

Staff Report 2019-0234

Meeting Date: December 3, 2019

Subject: Public Consultation – Building Code Services Transformation

Submitted By: Angie Mitchell, Chief Building Official/Manager, Building Services

RECOMMENDATION

That the comments outlined in staff report 2019-0234, related to the Province's public consultation on the transformation of building code services, be endorsed; and

That the comments, contained in this report, be provided to the Ministry of Municipal Affairs and Housing on behalf of the Town of Caledon.

REPORT HIGHLIGHTS

- The Ontario Government has launched public consultations on a preliminary proposal to create a new administrative authority that will oversee the delivery of Building Code – related services to the Building Sector.
- The new administrative authority is proposed to address the need to streamline customer service, provide modern tools and products for stakeholders, promote a consistent approach to using the Building Code, and enhance integrity in the system by upholding public safety.
- The Province has identified their current service delivery model is not sustainable and has not been able to keep with the pace of the building sector;
- Feedback provided to the Province will help form enhancements to current building code services and the potential development of new services.
- As the proposal would have impact on the Town of Caledon, it is necessary that the Town and its Council be involved in the discussions.
- A copy of the Province's discussion paper is attached as Schedule A to this report.
- Further updates will be provided as more information is made available.

DISCUSSION

On September 24, 2019, the Ministry of Municipal Affairs and Housing launched consultations on a proposal to create a new, financially self-sustaining, administrative authority to oversee the delivery of Building Code – related services to the Building Sector. An administrative authority is a private, non-profit corporation, that delivers regulatory programs on a cost-recovery basis.

The proposal is meant to address Building Sector - related concerns for the need for better, modern, and timely support services and resources with a focused attention to streamlining customer service, providing modern tools and products for stakeholders, promoting a consistent approach to using the Building Code, and thereby enhancing the integrity in the system by upholding public safety.

The Province is responsible for setting provincial policy direction, establishing regulatory building standards, overseeing the qualification and registration of building practitioners,

and providing support to consumers (e.g., publishing guides and resources and explaining policy intent of code requirements). The Province has identified their current service delivery model is not sustainable due to the inability to keep with the pace of the building sector.

A copy of the Province's discussion paper has been attached as Schedule A to this report. Responses from Building Officials across the province, including a collaborated response from the Ontario Building Officials Association, have been provided directly to the Ministry of Municipal Affairs and Housing. The feedback provided by all stake holders, including those comments within this report, will help inform enhancements to current building code services and the potential development of new services. Further information will be provided as it is made available.

The information below provides an overview of the services under review, along with staff comments:

1. Getting People Working In The Building Sector

1.1. Modernize the current Building Code examination process

The Town would support modernizing the examination process to ensure individuals challenging the examinations with the required knowledge and experience are able to attain qualification in their specialized area of expertise.

1.2. Support the delivery of pre-qualification training

The Town supports the proposal to improve and streamline building code training programs. However, the proposal is not new to the industry. The Ontario Building Officials Association (OBOA) has already developed a certification program for building code professionals, which is recognized in the industry as confirmation that an individual has the appropriate training. The OBOA also offers training programs that prepare building code professionals for such certification.

The challenge with streamlining processes throughout the industry will remain until emphasis is placed on the need for all building code professionals to acquire the necessary knowledge and experience, through a combination of training and experience, prior to challenging a qualification exam and attaining Provincial qualification. While there are certificate programs currently offered through academic institutions at this time, there remains a need for additional education and experience, which can be achieved through a more comprehensive academic program, resulting in a diploma and/or degree. Investing time at the forefront of one's career path will better equip municipalities with retaining individuals that have developed a consistent understanding with the volume and complexity of the provisions of the Building Code, the background related to such provisions, and the know-how on applying their understanding. Such a program would not only attract individuals to the field early-on, it would also provide a path for individuals to gain more specialized knowledge and training prior to certification and qualification. Ultimately, this would lead to an increase in public trust and confidence in building code professionals.

1.3. Support municipalities with recruitment and retention of building code professionals

A combination of the current offerings and programs should be formulated into one academic path that ultimately leads to qualification. Considering the vast array of technical expertise required in each category of qualification, the creation of such a program would require varying streams, establishing a minimum standard of requirements in each category of qualification for any building code professional, thus promoting consistency throughout the industry and strengthened accountability amongst all stakeholders.

1.4. Use Coordinating Professionals to streamline approvals

Staff do not support the use of a Prime Consultant in the administration and enforcement of the Building Code, as this would be counter-productive to the goal of maintaining confidence in the system. The goals and objectives of the Prime Consultants/Certified Professionals (who may work under the umbrella of the Prime Consultant's entity) are questionable as they are retained by stakeholders that are not appointed through the Building Code Act and its regulations to minimize risk to the health and safety of the occupants of buildings. Overlapping responsibilities between public and private sector roles creates potential for greater conflict of interest and does not ensure integrity in the system, nor does it streamline processes. Furthermore, the proposal does not address nor eliminate the level of responsibility or liability on a municipality who is responsible for administering and enforcing the Act, which is major cause for concern.

As an alternative, Coordinated Professionals would be best utilized to oversee a property owner's responsibilities, to act as an added protection measure on an owner's behalf in overseeing the legislative requirements of design and construction activities, acting as the main contact between project professionals and the building department. This would ensure the process would be customer-focused while strengthening accountability in the process.

Staff do not support the proposal to authorize the approval of innovative materials through a Prime Consultant as this would increase inconsistencies in interpretation and decrease integrity in the process.

2. Promoting Sustainability and Transparency in the Building Code Profession

2.1. Improve public registry and registration process

Staff support the proposal to improve the current registry, as the current self-reporting lacks transparency. The registry should include functionality that allows Corporations, including municipalities, to approve, add, decline and/or remove individuals from corporate profiles. Accountability can be achieved through the addition of information on disciplinary actions.

2.2. Require continuing professional development to maintain knowledge and learn new Code requirements

Staff support continuing professional development at a minimum of sixty (60) hours over a three (3) year term, or at a minimum, each Code release. Re-certification should not be required except when major Code amendments would require such consideration. Other opportunities, such as volunteering in the sector or attending conferences would best be compulsory through the recommended educational program only, and not as a component of maintaining qualifications.

2.3. Improve registration, compliance enforcement and increased transparency of disciplinary actions

Staff fully support all recommendations made in the proposal to develop a comprehensive, escalation-based, compliance enforcement framework for all building code professionals. In addition, municipal building departments require additional enforcement tools to encourage compliance. All proposals would require further investigation, and collaboration with municipalities and their building departments, prior to the enactment of any legislative changes to the Building Code Act.

3. Building Code Administration and Enforcement

3.1. Enhance municipal enforcement, such as administrative penalties

Staff support an administrative penalty framework for all Orders, with exemptions that are dependent upon set criteria and at the discretion of the Chief Building Official of a municipality. There would be difficulty in standardizing such a framework throughout the Province and must consider time required to investigate, follow-up / monitor, etc., as well as varying financial models and fees in each municipality. Additional tools that could strengthen compliance include reporting of non-compliance on the public registry and providing legal framework to authorize appointed officials to suspend construction when Stop Work Orders and/or Orders to Uncover are not complied with.

3.2. Support building service delivery for smaller, rural and northern municipalities

No comment.

3.3. Enforcement in unincorporated areas

No comment.

4. Improving Building Sector Supports

4.1. Promote consistent understanding and application of Building Code requirements with new tools and guidance

Staff support and encourage the issuance of technical bulletins and written code interpretations. In addition, providing such service could provide for a means to streamline approvals or lack thereof and distribution of all innovative materials and objective-based compliance alternatives. Standardization of processes and practices will address common industry concerns and eliminate further disputes. Additionally, the Town encourages the issuance of guides, checklists, and other resources for various stakeholders, including user-friendly step by step instruction on requirements for common projects, inspection requirements and processes, and the importance of closing permits. A one-stop shop approach to accessing all information through a web-service, with connection to municipal building department pages could be beneficial.

4.2. Modernize digital services and supports to help speed up approvals

Staff support the digitization of the Building Code, and all referenced material. The material would be required to be accessible on tablets, laptops desktops and mobile devices. The proposal does not address the need to further modernize and standardize the e-permitting process. The Town continues to advocate the need for standardized e-permitting platform. There is opportunity to make a substantially positive impact if consideration is given to supporting automation and support of permit services that align with current trend.

4.3. Improve the quality and quantity of industry data and research

Industry research and data has been the responsibility of the Ministry. Municipal reporting should only be considered if the Province absorbs the cost to standardized software development and reports for all municipalities, allowing for automated reporting without burden.

5. Funding Better Service Delivery by a potential increase in administration cost, collected through the municipality through the building permit application process

Staff do not support the potential fee model for this service. The proposal appears to indicate that the potential for administrative impacts on municipalities to fund services that are directed to specific individuals or entities. More information is required to clarify how such a levy would be directly attributable to the services offered to a municipality or permit applicant. There is a need to clarify the details of how any proposed funding model will work. Further research and justification are required from the Province.

NEXT STEPS

These preliminary comments have been sent to the Ontario Building Officials Association (OBOA) and a copy of this report will be provided to the Province. Any additional comments from Council will be incorporate and sent to the Province. Comments were provided by the due date of November 25, 2019 however, additional comments or concerns can still be submitted.

FINANCIAL IMPLICATIONS

There are no immediate financial implications associated with this report.

COUNCIL WORK PLAN

Subject matter is not currently relevant to the Council Workplan.

ATTACHMENTS

Schedule A: Discussion Paper - Transforming and Modernizing the Delivery of Ontario's Building Code Services