

Housing ministry defends road to Bill 124

Here we present a housing ministry official—and former PEO Councillor’s—take on the events leading up to the development of a bill that some engineers feel is a threat to the profession’s self-regulatory status. Ultimately, there is more at stake here than a battle over building code knowledge.

BY MICHAEL MASTROMATTEO

David Brezer, P.Eng., might have some justification for feeling besieged by the prolonged negotiation and sometimes heated rhetoric that has surrounded the development of the Ministry of Municipal Affairs and Housing’s (MMAH) building regulatory changes (formerly Bill 124). A former member of PEO Council, Brezer now serves as acting director of the building and development branch of the housing ministry. It’s a role that requires Brezer to defend a piece of legislation that many in the engineering community would describe as a threat to the profession and an undermining of the self-regulating authority of engineers under the *Professional Engineers Act* (PEA). An example of the acrimony over the issue can be seen in PEO President George Comrie’s message in the November/December issue of *Engineering Dimensions* (p. 3).

Last December, *Engineering Dimensions* sat down with Brezer to better understand the origins and direction of the regulatory changes from his point of view, and their effect on Ontario’s professional engineers.

Q: *What were the new requirements intended to achieve?*

A: In 2000, professional engineers, other designers, building officials, builders, consumers and other stakeholders agreed that the administrative aspects of the *Ontario Building Code* (OBC) needed to be improved. Their roundtable, BRRAG, or Building Regulatory Reform Advisory Group, submitted an interrelated set of proposals to the government of the day that ultimately formed the basis for changes to the *Building Code Act* and the OBC. Their recommended changes were



David Brezer, P.Eng., acting director of the building and development branch of the housing ministry.

intended to enhance public safety, streamline the building regulatory process, and increase the accountability of building practitioners.

Q: *Do you still believe the regulatory changes can meet the original objectives?*

A: Yes. Ensuring designers and building officials have a minimum understanding of the OBC, and establishing mandatory inspection points for municipalities, will improve public safety. Mandatory time frames to process permit applications, specific municipal inspection stages, and the use of

common application and order forms will streamline the building permit process. Similarly, an increased awareness of the OBC will speed permit approvals as designers submit better plans. Requiring minimum levels of insurance for all designers will increase financial accountability.

Q: *In the research or analysis that went into Bill 124, was there any indication that engineers were deficient in their knowledge of the OBC?*

A: For some time, building officials have expressed their concern that some designers, including professional engineers, failed to demonstrate reasonable knowledge of the OBC. When they approached PEO on this issue, they came away unsatisfied by PEO's response and ultimately the issue made its way to the BRRAG table. Trow Associates Inc. was retained to look into the issue. Their investigation confirmed that plans being submitted for permits often did not comply with the code and this contributed to delays and public safety risks.

Q: *PEO is on record as saying that the PEA and Regulation 941 offer the public and the construction industry assurances that engineers meet their responsibilities under the OBC and that further accreditation is not required. Do you believe that the PEA doesn't provide that assurance? Why could the PEA not have achieved the policy objectives of BRRAG?*

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David Brezer, P.Eng.

A: On the contrary, the regulatory changes were built on the belief that the PEA does provide a framework to address the underlying policy objectives. The original BRRAG discussions and subsequent stakeholder consultations during the development of Bill 124 included talks with PEO about developing a parallel system to take over the qualification, insurance and discipline components of the new requirements. Indeed, the bill was crafted to specifically prepare for this eventuality. PEO has the power within its Act to make the necessary changes to put a parallel system in place, there-

by exempting engineers from the ministry's process. In fact, the ministry would much prefer to have these issues addressed under the PEA. Our goal is not to create a second layer of regulation for engineers, or duplication in qualification and registration, but to deal with the policy goals and PEO's unique issues within existing frameworks.

Q: *PEO believes Bill 124 raises a jurisdictional issue between the Building Code Act and the PEA. Ultimately, the OBC exams seem to be at odds with PEO's regulatory role. Isn't there some onus on the part of the MMAH to see if the initial problems can be addressed under the PEA and existing statutes, before adding an external certification-type process?*

A: As I mentioned earlier, the legislation was developed in recognition of PEO's regulatory role by including provisions within the legislation to allow for the transfer of responsibility for administering the qualification and registration requirements to PEO for its members. The minister has also indicated in letters to PEO, as well as other stakeholders, that the development of a parallel qualification and registration system would both recognize the status of professional engineers as self-regulating professionals and also build upon PEO's success in licensing professional engineers. At the time of this interview, we are working with the Ontario Association of Architects (OAA) on just such a system. I am confident that the architects' existing licensing and practice system will be able to accommodate parallel requirements. PEO and the OAA's legislative umbrellas are remarkably similar.

Q: *What if PEO chooses not to embrace a parallel system?*

A: We are ready to begin working with PEO, as we have with the OAA, to develop a parallel system that would address the unique needs of professional engineers, while at the same time meeting the wider policy goals. However, should the development of a parallel system for professional engineers not take place, engineers would continue to be subject to the qualification and registration requirements as set out in the amended *Building Code Act* and the OBC. Not surprisingly, engineers are quite pragmatic, and hundreds have been completing our examinations and preparing to register. ■