



To: Richmond City Council **Date:** September 7, 2007
From: Councillor Harold Steves, Chair **File:** 12-8260-03-02-01
Re: **PROVINCIAL MODERNIZATION STRATEGY AND GREEN BUILDING
CODE INITIATIVE**

The Planning Committee, at its meeting held on Thursday, September 6, 2007, considered the attached report, and recommends as follows:

Committee Recommendation

- (1) That the report on the Provincial Modernization Strategy and Green Building Code Initiative (dated August 22, 2007 from the Director, Building Approvals) be received for information.*

- (2) That a letter be prepared to the Minister responsible for housing, the Hon. Rich Coleman, over the Mayor's signature commending the Province on its work with regard to the Provincial Modernization Strategy and Green Building Code initiative, and stating: (i) the City's support for changes to the Joint and Several Liability (J&S); (ii) the City's preference that the power to decide whether or not to provide code enforcement services remain with local governments; and (iii) that the City continue to determine which options are available.*

Councillor Harold Steves, Chair
Planning Committee

Attach.

VARIANCE

Please note that staff recommended the following:

That the report on the Provincial Modernization Strategy and Green Building Code Initiative (dated August 22, 2007 from the Director, Building Approvals) be received for information.

Staff Report

Origin

Verbal updates on the Modernization Strategy and Green Building Code were provided by staff at the Planning Committee meeting of June 5, 2007. This report provides further updates and detail on these two initiatives, as requested by Committee.

Modernization Strategy

Background

In 2004, the Province initiated the Modernization Project to assess the need for change to British Columbia's building safety regulatory system. This assessment was completed in 2006 and resulted in the development of the Modernization Strategy. The Strategy is comprised of five interdependent projects that address specific areas effecting building safety. Each project has specific objectives which are summarized in Attachment 1.

City staff have been communicating with the Province on the Modernization Strategy since its inception through workshops, regional stakeholder meetings and direct correspondence. The process thus far has been challenging as the Province has not always provided clarity on the direction of the project and the objectives have evolved over time.

Analysis

Staff are very supportive of the Modernization Strategy's overall objectives to improve safety and efficiency in the building regulatory system. Much of the work under code compliance, competency and information will help support and improve the City's existing practices without forcing any specific change to those practices or the regulatory environment.

Two key areas of concern with the direction of the Modernization Strategy have been identified by staff as follows:

1. Joint and Several Liability

Joint and several (J&S) liability is established in the provincial Negligence Act and directs claim payments to be made on the basis of ability to pay and not degree of fault. J&S liability creates disproportionate risk for municipalities that provide building code enforcement services. A municipality can be found only 5% at fault in a building claim, but will be made to pay the full claim if no other defendant exists or is able to pay. Developers, consultants, and contractors benefit the most from building construction and have the vast majority of control in building quality, yet take on minimal risk. The Province recognizes that this is a misallocation of risk and benefit.

While the Province is promoting innovation and creativity in building solutions, joint and several liability forces municipalities to err on the side of caution. In spite of recognizing this problem and contradiction, the province sees J&S as necessary to protect homeowners from the risk of unpaid claims. Municipalities are effectively being used to underwrite building construction quality, and the province is not currently proposing any changes to this situation as part of the Modernization Strategy.

2. Code Enforcement Jurisdiction

Currently, local governments have the power to decide whether or not to provide code enforcement services. Many rural municipalities, and notably Delta, do not provide inspection services or have limited service scope. The province has proposed to create a third-party code enforcement agency similar to the BC Safety Authority. Local governments would then have the choice of delivering inspection and permitting services or assigning this role to the new agency, but would have to do one or the other. The option to provide no service would be eliminated.

Although this is a limitation on existing powers, it is a very positive step for safety and consistency throughout the province, and does not have any real impact on Richmond as the City has always provided a full level of service.

The Province is also proposing the creation of a province-wide Certified Professional (CP) program. A CP program allows private engineering and architectural consultants to provide some or all of the permitting and inspection services. Again, this would be a positive step forward as long as the power of choice is retained by the local government.

There has been some concern that this power of choice may be limited in the future and that local governments might lose some control over the delivery of code enforcement services, or be forced to accept the new agency or CP services. Having received considerable negative feedback from municipalities, the Province has indicated that this will not be the case.

Next Steps

The Province's current objective is to have at least portions of the Modernization Strategy fully implemented through regulatory and/or statutory change by late 2007 or early 2008. The Province has indicated that further consultation will occur prior to the adoption of any new regulation. Further information and detail on the Modernization Project can be found on the Province's website at <http://www.housing.gov.bc.ca/modernization/>.

The City's focus should remain on ensuring that the control of building inspection and permitting services remains with local governments, and that J&S liability issues are addressed. Staff have identified these issues for discussion with Honourable Rich Coleman, Minister of Forests and Range and Minister Responsible for Housing at the UBCM Convention, September 24 to 28, 2007.

Green Building Code Initiative

Background

On February 13, 2007, the Province announced in the Throne Speech the development of a unified BC Green Building Code by early 2008 as part of an ongoing commitment to reduce greenhouse gas emissions related to buildings and construction. The Green Building Code would be created by adding amendments and regulations to the existing 2006 BC Building Code.

The stated goals of the initiative are:

1. To identify and remove barriers within provincial codes and regulations,
2. To identify and propose new provisions for green buildings regulation, and
3. To support implementation through an administrative framework, education and training.

The Province has envisioned that a green buildings regulation will be results based and flexible for industry and will consider a range of sustainability areas such as:

1. Sustainable sites – land use, storm water management; servicing infrastructure.
2. Water conservation – low-consumption fixtures, re-using waste water.
3. Energy – energy efficiency for buildings, on-site renewable energy; energy efficient devices; community energy planning.
4. Materials and resources – re-using existing buildings; reducing construction waste; using sustainable building materials.
5. Indoor environment – enhancing air quality; reducing air contaminants e.g., low-emitting adhesives and sealants.
6. Innovation and design process – facilitating green building through administrative processes.

Analysis

Staff are very supportive of this initiative and Council have already voiced support in this direction through sustainability initiatives and water conservation measures. The initiative is in its infancy and the Province has yet to begin full consultation or identify specific proposals, although initial comments are already being delivered through industry workshops and seminars.

A key issue that has already been identified is the reconciling of this initiative with the Modernization Strategy, particularly when it comes to joint and several liability. The Green Building Code initiative would likely support new technologies and innovation in building practices, which in turn could generate more liability and risk for municipalities if J&S liability remains unchanged.

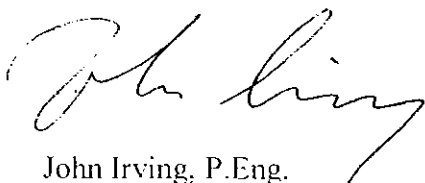
Of course, liability concerns are not limited to municipalities. Currently the Building Code allows for alternative solutions and in most sections of the code there are few regulatory obstructions to innovative practice, however the industry has been slow to change as the market, cost, and liability incentives are insufficient. A prime example of this is the issue of green roofs. The current code allows green roofs to be installed as an alternative solution, however market and insurance industry sensitivity to leaky condos along with developer's liability concerns are limiting the spread of this technology.

It is unlikely that the removal of some code barriers will create significant change: some level of well designed prescriptive regulation will likely have the most beneficial effect. A good example of previous change in this regard is the Water Conservation Plumbing Regulation 2005 amendment that required 6-litre low-flush toilets in all new construction instead of the previously allowed 13-litre toilets. This had neutral capital cost implications, generated little liability or safety concerns, and created significant water conservation benefits. Council has already written to the Province urging that this regulation be taken a step further by requiring dual-flush toilets.

Staff are currently working on several green initiatives including corporate sustainability and demolition recycling. Where overlap exists with code issues and Provincial partnership and support would be beneficial, these initiatives will be identified through the Green Building Code consultation process.

Next Steps

The Province is proposing to hold consultation sessions this fall and staff will monitor and participate in this process. As with the Modernization Strategy, staff have identified the Green Building Code Initiative for discussion with Honourable Rich Coleman, Minister of Forests and Range and Minister Responsible for Housing at the UBCM Convention, September 24 to 28, 2007.



John Irving, P.Eng.
Director, Building Approvals
(4140)

attach.(1)

Attachment 1: Modernization Strategy – Projects and Key Objectives

Projects	Key Objectives
1 Information management and system performance	<ul style="list-style-type: none"> • Develop information and performance measurement systems and increase information flow from the Province to stakeholders.
2 Liability and risk	<ul style="list-style-type: none"> • Adjust the distribution of liability in the system to reduce inequity and support effective risk management. • Enforce accountability by ensuring that participants in building projects can cover their share of liability if a claim is made. • Ensure that a framework is in place within which affordable insurance is available.
3 Competency	<ul style="list-style-type: none"> • Ensure that building and fire officials demonstrate current knowledge of the building and fire codes as well as skills competency. • Address the need for consistent and current code competency for designers. • Address the need for consistent skills competency for other system participants (e.g.: industrial/commercial/institutional builders).
4 Consistent code application	<ul style="list-style-type: none"> • To develop key principles to guide approaches to alternative solutions to the BC Building Code and Fire Code. • To make rehabilitation requirements more predictable for building owners and developers. • To increase investment in existing buildings and encourage building reuse.
5 Consistent code compliance and enforcement processes	<ul style="list-style-type: none"> • To clarify accountabilities for code compliance and enforcement. • To consider options for risk-based third-party enforcement, with meaningful consequences for non-compliance.