Building Permits Subject to *Architects Act*

In Architectural Institute of British Columbia v. Langford (City), the BC Supreme Court held that if a building bylaw bases issuance of a building permit on "any enactment respecting health or safety," then the building official is obligated to consider the *Architects Act* in their decision making.

The City of Langford granted a building permit for a building that was not designed by a licensed architect. The building was then built and granted an occupancy permit. The AIBC petitioned the Court for a declaration that the City's decision to issue the permit despite noncompliance with the *Architects Act* and the City's bylaw provisions was unreasonable.

The relevant enactment and bylaw provisions were as follows:

- Section 27(2) of the *Architects Act* prohibits persons from practising architecture unless they are registered to do so under the Act, except in a narrow set of circumstances (the City conceded that the exception did not apply in this case).

- Langford's Building Bylaw s. 2.3.9 provides that a building inspector "may refuse to issue any permit…where the proposed work does not comply with the Building Code, a City bylaw…or any enactment respecting health or safety" (emphasis added).

- Bylaw s. 2.3.6.1 provides that "where in the opinion of the Chief Building Inspector the site conditions, the size or complexity of the building, part of a building or building component warrant, the Chief Building Inspector, may require design and field review by a registered professional."

The City's defence with respect to s. 2.3.9 was that the *Architects Act* is "is not "an enactment respecting health and safety" and, hence, the decision-maker was under no obligation to consider the Act. The Court concluded, based on jurisprudence related to the *Architects Act,* that the only reasonable interpretation is that the Act is an enactment respecting health or safety. Having concluded that, the Court found that "it is not a rational or acceptable outcome that a municipal building permit could be issued for a building which has clearly been designed in contravention of a relevant provincial statute respecting health and safety, that is, the Act."

Thus, it was unreasonable for the building inspector to issue the permit without considering the Act.

With respect to s. 2.3.6.1, the City's building inspector deposed that in reviewing building permit applications, the City considered the Building Code (which does not require an architect for a building such as the one in question) but not the *Architects Act*. The Court found that the Building Code is a regulation under the *Building Act,* and cannot take precedence over the *Architects Act*, a statute.

"It is fundamental to the concept of reasonableness that relevant factors be taken into account in the exercise of the discretion" and, consequently, the failure to consider the *Architects Act* made the building inspector's decision unreasonable.

There was also a preliminary issue in this case related to standing. The City claimed the AIBC had no private interest standing in the matter.

The Court held it was unnecessary to decide if AIBC had private interest standing because it did have public interest standing under Canada (Attorney General) v. Downtown Eastside Sex Workers United against Violence Society.

With respect to remedy, AIBC only sought a declaration and did not seek a setting aside of the City's decision. The declaration was granted.