



Issue Update

Review of Limitation Laws Underway

The Ministry of Attorney General is inviting public response to their review of civil liability laws in British Columbia. This includes limitation laws, joint and several liability, costs in class action suits, vicarious liability of employers, and alternatives to "lump sum" damage awards.

This review provides a welcome opportunity to examine the current ultimate limitation period which exists under the Limitation Act of BC. Several jurisdictions across Canada have already reformed their statutes of limitation in an effort to deal with the problem of excessive liability in tort. In this province, section 8 of the Limitation Act outlines an ultimate limitation for commencing an action of 30 years from the date on which the right to do so arose. Such a long period of liability creates great potential for injustice, particularly for a construction industry already subject to a high level of legal liability. It requires potential defendants to incur expenses for lengthy storage of files; they must maintain liability insurance for an undue length of time and, the level of deterioration of evidence over such a long period is significant, reducing the possibility for fair trial.

A review of joint and several liability will be another welcome opportunity to discuss and hopefully reform many existing inequities. The rule of joint and several liability makes each and every defendant in a tort lawsuit liable for the entire amount of plaintiff's damages, regardless of that defendant's proportion of fault for the damage done. Although motivated by a desire to ensure that plaintiffs are made whole, the rule leads to a search by plaintiffs' lawyers for "deep pockets" and to a proliferation of lawsuits against those minimally liable or not liable at all.

The Ministry of Attorney General has posted a discussion paper and questionnaire on the following government website: www.ag.gov.bc.ca/liability-review/index.htm

The BC Construction Association will be preparing a response. Anyone wishing to provide input can contact Abigail Fulton at BCCA by phone (250) 475-1077 or by e-mail: abigailf@bccassn.com

LET'S GET BC BUILDING!

The mission of the BCCA is to provide leadership and excellence in the representation of, and service to, British Columbia's construction industry.