



Designation Intentions Report

Home Inspectors

August 2022

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Introduction

In response to a request from the Deputy Solicitor General, the Office of the Superintendent of Professional Governance (OSPG) have undertaken an assessment of the home inspection profession to determine if the profession should be designated under the Professional Governance Act (PGA). The PGA provides a rigorous regulatory framework and oversight by the OSPG to ensure compliance with the PGA and the protection of the public interest.

This intentions paper outlines the key issues and provides the proposed recommendation of the Superintendent of Professional Governance. The public posting of this paper allows the opportunity for review and comment before the recommendations are finalized.

Context

Many reviews have occurred over the years and steps have been taken to improve the oversight and requirements for home inspectors. The most recent review in 2020 by the Corporate Policy and Planning Office (CPPO) of the Ministry of Public Safety and Solicitor General revealed that the current state of regulation/licensing of home inspectors falls short of what the industry, the current regulators, and the government would expect. The identified issues were:

- The current lead regulator, Consumer Protection BC (CPBC), has limited regulatory authority, expertise, or resource capacity to function as a standards-setting or credentialing body or to provide oversight regarding an inspector's competence to carry out inspections.
- CPBC's authority also only applies to regulatory requirements prescribed in law, not matters typically included in occupational codes of ethics.
- Currently, there are several home inspector associations in B.C. Under the current model, many critical elements of the home inspection are determined by and differ according to the association to which an inspector belongs. These differences lead to uneven qualifications, confusion for consumers and unnecessary and harmful competition among home inspector associations. Issues include¹:
 - Education: The Home Inspector Licensing Regulation (HILR) requires that home inspectors meet minimum qualifications including what must be covered in education programs. The CPBC in its administration of the HILR, assesses applicants against a set of requirements for eligibility for a licence and approval/acceptance of several different educational programs, and several different exams based on the minimum qualifications in the HILR.

In addition, field trainers and test inspection providers apply for approval based on having completed a number of inspections prescribed in the HILR. CPBC does not verify these numbers nor is there a review of the competence of field trainers and test inspection providers in either home inspection or training and evaluation. Moreover, there is no follow-up on the results of either activity and there is no oversight of the field training or field test inspection providers by CPBC.² Some currently approved by CPBC as trainers were under practice review for competence issues by the Applied Science Technologists and Technicians of BC (ASTTBC) before they resigned.

- Lack of an industry-wide inspection standard: Inconsistency in what an inspection should involve creates confusion for consumers. It also makes it difficult for consumers to hold inspectors accountable for poor quality or inadequate inspections.

¹ List of issues provided by CPPO August 10, 2021 in response to an OSPG questionnaire on their role, and the profession of home inspection.

² CPBC advises that they have established several processes to verify or track these numbers.

- Absence of a mandatory code of ethics: This makes it challenging for consumers to get recourse for unethical behaviour that is not a contravention of the law.
- Absence of mandatory professional development: mandatory professional development would ensure that inspectors maintain and update their inspection skills.
- Limited ability to address competency concerns: Authority is needed to review an inspector's competence and to take disciplinary action for substandard inspections.

The current state of governance leaves associations to provide oversight of home inspection members on a voluntary basis and without authority to enforce required actions. Although most members will respond to notice of required actions needed to correct ethical and professional practice issues and to address issues of competence, some choose to resign and join some other body, or simply operate completely without oversight beyond the mandatory licence. This can then result in loss of membership and revenue for the disciplining association.

The CPPO review included significant industry support for a move to a professional governance model under the Professional Governance Act (PGA) and resulted in the request by the Deputy Solicitor General for the Office of the Superintendent of Professional Governance (OSPG) to consider the designation of home inspectors as a profession under the PGA.

OSPG Mandate and Authority

The OSPG has a mandate under the PGA to provide oversight of the professions designated under the PGA and to ensure that regulatory bodies are governing their professions in compliance with the PGA, and in the public interest.

This assessment of the current governance of the home inspection profession, i.e., those licensed under CPBC³, is being undertaken by the OSPG under the Superintendent's authority in Part 7 and Division 2 of the PGA. Under section 87, the Superintendent must: "determine whether it would be in the public interest to designate a profession under this Act, having regard to the information obtained during any assessment and in accordance with the prescribed criteria, if any."

Following the assessment by the Superintendent, "the superintendent must communicate the result of the assessment to the minister, who may determine whether the designation will be recommended to the Lieutenant Governor in Council and will provide the applicant with reasons for the recommendation to proceed with the application for the designation or for the refusal of the application."

General Process and Assessment

This assessment is to determine if the home inspection profession should be recommended for designation under the PGA, and if so, any recommended parameters for designation.

The Superintendent has broad authority and discretion to conduct an assessment under Section 86 of the PGA. Under Section 86(3), the Superintendent may:

- require the professional association to provide further information;
- examine the directors and officers of the professional association;
- seek the advice of other associations, organizations, or persons;
- if the superintendent considers the action to be in the best interests of the professional association or the public, hold hearings the superintendent considers necessary in a manner the superintendent determines;

³ <https://www.consumerprotectionbc.ca/get-keep-licence/home-inspections/>

- (e) evaluate the degree of risk to the health or safety of the public from incompetent, unethical or impaired practice of the profession;
- (f) evaluate the degree of supervision that may be necessary or desirable for a person practising the profession;
- (g) assess the degree of supervision that a person practising the profession receives or is likely to receive with respect to that practice;
- (h) determine what educational programs exist in British Columbia or elsewhere for the proper education and training of persons with respect to the practice of the profession and evaluate the content of those programs;
- (i) take other actions that the superintendent considers necessary and incidental to the consideration of the application or matter.

There are three stages in conducting an assessment:

1. Review history and current status of the profession, and identify issues.
2. Assess the profession against set criteria for designation.
3. Make a recommendation regarding suitability for designation.

OSPG Designation Assessment

To better understand the current regulatory governance of the home inspectors as well as the history of the profession, the OSPG undertook consultation and discussions with: the Ministry of Public Safety and Solicitor General; Consumer Protection BC (CPBC); the Ministry of Advanced Education, the Ministry of Finance, the Applied Science Technologists and Technicians of BC (ASTTBC); the Home Inspectors Association of BC (HIABC); and the Canadian Association of Home and Property Inspectors (CAHPI).

As part of this assessment, the OSPG also considered previous reviews, their outcomes and outstanding issues, the governance of home inspectors in other jurisdictions and other regulatory programs in B.C.

Current Regulatory Governance of Home Inspectors

By law, anyone who engages in home inspection activity in B.C. must have a licence from CPBC. In B.C., home inspectors must meet the minimum qualifications set out in the Home Inspector Licensing Regulation⁴(HILR) under the *Business Practices and Consumer Protection Act*. There are currently 470 licensed home inspectors in B.C.

There are three main categories of organizations involved in the current governance of the home inspection in B.C. – the licensor (CPBC), the government (PSSG), and the voluntary home inspection associations.

Consumer Protection BC

Before issuing a licence, CPBC ensures that home inspectors meet the minimum qualifications set out in the HILR. They must also comply with requirements for contracts and inspection reports, adhere to a prohibition on conflicts of interest, and maintain liability insurance.

The CPBC also responds to inquiries and complaints from B.C. consumers and businesses, inspects licensed businesses and occupations to ensure they are following B.C.'s consumer protection laws, and investigates alleged violations of consumer protection laws and resolves them through progressive enforcement. CPBC

⁴ https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/12_2009

has limited regulatory authority and subject matter expertise to provide oversight regarding an inspector’s competence to conduct inspections or deal with unethical (but not illegal) behaviour.

The Ministry of Public Safety and Solicitor General

The Ministry of Public Safety and Solicitor General (the Ministry or PSSG) has the responsibility for consumer protection policy and legislation and administers the *Business Practices and Consumer Protection Act* (BPCPA) and the *Business Practices and Consumer Protection Authority Act* (among other enactments). The CPPO within the PSSG is responsible for the legislation and policy regarding CPBC and policy, program assistance and guidance for the home inspection program. The CPPO oversees the administrative agreement with the CPBC that lays out their responsibilities for administering B.C.’s consumer protection laws on behalf of the province.

Voluntary Associations

In addition to having a licence, home inspectors can choose to register as a member of one of the home inspector associations which provide credentialling, education, oversight, standards, and support. Membership in any of these associations is not required to practice as a home inspector, but the organizations may provide services to their members, including oversight (e.g., set their own practice requirements, conduct compliance assessments and take action for incompetent work, misconduct, conduct unbecoming), perceived credibility, training programs, information on business development and new technologies, networking opportunities, and advocacy.

The Home Inspectors Association BC (HIABC), and the Applied Science Technologists and Technicians of BC (ASTTBC) are B.C.-only organizations⁵. The Canadian Association of Home & Property Inspectors (CAHPI), the Canadian National Association of Certified Home Inspectors, Inc. (CanNACHI), and the National Home Inspector Certification Council (NHICC) are national associations which have B.C. registrants. Membership numbers in the voluntary associations are as follows:

Organization	Number of Members	Source
ASTTBC	81	ASTTBC self-reported Aug 2021.
HIABC	359	HIABC self-reported Aug 2021- Includes Accredited Home Inspectors (AHI), Associate Inspectors, and Inspector Candidates.
CAHPI	48	CAHPI self-reported Sept 2021 – B.C. members only, and all categories.
CanNACHI	24	CanNACHI website (May 2022) – B.C. members only. Find An Inspector - British Columbia (cannachi.org)
NHICC	6	NHICC website (May 2022) - Full National Home Inspectors (NHI) – B.C. members only - NHI.pdf (nationalhomeinspector.org)

Key Findings

From the perspective of the Superintendent, the primary issues are:

- The existing regulatory framework and resulting CPBC licensing system is not designed in a way that can fully protect the public interest. It does not provide oversight for and does not require membership in home inspector organizations. And although CPBC has expertise in enforcing business practices, it is not currently resourced to function as a standards-setting or credentialing body for professions or trades.

⁵ ASTTBC became a designated regulatory body under the PGA in 2019.

- The existence of multiple membership associations for the home inspection profession leads to a lack of agreement and consistency in oversight, and skill use, maintenance, and management. It also causes confusion for members of the public that wish to engage the services of a home inspector.

While not a primary issue, it is noted that the requirement for both licensing and registration causes the payment of two fees and in the responses to the CPPO, a significant number of licensees were of the view that current fees are too high.

It appears that a single source of credentialing and practice oversight would address many of the issues raised. While that may be the case, that does necessarily mean that the solution that is in the public interest involves designation under the PGA. That is the next stage of the assessment.

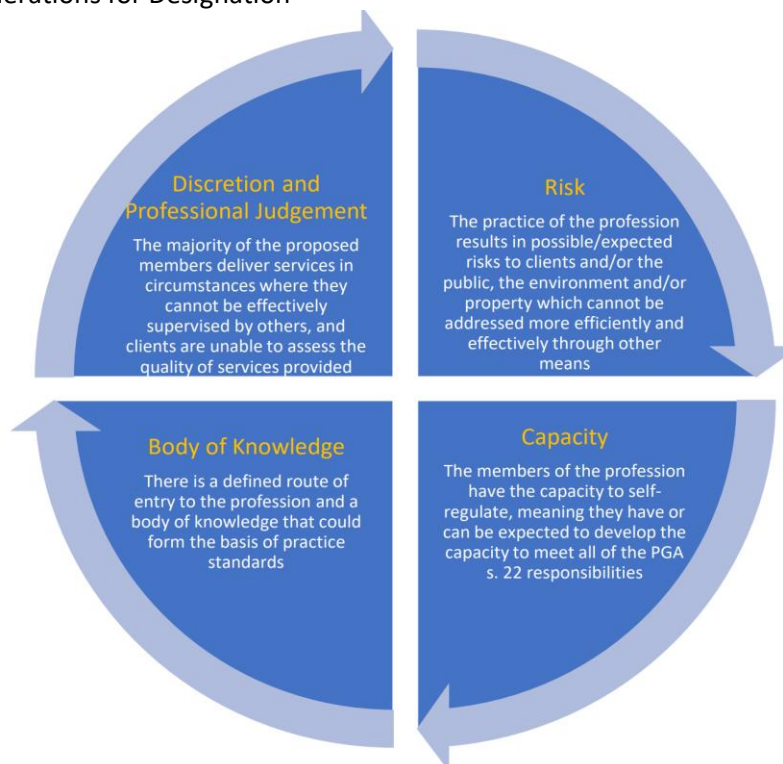
Criteria for Designation

The authority for assessments in section 86 of the PGA does give some guidance as to the type of inquiry the Superintendent should enter into:

- evaluate the degree of risk to the health or safety of the public from incompetent, unethical or impaired practice of the profession;
- evaluate the degree of supervision that may be necessary or desirable for practising the profession;
- assess the degree of supervision that a person practising the profession receives or is likely to receive with respect to that practice;
- determine what educational programs exist in British Columbia or elsewhere for the proper education and training of persons with respect to the practice of the profession and evaluate the content of those programs.

In addition, in the guidance issued by the OSPG, this office has identified a number of key considerations that are relevant in determining whether an assessment should be conducted and whether designation is in the public interest. They are illustrated in Figure 1 below:

Figure 1. Key Considerations for Designation



Discretion and Professional Judgement

The practice of a home inspector is largely an independent one. Home inspectors generally organize themselves as sole proprietorships or small corporate entities. Home inspectors generally are engaged directly by a client and conduct the inspection by themselves. There is not a widely held practice of peer review.

Even if they belong to a firm or are in a company with others, home inspections are typically done by a lone inspector, and home inspectors deliver these services in circumstances where they cannot effectively be supervised by others. In addition, it is difficult for clients to assess the quality of services provided, and unless they have the relevant experience, most rely entirely on the “expertise” of the home inspector.

In this respect, home inspectors are similar to many other occupations already under the PGA. When inspecting a home, there is considerable amount of discretion on the type of inspection required, the nature of the inspection and whether the observations about the current state of a home should be noted for the client or identified for further examination by another qualified professional.

Key Finding

Given the typically independent nature of the home inspection profession and a lack of supervision, home inspectors have a considerable amount of discretion and professional judgement in the activities they perform and the assessment that they provide.

Body of Knowledge

The home inspection profession is not one based on a single distinct or defined body of knowledge, or experience as with some other professions. Home inspectors can come from a variety of disciplines and the body of knowledge required to do a home inspection is broad. Given this and the multiple organizations involved in regulation and oversight, there is currently not agreement in the profession on the appropriate standards for their practice.

Key Finding

The body of knowledge for a home inspector particularly given its breadth and diversity, lends itself to the need for consistency in practice and approach, and in particular, consistent practice standards.

Risk

There are three types of risk associated with home inspection: a health and safety risk to the purchaser and occupants in the home, health and safety risk to the area around the home, and the financial risk to the prospective purchaser.

The HIABC describes a home inspection as:

A home inspection is a limited, non-invasive, visual examination of the current condition of a residential building. A home inspection is designed to report observed deficiencies within specific systems and components of a home. A home inspection provides a description of the condition of the home based on observation of the visible and apparent condition of the structure and components at the time of the home inspection. A home inspection does not guarantee future condition, efficiency, or life expectancy of systems or components. It is not an inspection to verify compliance with any applicable building codes, municipal bylaws or other regulations. A home

inspection will not reveal every problem that exists or could ever exist and is not a technically exhaustive inspection.⁶

The CPBC describes a home inspection as a visual inspection and provides a list of what may and may not be included⁷. Sections 12 and 13 of the HILR provide guidance for the content of the contract and the inspection report⁸.

There is also potential for environmental, or health and safety concerns related to issues that are not identified during a home inspection and appear later that could have a broader affect in the surrounding area. Examples of this are a leak in an above-ground oil tank (or buried tank with above ground signs of leakage), or a fault with an oil or gas furnace.

A primary purpose of identifying these deficiencies is so that the purchaser can make an informed decision on whether to purchase the property and what offer to make taking into account what remediation costs may need to be incurred after purchase. The reliance on a home inspector's report can lead to a potential significant financial risk to individuals particularly during times of difficulty with housing affordability and availability. Home inspection, therefore, has a strong consumer protection element and that is likely the rationale for the current approach to its regulation.

The framework above also asks whether these risks can be addressed by other means. Home inspectors have been regulated by some means in British Columbia since 2009. Subsequent reviews have suggested strengthening oversight and identified challenges with the current consumer protection- based model. The fact that other means and approaches have been tried and have not been satisfactory suggests that the risks cannot be addressed by other means.

Key Finding

Given the recognized potential for health, safety, and financial risks with the profession of home inspection, and the ongoing challenges, the risks are significant enough to warrant stronger oversight and regulation.

Capacity

There are examples in professional regulation where it has been shown that smaller organizations are not able to manage the demands of a strong regulatory framework without a burden on the registrants in terms of fees. A profession of less than 500 currently licensed individuals raises the question of whether there is sufficient capacity to meet the requirements under the PGA. However, this does not apply in all circumstances and each instance must be examined on its own merits.

While the profession would appear to benefit from the governance framework under the PGA, a single home inspection regulatory organization or the designation of home inspectors as a standalone profession likely would not have the suggested size or capacity to manage the governance requirements under the PGA. However, given the strength of the other criteria, the question should instead be how the profession can be most effectively regulated under the PGA.

Key Finding

Home inspectors could benefit from the PGA regulatory oversight framework regarding education and credentialing, practice standards, code of ethics, competency, continuing education, and complaint receipt

⁶ <https://hiabc.ca/about-us/scope-of-inspection/>

⁷ <https://www.consumerprotectionbc.ca/2011/05/what-to-expect-from-a-home-inspection/>

⁸ https://www.bclaws.gov.bc.ca/civix/document/id/lc/statreg/12_2009#section7.1

and resolution. To address the question of capacity, an exploration should be undertaken to determine the most effective way to regulate them under the PGA.

Home Inspection Profession Regulation

Both ASTTBC and HIABC expressed an initial interest in regulating home inspectors, and each has attributes that could be a strong starting point for regulation and a focus in B.C. ASTTBC is already a regulatory body under the PGA while the HIABC has a strong history of expertise in the industry and its development. Both organizations would need to undertake work to be an effective regulator in this field.

ASTTBC would have to develop and enhance its capacity to provide all the components of regulatory oversight for home inspectors which has up to now been based on CPBC licensing and voluntary membership in an association. HIABC would have to transition from its current function as an association to solely a regulator. However, as mentioned above, there is concern about whether the number of home inspectors in the province is large enough to support a regulatory body on its own.

If the recommendation for designation is accepted by the Minister and government, then a process should occur to determine the viability of and propose recommendations for a regulator under the PGA to regulate home inspectors and other similarly situated professions going forward.

Key Finding

Recognizing that this process could take some time and the end result is not known, the recommendation would be to designate ASTTBC as the sole regulator of home inspectors with reserved practice for an interim period while the viability of a new regulatory body under the PGA is explored with similar types of professions/occupations.

Summary and Recommendation

Given the information presented in the assessment, the Superintendent supports the following recommendation:

Designation of the Home Inspection profession under the PGA and removal of CPBC licensing.

This recommendation is subject to further input from interested parties and the profession. A final recommendation and Superintendent's report will be produced following the review of input and will be subject to the Minister of Attorney General's decision.

Please provide written comments to OSPG via email at OSPGEnquiries@gov.bc.ca by September 16, 2022.