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Have an IDEA for the **Specifier ?**

**We would love to hear from you!**

Announcements, upcoming events, or technical articles are welcome and encouraged!

Any submissions for the Specifier can be emailed for review and we will do our best to get it into print. Deadlines are the last Friday of the month for the following month's newsletter.

Share your knowledge - **this is YOUR industry!**

Lori Elling, Newsletter Editor  
[lori@archidocs.ca](mailto:lori@archidocs.ca)  
 778.389.1510

# BREAKFAST MEETING

**THE VILLAGE ON FALSE CREEK TOUR**  
**Presented by Roger Bayley, B.E., Structural P.Eng.**  
**Roger Bayley Inc.**

Roger Bayley's experience spans 40 years of senior-level project design and management. From 2006 to 2010 he was the design manager for the Millennium Water Olympic Village in Vancouver, Canada's first LEED™ certified Platinum neighbourhood and the largest sustainable community in North America.

Roger created the Challenge Series, which documented the Olympic Village development process, and how the Village addressed issues such as climate change, passive design, healthy communities, and energy management with a neighborhood energy utility system. He will lead the group on an interactive walking tour to experience the design features of the Village.

**Location:** Creekside Community Recreation Centre, 1 Athletes Way, Vancouver. Meet in Community Centre Multipurpose Room. Continental breakfast and brief presentation in the Community Centre. Tour around the village. Dress weather appropriate.

**Agenda:** 7:00-7:30 am—Breakfast (Continental Self Serve)  
 7:30-7:45 am—Chapter Business  
 7:45-9:00 am—Guest Speaker Tour

**TOUR WILL START AT 7:45am SHARP**

**Cost:** \$32.00 for pre-registered CSC Members / Association Executive Directors  
 \$48.00 for guests and CSC members who have not pre-registered  
 Prices include HST

**Parking:** *On the street in the village or \$2.00 per hour underground at the Community Centre.*  
**Skytrain:** Exit at Main Station. Walk 5 minutes.

Note that our monthly meetings are approved for an educational unit credit by AIBC and are conveniently scheduled at breakfast so as not to conflict with normal business hours.

Please join us for these informative and entertaining meetings

**Register online at <http://vancouver.csc-dcc.ca> or fill out the form here**

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Kelly Sawatzky  
604-676-8113

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604-522-3944

**PROGRAM OFFICER:**  
George McCutcheon  
604-736-8959

**MARKETING OFFICER:**  
Mario Maggio  
604-857-7766 x311

**TREASURER:**  
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604-868-8406

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Moir Rowan  
604-298-3555

**SPECIFICATIONS OFFICER:**  
Beverly Darling  
778-886-2541

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**EDUCATION OFFICER:**  
Nathan Thompson  
604-607-8800

**NEWSLETTER OFFICER:**  
Lori Elling  
778-389-1510

**OFFICER AT LARGE:**  
Spencer Todd  
...

**2011 PROGRAM**

*All Meetings are (U.N.O.):  
7 am Breakfast  
Sandman Inn, Vancouver*

**FEBRUARY 17**  
**Community Centred Design**  
*Darryl Condon, MAIBC  
Hughes Condon Marler Architects*

**FEBRUARY 23-24**  
**BUILDEX**  
Convention Centre West,  
Vancouver

**MARCH 17**  
**The Village on False Creek Tour**  
*Roger Bayley, B.E., Structural P.Eng.  
Roger Bayley Inc.*

**APRIL 21**  
**RCABC Plaza Deck  
Waterproofing Standards**  
*Jim Watson, Technical Manager  
RCABC*

**MAY 19**  
**Design of the Onshore Works for  
the Port Mann/Highway 1 Project**  
*Chris Mealing, PEng, VP  
Hatch Mott McDonald  
Project Manager, PMH1 Onshore  
Design Group*

**MAY 25-29**  
**CSC National  
Conference 2011**  
*"Juggling Changes"*  
Downtown Delta Hotel  
Montreal, Quebec

**JUNE 16**  
**Vancouver Chapter Social Event  
+ AGM - CSC Members Only**

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**Twitter:** @CSCvancouver

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**Advertising: Newsletter & Website**

Every month, the Specifier features a classified section. Advertise your business with us!

This will provide you with the opportunity to advertise within the industry in the newsletter and on the CSC Vancouver website.

For the cost of:  
\$225 - Members  
\$250 - Non Members

You will receive advertising space on the second page of the Specifier and on the CSC chapter website. The ad will be placed in 1 issue of the Specifier and reside on the website for 1 month. Ads must fit on one page only and are not limited to copy content or visual features. Other publications such as ours typically use this space for employment opportunities etc. and this is one type of advertising we are looking for.

If you are not sure whether the Specifier would be an appropriate tool for you, please email me with your questions.

So, if you would like to advertise, or have any questions, please let me know. All advertising content is subject to pre-approval by the responsible CSC Committee.

Best Regards,

Lori Elling  
Newsletter Editor

*The opinions and comments expressed by the authors do not necessarily reflect the official views of Construction Specifications Canada. Also, appearance of advertisements and new product or service information does not constitute an endorsement of products or services featured.*

## WORDS FROM THE CHAIR



Chirp Chirp, this chick likes what's in the air!

Spring is in the air, our clocks will be springing forward this weekend, giving us all a little more daylight at the end of our days! Yippee, this is my favorite part of the year - everything fresh is coming our way!

### What's up in March?

- Thursday, March 17th CSC Breakfast Meeting & Tour THE VILLAGE ON FALSE CREEK with by Roger Bayley, B.E., Structural P.Eng., of Roger Bayley Inc.
- We are looking for technical articles for our newsletter & we are all hoping that one of you would like to share something with us all, please send something to Lori Elling: [lori@archidocs.ca](mailto:lori@archidocs.ca)
- We are recruiting for our new CSC Chapter board, please join us, we are a fun bunch & we will be that much better with you! Please email Kelly Sawatzky: [kellys@kellyspec.com](mailto:kellys@kellyspec.com)

### Don't Forget:

- CSC Memberships are past due, please renew your CSC membership if you have not done so.
- CSC Conference 2011: Montreal May 25th –29th [Click here for more information and to register](#)
- To update your browser with the new CSC website: in with the new, <http://vancouver.csc-dcc.ca>
- Networking; don't forget business cards!
- Watch for information on our "CSC Members only" evening in June.

As special thank you to the CSC Board for making our booth at Buildex a huge success, and congratulations to the winners of the breakfast meeting draw: Ajaz Hasan from Kasian Architecture Interior Design and Planning Ltd., and Jason Rite from EnviroBlast. See you both at a meeting soon!

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## EDUCATION REPORT

Congratulations to all the Specifier I students - everyone passed with flying colours!

We are pleased to confirm that the education schedule (tentative for September and February Courses) for the remainder of the 2011 fiscal year is as follows:

April, 2011 - Specifier 2

September, 2011 - CCA & TR

February, 2012 - PCD

The tentative date for the beginning of both the CCA and TR courses is the 3rd week of September and the course would run for 8 weeks plus the exam. The course will be offered on Monday evenings, as it was last time. We will keep you posted as things develop with these courses.

Regards,

Nathan Thompson - CTR  
Cultured Stone®/CSI, Inc.

If you or your colleagues have any interest in taking these courses with us, please let us know by contacting our Education Officer, Nathan Thompson, CTR at [n.thompson@canadianstone.com](mailto:n.thompson@canadianstone.com)

**You could be advertising here**

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## INDUSTRY ORGANIZATIONS

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### DIVISION 01: GENERAL REQUIREMENTS

Construction Waste Management – BuildSmart  
<http://www.metrovancouver.org/buildsmart/>

### DIVISION 02: EXISTING CONDITIONS

Demolition / Deconstruction – BuildSmart  
<http://www.metrovancouver.org/about/publications/Publications/dlctoolkit08web1.pdf>

### DIVISION 03: CONCRETE

Cement Association of Canada  
<http://www.cement.ca/>  
Canadian Precast Concrete Institute  
<http://www.cpci.ca/>

### DIVISION 04: MASONRY

Masonry Institute of BC  
<http://www.masonrybc.org/>  
Masonry Institute (American)  
<http://www.masonryinstitute.com>

### DIVISION 05: METALS

Canadian Institute of Steel Construction  
<http://www.cisc-icca.ca/>

### DIVISION 06: WOOD, PLASTICS, & COMPOSITES

Architectural Woodwork Mfrs' Assoc.  
<http://www.awmac.com/bcchapters.php>  
Western Red Cedar Lumber Association  
<http://www.wrcla.org/>

### DIVISION 07: THERMAL & MOISTURE PROTECTION

Roofing Contractors Association of BC  
<http://www.rcabc.org/>  
BC Sheet Metal Workers Associations  
<http://www.smacna-bc.org/>

### DIVISION 08: OPENINGS (DOORS, WINDOWS)

Steel Door Institute  
<http://www.steeldoor.org/>  
Canadian Steel Door Manufacturers Assoc  
<http://www.csdma.org/>  
Door Hardware Institute  
<http://www.dhi.org/>  
Glazing Contractors Association of BC  
<http://www.gca-bc.org/>

### DIVISION 09: FINISHES

Association of Wall and Ceiling Contractors of BC  
<http://www.awccbc.org/>  
Gypsum Association  
<http://www.gypsum.org/>  
Master Painters Institute  
<http://www.paintinfo.com>  
Carpet and Rug Institute  
<http://www.carpet-rug.org/>  
National Flooring Covering Association  
<http://www.nfcaonline.ca/>  
National Wood Flooring Association  
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**Joe McDermid, CTR**  
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## CSC EXECUTIVE BIO

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### Mario Maggio



There is a relatively small segment of leaders in the business world; individuals who seem able to build relationships, trust, and rapport with almost anyone, and then are able to broker the relationships and make connections between people, creating partnerships and alliances, and motivating forward momentum to 'get things done.'

Mario Maggio is one of those people, and 'getting things done' and driving results—through collaboration, partnerships, and relationships—as a Senior Manager in the Glazing industry, is what he is all about. With an enthusiastic and genuinely friendly attitude, Mario radiates a sincere passion for delivering value and benefits to his customers.

With more than twenty years in the Glass & Glazing Industry, Mario Maggio leads US Aluminum of Canada sales and sales engineering departments. Mario supports product management and acts as the company's Senior Sales Manager of sales personnel with a consultative approach, assisting customers, Architects and Spec writers.

Prior to joining US Aluminum, Mario served as the General Manager of a production facility in Langley B.C., specializing in the precision bending and stretch forming of metals for the Aerospace and Architectural construction industries, where he oversaw the operations, developing scalable and reliable business solutions.

Before his career as a manager, Mario earned his Journey-

man ticket as a Glazier at BCIT. He was a fabricator and installer for several glazing contractor firms in the Lower Mainland. Mario remains committed, focused and continues to educate in "Building Envelope Science".

Mario became a member of the CSC Vancouver Chapter in 2005. During the 2006 year, Mario served in the capacity of Sponsorship Chair on the 2007 Vancouver Conference Committee. "It was such a great learning experience to work with a great group of volunteers" Mario says "after the Conference; I knew that the CSC was endless with quality networking, both professional and personal". Notable, was the brilliant Committee and "Going for Gold" accomplishments. Recipients of a Programme Director's Award. He then served as Vice Chair in 2007-08. Received a Chapter Merit Award in 2009.

Currently, Mario serves as the Marketing/Website Officer on the 2010-11 executive board. He adds "the goals for the 2011-12 year are to encourage the multi disciplines in the construction industries through the benefits of Membership, be it Communication-Education-Collaboration".

In conclusion, when Mario isn't on the job pursuing opportunities, you may literally find him running by you while you're driving to work. As an Ultra marathoner, Mario expresses "every mile you run inspires someone to take their first step-and that's a gift that keeps on giving" or in CSC terms "to engage in activities to improve procedures and techniques related to the construction industry is how the CSC-Vancouver Chapter continues to inspire Me".


Mario Maggio  
Marketing/Website Officer 2010-11  
CSC Vancouver Chapter



**Brian MacNeil**  
Regional Manager Canada  
Cell: 604-220-8287  
Brian@kryton.com

**The Kryton Group of Companies.**  
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**TECH NOTES**

**Are Statutory Declarations Useless?**

by Bill Preston

Recently a fairly large supplier to our local construction market surprised me! He asked: "how can a trade customer of ours sign a Stat Dec to get his money out of the project and then tell me that he cannot afford to pay us? Isn't that fraud?" Not likely!

The Criminal Code has three separate offences to convict a person for knowingly signing a false Stat Dec. And, the Code empowers a Judge to both jail this person for up to 14 years and pay restitution to those who have suffered loss! But, though all of us involved in the construction industry can recite suspicions about Contractors signing a false Stat Dec, I could only find one conviction in the last 30 years where a Contractor was convicted (he pleaded guilty), did time, and was ordered to pay compensation of \$250,000.00!

How come, if false Stat Dec's are frequent in our industry? Well, the "devil is in the details." Prosecutors need beyond-a-reasonable-doubt proof that the Stat Dec is false and also that the Contractor knew or was recklessly indifferent about whether it was false. In the circumstances of our industry which have evolved since the early 70's, this kind of proof is difficult.

Let me explain by canvassing the past 40 years of our use of Stat Dec's.

**1971 – R. v. Regalbuto (Ontario)**

1. Spartan Construction contracted to build a wharf for the Government of Canada.
2. The Prime Contract spec'd that the Government would make its final payment roughly 30 days following its receipt of Mr. Regalbuto's Stat Dec swearing that "all lawful obligations and claims against Spartan and arising out of the project have been discharged and satisfied."
3. Regalbuto swore an Affidavit in these terms and was then paid by the Government.
4. But, Spartan, which went belly-up after the job, never did pay for the heavy equipment rentals and timber supplies incurred for the project!



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5. Regalbuto was charged with fraud and he defended but the Judge convicted him after dealing with his two principle defences:
  - 5.1 There were no obligations when he signed the Stat Dec because the rental invoice was still in the mail and the timbers invoice was not payable until the expiration of 30 days - Judge: Non-sense; the obligations arose upon first supply and were not satisfied when he signed.
  - 5.2 But Regalbuto complained it is common practice in the construction industry to sign and deliver such Stat Dec's when the Contractor intends to pay after receipt of the Government's payment – Judge: It is no defence to show that the offence is an every-day occurrence.
6. Thus, Regalbuto was convicted! But, the Judge then sentenced him to only one day in jail, which involved the police simply transporting him to the nearby jail where he was immediately released!

So, the Court talked tough, but the consequence was a minor slap on the hands.

**1982 – CCDC Forms**

7. Presumably, acknowledging the common practice of Contractor's swearing and delivering Stat Dec's when they still owed money to their Subs and suppliers, CCDC issued Document 9A which read: "All accounts and indebtedness in the Performance of the Work for which the Owner might be held responsible have been paid in full except holdback monies properly retained." Thus, CCDC adopted the policy that the purpose of Stat Dec's was only to cover the Owner's butt for statutory responsibilities which it had under the lien legislation to creditors of the Contractor!

**1983 – E. Bondy Excavating & Trucking Ltd. v. Victoria Insurance Co. of Canada (Ontario)**

8. In 1979, Bondy was a subtrade for a road construction project for the Province of Ontario.
9. Again, the Prime Contract spec'd that Ontario would release its Final Payment to the General Contractor in approximately 14 to 30 days after the Government had received Subcontractor's Stat Dec swearing that the Subcontractor "had been paid in full for its Work."
10. Upon completion of the project, Bondy swore the requisite Stat Dec and delivered it to the General Contractor in return for the General Contractor's cheque for the full amount of Bondy's outstanding claim.
11. But, when the General Contractor picked-up the Stat Dec, it warned Bondy that its bank account was NSF and thus Bondy should not cash the cheque until the General Contractor had phoned to report that the Government's payment had been deposited into its account.
12. Well, the General Contractor absconded with the Government's payment and Bondy was left with an NSF cheque; so, it made its claim against the General Contractor's Labour and Materials Bond.
13. The surety rejected Bondy's claim and defended in Court on the basis that, had Bondy not fraudulently sworn the Stat Dec, the Government payment would not have been made and would thus still be available to the surety for payment of claims.
14. The Ontario Court of Appeal ordered the surety to pay Bondy by expressing sympathy for Bondy and rationalizing:
  - 14.1 It is too simplistic to conclude that there was "fraud" in this case because the Court must have regard to the realities of the circumstances in which it was signed;
  - 14.2 It is common knowledge that the Govern-



Cell: 604-551-9979  
Tel: 604-299-0270  
Fax: 604-294-8617  
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ment, by its Invitation to Bid, intended to attract small General Contractors with small bank deposits as well as those with big deposits;

- 14.3 The Government's only purpose for this spec is to assure that when it makes its Final Payment it has met the statutory requirements of The Mechanics Lien Act which requires that its payment was made "bona fide";
- 14.4 But, Ontario also intended that this Final Payment would not be paid until at least 14 days following its receipt of Bondy's Stat Dec;
- 14.5 So, Ontario's purpose is satisfied if this Court implies a term in its spec that the Stat Dec's do not become effective until the moment Ontario releases its payment to the General Contractors;
- 14.6 And, it is at that point that Ontario's purpose is satisfied by the construction industry's real frequent, practical practice of signing these Stat Dec's though the trades and suppliers have not yet been paid in full, but knowing that once the General Contractor is paid and these Stat Dec's become effective, the Government's payment becomes statutory trust monies in the General Contractor's hands under the provisions of The Mechanics Lien Act;
- 14.7 Thus, Ontario has not been misled by Brody's Stat Dec and has lost nothing;
- 14.8 Rather, the General Contractor, by absconding, has breached the statutory trust obligations of the liens legislation for which they can be prosecuted under The Mechanics Lien Act.

So, the Ontario Court of Appeal essentially concluded that in the circumstances, the Owner's spec's requiring the Stat Dec were only for the Owner's purposes and not for the purpose of seeing that the trades and the suppliers got paid!

**1986 – Saskatchewan Builders' Lien Act**

Saskatchewan and many other provinces (but not New Brunswick) revised its lien legislation to adopt the Ontario policy that the Owner has no positive duty to the trades and suppliers to assure that they get paid out of the Contract Price of the project. **Our Builders' Lien Act removed all statutory requirements that the Owner's payment had to be "bona fide"**; and, further prescribed that the Owner could satisfy its trust obligation under The Builders' Lien Act by simply paying the General Contractor. In return for this, the Saskatchewan legislation gave to the trades and suppliers strengthened statutory collection weapons of: a right to the Project's financial information; direct access to L&M Sureties; simple convenient Written Notice Liens; and, mandatory arbitration. By this change, the lien legislation of Saskatchewan, Manitoba and Ontario facilitated the Owner's release of money down the construction pyramid (British Columbia and Alberta legislation is not so clear and New Brunswick still retains the requirement that the Owner have proof of "bona fides").

**2000 – R. v. Murray (New Brunswick Court of Appeal)**

Back to the beginning of my story! This is the one case which I found where, in the last 35 years, the Courts have convicted a person for signing a false Stat Dec. But, what is significant about this case is that it occurred in New Brunswick where its lien legislation still requires that the Owner must have proof of bona fides when it pays the General Contractor.

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## 2001 – CCDC Doc. 9A

In 2001, CCDC replaced its “obsolete” 1982 Doc. 9A. But, this new rendition did not reverse CCDC’s earlier policy decision that the Stat Dec protocol was only for the purpose of covering the Owner’s butt from attacks by subs and suppliers pursuant to the Project’s lien legislation. Thus, CCDC’s modernization of this form only expanded the exceptions available to the person signing the Stat Dec. This 2001 9A form reads:

That all accounts, incurred directly by the Contractor in the performance of the work, and for which the Owner might be held responsible, have been paid in full, except for:

- 1) holdback monies properly retained;
- 2) payments deferred by agreement; or
- 3) amounts withheld by reason of legitimate dispute.

See how tough it would now be for a prosecutor to check-mate each of these exceptions and also try to prove that an Owner suffered?

## Conclusion

In conclusion, in those jurisdictions like Saskatchewan, Manitoba and Ontario, it seems to me that the Stat Dec’s protocol has become totally useless because, for 30 years now, its purpose has not been to help subs and suppliers to get paid out of the project’s Contract Price; and, for at least 14 years now the Owner in these jurisdictions has not had the statutory burden of proving that any of its payments of the Contract Price were made “bona fide.”

So, why are spec writers not writing-out the expense of this protocol in their Supp Conditions? Tradition! I’ve often recommended that it be scrubbed out and the only half serious response that I have ever gotten is that Government’s like to have Stat Dec’s for their politicians when the politician has to answer to an unhappy subcontractor or supplier in their constituency.

I have better answers for suppliers and subcontractors who need to get paid out of a project’s Contract Price. They are:

1. Now, learn how to effectively use the Written Notice protocol in the lien legislation;
2. Now, go and buy a CCA 50, 2003 Contractors’ Guide to Project Financing

and Payment Security, and incorporate into your credit granting protocol the smart questions and answers you will find in Appendix "B" of this Guide; and

3. Finally, for suppliers particularly, only base your salespersons' bonuses on collections, not sales.

Sure, you will incur some additional administration costs. But, our industry operates on the running-shoe and squeaky-wheel principles. He who squeaks first and loudest gets paid, particularly if they have used a Written Notice of Lien to freeze the Owner's payments.

## IN THE CONTRACT?

.....




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## BUILDING OF THE MONTH

### Esplanade Theatres, Singapore

Theatres is correct. In the image only one dome is visible but there are actually two domes housing a 1,600 seat concert arena and a 2,000 seat theatre. On the third floor of one dome is a public arts library and above that an open space for viewing. The iconography is based on the national fruit - the King of Fruits - Durian. The building was designed by two architectural firms working in conjunction: by DP Architects (DPA) of Singapore and the London-based Michael Wilford & Partners (MWP).



## AROUND TOWN

### WIA - WOMEN IN ARCHITECTURE

#### CONSTRUCTION DELAY CLAIMS

Speakers: Karen Martin & John Haythorne, partners with Fraser Milner Casgrain LLP. April 7, 2011, 12-1pm, at the Granville Island Hotel, Quarter Deck Room. Cost: \$25 per person, includes sandwich. To register: [l.arpiainen@hcma.ca](mailto:l.arpiainen@hcma.ca)

This event is open to all. Attendance is limited, and requires pre-registration. Please arrive at 11:45. Presentation starts at 12:00. Drinks will be available for purchase. We cannot accept cancellations after March 24. No shows will be invoiced. Please bring exact change or check made out to 'Women In Architecture'. This is a professional education event. You may self report it to AIBC / other professional organizations.

### ARCHITECTURE ON THE EDGE

#### 2011 FESTIVAL OF ARCHITECTURE - VANCOUVER

Early Bird registration for the 2011 Festival of Architecture is now open. Full program information is available online at the [festival web site](#). Once you've reviewed the many sessions and events, click here to access the registration process. AIBC Registrants should use their existing logon ID and password. Non-registrants will be asked to create a new account. Should you encounter any difficulties or have any questions, please contact Marguerite Wood at [mwood@aibc.ca](mailto:mwood@aibc.ca).

Note: early bird rates end on April 30, 2011. Session space is limited, so you are encouraged to register early.

### WOOD-WORKS!

#### 2011 WOOD DESIGN AWARDS OF BC

2011 Wood Design Awards of BC. BC Wood Design Awards bring together people from all sectors to recognize leadership and innovation in wood use. The awards also serve as an opportunity to publicly recognize and encourage continued excellence in the building and design community and in the forest industry. This high profile annual event celebrates innovative structural and architectural uses of wood and provides an opportunity for architects, engineers, building designers, builders and project owners to showcase their projects. Tickets may be purchased by calling our event coordinator Lorna Malone at 1-877-929-9663 ext 4. or email [lmalone@wood-works.ca](mailto:lmalone@wood-works.ca). Vancouver Convention Centre, Level 3, Vancouver, BC

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**Complete and Fax this form to 604-291-9482.**  
**Pre-Registration ends at 5:00 PM on Tuesday before the meeting.**  
 Registration is limited to first 40 registrants. Walk-ins will not be accepted.

If you have special dietary (meal) requirements, please notify us at least 24 hours before the event.

**Questions?** Contact Vancouver Chapter Program Officer, George McCutcheon at [gm@planinc.ca](mailto:gm@planinc.ca)

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