



Ontario

Building Materials Evaluation
Commission

Commission d'évaluation des
matériaux de construction

Building Materials Evaluation Commission

ANNUAL REPORT 2013 – 14

**Minister of Municipal Affairs
and Housing**

Ministre des Affaires municipales

et du Logement

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TO THE LIEUTENANT GOVERNOR
OF THE PROVINCE OF ONTARIO

MAY IT PLEASE YOUR HONOUR:

For the information of Your Honour and the Legislative Assembly, I am presenting the
Annual Report of the Building Materials Evaluation Commission for the fiscal year 2013/14.

Respectfully submitted,

Ted McMeekin

Minister Municipal Affairs & Housing



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May 29, 2014

The Honourable Bill Mauro
Minister of Municipal Affairs and Housing
777 Bay Street, 17th Floor
Toronto, Ontario
M5G 2E5

Dear Minister Mauro:

**Re: Building Materials Evaluation Commission
Annual Report – Fiscal year 2013 - 2014**

It is my pleasure, as Chair of the Building Materials Evaluation Commission, to present to you the Building Materials Evaluation Commission's Annual Report for the fiscal year ending March 31, 2014.

The enclosed Annual Report highlights the Building Materials Evaluation Commission's accomplishments over the 2013 - 2014 fiscal period and outlines challenges that have been identified for the future. While the Building Materials Evaluation Commission performed fairly well in terms of the timeliness of decisions, the target of 90 days was not achieved. During the 2013 – 2014 fiscal year, the Building Materials Evaluation Commission made decisions within 120 days of receiving an application in the majority of cases. In total, the Building Materials Evaluation Commission received fourteen new applications, issued six new authorizations, and completed the second phase of its review of existing authorizations.

I would like to thank my fellow Commission members whose knowledge and dedication have earned the Building Materials Evaluation Commission an excellent reputation as a valuable service provider in the building and construction industry. On behalf of all members of the Building Materials Evaluation Commission, I would like to express our thanks to the staff of the Ministry of Municipal Affairs and Housing for their support to the Building Materials Evaluation Commission. Without their excellent administrative, technical and legal assistance the Building Materials Evaluation Commission simply could not function.

Sincerely,

A handwritten signature in black ink, appearing to read "Ed Link", with a stylized flourish at the end.

Edward Link, P. Eng
Chair, Building Materials Evaluation Commission

encl.

Building Materials Evaluation Commission 2013 - 2014 ANNUAL REPORT

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Building Materials Evaluation Commission

2013 – 2014 ANNUAL REPORT

A. MANDATE

The Building Materials Evaluation Commission (the “Commission”) is an independent regulatory agency whose legislative authority is set out in section 28 of the *Building Code Act, 1992*.

The Commission has a mandate to evaluate and authorize, subject to conditions, innovative materials, systems or building designs for use in Ontario. In addition, the mandate of the Commission includes: conducting research on and/or examining construction materials, systems and building designs or causing such research to be conducted and examinations to be undertaken, and making recommendations to the Minister of Municipal Affairs and Housing respecting changes to the *Building Code Act, 1992* or the Building Code.

Commitment to Service and Guiding Principles

The inaugural meeting of the Commission was held on February 18, 1976, shortly after the first *Building Code Act*, came into effect in 1974. Since then - over a quarter century and more than 370 authorizations later - the Commission has endeavoured to provide a timely, expert and transparent process for authorizing the use of innovative materials, systems and building designs. In doing so, the Commission has earned a reputation of being an effective, useful and quality service provider within the construction industry.

The Commission has signed a Memorandum of Understanding with the Minister relating to the exercise of its mandate. The Memorandum of Understanding sets out the relationship between the Commission Chair and the Minister and the Ministry of Municipal Affairs and Housing with respect to the Commission and the services it provides. The purpose of the Memorandum of Understanding is to establish the responsibilities of these parties and to ensure that accountability is a fundamental principle observed in the management, administration and operations of the Commission.

As an agency of government, the Commission conducts itself according to the management principles of the government of Ontario. The Commission’s proceedings are governed by the *Building Code Act, 1992*; the Building Materials Evaluation Commission’s Guidelines, Policies and Procedures Handbook; and Treasury Board/Management Board of Cabinet directives. These principles and governance elements include ethical behaviour, accountability, excellence in management, wise use of public funds, and high-quality service to the public, through contributing to the health, safety, accessibility and energy efficiency of buildings in Ontario and by playing a positive role within Ontario’s construction sector.

B. ABOUT THE BUILDING MATERIALS EVALUATION COMMISSION

Building Materials Evaluation Commission Process and Procedure

Applications for authorization are submitted to the Commission by manufacturers of materials, systems or building designs.

The Commission makes decisions on applications, but subcommittees are usually established to carry out detailed evaluations and report to the Commission. The subcommittees typically consist of Commission members who are familiar with, and/or expert in, the field of technology associated with the application. The Commission may request comments from Ministry of Municipal Affairs and Housing technical staff or other research or standards issuing bodies.

Typically, the Commission holds one meeting each month, with approximately three to five subcommittee meetings in that same period. The issuance of decisions by the Commission usually takes between 90 and 120 days, depending on the complexity of the application and the additional information required of the applicants, as well as the timeliness of their response(s).

Members and Staff

As of March 2014, the Commission has 13 part-time members, which include a Chair and a Vice-Chair. All members are appointed by Order in Council. Current Management Board Directives permit individuals appointed to the Commission to serve a combined term of appointment of up to 10 years. Commission members attend monthly meetings and subcommittee meetings and make decisions on applications for authorizations. The Chair and Vice-Chair are also responsible for making administrative decisions regarding operations and relations with the Ministry.

The following divisions of the Ministry support the Commission:

- the Municipal Services Division's Building and Development Branch; and
- the Business Management Division's Legal Services Branch, Corporate Services Branch, Controllershship and Financial Planning Branch, and Information and Information Technology Services Branch.

The direct support staff assigned by the Ministry to the Commission consist of a 0.8 Full Time Equivalent (FTE) Commission Secretary, a 0.4 FTE Coordinator, Building Innovation, and a 0.4 FTE administrative assistant.

Caseload

The Commission received the following numbers of applications over the last five years:

Fiscal Year	Applications Received	Authorizations Issued	Authorizations Amended/Revised	Authorizations Revoked
2009 - 2010	12	7	1	Not tracked
2010 - 2011	12	6	2	1
2011 - 2012	9	5	11	82
2012 - 2013	4	3	36	57
2013 - 2014	14	6	4	7

The rate of applications to the Commission has had some small fluctuations during the past five fiscal years. A marked decrease is noted for the 2012-2013 fiscal year, however, with the 2012 Building Code that came into force on January 1, 2014, it appears that the number of applications filed with the Commission are returning to average levels.

In addition to the new applications received, as noted above, the Commission also considers requests for amendments to existing authorizations and also reviews its authorizations for possible revocation. Applications for amendment are processed in much the same manner as a new application. The Commission reviews and evaluates the details of the proposed amendment as innovative products, systems and designs are modified and updated. The process for review and revocation adds to the work load of Commission and its staff.

The Commission notes that in the last few years, both the technical and procedural complexity of the applications has increased, which results in lengthier reviews. The work required to communicate between the Commission and applicants for authorizations has increased, in that the correspondence prepared to provide the reasoning behind the denial of an authorization, or the denial of part of a requested authorization, has become much more detailed in recent years. Further, the number of occasions where the Commission has had to undertake a significant jurisdictional review of an application has increased. All of these factors have an impact on the number of subcommittee meetings required to fully evaluate new and innovative products.

The Commission launched an initiative in an effort to manage and keep all existing authorizations current while revoking authorizations for products, materials or designs that may no longer be considered innovative. The Commission believes that this is a necessary exercise to ensure the credibility and accuracy of the inventory of its web page. The Commission believes that the public needs to feel confident that the information in authorizations is current and accurate.

Through fiscal 2010-2011, 2011-2012, 2012-13, and 2013-2014 the Commission has completed portions of its review of its existing authorizations and has, to date, reviewed more than 350 authorizations and revoked more than 175 authorizations that were no longer required by the Authorization Holder, not required due to amendments to the Building Code, or not in compliance with obligations in the Authorization concerning content. The Commission successfully completed this first phase of review as of March 31, 2013.

As a second phase in this process, the Commission also completed their review of existing authorizations for duplication with other approvals (i.e. Minister's Ruling) on January 30, 2014.

In future phases, the Commission will review existing authorizations that may no longer be considered innovative in that the material, system or building design currently authorized by the Commission may now be regulated under the requirements of Ontario's 2012 Building Code, and as such, an authorization may no longer be required.

C. ANALYSIS OF BUILDING MATERIALS EVALUATION COMMISSION PERFORMANCE

Performance Measures and Targets

The Commission has adopted the recommendations for performance measurement established in 2000 by the Agency Reform (Guzzo) Commission. These are: fairness, accessibility, timeliness, quality and consistency, transparency, expertise, optimum cost, and courtesy. While not all of the goals were rated as “high” by the Commission, there are processes in place to ensure that all goals are integrated into the Commission’s operation and are, therefore, adequately addressed. The chart below indicates the goals that the Commission rated as “high”. Performance measures based on these goals are found in Appendix 1.

Goals	Ranking
Fairness	High
Accessibility	Low
Timeliness	High
Quality and Consistency	High
Transparency	Medium
Expertise	High
Optimum Cost	Low
Courtesy	Medium

Several steps have been taken to enhance the Commission’s performance and accountability over the past several years, including continued monitoring of Commission-specific performance measures. The following is a sample of how the Building Materials Evaluation Commission fared on some of its targets for its goals in 2013 - 2014:

Fairness

- The stated target of not more than 10% of decisions should result in judicial review on an annual basis was again met in the 2013 - 2014 fiscal year. No judicial reviews were received.
- Survey results for the 2013 - 2014 fiscal year indicate that 100% of clients surveyed agreed that they were treated fairly.

Timeliness

- The Commission aims to make a decision within 90 days of the initial consideration of an application. Records from the 2013 – 2014 fiscal year indicate that the Commission did not meet this target as it took an average of 120 days for the Commission to make a decision. This increased time to decision has been a consistent trend over the past several years arising from the increased technical and procedural complexity of the applications, which results in lengthier reviews.

Additionally, over the last several years, the Commission has strived to be more transparent in their process with respect to the evaluation of an application. As such, the Commission's written correspondence with an applicant has increased and as a result so too has the timeline for making a decision.

The Commission intends to adjust the 90 day target for making decisions to 120 days. This increase will more accurately reflect the average time frame the Commission requires to evaluate applications.

Quality and Consistency

- Survey results of the parties that utilized Commission services in the 2013 - 2014 fiscal year indicated that 100% of respondents felt that the processes and procedures had a high degree of quality and consistency.

Transparency

- Survey results of the parties that utilized the Commission's services in the 2013 - 2014 fiscal year indicated that 100% of respondents felt that the processes and procedures were clear and understandable.

Expertise

- Survey results of the parties that utilized the Commission's services in the 2013 – 2014 fiscal year indicated that 100% of respondents felt that members demonstrated an appropriate level of expertise regarding the technical matters under consideration.

Courtesy

- Survey results of the parties that utilized the Commission's services in the 2013 - 2014 fiscal year indicated that 100% felt that they were treated with courtesy by Commission staff throughout the application process and 100% felt that the Commission members treated them with courtesy.

The complete list of performance measures and survey results for the Commission can be found in Appendix 1.

Operational Performance

The Commission believes that in order to provide quality service to the public and the construction sector in particular, the Commission, as an agency, must operate as effectively and efficiently as possible. This means more than having performance measures in place to strive for service excellence on a day-to-day basis. It also means pursuing excellence from an operational and administrative standpoint over the long term. In order to achieve this, the Commission also assesses itself on its operational performance. The following are some of the operational achievements from 2013 - 2014. The Commission:

- Continued to provide a cost effective and expeditious mechanism for evaluation of innovative materials, systems and building designs.
- Continued its practice of surveying clients, and received an overall satisfaction rating of 100% from clients who had used the services of the Commission between April 1, 2013 and March 31, 2014.
- Continued to maintain its compliance with the revised Agency Establishment and Accountability Directive:
 - Prepared, finalized and submitted a 3 year Business Plan; and
 - Its Annual Report for 2012-2013 fiscal year was completed and approved within the specified time frame.
- Successfully recruited and appointed one new Commission member. Currently working with Minister's Office and Public Appointments Secretariat on possible appointment of an additional member.
- Completed its initiative related to reviewing existing authorizations for duplication with other approvals (i.e. Minister's Ruling).
- Developed and began implementing a strategic plan for the review of existing authorizations that may no longer be considered innovative as the product may now be regulated under the requirements of the 2012 Building Code and therefore the authorization may no longer be required.

D. FINANCIAL REPORT

Budget

The Commission has no financial budget of its own, separate from that of the Ministry of Municipal Affairs and Housing. All costs, including Commission per diem remuneration, staff support, and operational costs, and administrative support, are borne by the Ministry. Its general operating envelope is contained within the approved Results-based Plan for the Building and Development Branch.

The chart below provides details on the costs associated with supporting the Commission:

	2013-2014 Actuals	2014-2015 Estimates
Per diems	\$ 81,000	\$ 97,000
Members' travel and meeting expenses	\$ 32,000	\$ 47,000
Other administration	\$9,000	\$ 9,000
Subtotal	\$ 122,000*	\$153,000**
Full Time Equivalents -- #	1.6	1.6
Full Time Equivalents -- costs (salary + benefits)	\$ 108,000***	\$ 135,000
TOTAL	\$ 230,000	\$ 288,000

* The operating expenses cover costs associated with monthly Commission meetings and subcommittee meetings; per diems for Commission members; and reimbursement for out-of-pocket travel expenses related to meetings, including hotel accommodations, meal allowances (to the Ministry maximum), parking and public transit.

**The number of subcommittee meetings is determined by the application rate. Member per diem compensation rates are established by the Management Board of Cabinet Directive for Government Appointees regarding part-time OIC appointed members. The 2014-2015 expenditure estimates are based on typical application rates (using historical data and projecting forward) and member per diem compensation rates and other operating expenses noted above.

*** Salaries for this fiscal year are less than previous years as the incumbent was on leave for six months and the salary for the backfill employee for that period was at a lower rate.

Revenues

Revenues in the form of application fees are received, deposited and accounted for as part of the Ministry of Municipal Affairs and Housing's non-tax revenues.

Remuneration of Members

As part-time appointees, Commission members receive remuneration in the form of a per diem as established by Treasury Board/Management Board of Cabinet. This per diem ranges from \$398 for members to \$491 for the Vice-Chair and \$627 for the Chair. Commission members are also reimbursed for out-of-pocket expenses associated with attending Commission meetings in Toronto and elsewhere in the province, in accordance with the Ministry of Municipal Affairs and Housing and Ontario Public Service guidelines. Costs and expenses associated with Commission activities, including operating costs and member per diems, form part of the overall budget of the Building and Development Branch of the Ministry of Municipal Affairs and Housing.

The Building Materials Evaluation Commission's application rate and/or complexity of issues directly impact the Branch's budget in support of Commission activities.

Appendix 1 – Performance Measures Table

Building Materials Evaluation Commission: Performance Measures				
Outcomes	Measures	Targets	2013 – 2014 Status	2014 – 2015 Commitments
Fairness (processes and procedures that are fair and are seen to be fair)	Applicants are satisfied that the process was balanced, appropriate and fair	No more than 10% of Building Materials Evaluation Commission decisions should result in judicial review on an annual basis	Target met. Not more than 10% of decisions resulted in a judicial review in the 2013–2014 fiscal year	Not more than 10% of Building Materials Evaluation Commission decisions should result in judicial review on an annual basis
Timeliness (quick and careful evaluation of innovative construction materials, systems and designs)	a) Average number of months from receipt of application to decision/issuance of authorization b) Timely posting of final authorizations on Building Materials Evaluation Commission internet site	a) Decisions made or authorization issued within an average of three months after the first Building Materials Evaluation Commission meeting following receipt of a complete application b) Post 85% of final authorizations on the Building Materials Evaluation Commission internet site within 10 working days of receipt of French translated document.	a) Target not met. Decisions made or authorizations issued within an average of four months after the first Commission meeting upon receipt of complete application. b) Target met. 85% of the final authorizations posted on the Commission internet site within 10 working days of receipt of French translated document.	a) Decisions made or authorization issued within an average of four months after the first Building Materials Evaluation Commission meeting following receipt of complete application b) Post 85% of final authorizations on the Building Materials Evaluation Commission internet site within 10 working days of receipt of French translated document.
Quality and Consistency (process and procedures that have integrity and uniformity)	Applicants are satisfied that the Commission process was conducted with a high degree of quality and consistency	85% of applicants feel that the process had a high degree of quality and consistency	Target met. 2013-14 survey results indicate 100% of Commission clients felt that the process had a high degree of quality and consistency	85% of applicants feel that the process had a high degree of quality and consistency
Transparency (clear and understandable process and procedures)	Applicants are satisfied that the Commission process and procedures were clearly understood	85% of applicants feel that the process and procedures were clear and understandable	Target met. 2013-14 survey results indicate that 100% of Commission clients felt that the process and procedures were clear and understandable	85% of applicants feel that the process and procedures were clear and understandable

Building Materials Evaluation Commission: Performance Measures				
Outcomes	Measures	Targets	2013 – 2014 Status	2014 – 2015 Commitments
Expertise (Thoughtful and sound Building Materials Evaluation Commission decisions made due to technical competence of members)	a) Applicants are satisfied that the Building Materials Evaluation Commission members demonstrated an appropriate level of knowledge and technical competency	a) 85% of applicants feel that Commission authorizations reflected a high degree of technical knowledge and expertise appropriate to the proposal	a) Target met. 20113-14 survey results indicate that 100% of Commission clients were satisfied that members were subject matter experts	a) 85% of applicants feel that Commission authorizations reflected a high degree of technical knowledge and expertise appropriate to the proposal
	b) Timely notice to the Minister's Office regarding upcoming Building Materials Evaluation Commission member terms of appointment expiration	b) Provide two months' notice to the Minister's Office in advance of member's appointments expiring	b) Target met. The Minister's office was provided with at least two months' notice in advance of member appointments expiring in the fiscal year 2013-14.	b) Six months' notice will be provided to the Minister's Office in advance of member's appointments expiring*
Courtesy (polite and courteous treatment of all parties)	Parties are satisfied that they were treated with courtesy throughout the application and evaluation process	85% of parties surveyed feel that they were treated with courtesy throughout the application and evaluation process	Target met. 2013-14 survey results indicate that 100% of clients felt that they were treated with courtesy by Commission staff throughout the application process and 100% felt that they were treated with courtesy by the Commission members.	85% of applicants feel that they are treated with courtesy throughout the application and evaluation process

* In the event that a member will not be reappointed, the Ministry is required to provide members with four months' notice of non-reappointment. Therefore, the Commission will need to ensure that the Minister's Office has sufficient time to make decisions on appointments and still be able to accommodate the provision of notice of non-reappointment. In order to facilitate this, the Commission has changed its target with respect to timely notice to the Minister's Office regarding upcoming commission member terms of appointment from two months to six months.

Appendix 2

Building Materials Evaluation Commission Appointees List

As of March 31, 2014

Commission Members	Original Appointment Date	Expiry Date of Current Appointment	Location
Edward J. Link, Chair	July 5, 2004	July 14, 2014	Windsor
<i>Gerald Genge,</i> Vice - Chair	June 28, 2006	July 14, 2014	Sutton West
Matthew Graham	July 5, 2004	July 17, 2016	Ottawa
Elizabeth Hilfrich	July 5, 2004	July 17, 2016	Kanata
Susan Reed Tanaka	July 5, 2004	July 17, 2016	Toronto
Susan Ing	May 30, 2006	July 14, 2014	Toronto
Fred E. Barkhouse	June 22, 2006	July 14, 2014	Stittsville
Susan Tienhaara	June 30, 2006	July 14, 2014	Moorefield
Andras Szonyi	May 4, 2011	May 7, 2016	Oshawa
Andrew Hellebust	May 24, 2011	May 28, 2016	Toronto
Leo Grellette	April 18, 2012	April 17, 2014	Newmarket
Maged Mikhail	April 18, 2012	April 17, 2014	Oakville
Raymond Hachigian	November 20, 2013	November 19, 2015	Parry Sound