

# Update on Glass Balcony Guards: New Requirements Under the Ontario Building Code

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In the summer of 2011 there were a number of instances of “glass panel failure” at Toronto condominium sites in both Regent Park and the Financial District. In these cases, glass from balcony panels shattered onto the street below, causing immediate safety concerns for occupants, pedestrians and persons using the commercial/ retail podium terraces below. These were the most highly publicized of 30 such incidents in 2010 and 2011 involving 11 high rise buildings in Toronto.

In response to this rash of panel failures, the City of Toronto retained an independent engineer to review the issue and to meet with representatives of the developers of the buildings where the failures had occurred. The result of this investigation, set out in a City Staff report dated 3 November 2011, was a determination that improvements were required in the following areas:

- design of the balcony guards incorporating glass; and
- Ontario Building Code performance load and material standards for glass panels.

The staff recommendations in that report, adopted by the City’s Planning and Growth Management Committee at its meeting of November 29 and 30, 2011, were that the City:

- review levels of service undertaken in the issuance of building permits and inspections for glass balcony guards, and
- recommend that emergency amendments be made to the National and Ontario Building Codes.

It is unclear what staff mean by reviewing existing levels of service. City staff conceded to the writer that there is little more they can do provided the balcony design meets the requirement of the Ontario Building Code (the “Code”).

As a result of this limitation on their power to act, the City requested that the Province take action by amending the Code. The Province then established the Expert Panel on Glass Panels in Balcony Guards (the “Panel”). The Panel, which was comprised of 25 representatives from industry stakeholders, reported back to the Ministry of Municipal Affairs and Housing last month with a number of recommendations, including “that the [Code] be amended to provide supplementary prescriptive requirements for all glazing in interior and exterior guards in all buildings, except houses”.

The Province has acted on the Panel’s report by implementing amendments to the Code effective 1 July 2012 to require the use of:

- heat-strengthened laminated glass (which is less prone to shatter) when glass is close to the edge of a balcony; and
- heat-strengthened laminated glass or heat-soaked tempered glass where glass balcony guards are inset from the edge of the balcony.

Such glass is more expensive than the tempered or laminated glass previously required under the Code. Accordingly, it will now cost more for developers to fashion the clean modernist look that increasingly characterizes high rise condominium buildings. This is a cost that will likely be passed on to the consumer seeking out this aesthetic. At the same time, it will mean that the purchaser will have less to worry about while using that balcony.

It is important to note that these new requirements are considered by the Province to be temporary, “an interim solution...while the Canadian Standards Association develops a national standards for glass panels in balcony guards”.

Of further note, compliance with these requirements is on a go-forward basis from 1 July 2012. Existing buildings are not required to retrofit to the new Code requirements, although developers who are retrofitting buildings experiencing this problem will need to pay heed to these new standards to avoid potential litigation.