



MEMO

October 26, 2010

TO: Council & Boards
FROM: Councillor Barbara Steele, UBCM President
RE: **OPPORTUNITY TO COMMENT ON PROPOSED CHANGES TO THE
ULTIMATE LIMITATION PERIOD**

The Ministry of Attorney General has issued a White Paper on *Limitation Act* Reform which is accessible online at:

www.ag.gov.bc.ca/legislation/index.htm

The White Paper is inviting comment on proposed reforms to the *Limitation Act*. The Paper responds to the policy topics raised in public consultations held in 2007 (Green Paper on Reforming BC's Limitation Act) and provides a forum for further discussion on the proposed reforms. In addition to the White Paper, there is a consultation draft of a proposed Limitation Act.

The *Limitation Act* sets out the time periods people have to start a proceeding to sue one another in the civil justice system. While many other laws set limitation periods, the Limitation Act sets the default regime. Unless another law sets the applicable limitation period, the Limitation Act applies.

As members know this is an issue of long standing concern for local governments. UBCM has been advocating the reduction of the ultimate limitation period from 30 years to 10 years. Members have consistently endorsed resolutions that have sought this reduction (see attachment). This position is consistent with:

- 1990 BC Law Reform Commission paper on the ultimate limitation period;
- 2002 BC Law Institute paper on the same topic; and
- many other developments in Canada.

Some of the key changes recommended in this White Paper of specific interest to local governments include:

- moving to a single ultimate limitation period of either 10 or 15 years; and
- moving to a single two-year basic limitation period for all civil claims.

UBCM is in the process of preparing a response to the White Paper jointly with MIA BC, but would encourage members to respond individually in support of the proposed direction within the White Paper.

Comments can be mailed, faxed or emailed to:

Civil Policy and Legislation Office
Justice Services Branch
Ministry of Attorney General
PO Box 9222 Stn Prov Govt
Victoria, B.C. V8W 9J1

Facsimile: 250 387-4525

Email: CPLO_Limitation@gov.bc.ca

**Consultations will be open until
November 15, 2010.**

Please copy UBCM on your submissions.

I urge you to take advantage of this opportunity to affect a significant aspect of local government liability exposure.

CURRENT ENDORSED UBCM POLICY ON THIS MATTER

2009 - B56 *LIMITATION ON MUNICIPAL LIABILITY REGARDING BUILDING PERMITS & INSPECTIONS*

WHEREAS all local governments, with the exception of the City of Vancouver, face considerable liability risk and are being financially penalized as a result of legislation which does not provide immunity for building permit and inspection processes;

AND WHEREAS it is unacceptable that all local governments in British Columbia are not afforded the same liability protection through provincial legislation:

THEREFORE BE IT RESOLVED that the Union of BC Municipalities recommend to the provincial government that the Local Government Act be amended to abolish the system of joint and several liability and replace it with proportionate liability, under which defendants are responsible only to the degree to which they contributed to the loss and that the Province reduce the limitation period from 30 years to 10 years.

2007 – B1 *ULTIMATE LIMITATION PERIOD*

WHEREAS the Ministry of Attorney General is undertaking a review of limitation periods;

AND WHEREAS the UBCM Convention and two law reform commissions have recommended a reduction in the ultimate limitation period:

THEREFORE BE IT RESOLVED that the Union of BC Municipalities support a reduction in the ultimate limitation period from 30 years to 10 years

2006 – A1 *LIABILITY LIMITATION PERIODS AND MANDATORY INSURANCE*

WHEREAS joint and several liability can have a devastating financial impact on local governments;

AND WHEREAS local governments have no way of mitigating their chances of a joint and several liability occurrence happening:

THEREFORE BE IT RESOLVED that the Union of BC Municipalities petition the provincial government to reduce the ultimate limitation period from 30 years to 10 years;

AND BE IT FURTHER RESOLVED that the provincial government require all participants in the building system to have insurance.