

January 15, 2003

Ms Susan Wiggins  
Chief Administrative Officer  
Association of Registered Interior Designers of Ontario  
717 Church Street  
Toronto ON M4W 2M5

Dear Ms Wiggins:

Thank you for the opportunity to review the draft *Act to Enhance the Practice of Safe Interior Design*. The following are our comments, which relate to the draft of December 3, 2002:

**Comments on items in Section 1: Definitions**

1. The draft Act defines “Environmental” as:

“the aggregate of the physical conditions affecting the health and safety of occupants, including air quality and circulation, temperature control, ergonomic layout, physical circulation plan and related matters”.

We believe that many of these physical conditions are clearly within the practice of professional engineering. For example, engineers are responsible for the design of HVAC systems that provide proper air quality, circulation and temperature control.

2. The draft Act defines “fitting out” as:

“the selection, layout and installation of fixtures, controls, finishings and furnishings”.

In PEO’s opinion, the selection and layout of controls for lighting, HVAC, security, fire alarm, etc. are the responsibility of professional engineers, although they may consult with interior designers. However, the final decisions on these areas must be the engineer’s responsibility since these decisions will affect system operations. For example, a HVAC control located incorrectly (near a lamp, window, or air diffuser, or inside a cabinet) can make it impossible to control temperature in a room. Although engineers also traditionally choose lighting and plumbing fixtures, these are not necessarily engineering functions.

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3. The draft Act defines the “practice of interior design” as:

“preparing, providing or implementing a design respecting the construction or management of the enlargement, alteration, configuration, fitting out or refurbishing of the interior space of the whole or part of a building and may include,

- (a) evaluating, advising on, managing or reporting on the construction, enlargement or alteration of the interior space of the whole or part of a building;  
or
- (b) reviewing the construction, enlargement or alteration of the interior space of the whole or part of a building;

but, for greater certainty, does not include,

- (c) consulting or advising on interior decoration or furnishings in conjunction with the sale, lease or supply of interior decorations or furnishings;
- (d) providing interior decoration services including advising on and assisting in the selection of materials, window treatments, wall coverings, paint, floor coverings, fixtures and furnishings other than those materials, window treatments, wall coverings, paint, floor coverings, fixtures and furnishings which are not subject to regulation under any applicable fire code, building code, municipal code or other standard governing the interior space;
- (e) preparing, providing and implementing a design which affects or is likely to affect the mechanical, electrical and structural building engineering systems within the interior space of the whole or part of a building; and
- (f) preparing, providing and implementing a design which affects is or likely to affect,
  - i. the structural integrity,
  - ii. a fire safety system or fire separation,
  - iii. a main entrance or public corridor on a floor,
  - iv. an exit to a public thoroughfare or to the exterior,
  - v. the construction or location or an exterior wall, or
  - vi. the usable floor space through the addition of a mezzanine, infill or other similar element,

of the interior space of the whole or part of a building.”

We appreciate that the scope of practice in this definition is intended to be much narrower than that proposed in the draft Act of October 9, 2002. However, we remain concerned that interior designers may not have sufficient knowledge about mechanical, electrical and structural engineering to be able to judge whether their designs affect or would be likely to affect these systems. If that were the case, they would also not be able to judge whether they were practising inside or outside the scope of exclusions (e) and (f).

Additionally, we would recommend that the definition of “design” be restricted to be consistent with the definition of the practice of interior design. This would leave less chance for inadvertent misinterpretation, and lessen the potential for interior designers to practise in areas that constitute the practice of professional engineering. Indeed, we wonder whether it is necessary to define “design” at all in the Act, since it is the areas on which the activity of design is brought to bear that determine whether it is within the “practice of interior design”.

4. Assuming the Act does define “design”, however, we are concerned with the definition of “design” in the current draft as:

“a plan, sketch, drawing, graphic representation or specification for the interior space of the whole or part of a building with respect to all of the following:

1. the construction, alteration, or configuration of the interior space.
2. the health and safety of the occupants of the interior space.
3. accessibility within the interior space.
4. the functional, environmental and aesthetic qualities of the interior space.
5. any statute, regulation, fire code, building code, municipal code or other standard application to the interior space.”

We believe this definition does not yet describe precisely enough what is an interior design activity, and can be construed as covering work that is within the practice of professional engineering. We believe it is important that the area of restricted practice be defined with sufficient rigour that it does not inadvertently include work that is within the practice of professional engineering, or for which licensing as an interior designer may not be necessary. An unclear definition of “design” in the ARIDO Act will eventually lead to PEO having to take enforcement action against licensed interior designers who are practising professional engineering.

With regard to clauses 1 to 5 of the definition:

1. This clause is very broad and would seem to include all work done in the construction, alternation or configuration of the interior space of buildings. Because engineers and architects also provide designs for systems and components in the interior, the Act should define what is meant by an “interior space”. Is it the space interior to the finished walls of the occupied space, or interior to the exterior walls of the building? In other words, does it include the void spaces in ceilings, floors, shafts, etc.? The Act must also clarify what kind of “construction” and “alterations” are included. Certainly, designs of such alterations as the removal of an interior wall or the cutting of beams cannot be left up to an interior designer, but this definition does not make this distinction.

2. This clause defines a design in terms of its dealing with the health and safety of the occupants of the interior space. Certainly interior designers do deal with health and safety issues in their work, but such a concern is not exclusively theirs. Professional engineers are also responsible for the protection of public health and safety in interior spaces through the design and specification of sprinkler and other fire protection systems, alarm systems, security systems, door control, smoke control, etc.
3. We find this clause to be unclear. If it is intended to refer to handicapped access, then all professionals would deal with it.
4. This clause is too broad and ambiguous. For example, what are the “functional” qualities of an interior space? Certainly, the environmental qualities of a space are the responsibility of mechanical engineers through the design of heating, cooling, and ventilating systems that assure appropriate air quality and temperature. Professional engineers are also responsible for assessing such environmental hazards as the presence of asbestos or PCBs in older buildings that are being renovated. While interior designers must consider health and safety within their particular area of practice, as indicated above, they are not the only designers having this responsibility.
5. This clause does not describe an attribute that is exclusive to the practice of interior design. The drawings and documents prepared by all design professionals must comply with the requirements of statutes, regulations, codes or other standards that affect interior spaces.

#### **Other comments**

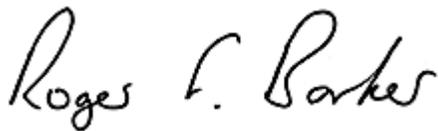
5. We note the inclusion in subsection 11(1)(e) of an exemption from the requirement to hold a registered certificate of qualification under the draft Act for licensed professional engineers or holders of “certificates of practice”. For your information, however, the instrument that authorizes the offering or providing of professional engineering services to the public is called a “Certificate of Authorization” not a “certificate of practice”, and the name of the statute governing the licensing of professional engineers and regulation of the practice of professional engineering is the *Professional Engineers Act*, not the “*Professional Engineers of Ontario Act*”.
6. We notice that subsection 13(4) of the draft Act proposes that a decision of the Academic Requirements and Experience Requirements committees shall be final and binding on the Registrar and on the applicant. For your information, a 1999 review of PEO’s Admissions, Complaints, Discipline and Enforcement (ACDE) processes concluded that a decision bearing on licensing for which there is no

mechanism for appeal is a denial of natural justice. Accordingly, the *Professional Engineers Act* was amended in 2001 so that the decisions of the ARC and ERC are no longer final and binding. We expect this Act change to be proclaimed in February 2003 when a corresponding regulation change becomes effective.

7. In regard to subsection 14(1) of the draft Act, we suggest that you review this subsection for consistency with the Ontario Business Corporations Act, which was amended in 2000. Under the amendment, all corporations offering services regulated under an Act can do so only as "professional corporations," which requires that all of the shareholders of the professional corporation be licensed members of the profession.
8. We note that under subsection 35(4) of the draft Act, hearings of the Discipline Committee are closed to the public, unless the party who is the subject of the hearing requests otherwise. For your information, the 1999 review of PEO's ACDE processes also concluded that closed hearings are out of step with modern regulatory practices. Another of the 2001 amendments to the *Professional Engineers Act* made PEO's hearings presumptively open, except for certain well defined circumstances where a closed hearing may be requested. As noted in point 6, above, we expect that the regulation change to enable proclamation of this Act change will be effective in February 2003.

We hope that these comments are helpful to you. Should you require further information or clarification on them, please do not hesitate to contact me or Johnny Zuccon, P.Eng., Director of Professional Affairs, at 416-224-9528, ext. 416 or 401, respectively.

Sincerely,



Roger F. Barker, P.Eng.  
CEO and Registrar

RFB/cm

cc: The Honourable David Young, Attorney General  
John Twohig, Senior Policy Advisor, Ministry of the Attorney General  
Moshe Morris, Policy Advisor, Justice Issues, Ministry of the Attorney General  
Brian Watkinson, OAA, Executive Director, Ontario Association of Architects  
Johnny Zuccon, P.Eng., Director of Professional Affairs