

# The Modernization Strategy

## Contents

- Overview of the Modernization Strategy
  - How we got here: a brief review
  - Where we are now: the Modernization Strategy
- Project 1 – Information Management and System Performance
- Project 2 – Liability and Risk
- Project 3 – Competency
- Project 4 – Consistent Code Application
- Project 5 – Consistent Code Compliance and Enforcement Processes
- Implementation of the Modernization Strategy
  - Where we are going ?

## Overview of the Modernization Strategy

### How we got here: a brief review

When asked to “rationalize the regulation of the construction/housing industry,” the former Ministry of Community, Aboriginal and Women’s Services initiated the Modernization Project in 2004. The purpose of the Modernization Project was to assess the need for change to British Columbia’s building safety regulatory system.

The project team aimed to create a collective understanding of where B.C.’s building safety regulatory system is today (current state) and what the system would look like if it was more effective (future state). The team examined the current state of the system by:

- Reviewing previous reports and recommendations and the system’s legislative framework
- Mapping the process of building construction (the building lifecycle)
- Creating a ‘constellation’ map of participants in the system that illustrates the complex interrelationships

It was clear the system was complex and poorly coordinated, and did not respond effectively to the changing needs of system participants.

Two workshops in 2005 brought together representatives from industry, consumer groups and provincial and local governments. Workshop participants:

- Verified the accuracy of the project’s analysis of the current system
- Helped create a vision and guiding principles for an optimal future system
- Explored how an optimal future system could be achieved

At the workshops, participants contributed more than 100 ideas for an optimal future system. Further analysis identified five areas—information transfer and communication, liability and risk, competency, decision making and compliance—in which change could bridge the gaps between the system’s current state and the vision of an optimal future system.

Based on analysis of participant and team ideas, the project team developed proposals that respond to the need for change in these areas.

### Where we are now: the Modernization Strategy

The Modernization Project submitted its proposals to Cabinet in December 2005. In January 2006, a Modernization Strategy implementing the proposals was approved.

The Strategy is comprised of five interdependent projects:

- Information management and system performance
- Liability and risk
- Competency
- Consistent code application
- Consistent code compliance and enforcement processes

The Strategy and its projects will be led by the Office of Housing and Construction Standards. Coordination of the Modernization Strategy will ensure projects proceed in a manner consistent with the vision of an optimal future system and the guiding principles developed in collaboration with system participants. Active participation by all system participants is essential to ensure social, economic and safety interests are balanced.

# Project 1 – Information Management and System Performance

Project lead: Doug Page, A/Director of Research and Analysis Branch

## Rationale

The information needed to assess building safety regulatory system performance, improve effectiveness of policies and programs, and determine whether policy and program objectives have been achieved is not centralized or managed by the Office of Housing and Construction Standards. As well, stakeholders are often not aware of changes to policy and legislation, codes and standards, and building technology and practice.

## Purpose and Scope

The goal of this project is to improve the use and flow of information within the building safety regulatory system.

The objectives are:

- Develop a system to collect and analyze quantitative information related to the building safety regulatory system and the Modernization Strategy that will support fact-based policy and decision making by government.
- Assess system performance by identifying measures and collecting data to measure progress towards the objectives and outcomes established by the other projects in the Modernization Strategy.
- Improve the flow of information from government to system participants so that they can stay up-to-date with current information, including decisions that are made within the system and changes to codes, standards, process and practices.

## Overview of Project Plan

- Inventory of relevant existing data (sources, frequency, caveats, etc.)
- Selection of performance measures
- Identification of information needs for key decision making
- Identification of any critical gaps in available data
- Design of collection strategy to address any critical data gaps
- Consideration of analytical and data storage requirements
- Recommendations to improve communication and information flow

## Stakeholder Participation

Consultations with groups of stakeholders are not anticipated. Assessment of information needs and available data can best happen via one-to-one written or oral communication.

Interviews are planned with system participants to determine what information needs to be disseminated and the best methods.

## Project 2 – Liability and Risk

Project lead: Kristina Stevens, Director of Safety Policy and Liaison Branch

### Rationale

The system for achieving building safety operates in a high-risk environment. Building deficiency claims against developers, designers, builders, and local governments rose dramatically following the emergence of problems with leaky condos in the mid-1990s, highlighting flaws in the existing liability and risk framework.

When a claim is made for loss due to building defects, fault is apportioned by the courts. Under joint and several liability, each defendant is liable for the entire amount of the damage award, even if found only proportionally at fault. If some defendants are uninsured, the liability exposure of insured defendants (often local governments and/or designers) can increase significantly.

### Purpose and Scope

The project goals are to:

- 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 will be available

What will the project do?

- Define and implement appropriate mandatory liability insurance
- Examine changes to the Limitation Act to specify a shorter limitation period for construction project litigation

What won't the project do?

- Examine risk management tools other than professional liability, e.g., bonding
- Review joint and several liability

### Overview of Project Plan

- Research the current liability insurance market
- Work with knowledgeable stakeholders to develop options for mandatory liability insurance
- Consult broadly with stakeholders on the options
- Obtain Provincial government approval and implement the approved option
- Work with the Ministry of Attorney General on options to change the application of the *Limitation Act* to the construction industry

### Stakeholder Participation

- Representation from key stakeholder groups to develop options for mandatory liability insurance
- Broad stakeholder consultation on options for mandatory liability insurance
- Consultation by Ministry of Attorney General staff on proposed changes to the *Limitation Act*

July 4, 2006

## **Project 3 – Competency**

Project lead: Kristina Stevens, Director of Safety Policy and Liaison Branch

### **Rationale**

Design and construction of safe, quality buildings is dependent on a skilled, competent workforce. Competency can be gained through industry and professional training, but for most system participants there is no requirement to demonstrate competency. Lack of competency can result in buildings that are poorly designed and constructed or even unsafe. Inappropriate design, faulty workmanship, and inadequate knowledge of the Building Code have repeatedly been cited as a fundamental cause of building defects and failures. System participants have suggested that competency is an ongoing concern.

### **Purpose and Scope**

The goal of this project is to ensure consistent, up-to-date knowledge of the building and fire codes on the part of regulatory system participants. This will involve:

- Examining code competency for designers, builders, and building and fire officials.
- Assessing the need for mandatory or continuing education requirements for competency.

What will the project do?

- 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).

What won't the project do?

- Address code knowledge for other industry participants (only building officials, fire officials, and designers are in scope)
- Develop education and training materials

### **Overview of Project Plan**

- Research code knowledge practises in other jurisdictions
- Work with building officials and fire officials to define practical options for training and for a framework for demonstrating code knowledge and skills competency
- Work with building designers to define options to improve consistency of code knowledge
- Consult with stakeholders and existing authorities and institutions concerning consistent skills competency for other system participants
- Consult broadly with stakeholders on the options
- Obtain government approval and implement the final recommended set of options

### **Stakeholder Participation**

- Representation from key stakeholder groups to develop options
- Broad stakeholder consultation on the options

## **Project 4 – Consistent Code Application**

Project lead: Trudy Rotgans, Manager of Building Policy Branch

### **Rationale**

There is a need to increase consistency in the application of codes in the building safety regulatory system. The current system creates unpredictability for industry and barriers to streamlined process, ultimately increasing construction costs.

### **Purpose and Scope**

The purpose of this project is to bring more consistency and predictability to the way code provisions are applied to buildings under construction and renovation and address barriers to acceptance of design innovation. The intention is to develop collaborative solutions with industry.

There are three key areas of interest:

- Effective process for equivalencies or alternate solutions to code requirements
- Authoritative and consistent interpretation of code requirements
- Effective application of code requirements to existing buildings including heritage buildings

### **Overview of Project Plan**

Equivalencies or Alternate Solutions to Code Requirements

- Examine and categorize common alternate solutions proposals and local government's current review process
- Develop recommendations for record keeping and consistent process to determine acceptable alternate solutions

Authoritative interpretation of code requirements

- Identify needs and shortcomings of present system of interpretations mechanisms
- Develop recommendations for consistent interpretations through authoritative organizations

Application of structural and architectural code requirements to existing buildings, including heritage buildings

- Examine difficulties associated with application of structural requirements to existing buildings, especially seismic requirements
- Develop process model for risk based application to existing buildings
- Test that process model through pilot projects with local government
- Expand project to architectural code requirements such as fire protection, health and safety, and accessibility

### **Stakeholder Participation**

- Required for project steering committees, working groups and pilot projects with local governments

## **Project 5 – Consistent Code Compliance and Enforcement Processes**

Project lead: Jeff Vasey, Director of Building Policy Branch

### **Rationale**

Enforcement of compliance with codes achieves building safety. When compliance enforcement activities are poorly coordinated or reduced, or do not focus on higher-risk areas, code compliance and ultimately building safety may be compromised. Regulatory processes that vary from jurisdiction to jurisdiction, such as permitting and inspection, can create inefficiency and delays in building projects and increase costs. The regulation of professional involvement in building construction, where it exists, is confusing and poorly coordinated, with definition of professional roles and responsibilities divided among codes and regulations, professional statutes, and bylaws enacted by professional bodies.

### **Purpose and Scope**

This project is intended to improve compliance with standards for building safety and to establish more efficient, predictable regulatory processes. This will involve:

- Clarifying accountabilities for code compliance and enforcement
- Developing options that address the need for risk-based third-party enforcement, with meaningful consequences for non-compliance
- Determining how to bring more consistency and coordination to processes for:
  - Enforcing code compliance
  - Regulating professional involvement in building construction

Project outcomes will:

- Recognize the importance of third-party oversight
- Establish processes that attend to risk consistently at critical points, at regional or province-wide levels
- Balance the need for consistency with the need for flexibility

Code compliance enforcement by the provincial government will not be a project outcome.

### **Overview of Project Plan**

- Formation of working group
- Development of options and discussion paper by working group
- Broad consultation on discussion paper
- Development, implementation and evaluation of pilot projects
- Recommendations to Minister
- This process will address:
  - Code Enforcement Accountabilities
  - Consistent Enforcement Processes
  - Coordinated Framework for Regulation of Professional Involvement in Building Construction
  - Sanctions for Non-Compliance

### **Stakeholder Participation**

- Formation of working group of local government representatives and industry representatives
- Broad consultation with system participants on discussion paper on the four major project components

## Implementation of the Modernization Strategy

### Where we are going?

Active participation by all system participants is essential to ensure that safety, economic and social interests are balanced as the Modernization Strategy proceeds.

The success of projects under the Strategy depends on the continuing involvement of local government representatives, industry and other participants to build and test ideas for moving forward.

The Strategy will provide overall coordination of the involvement of system participants in each individual project so that opportunities for input are maximized and the consultation process is as efficient as possible.

Work on the Modernization Strategy's five projects will proceed during the next two years, with the goal of introducing any required legislation in Spring 2008.

**Updates on the Strategy and the five projects will be posted regularly to the Strategy's website at <http://www.housing.gov.bc.ca/modernization>.**