



July 18, 2011

Hon. Christian Paradis
Minister of Industry
C.D. Howe Building
235 Queen Street
Ottawa, Ontario K1A 0H5

Via Email: minister.industry@ic.gc.ca

Dear Minister;

Re: April 11/2011 Decision of Canadian Commission on Building & Fire Codes on Code Change Request for National Building Code 9.8.8.6: Climability of Guards

I am writing to you in your capacity as minister responsible for the National Research Council and the National Building Code to express our industry's deep concern with the Canadian Commission on Building and Fire Codes' vote not to approve the National Building Code provision referred to above.

Normally our industry is satisfied with the way the CCBFC and the NRC staff who support its work discharge their responsibilities. We have - to date - been content to work out our concerns within the framework established for changing Canada's National Building Code. In fact we have never had to bring our concerns to the attention of the minister responsible. However, we believe the impact of the CCBFC's April 11, 2011 decision and the process by which it was made are so faulty that they should be changed. And given the lack of any formal appeal mechanism we are making our request to you as the minister responsible.

SARA is asking that you exercise your authority to overturn the April 11, 2011 vote of the CCBFC on the climbability of guards; direct that our Code Change Request be granted; and ask the NRC to make changes to the process they use to guarantee such a situation does not occur again.

Stair and Railing Association of Canada (SARA)

SARA is a national non-profit association consisting of stair manufacturers, builders, installers, engineers and other related professionals. Our purpose is to ensure the highest standards and guidelines are in place for the stair and railing industry in Canada. One of the ways we accomplish this goal is by monitoring the National Building Code, suggesting changes to the Code reflect new technology and the latest evidence on safety standards and ensuring our members are not unduly disadvantaged by the Code or its application. SARA has 30 members across Canada ranging from sole proprietors to large firms. In Quebec alone there are approximately 414 companies involved in our industry employing over 2,500 people. Professionals such as architects and interior designers (280 firms in Quebec), whose designs create work for our industry,

are also hampered by the actions of the CCBFC. Canada-wide our industry directly employs over 16,456 people in over 2,600 companies, generating millions of dollars in economic activity.

In your riding there are at least 6 companies that depend on our industry for their livelihood including:

- Atelier Mario Rivard Inc
- Groupe Lapointe Aluminium
- Fer Ornamental C R Pouliot Inc

SARA's Code Change Request

We initiated a Building Code Change Request on the climbability of stairs in April of 2008. It has enjoyed broad support: the CCBFC's own task groups, both standing committees and PTPACC all supported it, and the change received overwhelming support during the public review. The Canadian Federation of Independent Business described the need for the change to the climbability provisions as follows:

“Stair builders, railing manufacturers, designers, ironworkers, blacksmiths, distributors, retailers and their employees have lost millions of dollars of business, jobs have been lost and governments have foregone millions in tax revenues. As an example of the magnitude of the problem, when the Canadian Federation of Independent Business examined this issue in 2000 it estimated that during the 5 years that had elapsed since the 1995 Code change, “climbability” had cost members in the ornamental metal industry 20 – 30% of their business.”

And this comment was made on behalf of the provincial committee responsible for recommending modifications to upgrade the building code to suit provincial needs in Quebec:

“Since the vertical elements give a fake sense of security we recommend to permit climbable guards with no regard on occupancy. There is no accident caused by climbable guards reported. Montreal City is the paradise of climbable guards and there is no accident reported related to ornamental guard element.”

After many delays the Code Change Request was finally brought to the CCBFC on April 11, 2011 and it was narrowly voted down. It was voted down in spite of a report by KPMG, commissioned by the CCBFC, that supported this Code Change Request. It was voted down in spite of close to 900 members of our industry who signed petitions to support this Code Change Request.

Rather than repeat all of our concerns in the body of this letter I have attached a copy of SARA's letter to CCBFC Chair Chris Fillingham.

In addition to the concerns expressed in the attached letter, it is our opinion that the CCBFC may have exceeded its mandate in Code development with respect to our industry in this particular case. The guidelines for the Code development process specifically state that it is impractical for the **National Building Code to deal with specific products or with situations that arise only rarely; Code changes should be limited to generic or widespread issues**. Extensive research has shown that the rate of accidents due to falls from guards is so small as to be statistically insignificant. In addition, the guidelines for the Code state that any clause in the Code must be clearly stated to allow for clear evaluation by inspectors. Building inspectors, industry members, homeowners and NRC staff have all acknowledged that the Code provisions related to falls from guards is difficult to understand. This has resulted in the uneven application of the Code across Canada, favoring one jurisdiction over another, which was one of the reasons for our Code Change Request.

The CCBFC may have exceeded its mandate by misinterpreting the definition of a “guard” and its purpose. The Code in Sections 3 and 9 sets design guidelines for the “**Design of Guards to Not Facilitate Climbing**”. The NRC-IRC definition of a guard, however, is that a “guard means a protective barrier around openings in floors or at the open sides of stairs, landings, balconies, galleries, raised or other locations to prevent *accidental falls* (our emphasis) from one level to another. Such barriers may or may not have openings through it.” Thus a “guard” is to prevent “accidental” falling, not intentional acts like climbing. Our assertion that this section of Code exceeds the mandate of the Code is further supported when considering Code objectives. The risks of injury due to hazards addressed in this Code (as outlined in OS3 Safety in Use) are those caused by:

OS3.1 – tripping, slipping, falling, contact, drowning, or collision.

There is no objective defined in the Code to prevent or “not facilitate” climbing.

We respectfully ask that you, as the minister responsible for the NRC and a representative of a national government that supports small business, to direct the CCBFC to overturn its April 11, 2011 vote, approve the CCR and make changes to the process to guarantee such a situation does not occur again.

If you would like additional information I would be pleased to provide it or meet with your staff to explain our concerns. Given the number of jobs, tax revenues and economic activity that are at risk while the Building Code remains unchanged, I look forward to your response at your earliest convenience.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Rob Cabral', is written on a light-colored rectangular background.

Rob Cabral, President

cc: CCBFC Chair Chris Fillingham