

Strengthening Legislation for Planning Profession

Developing consensus for self-regulation

By OPPI Practice Advisory Group

OPPI Council has endorsed the recommendation of the Professional Practice Advisory Group to pursue stronger legislation—self-regulation for the planning profession—ensuring that anyone who calls herself/himself a planner has met certain standards and is guided by a code of practice and ethics. This goal is rooted in the larger protection of the public interest to which all OPPI members subscribe, and in maintaining a high standard of professionalism across the profession. OPPI is looking for support from the membership. With a solid backing from the profession, OPPI can then move forward in the process of becoming a self-regulated profession.

First, OPPI must substantiate the compelling public interest argument in favour of self-regulation, and define the professional planner's scope of practice, as well as any restricted activities that should be protected by legislation. Then it must request the provincial government for support. This is imperative, as the final decision with respect to self-regulation of the planning profession ultimately lies with the Ontario Legislature.

Planning in Ontario is not a self-regulated profession like engineering, architecture, forestry or law. OPPI is a professional, but voluntary, association whose purpose is to support planners and promote the planning profession as a whole. The government does not require planners to belong to a regulatory body, and there are voluntary and limited legal mechanisms to ensure the competence and ethics of some planning practitioners, thereby protecting the health and safety of the public. Nor has the government ever defined any "restricted acts"—activities that can only be undertaken by a Registered Professional Planner. Currently everything a RPP does can also legally be done by a non-member, or indeed by any individual, with or without adequate or relevant training and/or qualifications. This is a concern that many of our members and municipalities regularly voice with council.

While the issue of stronger legislation for the planning profession has been on the radar for a number of years, the current strategic plan (2007) brought self-regulation to the forefront by formalizing a commitment to "[i]nvestigate the feasibility of regulating the planning profession through provincial legislation" as a means to "[u]se standards, tools and legislation to strengthen the planning profession." This has sparked the current dialogue concerning the direction in which the planning profession is heading.

Over the last 25 years, OPPI has sought to protect the

public interest by instituting stringent membership requirements, offering continuing education, collaborating with CIP in reviewing and accrediting university planning programs, and establishing and administering a complaints and discipline process, which enforces a professional code of practice with high standards. Many of these functions are the same as those a self-regulated profession would be expected to perform. Extending these benefits to the public in respect of all planners, through the mechanism of self-regulation would be a natural next step. As the profession has matured so has the diversity of work and areas of practice in which our membership is involved. Our aim now is to protect and serve the public interest by regulating and supporting planners across the breadth and scope of the profession.

Self-regulation in brief

A self-regulated profession has a regulator established by the provincial government for the benefit of the public. While the government is not itself the regulator, every regulator is accountable to the government, through a particular ministry. For planners, the Ministry of Municipal Affairs and Housing appears to be a logical starting point for discussion about reporting arrangements with the government. The province must remain satisfied the regulator is complying with the legislation that grants it the powers of self-regulation, and is doing so in the public interest.

Members of a self-regulated profession may be granted certain rights—to use certain titles, to perform certain restricted acts—that non-members do not enjoy.

Members can have certain duties imposed on them by the regulator. For instance, the regulator must carefully control membership and entry to practice, so that only competent, ethical individuals enjoy the right to practice. This is current practice at OPPI.

Moving toward a self-regulated profession

OPPI outreach to members concerning self-regulation has taken several forms, a structured survey and focus group meetings among them. What emerged were strong views, some not easily reconciled or compromised. Of course it is all in the details; support for self-regulation rises or falls substantially depending on the specifics of what is being proposed.

While four out of five OPPI members are well aware of the legal difference between the planning profession and related self-regulated professions and almost three out of four members agree or strongly agree that planning in Ontario should be fully self-regulated, it is clear that OPPI members hold a wide range of assumptions, opinions and strongly held beliefs about self-regulation.

OPPI Council established the Professional Practice Advisory Group (PPAG) in 2008 to tackle this and related initiatives. Since then, PPAG has met regularly and worked steadily on reviewing the feasibility of pursuing self-regulation. It is time to broaden the discussion to include all members of OPPI.

To capture the thoughts and opinions of as many planners as possible, a session on self-regulation for the planning profession will follow the OPPI Annual General Meeting at the OPPI Conference in October. Other forums will be available through the OPPI website and through discussion at district events. If you have any questions or suggestions, please contact the Professional Practice Advisory Group c/o Brian Brophay, OPPI's Registrar & Director of Professional Standards, at standards@ontarioplanners.on.ca.

- 1986 OPPI was created.
- 1994 OPPI was successful in having a private member's bill passed by the Ontario Legislature that gave members "title protection" for the RPP designation—non-members can practice as planners, but they cannot legally call themselves "Registered Professional Planners."
- Late 1990s+ OPPI engaged in many discussions about proceeding to explore self regulation of the planning profession.
- 2007 OPPI adopted its current strategic plan, which includes a goal to "Use standards, tools and legislation to strengthen the planning profession" and a strategy to "Investigate the feasibility of regulating the planning profession through provincial legislation."
- 2007 OPPI became aware that under the Access to Justice Act, the Law Society of Upper Canada had been charged with the regulation of paralegals, and that some activities of planners were potentially captured by this regulation.
- 2008 OPPI Council established a Professional Practice Advisory Group to tackle self regulation and related initiatives, and to deal with the paralegal licensing issue. The advisory group and OPPI's legal counsel began discussions with the Law Society about the nature of the planning profession, its proper scope of practice, and the extent of the profession's authority to regulate itself. Those discussions were concluded satisfactorily in September 2010.
- 2010 OPPI surveyed members regarding a number of matters including self regulation.
- 2010 OPPI appeared before a Standing Committee of the Ontario Legislature which was considering a change to the legal definition of the "practice of professional engineering." The proposed (and subsequently accepted) definition includes the word "planning," and the Standing Committee accepted OPPI's contention that the new definition of engineering should be construed so as not to impinge on the scope of practice of professional planners.
- 2010 PPAG members held meetings with regulators, professional associations and industry groups representing a number of important stakeholders—including lawyers, engineers, landscape architects, municipal clerks and managers, appraisers and homebuilders—to gauge reactions to self regulation of the planning profession.
- 2011 OPPI recently met with the Minister of Municipal Affairs and Housing and members of his staff, as it regularly does. A number of topics were covered, including OPPI's investigation of the possibility of self-regulation for the planning profession. The minister gladly invited OPPI back for further discussions at the appropriate time.
- 2011 OPPI Conference to increasingly engage members in dialogue about self-regulation and develop recommendations for moving forward.
- 2011 Upcoming meetings with government ministries, especially MMAH; meetings with other regulators, seeking support; draft legislation.
- 2012 Anticipated plebiscite to confirm membership support; formal request to Attorney General for self-regulation legislation; coordinate passage of provincial legislation and amendment of OPPI by-laws as necessary.