

June 30, 2009

Construction / Demolition without the Benefit of a Permit

Q: Is the City issuing permits for construction and demolition during the strike?

A: No, the City is unable to accept applications for or issue building permits during the strike.

Q: Since the City is unable to issue permits during the strike, does this mean that I can proceed to construct in the absence of a permit while the strike continues?

A: No. Subsection 8(1) of the *Building Code Act* provides that no person shall construct or demolish a building or cause a building to be constructed and demolished unless a permit has been issued therefore by the chief building official. Accordingly, construction and demolition are not authorized to proceed in the absence of a building permit during the strike or otherwise.

Q: What if I really need to commence construction and can not wait for the strike to end and proceed to construct without having obtained a permit?

A: If you proceed to construct without the benefit of a permit, the construction and/or demolition would be unauthorized and unlawful. Should it come to the attention of Toronto Building that construction or demolition has proceeded during the strike without the benefit of a permit, Toronto Building will issue Orders pursuant to the *Building Code Act* and/or take whatever enforcement action it deems necessary immediately following the completion of the strike including but not limited to requiring that a permit be applied for and obtained, requiring reports from qualified professionals / persons certifying that the construction complies with the Ontario Building Code and any other applicable law, and/or possibly requiring the removal of the unauthorized construction.

Occupancy of Buildings

Q: What if I have a permit to construct a building and am ready during the strike to have part of the building occupied notwithstanding that the construction of the building has not been fully completed?

A: Pursuant to subsection 1.3.3 of Division C of the Ontario Building Code, a permit from the chief building official or her designate is required before a building, or part of it, that has not been fully completed may be occupied (except in the case of a residential building which meets the provisions of article 1.3.3.2 of Division C of the Ontario Building Code). During the strike, Toronto Building will be unable to accept applications for partial occupancy permits, carry out inspections of unfinished buildings with a view to allowing occupancy, or issue such partial occupancy permits.

Q: What if financial or other circumstances are such that I must proceed with occupancy of an unfinished building during the strike notwithstanding that a permit is otherwise required and the City is unable to issue permits therefore and carry out the necessary inspections?

A: Should an unfinished building be occupied in any event during the strike due to prevailing circumstances in the absence of the required permit, Toronto Building will require that documentation from the owner / permit holder be submitted immediately after the strike is over certifying that all the requirements set out in sentence 1.3.3.1(2) of Division C of the Ontario Building Code were satisfied prior to the date of occupation. The documentation provided must be certified by a professional engineer, architect or registered designer qualified for the particular building type pursuant to the provisions of the Ontario Building Code. Where Toronto Building is not satisfied that there has been compliance with the requirements of sentence 1.3.3.1(2) of Division C of the Ontario Building Code, inspectors may issue orders or take whatever enforcement action is necessary to achieve compliance with the Building Code.

Q: What if construction of a building authorized by permit has been completed during the strike; can I proceed to occupy the building?

A: No separate permit is required to occupy a building where all the construction has been completed. Section 11 of the *Building Code Act* requires that notice of the date of completion of the building must be given to the chief building official, that the building must be inspected or 10 days must elapse after notice of the date of completion is served on the chief building official, and that any order made under section 12 must be complied with prior to occupying the building. During the strike, Toronto Building is unable to accept and process notices of completion and is unable to carry out the necessary inspections with a view to allowing occupancy. If a completed building authorized by permit is occupied during the strike, Toronto Building will require that documentation from the owner / permit holder be submitted immediately after the strike is over certifying that the construction was completed in accordance with the approved permit plans and in compliance with the Ontario Building Code and that the building was accordingly suitable for occupancy. If any Orders had been issued by Toronto Building pursuant to section 12 of the *Building Code Act* prior to the strike, the documentation submitted must include certification that there has been compliance with said Orders and must provide details regarding the manner in which compliance was achieved. The documentation provided must be certified by a professional engineer, architect or registered designer qualified for the particular building type pursuant to the provisions of the Ontario Building Code. Where Toronto Building is not satisfied that there has been compliance, inspectors may issue orders or take whatever enforcement action is necessary to achieve compliance with the Building Code.