

## PRACTICE ADVISORY COMMITTEE

WHAT'S NEW  
WHAT'S NOT

Sponsor



## PRACTICE ADVISORY COMMITTEE

### WHAT'S NEW WHAT'S NOT

- Barry Johns, Architect, AAA  
Director of Practice
- Randy Krebs, Architect, AAA
- Len Rodrigues, Architect, AAA

Banff Session  
2018

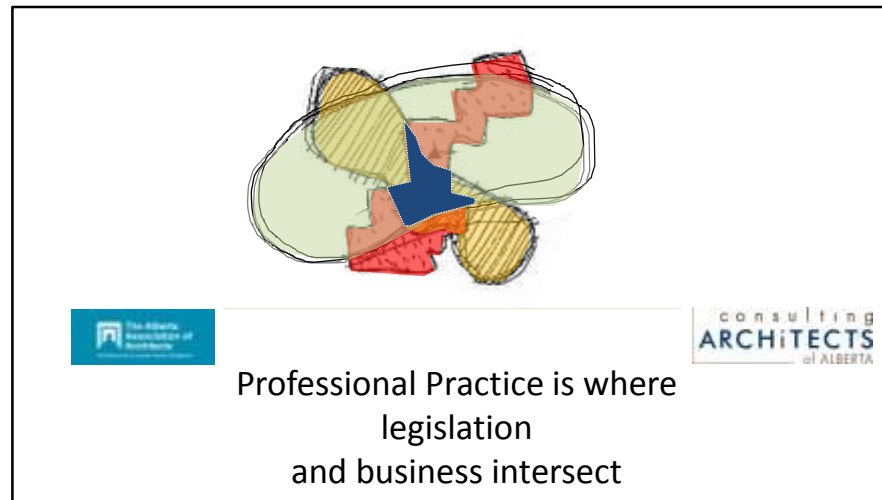


- Introduction
- Presentation about what you have brought to us
- Pre-suppose familiarity with available documents – Practice Bulletins, eBlasts, Bulletins
  - Member responsibilities
- Q&A afterward
- For anyone interested – we will make the presentation available for reference later

## PAC ROLES & RESPONSIBILITIES

- Administrative & Member Support
- Collaborative Vetting of Issues
- *Practice Bulletins and Advisories*
- Respond to Inquiries
  - AAA Membership
  - Authorities Having Jurisdiction
  - General Public - Clients
  - Legal
- Policy Development for Council Review and Approval
  - Professional Involvement
  - Succession

- PAC is an administrative function.
- We are not consultants and we do not tell you how to run your business.
- We do provide advice on most areas of practice that are impacted by the Act, the Regulation and the Bylaws and the Code of Ethics.
- PAC believes in the future of the profession so overarching everything we do is the idea of the pursuit of excellence,
- Examples of new and updated policies developed by PAC based on repeated inquiries include PB26, PB06, PB-15 and PB-27 and we will speak to them today.



- We assist members re: the Architects Act, Regulations and Bylaws - as it relates to professional practice.
- We also interact with the CAA such that our services inevitably interconnect on several practice issues where the Act, advocacy and business intersect.

Slightly different perspective:

- We can't speak today without referencing what is central to our work as architects – **design** and the pursuit of excellence in design.
- This goes to our quality of service, our respect for people, for culture and our respect for the environment.
- This is actually all encompassing – big picture thinking - and this is precisely what makes this profession unique in every respect.
- If we conducted ourselves around the argument that for architects - every decision in practice is in one way or another a design decision – we'd be better architects – grounded, efficient, professional, honest and productive and the world would be a better place.
- Indeed - this graphic comes from the Charles Eames Louvre show in 1969 where he tries to explain 'what is design'
- So we will use this same graphic to try to understand the narrow field of design and in that sense the same narrow meaning of 'professional practice' so that we can do our work well.

## PRACTICE BULLETINS \_ A RESOURCE

<http://bit.ly/aaapracticebulletins>



- To provide advice on professional practice we regularly update and post PB's on a regular basis
- Surprising the number of members who still do not know they exist or, do not refer to them
- CHOP Manual
- new RAIC No. 6 Agreement published last year – Guide is an excellent document
- **CANNOT OVERSTATE HOW IMPORTANT IT IS TO UNDERSTAND AND BE FAMILIAR WITH ALL OF THESE DOCUMENTS – ESPECIALLY THE PB'S**

## PRESENTATION SUMMARY

Common themes enable PAC to now quickly categorize inquiries and focus on developing projects – advisories, practice bulletins, eBulletins and policy Initiatives for Council review.

New issues and old or recurring issues continue to challenge our mandate to advance professional practice and safeguard the public interest.



- Streamline effort over three years
  - Prominent files and secondary files - all important and recurring subject issues to PAC
- Next Steps - policy developed by PRB is being re-established – also for review and approval by Council.
  - New policies based on observed issues and frequent similar inquiries.
  - PAC will adjust and align its mandate with the PRB as it is re-established

## PRACTICE ADVISORY CATEGORIES

2016–2018 313 Inquiries

GENERAL (INQUIRIES / DISPUTES)  
PRACTICE STANDARDS (POLICIES / REGISTRATIONS)  
PROFESSIONAL INVOLVEMENT (& PB-26)  
C & D UNAUTHORISED PRACTICE REPORTING  
SUCCESSOR ARCHITECTS  
USE OF SEAL  
USE OF SEAL (NOTARIUS)  
UNAUTHORISED USE OF DOCUMENTS (COPYRIGHT)  
ABC SCHEDULES  
DESIGN SERVICES – RFP / DESIGN BUILD / COMPETITIONS  
INSURANCE  
STATUTE OF LIMITATIONS  
FEE SCHEDULE / PRO BONO  
SCOPE OF WORK LID  
AS BUILT VS RECORD DRAWINGS  
FIRM START-UP & MOONLIGHTING  
PROPOSALS



- This is the primary PAC infrastructure
- We have discovered that there are very common issues that all of us face and this is borne out through an analysis of the inquiries we receive or have received over a three year period.
- 16 or 17 categories – some of which could still be combined
- ‘I wish that practice could be this simple and easy to understand’.
- 313 has now increased (+/- 25 more files) from the time this prezco was prepared – ongoing file growth
- PAC is a very active arm of Duggan House

## PRACTICE ADVISORY CATEGORIES

2016 - 2018

<b>GENERAL (INQUIRIES / DISPUTES)</b>	<b>33</b>
<b>PRACTICE STANDARDS (POLICIES / REGISTRATIONS)</b>	<b>53</b>
<b>PROFESSIONAL INVOLVEMENT (&amp; PB-26)</b>	<b>34</b>
<b>C &amp; D UNAUTHORISED PRACTICE REPORTING</b>	<b>27</b>
<b>SUCCESSOR ARCHITECTS</b>	<b>34</b>
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- These are the highest number of inquiries by category over the past 2 years.
- C&D's 27 inquiries - 21 issued plus others found in house during due diligence searches on reported files.



## PRACTICE ADVISORY CATEGORIES

2016 - 2018

	GENERAL (INQUIRIES / DISPUTES)	33
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	C & D UNAUTHORISED PRACTICE REPORTING	27
Old	SUCCESSOR ARCHITECTS	34
	USE OF SEAL	28
	USE OF SEAL (NOTARIUS)	
Old	UNAUTHORISED USE OF DOCUMENTS (COPYRIGHT)	
Old	ABC SCHEDULES	
Old / New	DESIGN SERVICES – RFP / DESIGN BUILD / COMPETITIONS	
	INSURANCE	
	STATUTE OF LIMITATIONS	
New	FEE SCHEDULE / PRO BONO	
	SCOPE OF WORK LID	
	AS BUILT VS RECORD DRAWINGS	
	FIRM START-UP & MOONLIGHTING	
	PROPOSALS	



- From these categories – files are addressed and closed.
- New projects for the benefit of the membership are derived from them, resulting in new Practice Bulletins or updates to existing, eBlasts or eBulletins or policy review by Council.

## PRACTICE ISSUES

- Requirement for Professional Involvement PB - 26
- Successor Architects / Use of Seal
- Copyright and Unauthorized Use of Documents
- ABC Schedules
- Procurement - Design Services RFP's and Design Build
- Fee Schedule and Pro Bono Services

- We will address these today

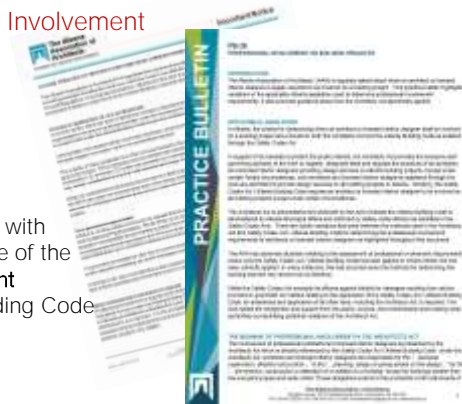
## PRACTICE ISSUES

- Requirement for Professional Involvement



### PRACTICE BULLETIN PB- 26

Significant re-write and alignment with Definitions, Scope of Practice, role of the AHJ's, and the important alignment between the Act, the Alberta Building Code and the Safety Codes Act.



### RANDY

- Revisions address unauthorised practice issues and confusion between architects and LID's and AHJ's allowing illegal practice
  - Proof of professional involvement requirements at BP stage not enough
    - seal documents at DP stage per re-released and edited PB 15 – discuss later
  - Required professional involvement being avoided in some jurisdictions due to:
    - Work by non-professionals incorrectly accepted
    - Building being divided into smaller “building areas” with firewalls or tenant separations.
    - Some authorities provide design advice to Owners – AMA confirmed not acceptable.
- Solution: AAA liaison with AMA / Safety Codes Council for mutual alignment in public interest.
  - Future Standata

### Key Messages

- Core concept: to comply with BOTH Acts not just one Act.
  - subtle but important differences between the 2 Acts explained in the PB.

### Practical Application LID's

- Concern about need for Architect on LID led project
  - consider from regulatory and business perspective
  - letter from Architect to coordinating LID with ABC Schedules for “exits” and/or “environment separations”

- potential to establish standing Architect / LID business relationships.

### **Conclusions**

- PB26 expected to generate stronger relationship between AAA and AMA.
  - PB26 the start point for a much-needed, broader communication strategy.
  - Present to municipal authorities and safety codes officers at provincial conferences.
- AAA able to provide letters to any code authority that questions authority of Architect or LID on projects.
  - send inquiries through the Director of Practice.
- IMPORTANT - membership vigilance and notification to Duggan House re: unauthorised practice
  - Protecting public interest / duty of care = primary obligations of AAA members.

## PRACTICE ISSUES

- Requirement for Professional Involvement

- “Building” and “Gross Area” Distinctions
- Re-issue to harmonise with ABC
- Professional Involvement Policy
- LID scope
- NOT defined at Firewalls or Fire Separations
- When an architect is required, engineers are required
- Coordinating Professional of Record
- Engineers can do architectural work only on exempted buildings



### RANDY

- Act as companion document with Alberta Building Code – most restrictive applies but both Acts apply
- Professional involvement exemptions for a portion of a building do not apply with a change of use
- Both SCA / ABC and AAA use building occupancy and size to determine professional involvement.
- Occupancy types essentially the same despite minor category wording differences.
  - **Big Picture:** Differences in calculation of area to determine the requirement for professional involvement
    - SCA / ABC uses “building height” as measured in # of storeys and “building area
    - AAA uses just “storeys” and “gross area.”
    - ABC and AAA agree definition of “storey” to include all floor levels including basements and service room floors but, ABC excludes some levels for purpose of measuring “building height” under certain circumstances.
    - “Gross area” used by AAA whereas “building area” used by SCA / ABC.
    - PB26 includes definition of “gross area” not previous provided in AAA legislation. PB26 is effectively AAA policy. May include areas that are excluded in certain circumstances in SCA / ABC as per “building area” definition.
    - Subtle yet important differences result in different professional involvement requirement assessments under each Act.

### BOTH ACTS APPLY but AAA calculations govern.

- **Big Picture:** Firewalls cannot be used to subdivide and avoid professional involvement
  - ABC Firewalls – “buildings” may be divided into smaller “building areas.”

- ABC uses “buildings areas” as basis for determining professional involvement.
- May be acceptable under SCA / ABC, **but** PB26 advises that firewalls and sub-division of buildings not recognized by the AAA.
- Cannot subdivide a building to exempt professional involvement of an architect.
  - This applies to LID’s (the 5000sf rule...does not exist)
  - Entire building area applies – not just a tenancy re: need for professional involvement
  - this is a big **assist** to LID’s

**BOTH ACTS APPLY but AAA calculations govern.**

- **Big Picture:** Fire Separations / Tenant Separations must consider the entire floor
  - incorrect application of SCA / ABC and AAA through splitting of office tower fit-up or renovation project into smaller areas or tenancies
    - particularly important to LID membership.
    - confirmed as non-compliant with SCA / ABC by the AMA.
- **Big Picture:** General professional involvement reinforces the Act
  - Architects Act, involvement required for “...planning, design or giving advice on...” new buildings or any alterations.
  - Coordinating Registered Professional (CRP)
    - most practical to be Architect or LID.
  - Architects, LIDs and Engineers carry duty to assess when other professionals required.
  - Core duty of Architects / LIDs to consider building systems / design integration therefore caution against Engineer CRP.
  - “5000 sf / 500 sm rule” or Part 3 v Part 9 not appropriate methods to determine involvement.
  - side by side comparison of ABC and AAA requirements included the PB.
  - AAA encourages code authorities to require professional involvement on all disaster services buildings regardless of size.
  - AMA confirms past interpretations of ABC administrative provisions to allow an Engineer to provide Architectural services and vice versa are incorrect. These provisions (similar in ABC, AAA and EPA) relate to the application for permits under the SCA / ABC **only**.
  - AMA recognizes Part 10 issues. Moving towards adoption of CAN/UL standard to resolve. Issue identified as part of AAA Legislation Review.
- **Big Picture:** Architect and LID Scope clarified and explained in PB 26
  - neither Architects nor LIDs can do engineering work (unless also an engineer).
  - first version of PB26 precipitated extensive discussion with LIDs and updates confirmed.
  - LID scope defined in Architects Act General Regulation definition.
    - excludes building shell, environmental separations ABC Part 5, exits as defined by the ABC.
    - PB26 confirms AAA relies upon ABC definitions for building, environmental separation, exits, lobby, firewall, fire separation, etc.
    - building shell includes foundations and slab separations.
    - environmental separations / thermal differential - indoor rink | hot yoga studio.
    - ABC defines **Means of Egress = Access to Exits + Exits**.
    - **Access to Exits** and fire separation design not part of an **exit** – LID involvement permitted.

- Exits include:

- exit doors defined by ABC (to exterior or to adjoining building on property line).
- exits to separate buildings by vestibule, bridge, walkway or balcony defined ABC.
- exterior or interior exit enclosures for stairs, ramps or passageways.
- exit vestibules resulting from interconnected floor spaces as defined by ABC.
- exit lobby as per ABC.

- LID caution that occupancy changes may impact occupant load thus exit requirements thus result in need to upgrade exit capacity – therefore Architect must be involved.

## PRACTICE ISSUES

- Successor Architects



### LEN

- **Big Picture:** PB guides members actions BEFORE providing services on a project when original authorized entity is terminated
- successor NOT responsible to ensure the predecessor is paid but often indicates the quality of client and project risks.
  - make all reasonable efforts to confirm the predecessor contract is terminated.
  - caution to not undertake work where issues between owner and architect are unresolved - architects right to enter an agreement 'clean'
- successor has statutory responsibility to inform the predecessor and AAA Council about the intention to assume the responsibility for a project.
- under no circumstances is it permissible to provide services when another authorized entity is already involved.
  - must not pursue clients for work conducted by others, by promoting as a (potential) successor - ethics issue.
- re: ABC Schedules of Professional Involvement - only one entity may provide professional services on a project at one time.
- **Big Picture:** seal only one's own drawings – permissions for use as 'information only'
  - test for use of seal 'personal supervision, direction and control' – the Act
- **Big Picture:** new entity assumes full responsibility for the project as if it were his/her own.
  - this is why the Act and the Safety Codes Act / ABC include provisions for the succession of the project and re-issuance of ALL A, B & C Schedules
  - assume work of others as if it were your own regardless of the extent of work completed or credentials of predecessors.



- depending upon stage of work, can qualify this responsibility
- use notification procedures in the PB
- required permissions in writing re: use of documents – from *architect*, not owner

## PRACTICE ISSUES

- Use of Seal

### Manual and Electronic Seals

- Not for Sale!
- Qualified Application of Seal
  - at Development Permit Stage
  - other
- Legality of Electronic Documents
- Specific Procedures
  - Hard Copy versus Electronic Documents
- Invalidation through Transposing



### LEN

- Council acceptance of mandatory seal and signature at DP stage pending ... or confirmed
- **Big Picture:** Authentication serious matter – duty of care
  - goes to 'personal supervision, direction and control' – the Act
  - provides clear line of responsibility
- **Big Picture:** Selling the seal – betrays a lack of integrity, knowledge about liability and risk
  - equivalent to **counterfeiting**
- **Big Picture:** The seal is often incorrectly interpreted as a guarantee – must be careful to qualify the way and number of times it is used
- **Big Picture:** Manual and digital methods are two distinct and separate methods.
  - seal to a physical set of documents is unique and distinct from applying a seal to an electronic set of documents.
  - the two methods are NOT interchangeable.
- Notarius is the ONLY secure digital method approved (thus far) by AAA.

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## PRACTICE ISSUES

- Practice Bulletin 15  
&  
NOTARIUS



### LEN

- AAA recently published a user friendly guideline for NOTARIUS
- **Big Picture:** Electronic document authentication provides certification to the authorized entity and any other reader that the document(s) are authenticated.
  - If a hard copy set of documents is validly authenticated using the methods described in the PB and an electronic set of authenticated records are subsequently requested, the only valid method for creating an electronic set of drawings is the electronic process as described in the PB using the Notarius system.
  - The Notarius system is based on a valid level of encryption alongside the issuance of seals by AAA as being strictly coordinated between the AAA Registrar and Notarius.
  - The printing of a valid set of authenticated electronic documents results in the effective loss of valid authentication. Only hard copy records as authenticated using the methods described in the PB are considered valid.
  - Mathematical encryption is the relevant portion of the digital seal, NOT the graphic representation.
- Other forms of electronic authentication such as Adobe Acrobat or Bluebeam with graphic facsimiles of a signature and/or seal graphic is NOT permitted. This is a common error reported to the AAA by building code authorities.
  - documents lose their authentication if transferred from hard form to electronic format or from electronic format to hard copy.
- A valid authenticated set of hard copy documents when scanned, photographed or otherwise translated to some other electronic form

through

are not valid authenticated documents.

- If print copies of an authenticated electronic document are made, they should be watermarked with a cautionary note to advise the reader they can no longer rely upon such documents as being authentic. A sample of such a cautionary note is included in the PB.

- The PB also describes the circumstances when documents should be, could be or should not be authenticated.

- Depending on PB15 update status: Recent changes to PB15 now make it mandatory for documents to be authenticated (manually or electronically) at the DP stage.

- AAA policy on this matter has evolved over recent years towards demonstrating the responsibility and authority of the professional of record on a project versus avoiding potential professional liability. This matter goes to the underlying mandate of the Association and its members to protect the public interest.

- Note that it is also good practice to include general notes on any document whether it be authenticated or not, to describe the extent to which the document may be relied upon and for whom the information has been provided or limited.

- Documents are instruments of professional service, not an end product.

## PRACTICE ISSUES

- Copyright and Unauthorized Use of Documents



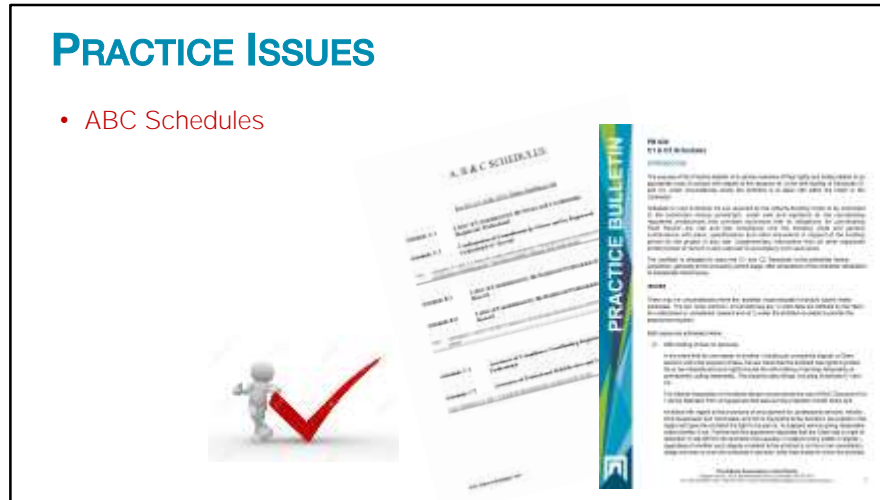
'It's a Calatrava'



- **Big Picture:** Copyright and Moral Rights exist through federal legislation
  - author may choose to relinquish (or license) intellectual property rights.
  - Intellectual property management – copyright and moral rights
  - CHOP and licensing agreements
  - Owners right to instruments of service – for the specific project only
- **Big Picture:** Protections
  - Biggest issue is liability risk created by unintended use of documents without permission - authorized entity must describe limitations of use of their documents whenever 1) copyright is relinquished or 2) copyrighted material is distributed to third parties.
    - Release qualified and incomplete documents only - remove title blocks and detail information and qualify permissions for use (e.g. For Information Only, NOT for Construction, Preliminary, Assume no Liability for...etc)
    - Do not release original CADD or electronic files
    - Require written permission for use
    - Legal advice always recommended
- AAA working with public bodies to attempt balanced agreements regarding copyright.
- Remember - onus on author to demonstrate copyright has been violated in a court of law.
  - Copyright information must also be truly unique.

## PRACTICE ISSUES

- ABC Schedules



- **Big Picture:** Single authorised entity for entire project – again – understand the gravity of using the seal
  - Same entity to provide all schedules – no exceptions
  - \* Must meet duty of care for ‘personal supervision, direction and control’ per the Architect’s Act
  - Guard against selling the seal – being hired to seal drawings by a third party when one is NOT able to meet the requirement for psd&c is unauthorized practice.
  - Again – if you know, let us know, let AHJ know – duty to inform / report unauthorised practice / illegal work
- **Big Picture:** Most common question - in the context of succession.
  - If new entity assumes responsibility for project, AHJ must be notified in writing and ALL schedules re-issued.

## PRACTICE ISSUES

- **PROCUREMENT**
  - Design Services RFP's and Design Build**
    - Time = money
    - Duty of Care
    - RFP can be binding to a contract
      - fee or no fee



LEN

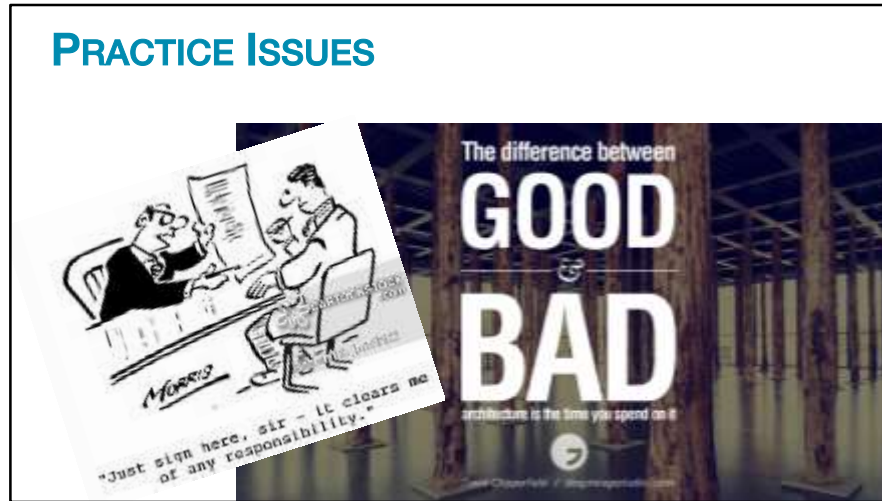
- **Big Picture:** COMBINING Practice Bulletins PB-19 and PB-25 into new PB 27
- Fee for free in competition context
  - services for free as part of RFP's and DB
- AAA cannot regulate fees however, (we support and recommend use of CAA / RAIC Fee Guidelines)
- Architects and the regulators are charged with protection of the public interest.
- **Big Picture:** Time is money
- Services without a fee implies that time is worth \$0.00.
- Design Build often extends the above by not paying consultants during the pursuit phase.
  - not being paid does not diminish ones responsibility for a standard duty of care.
  - The Clover Bar Senior's Housing file
- RFP's typically extend the above by not paying consultants during the pursuit phase.
- **Big Picture:** not being paid does not diminish ones responsibility for a standard duty of care.
- RFP's with design services required and DB RFPs with design services required
  - can be binding regardless of fee or no fee.
  - duty of care still requires services provided as part of an RFP, DB (or even a P3 process)
  - Duty of care encompasses one's *ability to remain financially viable* in the public interest.



- The focus on fees necessarily shifts to the duty of care necessary for the authorized entity to fulfill contractual and professional obligations.

- **Big Picture:** An authorized entity in maintaining the public interest owns a standard duty of care to charge sufficient fees for a project to maintain solvent and viable to provide professional services for the duration of that project.
  - Issues arise with AAA re: expected standard **duty of care** in a complaint scenario.
  - Time = \$0.00 does not equate to mean duty of care = 0
  - Need to maintain expected level of professional services – erosion of services = compromised fee structure is not acceptable professional practice
- **Big Picture:** The Practice Advisory - General Contract Review: risk management in professional practice is an important requirement to address circumstances where an authorized entity provides services for an extraordinarily low charge or at no charge - and where the provision of such services could create a threat to the viability of the authorized entity or practice – thus resulting in harm to the public interest.
- In a complaint scenario, this can be construed as unauthorized practice.
- Avoid contract obligations that jeopardize the protection of the public interest and the client, by not agreeing to contractual terms that cannot be reasonably fulfilled.
- Promising what cannot be delivered may also be construed as unauthorized practice

## PRACTICE ISSUES



- 2 valuable lessons in practice for the duty of care.
- Time = money always
  - RFP's, free work, projects

## PRACTICE ISSUES

- Practice Standards and Duty of Care and PB-27

The Clover Bar file and AAA eBulletin

- Code of Conduct
- Professional Ethics
- Personal Supervision, Direction and Control
- Onerous and Uninsurable Contracts
- Risk management



### RANDY

#### **Big Picture:** Summary Issues from the eBlast

- Working for free is a risk that sets a poor precedent for negotiating a fair fee contract, if successful.
- If not successful, the cost of doing the work is never recovered.
- Working for free negates value and is not good professional practice.
- Working for free does NOT encourage best work and best value for the client.
- Working for free still requires a duty of care and increases liability risk when paying projects yield higher priority. (Working for free does not mean that the client will accept an inferior level of service).
- The cost of doing business is increasing while fees are reduced or, refused. Clients must appreciate the need for fair contracts and fair compensation.
- Professionals are nonetheless expected to work with and assume the overhead costs of advanced and updated technology and currency with industry initiatives such as LEED, the new MNECB, etc.

#### **Big Picture:** Extent of Involvement

Example...*'the level of effort for our industry partners was kept as low as possible to reduce overall cost to architects'*

- Why must there be a cost to architects? This is a punitive business model.
- Ensure client understands the level of effort involved in Design Build RFP's where the DB contractor is required to enter into a fixed price construction contract on the basis of the architect's RFP work – regardless of project type:

- A speculative 'design to pricing' exercise necessitates 25-30% of the entire fee for the project (i.e. to the end of design development).

Example – 'a senior's lodge is less complex than a school' avoids the reality that all projects are complex. A lodge requires careful site planning with emergency service access, handicap design requirements, energy code requirements, commercial kitchen, laundry facilities, amenity spaces and modest nursing care / treatment area(s). It is patently unfair to expect the deployment of qualified design expertise for free, especially when RFP's yield multiple applicants and reduce the odds of success in the first place.

- **CDBI**

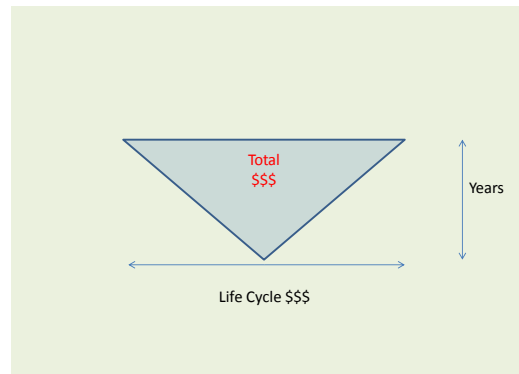
- The Canadian Design Build Institute supports remuneration of professionals in Design Build proposals as a matter of best practice.
- It provides Design-Build tutorials across Canada promoting the merits of the process to government and institutional agencies.
- Ignoring the recommendations of such agencies and the pleadings of design professionals, compromises the government's stated position to be a fair and reasonable client to all of its service providers.

- **Big Picture:** Use the Resources available

- Practice Advisory!
- Practice Bulletins!
- Get legal advice

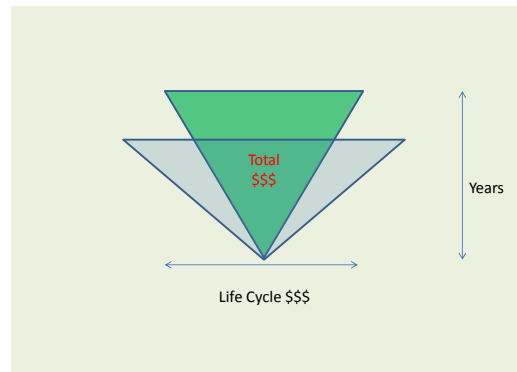
- Insurance is always recommended and insurability is paramount
- Expectations of professional conduct – signing a contract you knowingly cannot fulfill = unprofessional conduct
- Increased duty of care – use of superlatives
- RAIC No 6 as a baseline – Guide is influenced by our General Contract Review Advisory

## THE VALUE PROPOSITION



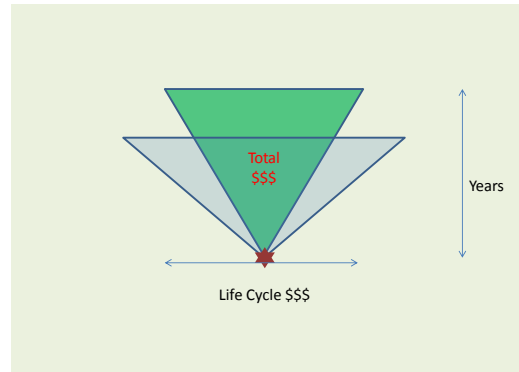
- A building designed and constructed cheaply and brought to market quickly – can be generally expected to under perform or even, fail.
- usually requires serious maintenance costs before its time and may be functionally compromised

## THE VALUE PROPOSITION



- A building researched, designed and constructed well and brought to market realistically - performs successfully
- Usually performs better and requires nominal or normally expected maintenance over time
  - (same total capital outlay shown for comparison – poor buildings will spend more money in less time)

## THE VALUE PROPOSITION



Fees are such a small part of the equation - but **significantly** sets the stage for the life cycle success or failure

- Applies to all buildings from hospitals that spend their entire capital costs in operations annually, to net zero houses.

## DUTY OF CARE



SaveOn Foods  
Burnaby BC  
1988

... the building had a mezzanine floor to accommodate a "travellator" for shoppers using the roof parking. It is located in a severe seismic zone comparable to California. The building permit was issued for a construction cost of \$5,400,000.

Fee proposals had been obtained from a number of structural engineers. They ranged from \$13,000 to over \$30,000. The selected engineer's proposal was for \$17,000.00 or 0.3%.

The inquiry concluded that all proposers "did not intend to provide the services . . . with the same degree of diligence. Indeed . . . failure to carry out some of the [services] steps with unhurried precision" led to the collapse.

The inquiry also determined that the low level of fees for this project was not uncommon.

The inquiry concluded that a way must be found to make certain that engineers "can and will devote the necessary man-hours to a project." It suggested two general approaches: pressure the engineers to provide complete services so they will be unable to submit unrealistic fee proposals; or pressure the owner to provide sufficient remuneration

This goes to the duty of care.

The first approach is addressed by many of the recommendations discussed earlier; the second led to a recommendation that the Engineers Act be amended to allow the APEBC ...

- The duty of care is still best represented by the Save-ON Foods disaster collapse in BC
- Low fees led to failure to devote the necessary time to the project



## DUTY OF CARE



SaveOn Foods  
Burnaby BC  
1988

... the building had a mezzanine floor to accommodate a "travellator" for shoppers using the roof parking. It is located in a severe seismic zone comparable to California. The building permit was issued for a construction cost of \$5,400,000.

Fee proposals had been obtained from a number of structural engineers. They ranged from \$13,000 to over \$30,000. The selected engineer's proposal was for \$17,000.00 or 0.3%.

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- The courts found that insufficient time was spent to do the project in a professionally acceptable manner.

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- And this goes directly to the duty of care, no matter what the fee.
- The low fee can ultimately set the stage for failure – but it is the cause of the failure itself – i.e. a negligent and insufficient professional time spent - that doesn't meet the duty of care.

## QUESTIONS

