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BULLETIN 66: PROFESSIONAL LIABILITY INSURANCE

JUNE 1998 (UPDATED NOVEMBER 2003)

The AIBC Council, further to its resolutions of May 20, 1998 and November 10, 2003:

- A) strongly recommends to Certificate of Practice holders, clients, and authorities having jurisdiction that architects (and professional, consulting engineers) on building projects be insured against errors and omissions, at levels of coverage of \$250,000 per claim and \$500,000 annual aggregate at a minimum; and
- B) requires that (before entering into an agreement to provide architectural services) a Certificate of Practice holder must notify the client in writing whether or not professional liability insurance is held and under what terms (effective August 9, 1998).

The foregoing reflects the need to protect both the public and the profession. Resolution (B) is a *ruling* by Council (under its authority through Section 5 of the *Architects Act* and under Bylaw 34.10). Certificate of Practice Holders need to note its content and are required to comply, consistent with the corresponding reference in the AIBC *Code of Ethics*.

Provision of a copy of an architect's complete professional liability insurance policy to the architect's client, or an authority having jurisdiction where applicable*, will satisfy the foregoing requirements for disclosure. Some recipients (especially authorities having jurisdiction and clients with significant business volume) do not wish to receive and file complete documents, which often remain unread and are costly to produce. In such cases, it is satisfactory for an architect to provide the PLI policy's "certificate of coverage" and any policy endorsements, exclusions or particular terms which are material to the project (e.g., regarding water ingress).

An architect is not required to disclose current or pending claims or incidents, or available coverage, to a potential or current client or to an authority having jurisdiction.

An architect also has an absolute and immediate duty to report changes to its professional liability insurance policy, to their client and to authorities having jurisdiction as applicable* during the course of executing the architect's services on a project while under contract with the client.

Please note that such a requirement (i.e., for disclosure of professional liability insurance coverage) already

applies to Professional Engineers in British Columbia. As one corollary, architectural firms engaging consulting engineers are entitled to obtain such disclosure from the engineering firms.

*Some authorities having jurisdiction ask or require that an architect on a project be covered for professional liability insurance as a condition of the project's eligibility for a building permit. An architect is not required by the AIBC to have professional liability insurance. An architect is not required by the AIBC to disclose its professional liability insurance to an authority having jurisdiction unless that authority having jurisdiction's requirement arises from an official, legally constituted building bylaw, under terms which are professionally supportable.

Members are encouraged to obtain evidence of an authority having jurisdiction's bylaw authority and wording and to submit same to the AIBC (as well as to their own insurance and legal advisors) for review when confronted with such a requirement and/or any unfamiliar document for their signature. Members are also encouraged to obtain evidence of the authority having jurisdiction's own, corresponding liability insurance. The AIBC is in communication with authorities having jurisdictions in these regards.

[AIBC Practice Note 10: Errors & Omission Insurance and Related Issues contains further relevant information and advice.]

The AIBC does not provide legal, accounting or insurance advice and expressly disclaims any responsibility for any errors or omissions with respect to legal, accounting or insurance matters that may be contained herein. Readers of AIBC documents are advised to consult their own legal, accounting or insurance representatives to obtain suitable professional advice in those regards.