



**Building Materials Evaluation
Commission**

**Commission d'évaluation des
matériaux de construction**

Building Materials Evaluation Commission

ANNUAL REPORT 2019 - 2020

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May 27, 2020

The Honourable Steve Clark
Minister of Municipal Affairs and Housing
777 Bay Street, 17th Floor
Toronto, Ontario
M7A 2J3

Dear Minister Clark:

**Re: Building Materials Evaluation Commission
Annual Report – Fiscal year –2019-2020**

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, 2020.

The enclosed Annual Report highlights the Building Materials Evaluation Commission's accomplishments over the 2019-2020 fiscal year and outlines challenges that have been identified for the future. In total, the Building Materials Evaluation Commission received five new applications, issued seven new authorizations, and continued with 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, operational and legal assistance the Building Materials Evaluation Commission simply could not function.

Sincerely,



Leo Grellette
Chair, Building Materials Evaluation Commission

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Building Materials Evaluation Commission 2019 - 2020 ANNUAL REPORT

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Building Materials Evaluation Commission

2019 - 2020 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 for use in construction in Ontario, innovative construction materials, systems or building designs not specifically meeting the requirements of the Building Code. In doing so, the Commission has the power to conduct, or cause to be conducted, research, analysis and evaluation of such innovative materials, systems and building designs. The Commission is not a testing body but may require that testing be carried out by an applicant as part of its evaluation.

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, 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 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, by 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 companies or individuals producing building materials, systems or designs.

While the Commission makes decisions on applications 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 have expertise in, the field of technology associated with the application. The Commission may request comments from Ministry of Municipal Affairs and Housing's technical staff or other research or standards issuing bodies.

Generally, the Commission holds one meeting each month, with approximately two to four 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 31, 2020, the Commission had 12 part-time members, which includes the Chair and the Vice Chair. All members are appointed by Order in Council. Current Management Board of Cabinet 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;
- the Business Management Division's Corporate Services Branch, and Controllershship and Financial Planning Branch;
- Legal Services Branch; and
- Community Services I&IT Cluster.

The direct support staff assigned by the Ministry to the Commission consist of a 0.8 Full Time Equivalent (FTE) Commission Secretary. Up until October 1, 2019, the Commission was also supported by a 0.4 FTE Coordinator, Building Innovation, and a 0.4 FTE Administrative Assistant.

In the Commission's 2020-2023 Business Plan, the Commission noted that with the Commission support staff decreased by 50%, it was anticipated the Commission's performance would be impacted. The workload of the Commission has not decreased, and the remaining 0.8 FTE has taken on additional work and responsibilities formerly provided by the Coordinator and Administrative Assistant.

As of March 31, 2020, the Commission has operated for 6 months with the reduction in support staff. The Commission's target for timeliness to decision, as set out in Appendix 1, is the only area that has been negatively impacted thus far. Support staff report that it is a challenge to maintain the

usual timeliness of service since the reduction in direct support staff. The effect of the reduction in support staff won't be fully reflected until at least one full year has elapsed. The Commission will continue to monitor the impacts and report as necessary.

The Commission welcomed two new members in June 2019. The Commission also had 2 members and the Vice-Chair reappointed in February 2020 for a period of 6 months.

The Commission is working towards staggering the terms of appointment for the Commission so that Orders in Council expire in small groups. This will allow for newly appointed members to be mentored by experienced members and will support knowledge maintenance within the Commission.

In addition to ensuring an adequate number of members, the Commission must also continue to work at maintaining the knowledge base of its membership, so it is important for the Commission to continue to solicit new members with expertise that reflect the full spectrum of technical disciplines (e.g. plumbing, mechanical systems, on-site sewage systems, etc.). As described in the Memorandum of Understanding, the role of the Chair includes keeping the Minister informed of upcoming appointment vacancies and providing recommendations for appointments and/or reappointments to the Commission.

Caseload

The chart below provides a summary of the Commission's caseload over the last five years:

Chart 1

Fiscal Year	Applications Received	Authorizations Issued	Authorizations Amended/Revised	Authorizations Revoked
2015 - 2016	5	3	1	4
2016 - 2017	3	3	6	11
2017 - 2018	6	3	10	9
2018 - 2019	8	3	1	5
2019 - 2020	5	7	3	4

The rate of applications to the Commission has fluctuated during the past five fiscal years. The Commission notes that the increase in the number of applications received for the 2018-2019 fiscal year may be the result of the expiration policy (authorizations now expire every five years).

In addition to new applications, the Commission considers requests for substantive and/or technical amendments to existing authorizations and reviews its existing 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 the Commission and its staff.

In 2008 the Commission launched an initiative to manage and keep current all existing authorizations including the adoption of an "Expiration Policy", which would see an authorization

expire five years after its date of approval.

The first stage in the initiative involved an attempt to contact each holder of approximately 350 authorizations, dating back to 1976, to determine whether the authorization holder's contact information on file with the Commission was up-to-date. Also, as part of this exercise, authorization holders were asked whether they still manufactured the innovative product, system, or building design detailed in the authorization, and whether the Commission's information relative to this product was current.

The second stage related to the review of existing authorizations for redundancy with other approvals for innovative products, systems or building designs, such as Rulings of the Minister, as they relate to Evaluation Reports from the Canadian Construction Material Centre.

A third stage was performed to update the existing authorizations to current Commission's policies as well as to determine whether the existing authorizations require updating to current codes and standards, as they were set out in the 2012 Building Code, as it read on December 4, 2012.

A final stage of the initiative is now being performed to update the remaining original authorizations to current Commission policies, including adding an expiration date.

Further, with the release of each new Building Code, the Commission will need to review existing authorizations in an effort to identify authorizations that may no longer be innovative. The Commission believes that the public needs to feel confident that the information in authorizations is current and accurate.

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” priorities for the Commission, there are processes in place to ensure that all goals are integrated into the Commission’s operation and are, therefore, adequately addressed. Chart 3 below indicates how the Commission rated the goals. Performance measures were developed for goals that were rated “high” and “medium” in Chart 2 and the results of the Commission’s performance can be found in Appendix 1.

Chart 2

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

* It should be noted that the term “Accessibility” for the purposes of the performance measurement recommendations of the Agency Reform Commission was related to providing seamless and simple access so that the public can receive quality and timely services regardless of their familiarity with the system.

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. Once an application has been processed by the Commission, all applicants that utilize Commission services in the 2019-2020 fiscal year were asked to complete a survey to provide feedback on the Commission's performance. The following is a sample of how the Building Materials Evaluation Commission fared on its targets for its goals in 2019-2020:

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 2019-2020 fiscal year. No judicial reviews were received.
- Survey results of the parties that utilized Commission services in the 2019-2020 fiscal year indicate that 100% of respondents agreed that they were treated fairly.

Timeliness

- The Commission aims to make a decision within an average of 120 days of the initial consideration of an application. Records from the 2019-2020 fiscal year indicate that the Commission did not meet this target and on average made decisions within 180 days. A few factors may have impacted this increase in time to decision:
 - The Commission issued 7 authorizations in the last fiscal year, up from 3 in the year prior.
 - As noted above, 6 months into the fiscal year support staff decreased by 50%.

Quality and Consistency

- Survey results indicated that 100% of respondents felt that the processes and procedures had a high degree of quality and consistency.

Transparency

- Survey results indicated that 100% of respondents felt that the processes and procedures were clear and understandable.

Expertise

- Survey results indicated that 100% of respondents felt that members demonstrated an appropriate level of expertise regarding the technical matters under consideration.

Courtesy

- Survey results indicated that 100% of respondents felt that they were treated with courtesy by Commission staff and Commission members.

The results for the performance measures surveyed 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 2019-2020:

- The Commission continued to provide a cost effective and expeditious mechanism for evaluation of innovative materials, systems and building designs.
- The Commission 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, 2019 and March 31, 2020.
- The Commission continued to maintain its compliance with the Agencies and Appointments Directive:
 - Prepared, finalized and submitted a three-year Business Plan;
 - Completed its Annual Report for 2018-2019 fiscal year and approved within the specified time frame.
 - Publicly posted the Commission's Memorandum of Understanding, Business Plan and Annual Report as required by the Agencies and Appointments Directive.
 - Publicly posted the Commission Member's expense information as required by the Travel, Meal and Hospitality Expenses Directive.
- The Commission continued to implement 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, as amended, and therefore the authorization may no longer be required.
- The Commission Chair and staff worked with the Public Appointments Secretariat and the Minister's Office on the reappointment of three members.
- The Commission Chair and staff continue to work with the Public Appointments Secretariat and the Minister's Office to improve its membership in terms of regional representation and technical expertise.
- The Commission adapted quickly and efficiently to respond to the COVID-19 outbreak. Delivered the same level of service as under normal conditions by moving to accept electronic applications and conducting all meetings electronically.

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, operational costs and administrative support, are borne by the Ministry.

The chart below (Chart 3) provides details of the costs associated with supporting the Commission:

Chart 3

Expense Type	2020-2021 Estimates	2019-2020 Estimates	2019-2020 Actuals	2018-2019 Actuals
Per diem	\$112,000	\$112,000	\$78,231	\$69,303
Members' travel and meeting expenses	\$58,350	\$56,650	\$19,477	\$12,270
Other administration	\$9,550	\$9,270	\$3,217	\$4,879
Subtotal	\$179,900**	\$177,920**	\$100,925*	\$86,452*
Full Time Equivalents	0.8	1.6	1.6/0.8***	1.6
Full Time Equivalents costs (<i>salary + benefits</i>)	\$80,000	\$156,560	\$94,891	\$129,273
Total Expenses	\$259,900	\$334,480	\$195,816	\$215,725

* 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 Commission meetings and subcommittee meetings is determined by the application rate. Member per diem remuneration rates are established by the Management Board of Cabinet Agencies & Appointments Directive regarding part-time OIC appointed members. The expenditure estimates are based on typical application rates (using historical data and projecting forward), member per diem remuneration rates and other operating expenses noted above.

*** From April 1, 2019 to September 30, 2019, the Commission was supported by 1.6 FTEs. From October 1, 2019 onwards, it is supported by 0.8 FTE.

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.

The application fee for the Commission was increased, from the 2014 fee of \$950, as seen in the following fee schedule:

- \$5,000 per application, effective January 1, 2015;
- \$7,000 per application, effective January 1, 2016;
- \$9,000 per application, effective January 1, 2017; and
- \$11,000 per application, effective January 1, 2018.

Chart 4

Revenue	2020-2021 Estimates	2019-2020 Estimates	2019-2020 Actuals	2018-2019 Actuals
Application Fees	\$66,000	\$66,000	\$77,000	\$93,022
Total Revenues	\$66,000	\$66,000	\$77,000*	\$93,022

*The total revenues include payment for two applications received near the end of the 2018-2019 fiscal year. Payments for these applications were not processed until the 2019-2020 fiscal year and are therefore included in this column.

Remuneration of Members

As part-time appointees, Commission members receive remuneration in the form of a per diem as established by Management Board of Cabinet. Effective January 1, 2018, this per diem ranged from \$472 for members to \$583 for the Vice-Chair and \$744 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 Management Board of Cabinet's Travel, Meal and Hospitality Expenses Directive. Costs associated with Commission activities, including operating costs and member per diems, form part of the overall budget of the Ministry of Municipal Affairs and Housing.

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

Appendix 1 – Performance Measures Table

Building Materials Evaluation Commission: Performance Measures				
Outcomes	Measures	Targets	2019-2020 Status	2020-2021 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 2019-2020 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)	Average number of days from receipt of application to decision/issuance of authorization	Decisions made or authorization issued within an average of 120 days after the first Building Materials Evaluation Commission meeting following receipt of a complete application	Target not met. Decisions made or authorizations issued within an average of 180 days after the first Building Materials Evaluation Commission meeting upon receipt of complete application	Decisions made or authorization issued within an average of 120 days after the first Building Materials Evaluation Commission meeting following receipt of complete application
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. 2019-2020 survey results indicate 100% of respondents 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. 2019-2020 survey results indicate that 100% of respondents 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	2019-2020 Status	2020-2021 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 b) Timely notice to the Ministry regarding upcoming Building Materials Evaluation Commission member terms of appointment expiration	a) 85% of applicants feel that Commission authorizations reflected a high degree of technical knowledge and expertise appropriate to the proposal b) Provide 180 days notice to the Ministry in advance of members' appointments expiring	a) Target met. 2019-2020 survey results indicate that 100% of respondents were satisfied that members were subject matter experts b) Target met. The Ministry was provided with 180 days' notice in advance of member appointments expiring in the fiscal year 2019-2020	a) 85% of applicants feel that Commission authorizations reflected a high degree of technical knowledge and expertise appropriate to the proposal b) 180 days' notice will be provided to the Ministry in advance of member's appointments expiring
Courtesy (polite and courteous treatment of all parties)	Applicants are satisfied that they were treated with courtesy throughout the application and evaluation process	85% of applicants surveyed feel that they were treated with courtesy throughout the application and evaluation process	Target met. 2019-2020 survey results indicate that 100% of respondents 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

Appendix 2 Building Materials Evaluation Commission Appointees List

Commission Members	Original Appointment Date	Expiry Date of Current Appointment	Location	Total Annual Remuneration 2019-2020
Leo Grellette, Chair	February 15, 2017	March 31, 2021	Severn	\$18,385
Andrew Hellebust, Vice Chair	February 8, 2018	August 6, 2020	Toronto	\$8,267
Andras Szonyi	May 4, 2011	June 7, 2021	Oshawa	\$8,649
Craig Cunningham	November 16, 2016	May 15, 2020	Huntsville	\$9,160
Saleha Hussain	November 16, 2016	May 15, 2020	Markham	\$1,822
Ben Pucci	November 16, 2016	May 15, 2020	Woodbridge	\$1,976
Gerry Egberts	November 30, 2016	May 27, 2020	Willowdale	\$6,631
Dale Kerr	November 30, 2016	May 27, 2020	Sutton West	\$11,299
Michaela Tataru	February 8, 2018	August 6, 2020	Richmond Hill	\$2,670
Rui Sousa	February 8, 2018	August 6, 2020	Thornhill	\$1,949
Mark Green	June 20, 2019	June 19, 2021	Mallorytown	\$3,623
Tony Chow	June 20, 2019	June 19, 2021	Richmond Hill	\$3,799
Total Annual Remuneration for Commission				\$78,231

Note: Numbers may not add due to rounding.

April 1, 2019 to March 31, 2020