending submission and review of an equivalent proposal to bring the building into a minimum level of life safety. In this case, the registered professional was made aware of our processing time and the general contractor's construction schedule. He was then able to submit his proposal in a timely manner to facilitate our review time and the ability to obtain necessary permits without creating a delay to the actual construction.

Staff also introduced a new procedure for processing applications for equivalents in which the turn around times when a complete application is received is ten business days. The previous turn around time was in excess of twenty working days. By introducing efficiencies within the department, shorter permit processing times will result. These reductions could create an overall positive financial position for the project owners.

12.) Financial Impacts

12.a) Richmond

The Municipal Act mandates that if a municipality relies on certification by a CP, the municipality must reduce the fees collected to reflect the costs of the work that would otherwise be done by staff. It can be anticipated that the reduction in building permit revenues will not be offset by a similar decrease in expenditures resulting in a negative net income for the department.

12.b) Owners

There could potentially be a net increase in direct overall costs for the owner and eventually the consumer. The cost of the CP to review the plans, compile a detailed report and apply for building permits, and if inspections are considered, could be greater than what the City would charge in the building permit fee structure. The benefit of the increased cost would presumably be faster permit processing time.

13.) Consultation Process with Stakeholders

There should be a consultation process to obtain input from the stakeholders on the level of service provided. This can be undertaken through individual interviews; meetings with the stakeholders; or a committee established to review the process. The consultation process should be considered for whichever option of service delivery is chosen.

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