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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!**

Dennis Hodkinson
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The opinions and comments expressed by the authors published herein 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.

2014-2015 PROGRAM

SEPTEMBER 10	CSC SPEC GOLF 2015
OCTOBER 8 11:30am Lunch Sandman Hotel, Vancouver	Parking Structures: Design, Construction and Maintenance Sylvie Mercier, B.A.Sc., P.Eng., LEED® AP Principal at RJC Ltd.
NOVEMBER 18 CSC Vancouver Chapter Construction Fair 10:30am to 2:30pm Vancouver Convention Centre, East Building	Building Codes Update 10:30 AM - Murray Frank, Constructive Home Solutions Green Building Forum 12:00 Noon - Brian Palmquist Architect AIBC/Marsha Gentile - Ledcor. Legal Discussion 1:30 PM - Dirk Laudan, Partner, Borden Ladner Gervais
DECEMBER 10 11:30am Lunch Sandman Hotel, Vancouver	Construction Industry Forecast Fiona Famulak, President - VCRA
JANUARY 7 11:30am Lunch Sandman Hotel, Vancouver	Designing Green Roofs for Stormwater Management Dr. Karen Lui – R&D Bonar Xeroflor GmbH
FEBRUARY 11 11:30am Lunch Sandman Hotel, Vancouver	Legal Discussion Mike Demers – Lawyer, Jenkins Marzban Logan LLP
MARCH 10 11:30am Lunch Sandman Hotel, Vancouver	Demystifying Acoustics Andre Rioux – AcousticTECH/Soprema Soundproofing
APRIL 7 11:30am Lunch Sandman Hotel, Vancouver Chapter General Meeting 12 noon	Fireproofing Systems and Applications Chris Row – AD Fire Protection
MAY 12 11:30am Lunch TBC	Site Tour – TBD TBD
MAY 26–29th 2016	CSC National Conference 2016 – Halifax
SEPTEMBER – TBD	SPEC GOLF 2016

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WORDS FROM THE CHAIR

.....

Hopefully everyone had an enjoyable summer! I just arrived in Victoria and while I very much enjoy this beautiful city I can't help but ask myself where are the days going? Halloween must be right around the corner. (getting dark at 7pm, what happened?) We've been through a very dry summer, and now it seems the rain has arrived. I never thought I would say it, but I actually missed it. We saw a terrible storm that pulled trees up so easily due to the lack of rain. We saw the "Ride to Conquer Cancer" event get cancelled mid day because it just wasn't safe to have people continue. We're happy to see that nobody was injured and we can continue the fight again next year.

I would personally like to thank the CSC Vancouver chapter for welcoming me as the new Chapter Chair. We have a great team that has supported the Chapter for many years and I personally look forward to the exciting journey up ahead. I can only hope that I am able to continue the great leadership carried by my predecessor and now Director Kim Tompkins. Kim has become a close friend and mentor to me over the years and I hope I can carry the torch as far as she did. As the board struggled to find attendees for golf this year, we are looking for new ideas for future years. Is it a "9 and dine" event people want, or is the location bad. We've struggled in previous years to find attendees for this event, but maybe the members want something different, please bring your ideas ahead. The open door policy means we are always looking for your feedback!

We have some new faces on the board this year and of course the die hard few that just won't leave (thankfully). It makes me think of the national conference coming to Vancouver in 2017. We have the conference planning committee in full motion, and the ideas coming out of it are outstanding. We encourage more members to get involved, let's see if we can make this the best conference ever. With Halifax coming in 2016, I think this will be a tough one to beat! I've always wanted to visit this city, and can't wait to see what the Halifax Chapter has in store for us.

I hope to bring a few tidbit comparisons of Vancouver (Kelowna) over the coming months. Let's see how the 2 regions compare. "While the east coast has Peggy's Cove Lighthouse, Vancouver has Lighthouse Park. I think they have us beat there, but have you tasted Pacific Salmon?" Please bring your thoughts on comparisons between the two regions, I'd love to hear from the more experienced that have actually visited Halifax. Maybe I'll stay a couple extra days in Halifax in May 2016.

James Kelly CTR
Chapter Chair CSC – Vancouver Chapter

TRADE SHOW UPDATE

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On November 18th, 2015 CSC Vancouver Chapter is hosting the fifth annual Trade Show at the Vancouver Convention Centre. The committee members have been working hard for months to ensure the event is well attended and provides the essential education required from the design authority on current topics and issues related to the industry. The "NO FRILLS" name has been derived from the Ontario based show as CSC works to create a national name across Canada. This year the organizers have developed a theme around, "Building Better Buildings" highlighting green building and energy code changes which impact local construction in our area. The day will feature three separate guest speakers:

10:30AM – 11:30AM: "BC Building Codes"— Discussion on the various code changes and what Designers/Architects need to be aware of in designing new buildings. — Murray Frank; Building Consultant, Constructive Home Solutions.

12 (Noon) – 1:00PM: "How Designers can specify Green building products so Builders can build them!"— Brian Palmquist; Architect AIBC MRAIC Intl Assoc AIA BEP CP LEED AP & Marsha Gentile; Construction Sustainability Specialist LEED AP BD+C, Ledcor Construction.

1:30PM – 2:30PM : "Current Challenges in Contract Administration and Drafting"—Green Construction specific liability risks as well as a discussion on certificate of completion under the BC Builders Lien Act.— Dirk Laudan; Attorney-Partner Construction Group, Borden Ladner Gervais LLP.

Some exhibitor spots are still available, so if you are interested please reach out to Todd Gerrard — toddg@energcorp.ca for more information. We hope to see everyone out this year as this year's event is shaping up to be very influential.

See the exhibitor space application at the end of this newsletter.



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INDUSTRY ORGANIZATIONS

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DIVISION 01: GENERAL REQUIREMENTS

Construction Waste Management – BuildSmart
www.metrovancouver.org/buildsmart

DIVISION 02: EXISTING CONDITIONS

Demolition / Deconstruction – BuildSmart
www.metrovancouver.org/about/publications/Publications/dlctoolkit08web1.pdf

DIVISION 03: CONCRETE

Cement Association of Canada
www.cement.ca/
Canadian Precast Concrete Institute
www.cpci.ca/

DIVISION 04: MASONRY

Masonry Institute of BC
www.masonrybc.org/
Masonry Institute (American)
www.masonryinstitute.com

DIVISION 05: METALS

Canadian Institute of Steel Construction
www.cisc-icca.ca/

DIVISION 06: WOOD, PLASTICS, & COMPOSITES

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

DIVISION 07: THERMAL & MOISTURE PROTECTION

Roofing Contractors Association of BC
www.rcabc.org
BC Sheet Metal Workers Associations
www.smacna-bc.org
EIFS Council of Canada
www.eifscouncil.org
RCI Inc.
www.rciwesterncanada.org
RCI Western Canada Chapter
www.rciwesterncanada.org

DIVISION 08: OPENINGS (DOORS, WINDOWS)

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

DIVISION 09: FINISHES

Association of Wall and Ceiling Contractors of BC
www.awccbc.org
Gypsum Association
www.gypsum.org
Master Painters Institute
www.paintinfo.com
Carpet and Rug Institute
www.carpet-rug.org
National Flooring Covering Association
www.nfcaonline.ca
National Wood Flooring Association
www.nwfa.org/member/
Terrazzo, Tile and Marble Assoc. of Canada
www.ttmac.com

DOES DELAY BY CONTRACTOR JUSTIFY TERMINATION BY OWNER?

By: Bill Preston, Q.C.

A recent Ontario case, *Urbacon Building v. City of Guelph*, tackled this question and concluded that: **it may be possible, but damned unlikely.** This case arose out of the following language of GC 7.1.2 of the current standard CCDC contract documents:

7.1.2 Contractor neglects to prosecute Work properly to a substantial degree and if the Consultant has given a written statement that sufficient cause exists to justify such action, Owner may give the Contractor Notice in Writing and instruct the Contractor to correct the defaults in the 5 Working Days immediately following, or provide a satisfactory schedule.

Briefly, the facts were as follows:

- City wishes to, in 2 phases, build a Civic Admin and Provincial Admin complex which will incorporate an old Fire Hall as a heritage site.
- The initial Contract Budget was approximately \$40M in 2006.
- The City had engaged Moriyama and Tishina to provide a detailed prescriptive design.
- In July/06 Urbacon signed a CCDC2 – 1994 contract to achieve Substantial Performance by May/08.
- Soon after promptly starting, Urbacon and its trades discovered that the design documents were terrible while the Owner was insistent on continually making Changes.
- Thus, by December/07 the parties had signed an Extension Agreement –
 - Extend Substantial Performance schedule to August 15, 2008 though Urbacon sought to September 30, 2008.
 - City pay an additional \$534.6K.
 - Consultant respond to Request for Change Order (RCO) and Request for Information (RFI) in 5 days.
 - Landscaping Work was removed from Substantial Performance requirements.
- Nonetheless, relations between the parties continued tense and by the summer of 2008:
 - The Consultant would not distribute its copies of Site meeting minutes until the eve of the next meeting.

- Site meetings frequently focused on scheduling and the language used “would not be heard at a church social”.
- Consultant was way behind on the 5 day response requirement concerning Change Orders (CO), Change Directives (CD), RFIs and RCOs.
- Urbacon was issuing Written Notices of Delay and Claims for dollars together with schedule extensions.
- So, on September 4 and 5, 2008 the City’s Property Manager, who had some prior experience with terminating contractors, demanded that the Consultant issue a written statement of “Sufficient Cause” to terminate Urbacon.
 - At this point, Urbacon’s initial base Scope of Work was 98% complete while it’s performance of issued COs and CDs was 78% performed and there were still some COs and CDs which the Consultant had not yet issued.
 - Further, the City later during the trial admitted that at the time of its request for the Consultant’s written statement of Sufficient Cause:
 - Urbacon would likely obtain Substantial Performance by early November.
 - The Mayor was publically acknowledging that the Project delays were “inconsequential”.
 - And, the City had no evidence that a delayed Substantial Performance to November would cost it any additional expenses.
- Further, the trial Judge concluded that the City then ought to have known that it could not find an alternate contractor to come in an obtain Substantial Performance sooner than Urbacon.
- Yet, on September the 5th the Consultant issued its letter of “Sufficient Cause” using much of the Property Manager’s proposed wording and a very sparse description of Urbacon’s defaults.
- And, on September 19, 2008 the City, rejected Urbacon’s responsive schedule to obtain Substantial Performance, and sent out the City Police to refuse Urbacon and its trades access to the site!

I trust now you see my conclusion: the facts in this case make neither the Consultant nor the Owner look very sympathetic. And, the Judge so concluded by ordering that the City’s termination was unlawful and that it must thus pay Urbacon damages usually measured by its lost economic opportunity because it was denied an opportunity to complete the Project and have the City pay the full adjusted Contract Price including reasonable value for unissued COs and CDs.

continued...

...Does Delay by Contractor Justify Termination by Owner?. Continued

Conclusion

What makes this case worth discussing is the Judge’s answers to the below three central issues arising out of the language used by CCDC in GC 7.1.2.

How serious must the Contractor’s Default be to be “a Substantial Degree”?

1. The answer involves a circumstantial balance: is it better to leave the Owner to collect delay damages from the unpaid Contract Price it is still withholding, or better to permit the Owner to find another contractor to complete sooner than what it appears the Contractor will complete?
2. Thus, where the construction services market will take time for another contractor to come up to speed, likely the balance will favor the conclusion that there is no default to a Substantial Degree.
3. While, if there are serious defects or deficiencies which are being covered up, the Consultant’s written statement of “Sufficient Cause” should detail these so that the contractor is not blindsided.
4. Finally, given CCDC has adopted the words “a Substantial Degree” which originate from ancient cases, the Court should adopt the following words from these ancient cases:

“So serious and fundamental a default as to undermine the thing the Owner bargained for.”

What level of detail must the Consultant provide in its Written Statement?

5. This document is critical to the validity of the Owner’s termination process and thus Judge’s will quickly second guess the Consultant’s judgment.
6. Thus, the Consultant must clearly detail each act or omission it relies upon so that the Contractor has a fair opportunity to provide a responsive schedule contemplating rectification of each defect/deficiency.

When the Consultant is considering issuing a written statement of Sufficient Cause, what ought to be its Attitude?

7. Keep in mind that the CCDC documents prescribe “the Consultant will not show partiality”.
8. Judges, particularly since a recent Supreme Court of Canada decision, will thoroughly second guess the Consultant’s attitude to assure that it is not favoring the party who pays its fees and/or may soon be proffering another design project.
9. Clearly, the Consultant should never let the Owner draft its written statement.

MEMBERSHIP REPORT

As we continue to promote CSC, the need for value in the construction industry is greater than ever. During the month of September, the Vancouver Chapter has increased by three new members which bring membership to 154.

Please help us to welcome three new members:

- **Mr. J. N. Adkins**, President, of Northwest Inspection Ltd.
- **Ms. Tina Letourneau**, Admin Mgr, of Craven Huston Powers Architects
- **Mr. Michael Watts**, Arch AIBC, NCARB, of Musson Cattell Mackey Partnership

For More Information on Membership:

- Contact any member of the executive
- Attend one of our luncheon meetings
- Visit the National website at www.csc-dcc.ca
- Visit our Chapter website at <http://vancouver.csc-dcc.ca>

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EDUCATION REPORT

The Principles of Construction Documentation (PCD) is scheduled to begin October 19th and there is still time to register. Feedback from previous students is the classroom learning environment is the best way to help learn and better understand the subject matter. The PCD is the first course, and a pre-requisite, for all of the CSC education streams. These are Certified Technical Representative, Certified Construction Contract Administrator, and Certified Specification Practitioner. It is also a strong foundational course for people who are new to the construction industry or want to better understand construction documentation (specifications, drawings and schedules), products, bidding procedures and contracts.

The focus is to emphasize the relationship that exists between specifications and drawings, and the role of the industry participants. Contract documents and the project manual have an intrinsic relationship with each other, with standard pre-printed contract documents, and with associated documents; this course explains these relationships.

Introduction

Construction Process: Players and Roles; Owner Expectations; Budget Process; Project Phases; and the Bidding Process

Production of Construction Documents: The Project Manual; Format Documents; Specifying Methods; Language and Style; Specification Writing, Editing and Co-ordination; and Document Interpretation

Forms of Contract: Contract Delivery

Codes and Standards: Codes and Code Content; Standards and Testing Agencies; Zoning By-Laws and Permits; and Environmental issues

Risk Management Issues: Risk and Liability

Legal Issues: Legal Issues; and Contract Law and Court Decisions

Building Science: Basic Building Principles; Product Evaluation and Selection; Sustainability Issues; and Diagnostic Methods, Non-Destructive Testing

Contract Administration: Authority of the Contract Administrator; Time Management; Submittals, Alternatives and Substitutions; Changes in the Work; The Commissioning Process; and

Performance, Termination and Dispute Resolutions


Communications: Communications and Projects on the Internet

Trends in the Construction Industry: The History of Standardizing Construction Information; New Initiatives in Standardization; and Professional Development

The CSC Vancouver chapter was planning to have a Construction Contract Administration beginning this fall. However, there were not enough students registered and others that required the PCD pre-requisite. Based on the schedule of those that were going to register the Chapter has postponed the course until the beginning of 2016. When the dates have been confirmed I will e-mail those who have contacted me in and post the information on the website.

The CSC Vancouver chapter has reached out to a few potential instructors about teaching previous courses. If you are interested in teaching a full course or would like to help co-teach a course please contact me to discuss your interests.


For further information please contact me at robert@div7.ca



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1/2 page	\$80	\$100
Full page	\$140	\$175

You will receive advertising space on the second page of the Specifier and on the CSC chapter website. The ad will be placed in one issue of the Specifier and reside on the website for one month. Ads must fit on one page only and are not limited to copy content or visual features.

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



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MEMBERSHIP IN CSC

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In the construction industry's fast-paced environment, the need for and value of Construction Specifications Canada is greater than ever. CSC brings together individuals from all segments of the construction industry. All who have a vested interest in Canada's largest industry are invited to join CSC. When you join CSC you become a part of the only association that brings together professionals from all aspects of the construction industry.

DESIGN TEAM

CSC offers members of the Design Team the opportunity to meet with other members and exchange information. It also affords you the chance to help improve technology and its management, and the means to improve ways in which your ideals are translated into clear, concise and complete documentation.

SUPPLY TEAM

The multi-disciplinary composition of the CSC allows members of the Supply Team to meet with other members of the construction team. CSC programs in data filing and information retrieval are geared to present convenient and concise information on your products for proper evaluation and specification.

BUILDING TEAM

If you are a member of the Building Team, Construction Specifications Canada offers the opportunity to become involved in formulating specifications. Your valuable input into the programs can help generate time and cost savings as well as improve performance.

THE STUDENT

If you are a student or architecture, engineering or construction technology, CSC will provide you with greater exposure to and a better understanding of the Construction Industry, giving you an excellent opportunity to plan a career in the construction field.

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Associations (Tabletop)	\$ 200 <input type="checkbox"/>		X <input type="checkbox"/>	+ <input type="checkbox"/>	= \$ <input type="text"/>
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Notes for Exhibitors

Exhibitors, please follow these simple rules:

- This is a **table-top display show only**. You are allowed to place anything on the table that will not obstruct the overall room view provided that it is **not higher than 30 inches above the table**. All tables are 72" x 30" with skirts. No electricity will be available.
- **Limited larger full size booths (8'X10' *max 4' from wall)** have been added around the perimeter of the room for a premium price. Every exhibitor should be visible from across the room at normal line-of-sight.
- **Roller screens, signs or banners cannot be higher than 60" in height and no more than 36" wide**. Limit of one screen, sign or banner per table. If you want to bring more screens, signs or banners, please purchase additional tables.
- There is no electricity at the tables. Bring small, quiet alternate power sources if necessary.
- **All displays, products, and other materials must come through the loading dock & NOT through the Convention Lobby doors!** This will be strictly enforced and anyone violating this rule may be disqualified from attending this show in future years.
- **Arrival time: 9:00am.** Doors will open at 10 am. **Closing time: 4:30pm.** The event will wind down at 4:00pm.
- **Coffee and Lunch** – Refreshments and lunch will be available for purchase on-site from 11am-3pm.

