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BULLETIN 53: TARIFF AND RELATED PUBLICATIONS – AUTHORITY, UPDATES AND REINFORCEMENT

DECEMBER 1999 (REVISED APRIL 2008)

** (This revision to Bulletin 53 and its November 2000 clarification updates cross-references to other related documents and value-added taxes, where noted. Occasional syntax and format adjustments were made. No substantive change was made.)*

This “omnibus” bulletin provides a necessary collection of (1) clarifications as to appropriate terminology and enforceability; (2) practical advice; and (3) housekeeping corrections regarding the AIBC “Tariff of Fees for Architectural Services” (third edition, January 1996) and related publications. This bulletin is complementary to and reinforces (inter alia) the AIBC’s Tariff, Bylaws 29, 34.10 and especially 34.16; Code of Ethics; Bulletins 51, 52, 53, 54, 55, 56 and 67; as well as the *Architects Act* itself. This bulletin is issued as a result of AIBC Council rulings (at its July 26, 1999 meeting) and is supported by legal review and opinion.

The following sections (A) through (J) consolidate and clarify aspects of the Tariff and companion documents, all consistent with existing legislative authority.

A) BACKGROUND

The *Architects Act* (section 24 (2)(e)) enables the AIBC to have a Bylaw which would put in place “a tariff of fees for an architect’s services” (a “Tariff”), thereby establishing the AIBC as exempt in that regard from what might otherwise be prohibited under the federal *Competition Act*. The AIBC does have, within its legislative mandate, such a Bylaw (29) which requires the Institute to establish, maintain and publish a Tariff; and the Institute has such a Tariff.

The Tariff (for both fees **and** services, not just fees) itself is a reference document and itself is not enforceable. What is enforceable is AIBC Bylaw 34.16, which calls for services and fees (the combination) to be in substantial accord with the Tariff. The Tariff (in keeping with the strict wording of the *Architects Act*) is neither “mandatory”, nor is it allowed to require “minimum” fee levels. Rather, the compensation levels indicated are (and may be referred to as) “recommended” or “appropriate”. The Tariff is a budgeting check that warns when appropriate fee levels are breached and that the real likelihood of inadequate services has been reached.

What the AIBC does or says or publishes must be within its legislative mandate.

Changes to the *Architects Act* in 1997 by the provincial government, rendered some cross-references incorrect in then-existing AIBC publications.

Practice-related queries arise from time to time apropos the interpretation and application of aspects of the Tariff. Errata are occasionally identified through its use.

B) OBJECTIVES

Given the membership's (and clients') expressed concerns and the importance for the Institute to be very clear in these regards, the AIBC Council authorized this bulletin in order to address these needs:

- (i) clarity of members' and clients' understandings;
- (ii) usage of appropriate terminology;
- (iii) vigilance in Institute communiqués and activities;
- (iv) correction of some *Architects Act* section references;
- (v) consolidation of answers to practice-related questions; and
- (vi) provision of the authority of Council's endorsement to the foregoing.

Accordingly, the AIBC Council authorized the following scope of document – specific clarifications and housekeeping corrections.

C) ARCHITECTS ACT: none

D) AIBC BYLAWS: none

E) CODE OF ETHICS
[1994 edition]

: p. 1, last para, line 1: “Tariff of Fees” to read “Tariff of Fees for Architectural Services”

: similarly, on pp. 17 & 18 in all such instances

: p. 17, Section (I) : first para: section “23 (f)” to read “24 (2)(e)”
: second para: delete “minimum”
: second para: line 5, 6: change “be an equitable minimum to “provide an equitable level of compensation”

: p. 18: combine and re-word rules (c) and (d) and commentary thereunder to read

“(d) Appropriate fees for “partial services” are correspondingly less than those recommended in the Tariff. Proposals, which are not in substantial accord with the Tariff, contravene this Bylaw.

The Tariff is a general guideline of appropriate fees for services. It is neither a list of median (or minimum, or maximum) fees nor a price list. The Tariff does not specify what the fee for a specific project must be. Rather, the Tariff is a budgeting check that warns when appropriate fee levels are breached and that the real likelihood of inadequate services has been reached. The provision of inadequate services is contrary to the public interest and this Tariff is one of many preventative measures employed by the profession to guard against inadequate services.”

[note: the February 2000 edition of the Code of Ethics accommodated the foregoing.]

F) TARIFF OF FEES FOR AN ARCHITECT'S SERVICES

[Third edition: January 1996]

p. 6, 1.1: change "23" to "24(2)" and "f" to "e"

p. 8, 1.5: delete "minimum"

p.10, 2.2: second para, second-last line: change "should" to "must" (cf. Bulletin 67)

- section 2.3 (p. 11) and Appendix 1 (p. 30):

Under the national and AIBC standard forms of client/architect contracts and as is reflected in the current AIBC Tariff of Fees for Architectural Services:

(a) basic architectural services include **one** review/notification of defects/ deficiencies, and **one** final payment processing;

- other (multiple, callback) visits, deficiency chasing and interim payment processing constitute "additional services" not covered by the recommended percentage (or fixed) fees.sections 2.4 (pp. 11, 12), 3.5 (pp. 15, 16), 3.5.1 (a) (p. 16) and p.19 table:

the architectural fee percentages shown in tabulated form are the basis of calculating *net* fees for architectural services; i.e., they *exclude* any fees for engineering services (but do cover the coordination of normal engineering services, whether the engineers are hired by the architect or the client);

- sections 3.1 (p.13), 3.3 (p.14), 3.4 (pp.14, 15):

The "Tariff" provides for both "Lump Sum" and "Time Basis" fee-charging mechanisms as permissible approaches, along with what is described as "Percentage of Construction Cost." However, for "basic" services the "Percentage of Construction Cost" tables (which set out the recommended net architectural fees for various project types, complexities and sizes) provide the benchmarks for appropriate architectural compensation no matter which of the three mechanisms are used.

Charging for basic architectural services on an hourly rate or fixed-fee structure, e.g., does *not* inherently mean (or provide an excuse so) that the resultant total fee is permitted (under Bylaw 34.16) to be other than in substantial accord with the corresponding percentage fee as tabulated.

p. 14, 3.4: fifth para: delete "minimum"

p. 16, 3.5.1.: last para, line 3: delete "minimum"

- sections 3.5.1(g) on p.16, 3.5.2 (p. 17)

a building's construction cost basis for the architectural percentage fees tabulated is the *entire* building cost, including the cost of its engineering components. The entire building is the "architecture" and is so coordinated by the architect.

- section 3.5.2 (p. 17) and table footnote (p. 19)*

the percentage fees tabulated are to be calculated against a Construction Cost which *includes* the *full* GST...even on projects (or for clients) which qualify for either partial rebates (e.g., schools and hospitals) or complete exclusion with respect to the GST (e.g., the former B.C. Buildings Corporation).

*[note: the Tariff has subsequently been updated to exclude any value-added taxes (e.g. the GST) from the determination of Construction Cost.]

p. 17, 3.5.2: first and last paras: delete “minimum”

p. 18, 3.5.3: sixth para: delete “minimum”

- sections 3.5.3 (p. 18), p. 19 table and 3.6.2 (p. 23)

in instances where the tabulated percentage fee is indicated as “not applicable,” any “lump sum” or “time basis” fee that is charged for basic services is expected to be higher than its closest counterpart for which there is a tabulated percentage fee. As an example, under the Tariff’s tabulated (page 19) Category 8(iv), the net architectural fee for a 250 square meter tenant improvement’s basic architectural services is expected to exceed the tabulated fee of 17 – 25 per cent for a similar project of 1000 square metres.

p. 19, table: change “minimum” to “recommended” in heading

p. 19 (tabulated net percentage fees) in column for renovations up to 500 sq. meters: for categories “1. Simple” and “2. Conventional” the correct numbers are “9.20” and “9.40”, respectively.

p. 20, index: change “minimum” to “recommended” in heading

p. 22, 3.6: delete “minimum”

p. 24, section 3.6.5 (line 7): the bracketed percentage “(57%)” should read “(67%)”

p. 24, 3.6.7: reword lines 4, 5, 6 to read “...building should be as recommended for renovations. Fees for the actual addition should then be as recommended for new work...”

p. 26, 3.6.12: change “are” to “should be”; “is” to “would be”

section 3.8.1 (p. 27)

it is highly recommended that architectural firms obtain a retainer (initial stipend) on commissions. One key strategy in that regard is to have the amount of the retainer (translation: something which is held or retained) applied to the commission’s *final* invoice.

p. 28, section 3.8.5 delete last paragraph directly underneath item (iii). It contains a significant typographical error: the word “not” in its second-to-last line is inappropriate. The correct wording does appear on page 26 at the end of section 3.8.6

[note: the Tariff’s fourth edition, August 1, 2000 has accommodated the foregoing]

G) BULLETINS

51: [*January 1996*] first para: change “Tariff of Fees” to read “Tariff of Fees for an Architect’s Services” (also in last para)

: change Section “23” to “24”

: delete “minimum”

52: [*January 1996*] title and first para: change “Tariff of Fees” to read “Tariff of Fees for an Architect’s Services”;

p.3: delete “minimum” in first and second-last paras; also in headings atop two subsequent tables

64: last line: insert “substantial” before “accordance”

67: no change

[note: the year 2000 and subsequent editions and revisions of Bulletins 51,52, 64 and 67 have accommodated the foregoing.]

H) PRACTICE NOTES

02: page 4, second-last para, line 3:

: change “Tariff of Fees” to “Tariff of Fees for an Architect’s Services”

03: page 2, second-last and last paras; and page 3, first para:

: change “Tariff of Fees” to “Tariff of Fees for an Architect’s Services”

: page 2, second-last para, line 3: delete “minimum”

07: no change

08: no change

[note: the current editions of Practice Notes 2,3,7 and 8 accommodate the foregoing.]

I) NEWSLETTER “HOT CORNER” COLUMNS

No. 03 – February 1996: Tariff item: para (b): delete “minimum”

No. 18 – July/August 1997: Tariff item: delete “minimum” in two locations

No. 32 – February/March 1999: Tariff item:

! first para, line 14: delete “minimum”

! second para, line 5: change “less” to “other”

No. 33 – no change

No. 35 – no change

J) WEB SITE

as per complete list above.

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[April 2008]