

June 23, 2011

CLIENT BULLETIN

SOLAR HOT WATER READY REGULATION ROLLED OUT

Effective on June 21, 2011 the Solar Hot Water Ready Regulation is in force. The regulation was made under s. 692 of the *Local Government Act* and is not part of the B.C. Building Code. It requires that new single-family dwellings, including dwellings with suites, constructed in 33 municipalities and the rural areas of 3 regional districts include certain construction features that would make the dwellings more easily adaptable for solar hot water heating in the future. Under s. 692, such regulations have the same force and effect as a validly enacted bylaw of the municipality or regional district. Building permit applications made before June 21 are exempt. The Minister Responsible for Housing has sent copies of the Regulation to the affected municipalities and regional districts, which all volunteered for inclusion in this provincial initiative.

Two aspects of the Regulation may necessitate immediate attention by the affected local governments. Because these new construction standards are not part of the Building Code, references in local building bylaws to the Building Code would not be interpreted to include them. Neither would they be included in bylaw references to “enactments respecting safety”, because they are not safety-related. Thus, for example, if a building bylaw requires that a building permit application comply with the Building Code and other applicable enactments respecting safety, that requirement would not be interpreted as requiring that the application comply with this new Regulation. Bylaw amendments would be required in that regard.

The Regulation enables the “local government” to exempt new construction over which it has jurisdiction, if it is “satisfied that building site conditions do not permit effective use of solar hot water heating”. Information circulated by the Minister gives as an example a situation where a building is in permanent shade, for example from a tall building or from trees to the south. The term “local government” is defined in s. 5 of the *Local Government Act*, which applies to all enactments relating to municipal and regional district matters, to mean the council or regional board. Thus such exemptions would have to be approved by council or regional board resolution unless the council or board, by bylaw, delegates this power to building officials or other staff. Such a delegation could be effected in the section of the building bylaw that empowers building officials to review plans and issue permits. Local governments should consider establishing simple application procedures for such exemptions. Whether this power is exercised directly by the council or regional board or by its delegate, each exemption granted should be issued in writing to the building permit applicant, with a copy permanently attached to the building permit file.

Bill Buholzer