



FAIRNESS COMMISSIONER

COMMISSAIRE À L'ÉQUITÉ

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Christie Mills
Registrar, Architect, B.Comm., B.Arch., OAA
111 Moatfield Drive
Toronto, ON, M3B 3L6

June 5, 2023

Dear Christie Mills:

**Re: Decision on Exemption Request from the Ontario Association
of Architects – Our File Number: CER 01- 2023**

I am enclosing my decision with respect to an application brought by the Ontario Association of Architects for an exemption from the prohibition against requiring that a person's experience be Canadian experience as a qualification for registration under subsection 10.2(1) of the *Fair Access to Regulated Professions and Compulsory Trades Act, 2006* ("FARPACTA").

I apologize for the length of time that it has taken to complete this process and provide my decision to you.

Yours truly,

A handwritten signature in black ink, appearing to read 'Irwin Glasberg'.

Irwin Glasberg
Fairness Commissioner

Encl.

cc: The Honourable Monte McNaughton
Minister of Labour, Immigration, Training and Skills Development



Exemption Request Number CER 01-2023

Ontario Association of Architects

REASONS FOR DECISION

NATURE OF APPLICATION:

This decision relates to an application brought by the Ontario Association of Architects (“the Association” or “the OAA”) for an exemption from the prohibition against requiring that a person’s experience be Canadian experience as a qualification for registration under subsection 10.2(1) of the *Fair Access to Regulated Professions and Compulsory Trades Act, 2006* (“FARPACKA”).

If granted, this exemption would allow the Association to require that certain applicants complete a 940-hour Ontario experience requirement to become licensed to practice architecture in Ontario.

This is the first application of its kind that a regulated profession has filed with the Office of the Fairness Commissioner (“the OFC”). This exemption process is also unique to the Province of Ontario.

After considering all the information that the Association provided, along with other relevant information, my decision is that this exemption should not be permitted. My reasons for this decision are outlined below.

ANALYSIS:

I will structure my analysis of the issues raised in this application under the following eight headings.

- 1. FARPACKA prohibits the Association from requiring that a person’s experience be Canadian experience, as a qualification for a licensure, unless the Minister grants an exemption for the purposes of public health and safety.**

The first step in this analysis will be to review the relevant statutory provisions. At the outset, the Association falls within the list of regulated professions to which FARPACKA applies.¹

¹ FARPACKA, Schedule 1, s. 1.

Subsection 10.2(1) of FARPACTA prohibits regulated professions, including the Association, from requiring that a person's experience be "Canadian experience" as a qualification for registration unless the Minister grants an exemption:

A regulated profession shall not require as a qualification for registration that a person's experience be Canadian experience unless an exemption from the prohibition is granted by the Minister for the purposes of public health and safety in accordance with the regulations.

The term "Canadian experience" is, in turn, defined as "any work experience or experiential training obtained in Canada".² The term "registration" means "the granting of membership, with or without conditions, in a regulated profession whether by registration, licensure, admission, enrolment or other means without regard to the terminology used by the regulated profession".³

When taken together, these provisions mean that the Association shall not require that a person obtain work experience or experiential training in Canada, as a condition for obtaining a licence to practice architecture, unless the Minister grants an exemption.

The application process for an exemption is prescribed in section 3 of O. Reg. 261/21 made under FARPACTA. Subsection 3(3) of the regulation states that, in reviewing a regulated profession's application for an exemption for the purpose of making a recommendation to the Minister, the Fairness Commissioner shall consider any information provided in the application and may consider any other relevant information.

Under subsection 3(6) of the regulation, the Minister must then determine whether to grant the exemption and, if so, what conditions, if any, should apply to the exemption.

However, pursuant to section 4(2) of FARPACTA, the Minister may also delegate any duty conferred or imposed on the Minister under section 10.2 of the Act to the Fairness Commissioner, who shall be presumed conclusively to act in accordance with the delegation.

On May 19, 2023, the Minister exercised this authority and delegated his duty under subsection 10.2(5) to make a determination whether to grant an exemption under section 10.2, to myself as the Fairness Commissioner.

2. Based on the submissions provided, it appears that the Ontario Association of Architects is seeking an exemption to allow it to continue to require that the majority of applicants obtain 940 hours of Ontario experience to qualify for a licence to practice architecture.

² O. Reg. 261/22, s. 1.

³ FARPACTA, s. 2.

The OAA is the regulatory body with responsibility for the architectural profession in Ontario. The Association's principal object is to regulate the practice of architecture and govern its members in accordance with the *Architects Act, 1990* and applicable regulations and by-laws, to serve and protect the public interest.⁴

Among other functions, it establishes standards of knowledge, skill, qualifications, and practice for architects in Ontario.⁵ These requirements apply to both domestically and internationally trained architects. The latter term encompasses architects who have obtained their education and/or experiential training abroad, and/or who have then become licensed in these or other jurisdictions.

Under the *Architects Act*, applicants for a licence are required to comply with the academic and experience requirements specified in the regulations, unless exempted by the Council of the Association.⁶ These obligations are set out in section 31 of R.R.O. 1990, Reg. 27 and include a 940-hour Ontario experience requirement:

5. The person must have completed a total of 3,720 hours of experience that meets the requirements of the Intern Architect Program published by the Association. The experience must include:

- i. at least 940-hours of experience in Ontario under the personal supervision and direction of a person licensed to engage in the practice of architecture in Ontario, which must be completed within the three years before the date on which the person applies for the licence, and
- ii. at least 2,780 additional hours of experience under the personal supervision and direction of a person authorized to engage in the practice of architecture.⁷

[Emphasis added.]

In its submissions, the OAA indicates that architectural experience must be obtained under the personal supervision and direction of a registered/licensed architect that the Regulatory Organizations of Architecture in Canada (ROAC) must approve, either in an architectural practice or other eligible architectural employment situation, as defined by the national Internship in Architecture Program.

In addition, the Association must approve the nature of architectural experience that the applicant has obtained. The applicant must also demonstrate proficiency in 17 separate competency areas, which are divided into three separate categories. These

⁴ Architects Act, s. 2(2).

⁵ Architects Act, s. 2(3).

⁶ Architects Act, ss. 1, 13(1)(d).

⁷ O. Reg. 27, s. 31(5).

competencies cover many different areas of architectural practice and are set out more fully in Appendix A of these reasons.

In my view, the 940-hour Ontario experience requirement, which states that an applicant must demonstrate practical skills and engage in experiential learning in Canada, falls within the definition of “Canadian work experience” for the purposes of FARPACTA.

3. The Association’s Council can grant an exemption to the 940-hour Ontario experience requirement in certain circumstances.

Section 33 of R.R.O. 1990, Reg. 27 under the *Architects Act* allows the Council to grant exemptions from all or part of the academic and experience requirements:

The Council may, where it is of the opinion that the applicant’s qualifications, knowledge and experience so merit, grant an exemption from all or part of the academic and experience requirements set out in this Regulation.

In practice, applicants can apply to the OAA’s Experience Requirements Committee (ERC) to seek an exemption from the 940-hour Ontario experience requirement. Under this process, the applicant is subject to an assessment and an interview with committee members. If the ERC concludes that the applicant possesses sufficient qualifications, knowledge and experience, it can recommend that the Council grant an exemption from all or part of the 940-hour experience requirements.

Over the last three years, candidates filed 14 applications with the ERC relating to exemption requests for experiential requirements. Of this figure, Council approved six applications, five were conditionally approved and three were rejected.

The modest number of application requests may be explained, in part, by the high evidentiary onus that applicants must fulfill to obtain an exemption. According to the OAA’s policy:

All individuals must complete the experience requirements as set out in the Canadian Experience Record Book or demonstrate to the satisfaction of Council that there are exceptional circumstances that make it impossible or unreasonable to meet the experience requirements set out in the Regulation; and further, by demonstrating to the satisfaction of Council that the applicant’s qualifications, knowledge and experience merit an exemption from the experience requirement.

[Emphasis added]

4. The Association has established several registration pathways for internationally educated or licensed architects, but the Internship in Architecture Program is the predominant one.

The main pathway through which applicants to the architectural profession in Ontario are licensed is via the Internship in Architecture Program (IAP). Approximately 76% of internationally trained architects follow this route. Individuals who apply through the IAP must comply with the 940-hour Ontario experience requirement unless they receive an exemption from the OAA's Council.

In addition to the IAP, the Association has created three alternative licensure pathways for internationally educated or licensed architects. These routes depend on the applicant's level of education and experience, and whether they have been previously licensed in another jurisdiction outside of Ontario.

These pathways are (a) the Broadly Experienced Foreign Trained Architect program (BEFA), (b) the Royal Architectural Institute of Canada (RAIC) syllabus program and (c) mutual recognition agreements (MRAs) and treaties with other jurisdictions. The first two of these programs specify their own Canadian experience requirements but at least two of the MRAs do not.

I have provided brief descriptions of these alternative programs, along with some associated statistical information, in Appendix B of these reasons.

I should also note that, under the mutual recognition agreement pathway, an applicant who is licensed in certain jurisdictions can obtain licensure in Ontario without the need to demonstrate local experience.

5. The Association has requested an exemption from the prohibition against retaining a Canadian experience requirement and asserts that the exemption is necessary for the purposes of public health and safety.

On January 26, 2023, the Association submitted a request for a Canadian experience exemption and provided information to support its application. In response to follow-up questions from the OFC, on March 23, 2023, the OAA provided additional information to our office in what it characterized as a resubmission.

In response to previous requests from the Office of the Fairness Commissioner, the OAA also submitted responses to questions of relevance to this application, dated August 19 and September 14, 2022, respectively. In formulating my decision, I have considered the submissions provided by the Association in their entirety.

I would like to thank OAA officials for the detailed nature of the responses that they have offered in response to our questions.

Given that the IAP is the main pathway for licensing internationally trained applicants in the province, the Association has quite appropriately directed its submissions to this program

The OAA asserts that an exemption is necessary for the purposes of public health and safety. It submits that the fundamental and explicit purpose of the legislated requirements for a licence, inclusive of the 940-hour Ontario experience requirement, is to safeguard and serve the health and welfare of the people of Ontario.

In support of its request for an exemption, the Association has stated, among other things, that:

- The pathway to become an architect in Ontario can take an average of five to six years, from the completion of the applicant's academic degree requirements. Many international jurisdictions have established radically different licensing frameworks and that the title of "architect" can mean very different things in different countries.
- Architecture is an incredibly complex profession, requiring extensive, direct work experience covering specific areas that cannot be acquired through an academic setting. While there is similarity globally in the content of architectural education, the practice of architecture and the scope of practice of the architect differs significantly in Canada from those practicing architecture in many other parts of the world.
- The complexity and level of risk to the public distinguishes the architecture profession in Ontario from the compulsory trades and other regulators named in Schedule 1 of FARPACTA. Regardless of the number of stakeholders and professionals involved in the design of the built environment, the architect is ultimately responsible for confirming to authorities having jurisdiction that the structure under construction is permitted and safe for public use.
- Any measure requiring the OAA to narrow the standards of licensure could pose serious risks to public health and safety. While there may be risks in all professions, the risks within the architectural sector are expressly tied to physical safety, both in the short and long-term. The Association believes that any changes to the licensing process must be made in accordance with the careful study of available evidence and consideration of prevailing licensing standards.
- The province has an interest in ensuring that buildings do not collapse or wreak damage on people and property.⁸ In the OAA's view, it is difficult to imagine

⁸ The OAA cited *The Canadian Law of Architecture and Engineering*, Third Edition (Beverley M. McLachlin and Arthur Grant, LexisNexis, page 7).

assigning this level of responsibility to individuals who have no practical experience in Ontario.

- Given the wide range of climactic conditions experienced in Ontario, contemporary buildings are extremely expensive. In cases where they fail to function as intended, or demonstrate defects, there are also legal and financial implications that can be significant. Many buildings have defects not immediately apparent until they are put into service. A lack of familiarity with Canadian practice standards and processes increases the potential for hazard, uncertainty, and risk for owners and the public.
- The OAA has long recognized the importance of offering alternative means to allow registrants to display their competencies. It has also instituted a process through which applicants can apply for exemptions from the Ontario experience requirement.
- All Canadian regulators of architecture have determined the need for maintaining a period of defined Canadian or jurisdictional specific work experience as the only opportunity for applicants to gain hands-on experience and to obtain knowledge through direct exposure to the many facets of an architectural process in their respective jurisdictions.

In response to a question posed by our office on whether an internationally trained architect could obtain the 940 hours of Ontario experience after being provisionally licensed in the province, the Association indicated that there is currently no provisional licensure scheme available for this purpose and that creating such a licence class would require an amendment to the *Architects Act*.

The OAA further points out that changes to the Ontario experience requirement could have ramifications on the mobility of architects who have been licensed in Ontario, both domestically and internationally. Since this consideration does not relate squarely to public health and safety, I will not consider it further in my analysis.

6. To consider the OAA's arguments, it will first be necessary to define the term "public health and safety" for the purposes of section 10.2 of FARPACTA.

To ascertain the meaning of "public health and safety", it is necessary to apply the modern principle of statutory interpretation. This holds that the words of a statute are to be read in their entire context, in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of the legislature. (Rizzo & Rizzo Shoes Ltd, Re, [1998] 1 SCR 27 at para 21).

In the administrative law context, a decision-maker must also interpret legislative

provisions "consistent with the text, context and purpose, applying its particular insight into the statutory scheme at issue".⁹

I will now address each of these components.

Object of the Act:

The purpose of FARPACTA, which is set out in section 1 of the Act, is "to help ensure that regulated professions and individuals applying for registration by regulated professions are governed by registration practices that are transparent, objective, impartial and fair".

In addition, s. 64(1) of *the Legislation Act, 2006* requires that "an Act shall be interpreted as being remedial and shall be given such fair, large and liberal interpretation as best ensures the attainment of its objects".

Scheme of the Act and Intention of the Legislature:

The scheme of the Act and intention of the legislature indicate that the Canadian experience requirement prohibition in subsection 10.2(1) was introduced in furtherance of FARPACTA's object of ensuring that the registration processes that regulated professions employ are fair and transparent.

The Hansard reports, which documented the passage of this legislative amendment, indicated that the Canadian experience requirement prohibition would serve to eliminate a significant (or "number one" or "impossible") barrier to newcomers. Existing Canadian experience requirements have resulted in 290,000+ jobs being left unfilled, costing billions in lost revenue, while 75% of internationally educated immigrants are not working in the field in which they are trained.

Their underutilized skills could be put to a greater use to contribute to the province's economy, increasing Ontario's GDP by \$12 to \$20 billion annually. In Third Reading, MPP Anand said that a regulator's Canadian experience requirement should be eliminated unless it is necessary for public health and safety, adding that "public health and safety is paramount and that's what we have to protect first".

Opposition critics submitted that the elimination of the Canadian experience requirement did not go far enough. In other words, the scope of such provisions should be further narrowed. (Hansard Transcript 2021-Nov-01 at 1599; Hansard Transcript 2021-Nov-02 at 1629-1630, 1640, 1739; Hansard Transcript 2021-Nov-25 at 940, 1181, and 1639).

Both the tenor of this legislative history, coupled with FARPACTA's fairness-affirming

⁹ Canada (Minister of Citizenship and Immigration) v. Vavilov, 2019 SCC 65 at paras. 120-21.

purpose, favour an interpretation that cloaks the Canadian experience requirement prohibition with a fair, large and liberal interpretation. The corollary to this purposive analysis is that the public health and safety exemption -- being a limit on the legislation's remedial purpose -- should be interpreted narrowly. (See for example *Hills v Canada (AG)*, [1988] 1 SCR 513 at para 96; *R v Kuldip*, [1990] 3 SCR 618 at 639).

Grammatical and Ordinary Meaning of "Public Health and Safety"

The grammatical and ordinary meaning of the term "public health and safety" similarly supports a narrow scope of the exemption. "Ordinary meaning" is not synonymous with dictionary or literal meaning but rather depends on the context, such as the purpose, scheme, and intention of the legislature, as well as the meaning of the term in other legislation, in the common law, and according to applicable maxims of interpretation. (*R. v Clark*, 2005 SCC 2 at para 44).

Based on a review of analogous provincial legislation, there do not appear to be any statutes that both use the term "public health and safety" and address subject matter broadly analogous to that contained in FARPACTA.

The term does, however, appear in a number of regulatory statutes. These include s. 57(4) of the *Freedom of Information and Protection of Privacy Act*; O. Reg. 520/95 under the *Environmental Assessment Act*; s. 10(1)(b) of O. Reg. 631/98 under the *Highway Traffic Act*; s. 10 of O. Reg. 468/18 under the *Cannabis Licence Act, 2018*; s. 1(a) of the *Cannabis Control Act, 2017*; s. 18(1)(a)(ii) of O. Reg. 308/12 under the *Mining Act*; and s. 34(5)(a) of the *Building Code Act, 1992*, among others.

Although these provisions deal with different subjects and the term "public health and safety" is not defined in any of them, cases in the mining, freedom of information, building code, criminal, and occupational health and safety contexts all refer to "public health and safety" (or slight variations thereof) as matters concerning the prevention of physical and/or psychological harm to members of the public.¹⁰

In the context of FARPACTA, this statute applies to more than a dozen regulated professions characterized by different mandates and public interests to protect. On this basis, the legislature had the choice to define the public health and safety exemption in narrow terms or to particularize the full scope of these interests.

More specifically, if the legislative goal was to allow the Minister to interpret the

¹⁰ *Simopoulos, Re*, 2013 ONCA 702 at para 7; *R v Marshall Minerals Corp et al*, 2017 CarswellOnt 15765 at para 4; *R v Lemieux*, 2009 ONCJ 676 at para 74; *Baum v British Columbia (Director of Adult Forensic Psychiatric Services)*, 2021 BCCA 300 at para 42; *Order MO-3755 (2019)*, IPCO at para 31; *Yukon (Occupational Health and Safety Director) v Yukon*, [2010] YJ No 42 (Terr Ct) at paras 18 and 21.

exemption liberally, the statute could have included, in the definition of public health and safety, a comprehensive list of harms pertaining to physical, psychological, financial, economic, legal and/or or security issues. The legislature chose not to adopt this approach.

In undertaking my analysis, I have taken into account the absence of such criteria, the focused way in which “public health and safety” has been interpreted in other regulatory statutes, and the application of the rules of statutory interpretation in the FARPACTA context, which dictate that the term be narrowly defined.

Based on these considerations, I believe that it is reasonable to limit the application of this exemption to more commonly articulated concerns about protecting the public from physical or mental harm.

I, therefore, define “public health and safety” in section 10.2 of FARPACTA as the steps necessary to protect the public against physical and/or psychological harm, as opposed to broader concepts of financial, economic, legal, or security-related issues.

7. One must then consider whether the broad scheme of the *Architects Act* focuses on public health and safety for the purposes of subsection 10.2(1) of FARPACTA.

In its submissions, the OAA indicates that the *Architects Act* is designed for public safety and to prevent incompetent persons from preparing plans for such buildings as churches, schools, hospitals, and theatres where the public may gather.

To support this proposition, the Association quotes from Morrison C.J.S.C., who made the following comments about the British Columbia Architects Act in *R. v. Dominion Construction Co.* that: “...the paramount object of the Legislature was to safeguard the public who resort to public buildings, such as theatres, churches, hotels, etc. (The Canadian Law of Architecture and Engineering, Third Edition, Beverley M. McLachlin and Arthur Grant, LexisNexis, page 14).

It has also referred to two Manitoba cases to support the position that the Manitoba version of the Architects Act is designed to ensure the safety of the public and ought to be upheld (*Pestak v. Denoon*, [2000] M.J. No.112 at paras. 21-22, 144 Man. R. (2d) 1 (Man. Q.B.); *Manitoba Association of Architects v Winnipeg (City)*, [2005] M.J. No 317 at para. 32, 198 Man. R. (2d) 35 (Man. Q.B.))

Based on my review of these submissions, in the context of the relevant interpretive rules, I find that an important object of the *Architects Act*, and the OAA’s mandate, is to protect the safety of the public from faulty architectural structures. Thus, I find that the broad scheme of the *Architects Act* relates to public health and safety for the purposes of subsection 10.2(1) of FARPACTA.

However, this does not mean that every requirement specified under the *Architects Act*, or the programming developed by the OAA, is necessary for the purposes of public health and safety. It is, therefore, necessary to focus specifically on the 940-hour Ontario experience requirement, which I will address in the next section.

8. The Association has not provided sufficient evidence to establish that the completion of the Canadian experiential component of the Internship in Architecture Program is necessary for the purposes of public health and safety.

As noted previously, the object of FARPACTA is “to help ensure that regulated professions and individuals applying for registration by regulated professions are governed by registration practices that are transparent, objective, impartial and fair”.

On the basis that the retention of Canadian experience requirements can serve as a barrier to registration, the prohibition articulated in subsection 10.2(1) is consistent with, and furthers, this legislative purpose.

As stated in the OFC’s guideline entitled “*Applying for an Exemption from the Prohibition against Retaining a Canadian Experience Requirement*”:

This type of provision typically requires that internationally trained applicants (ITIs) obtain Canadian work experience as a condition of registration. Requirements such as these can represent the “last mile” in the registration journeys of these candidates.

Canadian experience is not always easy to come by and some candidates simply give up because they cannot obtain it.

This type of Canadian experience requirement can be relied upon excessively and inhibit the development of equivalent assessment measures. As such, it is important for a regulated profession to demonstrate that any exemption requested is necessary to protect public health and safety”.

Equivalent assessment measures are those that adequately gauge an applicant’s competencies but not in ways that impose unnecessary experiential requirements on them.

Under subsection 10.2(2) of FARPACTA, a regulated profession that seeks a Canadian experience exemption is required to establish that the exemption is necessary for the purposes of public health and safety. In my view, the word “necessary” means that the exemption must be essential or imperative, not simply “desirable to have” or a feature that would “enhance” public health and safety.

On this basis, the OAA bears the onus of establishing, through the provision of

evidence, that there exists a direct connection between the knowledge and skills that a candidate would typically acquire during the 940-hours of local experience within the Internship in Architecture Program (“the IAP”) and the candidate’s ability to protect public health and safety

I must, therefore, canvass, the degree to which this 940-hour Canadian experiential requirement prescribed in the IAP would reasonably provide interns with the competencies to address the topic of public health and safety.

In its submissions, the OAA has, for the most part, addressed public health and safety considerations at a high level. While it has pointed to the obvious risk of building collapse, it has also referred to such concepts and themes as building integrity, the importance of the building envelope and the need to effectively address climate change. The Association also points to the legal and financial implications that can arise where buildings do not function as intended.

In my view, however, the Association has failed to sufficiently particularize these latter concepts nor sought to reconcile them with more concrete public health and safety considerations.

In addition, the OAA has not provided specific information to link the experiential requirements outlined in the IAP with the skillsets necessary to protect public health and safety. This step is critical since the evidentiary nexus in subsections 10.2(1) and (2) of FARPACTA requires that the regulated profession connect the nature of the Canadian experience requirement to the achievement of positive public health and safety outcomes.

As I indicated previously in this decision, the curriculum prescribed for architect interns under the IAP is quite diverse in nature. It canvasses 17 discrete experiential requirements, as well as 108 “typical required internship activities” for these items. These cover a broad range of professional and business-related activities.

Significantly, the titles of only four of the required 108 internship activities mention such topics as to safety requirements, plans or strategies. While it could well be that other listed activities also canvass public health and safety issues, the OAA has neither supplied this information nor effectively linked the IAP’s core curriculum with a graduating intern’s ability to protect public health and safety, which is the key evidentiary requirement to seek an exemption from the prohibition against requiring Canadian experience.

The OAA has also indicated that an intern’s experience can vary widely depending on the scope of their firm’s practice. Thus, the ability of the profession, and supervising architects, to offer applicants a common experience in understanding public health and safety issues, is inherently challenging.

Based on a review of the IAP's curriculum, and following a consideration of the OAA's submissions, I conclude that the OAA has not established that its IAP Canadian experience requirement comprehensively addresses the topic of public health and safety. Instead, this topic only constitutes one component of a broader learning scheme which touches upon many different aspects of an architect's practice.

If the Association wished to highlight the protection of public health and safety as a more central theme for its Canadian experience requirement, it could have created more specific materials for this purpose and required that supervising architects and interns alike place greater emphasis on this topic, including through periodic knowledge testing.

The Association has also pointed out that all Canadian regulators of architecture have accepted the need for maintaining a period of defined Canadian or jurisdictional-specific work experience as the only way for applicants to gain hands-on experience through direct exposure to the many facets of an architectural process in their respective jurisdictions.

It should be noted, however, that while many Canadian jurisdictions require that applicants demonstrate local experience, others (e.g., Manitoba and Québec) accept a broader base of Canadian experience.

As well, under the Reciprocity Agreement for Architects Licensed in Canada, Canadian regulators of architecture provide certificate-to-certificate recognition for architects in good standing who are licensed in other Canadian jurisdictions, without requiring additional local experience.

This means that the Association, and other Canadian regulators, will accept candidates from other jurisdictions notwithstanding that the physical landscape and climate, to which they are exposed, varies in different parts of the country.

Similarly, under the various mutual recognition agreements to which the OAA is a party, qualified architects from other jurisdictions can become licensed in Ontario without the need to complete the IAP program.

Thus, there are a group of domestically and internationally trained architects who are successfully practicing in Ontario, under the OAA's oversight, who have not been required to obtain pre-licensure, local experience. This situation undercuts the Association's argument that applicants must obtain experience in Ontario, or even Canada, for the purposes of protecting public health and safety.

I will now summarize my reasons for decision. I have concluded that the OAA has not provided sufficient evidence to establish that the completion of the 940-hour experiential component of the Internship in Architecture Program will reasonably equip an applicant

with the competencies necessary to address public health and safety issues in the practice of architecture. Based on the scheme of FARPACTA, therefore, I find that this experiential component is not necessary for the purposes of public health and safety.

My decision, therefore, is that the exemption that the OAA has requested should not be granted.

I also find that the OAA has not provided sufficient evidence to establish that an applicant's work experience must be obtained in Canada for the purposes of public health and safety. The OAA does not require all applicants to meet the 940-hour Ontario experiential requirement to obtain a licence, which suggests that other types of experience should be sufficient to meet its needs

In its submissions, the Association has indicated that changes to its licensing process must be made in accordance with the careful study of available evidence and consideration of prevailing licensing standards.

To address the absence of an exemption, and based on the OFC's experience, the OAA could supplement or replace its existing array of alternative pathways in a variety of ways. Our office would be pleased to further discuss this topic with the Association.

DECISION:

My decision is that the exemption requested by the Ontario Association of Architects should not be granted based on the reasons that I have outlined.



Irwin Glasberg

Fairness Commissioner

June 5, 2023

Appendix A
Experiential Categories under
the Internship in Architecture Program

The IAP curriculum canvasses a total of 17 architectural experience requirements, grouped into three categories as follows:

Category A -- Design and Construction Documents:

- This category covers programming, site and environmental analysis, schematic design, engineering systems integration, building cost analysis, code research, envelope detailing, design development, construction documents, specifications and materials research, document checking and coordination and energy literacy/sustainability.

Category B - Construction Administration:

- This category covers procurement and contract award, construction phase – office and the construction phase – site.

Category C – Management:

- This category covers management of the project and business practice management.

Appendix B

Alternative Pathways to Licensure for Internationally Trained and/or Licensed Architects

The BEFA program is administered nationally by the Regulatory Organizations of Architecture in Canada (ROAC). It assesses the experience of internationally trained architects against the Canadian Standard of Competency for Architects (CSCA).

Certification under the program consists of an online demonstration of competency and an interview with an assessment panel comprised of Canadian architects. Successful BEFA applicants are granted a BEFA Certification, which represents recognition of compliance with the CSCA.

This program includes a six-month Canadian architectural experience component, which is comparable to the length of the 940-hour Ontario experience requirement for the IAP.

The RAIC syllabus program, developed in collaboration with Athabasca University, is national in scope. The program offers an alternative registration pathway through a direct, self-paced program of academic studies, design studios, and practical experience. Successful graduates obtain a RAIC Professional Diploma in Architecture.

The graduate then applies to the Canadian Architectural Certification Board (CACB) for certification of academic credentials. This program requires that participants possess seven years of architectural experience plus six months of relevant work experience in the jurisdiction in which they wish to practice.

The OAA has also negotiated MRAs with Australia, New Zealand, Mexico and the United States. These are formal agreements between architectural regulators in different international jurisdictions to mutually recognize the architectural credentials and qualifications of their registrants, and to provide a pathway for them to obtain registration between them. Over the last 10 years, approximately 22% of successful internationally trained applicants were registered through this modality.

At least two of the MRAs to which the OAA is a party, involving Mutual Recognition Agreements between Canada and the USA and the Tri-national Agreement between Canada, United States and Mexico do not appear to require international applicants to obtain local experience in advance of licensure.

What follows, for information purposes, are some statistics on the avenues that internationally trained applicants have pursued to obtain licensure in Ontario. These statistics were derived from information that the Association provided to our office.

Over the last 10-years, the OAA licensed 2,525 applicants. Of this figure, 1,858 (74%) of these individuals had academic origins in Canada or the United States, while 647 (26%) were educated in other jurisdictions. For the Canadian-U.S. group, 503 (20%) took advantage of MRAs or reciprocity agreements.

Of the 2,525 total, 1,904 (76%) came through the IAP, whereas 621 (24%) were licensed through, in descending order, MRAs, the BEFA and the RAIC Syllabus Program. Eighteen additional individuals, or (0.7%), secured licensure through the OAA's exemption process.