



ARCHITECTURAL INSTITUTE OF BRITISH COLUMBIA

Memorandum

Date: June 20, 2016

To: AIBC Council

From: Thomas M. Lutes, General Counsel and the Bylaw Review Committee
("BRC" or "Committee"): Brian Sim, Architect AIBC, Chair

**RE: Analysis and Recommendations:
AIBC Associate Bylaws (Qualifications and Designation)**

1.0 Background

A Brief History of AIBC Associates: Legislation

- 1.1 "Associates" have been part of the architectural profession's landscape since the original *Act to Incorporate The Architectural Institute of British Columbia*, S.B.C. 1920, c. 106. A mandatory 'student associate clause' read, in part:

26. (a) The Council shall admit as student associates any British subject who is desirous of entering the profession of architecture.

It is important to note that a student associate was, by statute of the time, "indentured" to a registered architect in "studentship" for no less than three years.

- 1.2 By 1955, under the *Architectural Profession Act*, S.B.C. 1955, c. 4, students were called students alone, still indentured or "articled" with an architect, and a separate associates section was created:

37. The Council may admit any person as an associate, and may divide associates into different classes and fix the qualifications for each class.

- 1.3 By 1979, the *Architects Act* no longer referred to students, and a slightly modified version of the 1955 associate section was established, which remains the language in our current legislation at Section 40 (the minor changes from the 1955 language highlighted):

40. The council may admit any person as an associate of the institute, may divide associates into different classes and set the qualifications for each class.

- 1.4 In 2012, at the same time the *Architects Act*, RSBC 1996, c. 17 (the “*Act*”) was amended substantially to add the consensual resolution disciplinary process, a definition of associate was added to the Definitions in the *Act* at Section 1:

“**associate**” means a person registered under section 40;

- 1.5 Many other sections in the current *Act* refer to associates, such as: those providing authority to council to order a disciplinary inquiry into a complaint against an associate or conduct consensual resolution; those permitting bylaws related to associates; and those addressing failure to pay annual fees.

A Brief History of AIBC Associates: Bylaws and Council Decisions

- 1.6 A review of archived AIBC bylaws indicates that “Student Associates” were in place by bylaw as far back as the 1970s, at minimum. These students were not ‘interns’, which category by then had its own bylaw. The general associate bylaw (now currently AIBC bylaw 13.1) that speaks to associates as “persons who by reason of their interest in and connection with ... architecture” has been in place since at least the 1970s.
- 1.7 In about 1990-1992, it appears that the associate bylaws were given prominence and attention, with the addition of bylaws for retired members, the expansion of student associates and the move of the intern architect bylaw from elsewhere in the bylaws to the ‘Associates and Students’ heading (now simply ‘Associates’). Further associate categories of architectural graduate and previously registered members were created in the 1990s. In 1998, the architectural technologist or “AT” class of associates was established by council, but no bylaws related to this new class were put forward.¹ It does not appear that the current associate bylaws (13.1 through 13.7) have been amended since the 1992 edition of the AIBC’s bylaws, other than a slight numbering change.
- 1.8 During a period of legislative review and proposed registrant base expansion beginning in or about 2004, AIBC Council considered various technologist or technician classes and licences. In October 2007, as part of an initiative seeking wholesale *Architects Act* change, council endorsed as “official Institute policy” certain new designations, including those for proposed building designer, interior designer and residential designers. This legislative initiative was later discontinued.
- 1.9 In January 2008, council formally moved to create the new associate classes of “Building Designer” and “Interior Designer”. In the months that followed, formal admission of

¹ An “intern technologist” class was also established for individuals on a trajectory to admission to full AT status.

building designers and residential designers as associates began,² although no interior designer associates were admitted and that associate class was left vacant until ceasing to exist in 2013. By 2008, there were nine ‘full’ associate classes and an additional two sub-classes of student technologist and syllabus student individuals.

1.10 From about 2009 through 2013, successive councils grappled with rationalizing an approach to the regulation of associates at the institute. During those years, the ‘associates issue’ became a contentious aspect of institute governance, council elections and member relations. Council task forces studied and reported to council and the membership on various options. In May, July, September and October 2013, AIBC Council passed a series of motions related to the associates issue. The clarifying effect of these multiple motions was to:

- Reduce the number of associate classes from 9+ to three, thereby discontinuing and transitioning many associates and classes, including building designers, residential designers and student associates; and
- Establish the three classes below as the only current classes and provide associates within them with a formal, consistent designation:
 - Intern Architect AIBC;
 - Retired Architect AIBC; and
 - Architectural Technologist AIBC.³

1.11 The final aspect of council’s review of the associate issue, prior to requesting bylaw review, was determining whether and how to address the provision by associates of ‘independent design services’ in the exceptions. In March 2015, after the policy-mandated member notification period, AIBC Council passed rulings, now found in the *Code of Ethics and Professional Conduct* under Bylaw 34.10, requiring all associates to:

- Notify their clients of their associate status before offering independent services;
- Notify their clients of insurance status before providing independent services; and
- Notify an AHJ of associate status before or as part of any submission related to independent services.

1.12 In March 2015, council formally asked the BRC to consider the associate bylaw issue by way of this motion:

MOTION #2: That council request the Bylaw Review Committee to review the current bylaws related to AIBC associates and provide recommendations to

² At the height of these associates’ registration with the AIBC in late 2008, there were 77 building designers (BDs) and residential designers (RDs) registered. In November 2011, AIBC Council re-affirmed by formal motion the associate categories of AT, BD and RD.

³ The remaining BD and RD associates were, by council motion in 2013, moved to the Architectural Technologist class, subject to their completion of the Ethics, Act and Bylaws course and passing the AT examination.

council for amendment, repeal and any new bylaw development that may be deemed advisable.

2.0 Current Associate Bylaws

2.1 The current bylaws are reproduced below for ease of reference:

ASSOCIATES

- 13.1 In addition to the regular membership of the Institute there shall be Associates, who shall be those persons who by reason of their interest in and connection with the [sic] architecture have been admitted by the Council as Associates.
- 13.2 Associates shall not be members of the Institute or entitled to registration or have any interest in or claim against the property of the Institute. They will, however, be permitted to attend all general meetings of the Institute unless the Council shall otherwise direct in respect to any particular meeting or part thereof but shall have no right to vote. Further they will be eligible to sit on committees of the Institute and to receive publications and bulletins of the Institute.
- 13.3 Associates shall be eligible to become members of Chapters as set forth in Section 8 of these Bylaws, with equal rights within the Chapter with other members except the right to vote and hold office.
- 13.4 Associates (Retired Members) are persons who have resigned their memberships in good standing in the Institute and who have resigned for personal reasons of health or age and who have been admitted as retired members by Council.
- 13.5 An Associate (Retired Member) shall use after his/her name either the title "Architect (Retired)" or "Retired Architect".
- 13.6 An individual who is an Intern-Architect under that program is deemed to be an Associate for all purposes of these Bylaws.
- 13.7 An individual enrolled in an architectural course of study approved by Council may be accepted by Council as a Student Associate.
- 14.0 REPEALED

- 2.2 These bylaws, in place since approximately 1992 as noted above, have numerous deficiencies. Bylaw 13.1 has a minor typographical error, while Bylaw 13.2 is incorrect in stating that associates are not entitled to “registration”.
- 2.3 The designations listed for interns and retired architects in the bylaws are out of date given the 2013 council motions. The student associate class no longer exists. The retired architect ‘qualification’ that the person must have resigned “for personal reasons of health or age” is antiquated, at best, and at worst, discriminatory. Bylaw 13.5 purports to give retired architects a ‘title’, something that only registered architects can possess (“Architect AIBC” as of 2012 and Bylaw 10 – formerly “MAIBC”). Finally, the reference to chapter eligibility is redundant, while the reference to ‘participation rights’ in chapters should properly be located within the chapter bylaw section.⁴
- 2.4 From a staff and BRC perspective, the existing bylaws call out for substantial amendment even without the long history of associate class creation and the debate surrounding associates generally.

3.0 Analysis History and Bylaw Amendment Considerations

- 3.1 Over many months, the BRC and staff reviewed the existing bylaws and considered comparable associate regulation in other Canadian jurisdictions. The group reviewed the considerable history of B.C. associate regulation and the multiple council decisions in 2013 leading to the consolidation into the current three classes of associates. Staff and the BRC Chair presented an initial suite of draft bylaws at a council planning session (December 2015) and council was further updated at its April 2016 planning session.
- 3.2 It is important to note that the BRC’s review was limited to foundational associate establishment bylaws, namely the requirements for designations and qualifications. Any analysis of particular ‘standards’ and ethical requirements related to associates is properly conducted under the current review of the *Code of Ethics and Professional Conduct* (“*Code of Ethics*”).
- 3.3 After its review, the BRC prepared two versions of draft bylaws for council consideration. The first reflected council’s clear statutory authority with respect to associate admission, categorization and qualification, as set out in Section 40 of the *Act* (see paragraph 1.3 above). The second version specifically identified the current three associate classes, as well as reflecting council’s overall associate authority. Council indicated a preference for the first, simpler version, which was presented for informal discussion and review in April 2016. (The BRC’s 2015-2018 workplan calls for

⁴ The suite of Chapter bylaws themselves are scheduled for review within the BRC workplan this fall, subject to scheduling changes occasioned by professional liability insurance and *Code of Ethics* bylaw initiatives.

submission for approval in principle by council of associate bylaws in the June-August 2016 period, with member consultation currently scheduled for July-September.)

- 3.4 The proposed bylaws at Appendix 'A' are intended to supplement and provide clarity in relation to council's statutory authority over associate admission, classification and qualification. The bylaws do this by simplifying the current associate bylaws. **References to specific classes are not made. Instead, the bylaws require council, as a necessary aspect of its associate authority, to establish qualifications for admission and appropriate designations for any class created.** Former Bylaw 13.3 relating to associates and chapters has been modified (shortened) and moved to a new location and number within the chapter bylaws.
- 3.5 The final recommendation, that specific associate classes not be placed in the bylaws, was supported by council during the two planning session discussions. There are considerable disadvantages to inserting specific reference to the existing classes in AIBC Bylaws. The most important is the difficulty in making any changes to the associate class designation. For example, it is not inconceivable that the designation 'Intern Architect AIBC' be changed in favour of something else in future, particularly if other Canadian regulators move in that direction. (Interns have previously been called 'students' and 'Architects-in-Training'.) In such a case, the drawn-out and uncertain bylaw vote process is engaged. Similarly, if a decision to discontinue an associate class is seen as sound regulatory policy at some point, a membership vote would be triggered.
- 3.6 Another considerable disadvantage to identifying specific classes is the expectation that a bylaw vote is necessary in order for associate admissions to be valid. This would be contrary to the clear authority in section 40 of the *Act* reserving associate admission, division and qualifications to AIBC Council.
- 3.7 Instead, the thrust of the proposed bylaws is to confirm that council will establish admission qualifications and designations. By adopting council's rule-making authority to do so, greater flexibility for adjusting qualification criteria and designations is provided. Rule authority is also consistent with other bylaws, such as Bylaw 30.2 ("rules for mandatory continuing education") and Bylaws 24.3 and 35.4 (rules for e-voting for council elections and bylaw amendments).
- 3.8 The BRC and staff have recommended removing the reference to the use of "rulings" from the draft bylaws previously reviewed by council to avoid confusion. "Rulings" are only found as clarifying standards attached to certain bylaws found in the *Code of Ethics*. As noted in paragraph 3.2 above, we recommend that qualifications and designations be established by a set of basic rules, and that any particular associate ethics and standards regulations be considered as part of the BRC's *Code of Ethics* review, currently under way.

Draft Admission Qualification Rules

- 3.9 Since June 2014, all proposed council rules require notification to members and associates and a feedback period. Given the importance of the qualifications to this bylaw initiative, and in keeping with council's request that members be aware of general qualification criteria during the bylaw consultation phase, the BRC and staff have prepared draft Designation and Admission Qualification Rules for AIBC Associates at Appendix 'B'. These have been reviewed and supported in draft form by the Registrar. The BRC recommends these rules be included with the proposed bylaw language throughout the consultation process, and that feedback be sought on the draft rules as well as the bylaws. (Feedback will also be sought during the formal rules notification period should the bylaws first receive member support.)
- 3.10 The proposed rules for the intern and architectural technologist classes are consistent with the existing admission requirements for those individuals. **The rules synthesize and summarize these requirements and no new standards for admission or designation use are proposed in these rules.** The proposed qualifications for the retired architect class are simpler and are based on the following principles, understood to be among those guiding council's decision to maintain retired architects as an associate class:
- Choice: That retirement can occur for many reasons beyond age or illness; and
 - Inclusiveness: That the class should be open to individuals who have been registered in British Columbia as an architect at any time, and for any duration, prior to the retirement decision.⁵
- 3.11 The BRC acknowledges that 'recognition' for retired architects is another principle behind maintaining this associate class. These bylaws are not the appropriate mechanism for meaningfully enhancing the recognition or involvement of retired architects with the institute, but understands that efforts are under way to increase participation of retired members on AIBC committees and other volunteer opportunities.

⁵ Council may want to consider further broadening the admission qualifications by recognizing for admission any individual formerly registered as an architect in any Canadian jurisdiction, or any worldwide jurisdiction recognized by the AIBC via reciprocity or other arrangement. This decision could be made at a later date by way of simple amendment to the council rules related to retired architects. Feedback during bylaw consultation and rule notification period may inform council's decision.

4.0 Conclusion and Recommendations

- 4.1 The BRC has concluded that a short suite of foundational associate bylaws is an appropriate replacement for the current, deficient bylaws. The rule authorization language in the proposed bylaws allows a more flexible means for updating associate admission qualifications and designations. The reference to associates and chapters has been clarified and moved to a more appropriate location in the bylaw document. No new designation or qualification requirements are proposed in the rules.
- 4.2 Council policy requires any bylaw amendment supported in principle by council to proceed to a consultation process prior to any member vote (12.1 series, Appendix “C”). Given the depth of member interest and concern some years ago related to associates, the BRC and staff recommend that a sufficient number of online, in-person and virtual (web) consultation sessions be scheduled. Council participation in this consultation process is strongly recommended, as is seeking initial feedback on the proposed associate designation/admission rules attached. The institute may find that extending the proposed consultation period may be necessary with this initiative.
- 4.3 As with previous bylaw efforts, the specific language for bylaws (and rules) may change after consultation. After that process, the BRC and staff provide a detailed submission that includes an overview of consultation efforts and collates all of the feedback received. Staff will continue the previous practice of providing the Ministry of Advanced Education with a courtesy copy of proposed bylaws prior to member vote. Council is reminded that it has authority to determine the voting method (by meeting, mail ballot or e-voting) for bylaw amendments and that the province may disallow any bylaws otherwise lawfully passed by the institute.

Appendix 'A'

Draft Bylaws for Council Consideration: Associate Bylaws

ASSOCIATES

- 13.1 Associates shall be those persons who have been admitted by the council as associates.
- 13.2 Associates shall not be members of the institute or have any interest in or claim against the property of the institute. They will, however, be permitted to attend all general meetings of the institute unless the council shall otherwise direct in respect to any particular meeting or part thereof but shall have no right to vote. Further they will be eligible to sit on committees of the institute, and to receive institute communications, as determined from time to time.
- 13.3 The council shall establish a designation for each class of associates and may pass rules for the use of such designation.
- 13.4 The council shall establish admission qualifications for each class of associates it creates and may pass rules for persons to qualify for and remain registered in any associate class.

Former Bylaw 13.3 would be amended and moved to become new Bylaw 8.6 within the chapter area of institute bylaws. The language below shows deletions in strikeout and new language in yellow highlighting:

~~13.3~~

8.6 Associates shall ~~be eligible to become members of Chapters as set forth in Section 8 of these Bylaws, with~~ **have** equal rights within the Chapter with other members except the right to vote and hold office.

Appendix ‘B’

Draft “Designation and Admission Qualifications Rules for AIBC Associates”

Commentary to Proposed Rules:

As noted in the Memorandum at paragraph 3.10 and 4.1, these rules reflect the status quo for designation and admission qualifications for intern architects and architectural technologists. For example, council approved by motion the current Canadian Architectural Licensing Authority Internship in Architecture Program, which established the core requirements for AIBC internship, in August 2011. The use of the current designations for the three associate classes was passed as a council motion in October 2013.

The proposed retired architect rules also reflect the current designation and the basic admission requirement that an individual seeking retired status resigned in good standing as an AIBC member. They remove the barrier under the current bylaws by which resignation must have occurred for reasons of “health or age”.

Proposed Rules: Bylaws 13.3 and 13.4 Designation and Admission Qualification Rules for AIBC Associates

The following AIBC Council Rules have been approved in accordance with council’s authority under AIBC Bylaws 13.3 and 13.4 to establish rules for associate designations and admission qualifications.

1.0 Intern Architect AIBC

Designation

- 1.1 All individuals admitted to the intern architect associate class are entitled to use the designation Intern Architect AIBC after their name.
- 1.2 This designation is only permitted to be used while an individual is duly registered with the AIBC. No other designation or abbreviation is acceptable.

Admission Qualifications

- 1.3 In order to qualify for admission as an intern architect associate, an individual must be successfully accepted into the current Canadian Architectural Licensing Authority Internship in Architecture Program (IAP) as endorsed by the AIBC.

- 1.4 Successful acceptance into the IAP with the AIBC is contingent upon submitting a completed Intern Architect Application in the form provided by the institute, including a Canadian Architectural Certification Board certificate and all other documentation required on the form, as well as payment of the applicable application and annual fees.
- 1.5 An intern architect is not formally admitted to the institute and registered as an associate until the Registration Board has reported to council on the qualification for admission of that individual and the council has formally approved such admission.
- 1.6 It is a pre-requisite for continued registration as an intern architect associate that all applicable registration fees are paid on an annual basis. Under Section 75 of the *Architects Act*, AIBC Council may direct removal of an associate from the register for non-payment of annual fees.

2.0 Architectural Technologist AIBC

Designation

- 2.1 All individuals admitted to the architectural technologist associate class are entitled to use the designation Architectural Technologist AIBC after their name.
- 2.2 This designation is only permitted to be used while an individual is duly registered with the AIBC. No other designation or abbreviation is acceptable.

Admission Qualifications

- 2.3 In order to qualify for admission as an architectural technologist associate, an individual must demonstrate, through documentation satisfactory to the Registration Board, completion of the education and/or experience requirements of one of the three admission categories below:

2.3.1 Category 1:

Education: Graduation from an AIBC Council-approved two-year technology diploma program (such as the BCIT Architectural and Building Engineering Technology Diploma Program) or equivalent.

Experience: Two years of related work experience, at least one year of which must be under the direct supervision of an Architect AIBC.

2.3.2 Category 2:

Education: Graduation from an AIBC-approved one-year certificate program or equivalent.

Experience: Five years of related work experience, at least three years of which must be under the direct supervision of an Architect AIBC.

2.3.3 Category 3:

Education: No AIBC-approved education necessary.

Experience: Seven years of related work experience under the direct supervision of an Architect AIBC.

- 2.4 In addition to satisfying the requirements of 2.3 above, an architectural technologist must, prior to making application for admission: complete the AIBC's Ethics, Act and Bylaws course; successfully complete the Architectural Technologist Examination as established by the institute from time to time; and pay the applicable application and annual fees.
- 2.5 An architectural technologist is not formally admitted to the institute and registered as an associate until the Registration Board has reported to council on the qualification for admission of that individual and the council has formally approved such admission.
- 2.6 It is a pre-requisite for continued registration as an architectural technologist associate that all applicable registration fees are paid on an annual basis. Under Section 75 of the *Architects Act*, AIBC Council may direct removal of an associate from the register for non-payment of annual fees.

3.0 Retired Architect AIBC

Designation

- 3.1 All individuals admitted to the retired architect associate class are entitled to use the designation Retired Architect AIBC after their name.
- 3.2 This designation is only permitted to be used while an individual is duly registered with the AIBC. No other designation or abbreviation is acceptable.

Admission Qualifications

- 3.3 In order to qualify for admission as a retired architect associate, an individual must have resigned in good standing as an architect from the AIBC, completed the application form, paid any outstanding charges, including administrative amounts, and paid the applicable registration and annual fees. A formerly-registered architect can apply for retired

architect status at any time after resignation and it is not a requirement that a transition to associate registration occur immediately upon resignation as an architect.

- 3.4 A retired architect is not formally admitted to the institute and registered as an associate until the Registration Board has reported to council on the qualification for admission of that individual and the council has formally approved such admission.
- 3.5 It is a pre-requisite for continued registration as a retired architect associate that all applicable registration fees are paid on an annual basis. Under Section 75 of the *Architects Act*, AIBC Council may direct removal of an associate from the register for non-payment of annual fees.

Appendix ‘C’

AIBC Council Policy Excerpt: 12.0 Bylaw Amendment Consultation

12.0	POLICY CATEGORY:	LEGISLATION and BYLAWS
12.1	POLICY FOCUS:	BYLAW AMENDMENTS:
	CONSULTATION	

- 12.1.1 AIBC bylaws 35.1 and 35.2 provide that members may amend the AIBC’s bylaws only by way of a two-thirds vote of members present at a general meeting or by mail-in ballot with a two-thirds affirmative majority of ballots received (which number must be no less than five per cent of the voting membership of the institute). The bylaws also provide for very specific notice periods and deadlines. E-voting bylaws for bylaw amendments were approved by the members at the 2014 AIBC Annual Meeting which would also require, similarly, two-thirds affirmative majority approval.

Given the high threshold of member support necessary for bylaw change and the importance of bylaws to the governance of the profession, including the establishment of certain professional conduct and ethical standards, an appropriate information and consultation process for architects and other relevant individuals and organizations is warranted. In addition, member consultation provides a genuine opportunity to improve the language of the bylaws and to assess member support prior to any vote.

Council recognizes that a spectrum of bylaw consultation strategies is available; that the options chosen may vary with the nature of the bylaws under consideration; and that bylaw consultation may involve internal and external persons and organizations.

Accordingly, the Executive Director shall ensure that:

- 12.1.2 Any bylaw amendment proposal that council supports in principle shall proceed to a consultation process with architects and other relevant persons and organizations (“bylaw consultation”) prior to any bylaw vote by members.
- 12.1.3 Any relevant board, committee, task force or other bylaw amendment proponent undertakes bylaw consultation and reports back to council on the consultation and the feedback received, for council consideration.
- 12.1.4 Bylaw consultation always includes notification and posting of the bylaw initiative to members and the public through publication on the AIBC web site for a reasonable period of time prior to any bylaw vote; an architect information session; and an opportunity for members, associates and the public to provide feedback to the institute.
- 12.1.5 In recognition of the provincial government’s statutory authority to disallow any bylaw passed by the membership, any bylaw consultation always includes adequate notice to, and consultation with, relevant provincial government representatives prior to any bylaw vote.