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R E S I D E N T ' S M E S S A G E

## Bill 124 fight is worth having

ROBERT A. GOODINGS, P.ENG.

PRESIDENT

“It is clear we are at an impasse.” With these words in my August 12 letter to Municipal Affairs and Housing (MMAH) Minister John Gerretsen, PEO has made it clear that we are firmly resolved to continue to seek exemption for professional engineers from the certification provisions for designers under the Reg. 305/03 amendments to the *Ontario Building Code (OBC) Act*.

At its meeting on August 23, the Executive Committee, as recommended by PEO's Bill 124 Task Force, instructed the task force (President-elect Pat Quinn, P.Eng., Past President George Comrie, P.Eng., Chris Roney, P.Eng., and me, supported by CEO/Registrar Kim Allen, P.Eng., and Deputy Registrar, Standards and Regulations Johnny Zuccon, P.Eng.) to develop a proposal for immediate action. The initial phase calls for increased communications to licensed practitioners to ensure their awareness of PEO's position on Bill 124, which is the purpose of this message.

Since the MMAH qualification and registration requirements were first proposed, it has been PEO's consistent position that the separation of knowledge of the provisions of the OBC from the application of those provisions, which PEO must insist is the practice of professional engineering, is unrealistic and unacceptable. It creates confusion for the public about who is responsible for dealing with OBC compliance and performance issues relating to the work of professional engineers. Is it PEO under the *Professional Engineers Act (PEA)*? Is it the MMAH under the *Ontario Building Code Act*? Or are both responsible, thereby creating needless bureaucracy and cost? (It's ironic that the prime purpose of both the OBC Act and the PEA is to protect the public—although the PEA predates the OBC by many years.)

Regulation 941 of the PEA requires engineers to be fully cognizant of all applicable statutes, **codes**, standards, regulations, by-laws and rules, making the im-

sition of any certification regime in the building design area unnecessary. That's why we have repeatedly stated to Minister Gerretsen that we will not be submitting a proposal for setting up a parallel process of certification of PEO members for code knowledge, similar to that set up by the Ontario Association of Architects.

But we must also be clear that PEO's dispute with the ministry is not because meeting the MMAH requirements will be inconvenient and expensive for our practitioners working in this area (although this is true), but rather because MMAH imposing these requirements at all is an encroachment on PEO's mandate under the PEA. What makes our fight over Bill 124 important and a fight worth having is that each time the province puts in place a requirement that overlaps or conflicts with PEO's role of establishing and overseeing the professional obligations of its licence holders under the PEA, PEO's jurisdiction weakens and the authority of the PEA is undermined. And if we believe professional self-regulation in engineering best protects the public interest—as the Ontario Legislature did when it established PEO under the first PEA over 80 years ago—we are duty bound to do what we can to have such requirements eliminated or, better yet, prevented in the first instance.

In fact, should PEO ever be provided evidence that licensed engineers, PEO's processes, or the PEA were deficient in protecting the public interest, we would be duty bound to act, either through our complaints and discipline processes for individuals or Certificate of Authorization holders, or by using our regulation-making powers under the PEA, if the problems were systemic. To date, however, very few of PEO's annual complaints and discipline matters relate to building code knowledge, and the government has provided no evidence of a problem with our processes or the PEA. Nevertheless, we already plan to develop appropriate engineering performance standards relating to provin-

cial legislation involving the practice of professional engineering through our 2005-2009 Strategic Plan. (In a related Strategic Plan initiative, we are also exploring ways and means to make it clear to the province that PEO should be its partner in public policy issues where regulation of the practice of professional engineering is concerned.)

Having agreed to disagree with Minister Gerretsen on his Bill 124 requirements, PEO is now seeking the assistance of the attorney general, our responsible minister, for guidance on how best to proceed in dealing with this jurisdictional intrusion on our mandate. We also continue to voice our concerns to other MPPs through our government communications program, which is designed to raise awareness among these decision makers of PEO's role and the value of a self-regulated engineering profession to the people of Ontario.

While the current dispute may not directly affect all licensed practitioners in Ontario, it is imperative that all of us do what we can to protect the integrity and intent of the PEA and self-regulation in engineering. Public accountability for professional practice is an important attribute of all professions, which is why governments establish them through enacting statutes such as the *Professional Engineers Act* (or the *Architects Act*, for that matter). I therefore call on the government of Ontario to respect and make appropriate use of the legal instruments available under our Act to achieve its public policy objectives, rather than imposing unjustified and redundant external requirements, such as the qualification and registration requirements for professional engineers under Bill 124.

We must also recognize, however, that our failure to date to have the province accede to our request does not reduce our responsibility to continue to liaise with various ministries on issues of joint responsibility relating to the practice of professional engineering. The public interest demands nothing less.