

## 2012

**September 11th**

Energy Codes

**October 2nd**

Point Supported Glazing

**November 8th**

ATLAS Plant Tour

**December 4th**

Lansdowne Park Redevelopment

## 2013

**January 8th**

Re-roofing Garden Roofs

**February 5th**

Green Buildings

**March 4th**

No Frills Trade Show

**April 2nd**

Specifying Hardware

**May 7th**

Glass Technologies & AGM

**August 15th**

Annual Golf Tournament

CSC (Construction Specifications Canada) is a non-profit association committed to the ongoing development and delivery of quality education programs, publications and services for the betterment of the construction community.

## DINNER MEETING NOTICE

**date:** Tuesday, January 08, 2013.

**topic:** **REALITIES OF REPLACING GARDEN ROOFS**  
This presentation qualifies for self-directed OAA credits. (see more details inside)

**speaker:** Joel Dandelé, President, Dantech Building Technologies

**location:** Toronto Skating Curling and Cricket Club  
141 Wilson Ave., Toronto  
(1 block east of Avenue Rd.)

**time:** 17:15 Cocktails  
18:00 Dinner  
19:00 Presentation

**cost:** \$40 + HST members, \$50 + HST non-members  
\$55 + HST at the door, \$200 + HST Booklet of 6 dinner tickets (members only)

**reserve:** Please make your reservation with Donna Fournier of the CSC Toronto Chapter Office at 1-888-494-9350.

**info:** Chris Hunter, Firestone Building Products Canada  
Phone 416-930-8766

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# Chair's Message: Happy New Year!

By: Russ Snow



Russ Snow (Chair)

**“Whether we want them or not, the New Year will bring new challenges; whether we seize them or not, the New Year will bring new opportunities.”**  
- Michael Josephson

## Happy New Year !!

Well here we are, the beginning of 2013. I would like to wish everyone all the best for the upcoming year and years to come. I hope everyone had a great holiday season, had some time to relax, spend time with family, and most probably gained a few pounds. I'm sure a lot of us are recovering from the turkey hangover.

This calendar year is going to be exciting within our Chapter as we have a lot planned. We have some great topics for the dinner meetings to carry us through the season. I urge you to check the schedule and we look forward to seeing you attend. As I am sure you know, we do not have a dinner meeting in March as we have our No Frills Trade Show...35 years this year! This is always a fantastic event for all in attendance and I must say that I find this show to be among the top of the shows that I participate in. A one day show which includes networking with the best people from our industry, what more could we want?

For the 5th year now, we have our Annual Curling Bonspiel scheduled for February 28th. If you haven't yet registered, I would urge you to do so as space is limited, and we always sell out. What a great time this event is, even for us individuals that feel the only good thing about ice is that it keeps your drinks cold! Coming up in April, is our Fun Night....again being hosted at Woodbine Racetrack. Dinner, horse racing, and if you are so inclined, dropping a few quarters into some slot machines along with a great night with friends make this event so great that it is also sold out year after year.

Plus, I know it's a long way off and we are in the dead of winter; but for us summer sports fans I must mention the Annual Golf Tournament. Our golf committee has already been hard at work planning this event, which aims to be once again a great time.

Take the opportunity to participate in these wonderful events. Our chapter executives have worked hard putting these together, so please support their efforts and make all of these an ultimate success.

Before I sign off, I just wanted to share a short article titled "The Law of the Garbage Truck" written by D.J. Pollay:

"One day I hopped in a taxi and we took off for the airport. We were driving in the right lane when suddenly a black car jumped out of a parking space right in front of us. My taxi driver slammed on his brakes, skidded, and missed the other car by just inches! The driver of the other car whipped his head around and started yelling at us. My taxi driver just smiled and waved at the guy. And I mean, he was really friendly.

So I asked, 'Why did you just do that? This guy almost ruined your car and sent us to the hospital!' This is when my taxi driver taught me what I now call, 'The Law of the Garbage Truck.' He explained that many people are like garbage trucks. They run around full of garbage, full of frustration, full of anger, and full of disappointment. As their garbage piles up, they need a place to dump it and sometimes they'll dump it on you. Don't take it personally. Just smile, wave, wish them well, and move on. Don't take their garbage and spread it to other people at work, at home, or on the streets.

The bottom line is that successful people do not let garbage trucks take over their day. Life's too short to wake up in the morning with regrets, so...Love the people who treat you right. Pray for the ones who don't. Life is ten percent what you make it and ninety percent how you take it."

A challenge or an opportunity?

RUSSELL SNOW  
STACEY BOGDANOW  
MIKE MOONEY

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## Past Chair's Message

By: Steve Gusterson



Steve Gusterson (Past Chair)

**In keeping with CSC's official branding of Communicate, Educate and Collaborate, every two years in recent history the Toronto Chapter has collaborated with the Ontario Glass & Metal Association with a joint dinner meeting. The subject and speaker is**

**arranged by the OGMA with the venue being provided by the Toronto Chapter.**

I'm pleased to announce the Toronto Chapter of CSC and the Ontario Glass & Metal Association have entered into a Memo of Understanding that will ensure this cooperation will continue for the next five years.

When organizations/associations are run primarily by volunteers, there is always the possibility that successful initiatives become lost due to changes within the structure of the organization; volunteers move on, good ideas are forgotten.

Having a quasi-official memorandum of understanding with organizations/associations that mutually benefit each other provides documentation that remains to remind those in succession of the commitments that were made by previous administrators.

So for the next five years, the Toronto Chapter of CSC and the Ontario Glass & Metal Association have agreed to:

- Promote the associations' events and initiatives through e-mail broadcasts, website bulletins and other means of media promotion as available to the associations.



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- Promote events provided the timing or subject matter of the event is not in conflict with the other association.

- It is understood that the association requesting the event or initiative promotion must contact the other in writing and provide all promotional content necessary.

- Every two years (in odd numbered years), the associations will hold a joint dinner meeting as part of CSC's

regular dinner meeting schedule. The speaker(s) will be arranged by the OGMA at least 4 months in advance of the dinner meeting and an OGMA representative will liaise with CSC Program Committee Officer's or others as assigned.

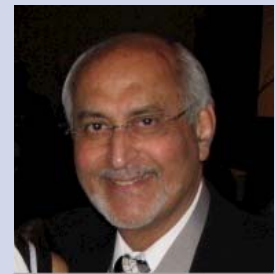
- The associations will promote the mutual awareness and co-operation of the associations when appropriate.
- The Chair (CSC) and President (OGMA) will promptly contact their counterpart and advise of any pending changes to the necessary authorities in order to maintain uninterrupted contact within the associations

Okay, now I've got to ask...who remembers Fluffy the Maine Coon?

## CSC Toronto Annual Fun Night

By: Dinshaw Kanga

Please mark your calendars to once again enjoy the popular CSC Toronto Chapter Annual Fun Night at the Woodbine Racetrack scheduled for Thursday April 25, 2013. This event usually takes place in the Post Parade dining room, which offers a panoramic view of the race track. Be on the lookout for further information which will be published in future Specifiers in the form of a flyer and registration form.



Dinshaw Kanga  
(Membership Officer)

# Dinner Meeting

January 8, 2013

## The Realities of Re-Roofing a Vegetative Roof

*This Presentation qualifies for self-directed OAA Credits*

Rooftop gardens, more specifically, vegetative roofs are popular for many reasons. They are aesthetically pleasing for those who have the opportunity to look down on them or access them throughout any given day. But, when it comes time to renew the waterproofing and roofing systems below these rooftop oasis the realities of site logistics, time and cost associated with the removing the green component of these roofs as well as many other logistical issues become very apparent. Let's walk through what is believed to be the Toronto's largest vegetative reroofing project to date and review the true cost of dealing with an intensive rooftop garden.

### SPEAKER: Joel Dandelé (President Dantech Building Technologies)

Joel Dandelé is President of Dantech Building Technologies Inc. based in Markham, Ontario.

Joel has over 35 years of hands-on experience solving roofing and waterproofing problems. Throughout his roofing career, Joel has been responsible for managing roofing for industrial / commercial / institutional accounts and corporate accounts across Canada. Joel's education in roofing and waterproofing has been developed through his past contracting, technical sales and consulting experience in the ICI roofing market place. Joel is currently President of RCI Inc. - Ontario and is a Director of OIRCA.



Chris Hunter  
(Program Committee Officer)



Bruce Hudson  
(Program Committee Officer)

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## WELCOME NEW MEMBERS

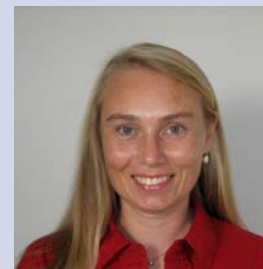
Please join me in welcoming the following new members to the CSC Toronto Chapter

**Ms. Gina Ginocchio**  
Kasian Architecture Ontario Inc.

We wish to WELCOME our previous members rejoining CSC Toronto Chapter:

**Ms. Laurie Wells**  
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Stacey Bogdanow  
(Membership Officer)





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## 2012-2013 Dinner Meeting Sponsors

Date	Sponsors			
September 2012	Exterior Technologies Group (ETG)	CORE Construction	Event Past Date	Event Past Date
October 2012	Thames Valley Brick & Tile	3M Canada	Exterior Technologies Group (ETG)	Alumicor
December 2012	LM Temperature Controls Inc.	3M Canada	Flextile Ltd.	Event Past Date
January 2013	Exterior Technologies Group (ETG)	Chicago Metallic	ZinCo Canada Inc.	Owens Corning
February 2013	W.R. Meadows	Available Opportunity	Available Opportunity	Available Opportunity
April 2013	Hanson Brick	Available Opportunity	Available Opportunity	Available Opportunity
May 2013	Available Opportunity	Available Opportunity	Available Opportunity	Available Opportunity

## 2012-2013 Door Prize Sponsors

Date	Sponsors			
September 2012	Chicago Metallic	Reed Construction Data	Event Past Date	Event Past Date
October 2012	Chicago Metallic	Reed Construction Data	Thames Valley Brick & Tile	Event Past Date
December 2012	Chicago Metallic	Reed Construction Data	3M Canada	Flextile Ltd
January 2013	Chicago Metallic	Reed Construction Data	Available Opportunity	Available Opportunity
February 2013	Chicago Metallic	Reed Construction Data	Available Opportunity	Available Opportunity
April 2013	Chicago Metallic	Reed Construction Data	Available Opportunity	Available Opportunity
May 2013	Chicago Metallic	Reed Construction Data	Available Opportunity	Available Opportunity

### Dinner Meeting Sponsorships Available!

Become a dinner meeting sponsor for only **\$195**, which includes a table-top display prior to dinner, one free dinner ticket and a one page marketing insert included in that month's Specifier. Contact **Wayne Austin** by email at [wayne.austin@norr.com](mailto:wayne.austin@norr.com) to arrange your sponsorship.

As always, we would like to thank all of our dinner and door prize sponsors for their continued support.

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# Who Keeps Moving My Cheese?

By: Paul Johannesson



Paul Johannesson  
(Engineering Officer)

**You may remember the 1998 #1 Best Seller Book by Spencer Johnson, M.D. – entitled “Who Moved My Cheese?” It is a parable that illustrates the profound truth about change.**

Through a story about four characters that live in a

“Maze” and search for “Cheese” to satisfy themselves, lessons about the willingness to change and reinvent how one performs in a given situation are revealed. The title of the book has become synonymous with change and applicable to many situations and industries.

The industry that I’d like to discuss is the construction industry; more specifically the ever changing Canadian National Codes and Standards. And the question I’d like to answer is “Who Keeps Moving My Cheese?”

The National Research Council of Canada (NRC) publishes six National Model Construction Codes which are to be adopted by a regulatory authority in order to come into effect. Often they are adapted and amended and republished as Provincial Codes. The six Codes are as follows:

1. The National Building Code of Canada
2. The National Fire Code of Canada
3. The National Plumbing Code of Canada
4. The National Energy Code of Canada for Buildings
5. The National Farm Building Code of Canada
6. The Model National Energy Code of Canada for Houses

The first code in Canada was the National Building Code published in 1941 and since then it has seen numerous changes, revisions, upgrades and divisions and has evolved into the complex system we know today.

These processes of change are now well documented and include input from many levels of government and public bodies. The Canadian Commission on Building Codes and Fire Codes is a body established by the NRC to facilitate the decision making process in developing the National Codes. Numerous “Standing Committees” have been established to develop codes through a committee-based process under their review.

Each stakeholder and contributor has a well-defined role within the process and work together to develop code revisions and updates.

The process of code revisions includes: submission of change, development of a work plan, review of implications and classification, pre-public review by provinces, public review, post-public review, approval and language translation.

National Building Codes are developed and maintained using what is known as a “Broad-Based Consensus Process”. It is a system that has been setup to deal with the inevitable concept of change while providing transparency. We all need to get used to the idea of change and the impact it brings on our industry and embrace the process so that we too can be contributors to building a better tomorrow. So to answer my earlier question of, “Who Keeps Moving My Cheese?” I think it is obvious that it is built into the system and is not going to slow down anytime soon. Are you ready for the next round of Code changes?

This article is a summary of a document published by the National Research Council of Canada. The full article is available online at [http://www.nationalcodes.nrc.gc.ca/eng/code\\_development.shtml](http://www.nationalcodes.nrc.gc.ca/eng/code_development.shtml)



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## Productivity Bits: Prezi or The Death of PowerPoint?

By: Juste Fanou

As some of you may know, I'm a specification writer by day and a student at McMaster University by night (quite literally). One of the advantages of being in school (apart from the vibrant social life, the drinking, the partying etc.) is that once in a while you actually get to learn something useful. Upon reading Russ Snow's article last month titled "Death by PowerPoint", I was immediately compelled to write a follow-up about an application that I've discovered in one of my courses and that I consider to be PowerPoint's most serious rival at the moment.

The name is Prezi (<http://prezi.com>). Prezi is an online-based presentation tool that allows multiple users to collaborate on projects through the use of "cloud" technology. One of Prezi's characteristic features is the organic way in which it allows users to structure their presentations. Through the use of a "Zooming User Interface", Prezi allows you to place contents on slides in ways that you could have only dreamt of in PowerPoint. By using Prezi, you could potentially open a door of possibilities that you may never be able to shut.

I've personally given a few Prezi-based presentations and I can assure you that the feedback from the audience has always been positive. It is important to note that Prezi comes with a small learning curve and might take some time to get used to (typical of any new software). And while it may not suit every single type of presentation that you intend to give, it's definitely worth checking out.



## Getting to know John Kataila! 5 Questions for a new CSC Toronto Member

By: Stacey Bogdanow

### 1. Tell us a little about John Kataila.

I studied Architectural Science at Ryerson, and specialized in Building Science during the final two years. I graduated in 1983. I worked for several major Engineering firms in Toronto area (Trow, Halsall, IRC, and Davroc) as a building science specialist. I then started my own firm in 2008. PBS Inc (Professional Building Science Inc) specializes in leak investigation, but we also do all types of building science work on every part of the building envelope – roofs, walls, windows, sub-grade waterproofing, etc. We do investigations, prepare specifications, tender the work, prepare the contract documents, and manage projects throughout the construction phase.

### 2. How did you learn of CSC?

I have always been aware of CSC, but only became a member recently.

### 3. Why join CSC?

I write specifications and contract documents. CSC is an organization that maintains high standards in these subject areas.

### 4. Do you plan on taking any courses?

Yes, of course!

### 5. Would you encourage others to become members of the CSC – Toronto Chapter?

Yes. I will definitely encourage anyone who writes specifications or contract documents to become a member.



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# Professional Development Officer Report

By: Paul Wong



Paul Wong  
(Professional Development Officer)

CSC is preparing registration for our winter courses. This term, CSC is offering in-class courses for the Construction Contract Administration and the Technical Representative courses. These courses will be presented provided they have full enrollment. For now the dates and locations listed below have been confirmed.

## Principles of Construction Documentation

Term: Winter 2013

Delivery Method: Online

The Principles of Construction Documentation (PCD) course is a prerequisite to all CSC intermediate-level courses. Successful completion of the PCD course is mandatory to achieve the Certified Technical Representative (CTR), Construction Contract Administrator (CCA) and Certified Specification Practitioner (CSP) designations, and can be credited towards the specification writing experience required to obtain the Registered Specification Writer (RSW) designation.

## Construction Contract Administration

Term: Winter 2013 (14 weeks - start: 2013/02/04; end: 2013/05/27)

Delivery Method: In-Class

Location: Toronto Public Library, located at 40 Orchard View Blvd.

The Construction Contract Administration (CCA) course is designed for those individuals involved in construction administration. This includes contract administrators, property managers, architects, engineers, interior designers, specification writers, building authorities, and bonding and insurance agencies. In order to register for this course, the student will need to have successfully completed the Principles of Construction Documentation course.

## Technical Representative

Term: Winter 2013 (14 weeks - start: 2013/02/04; end: 2013/05/27)

Delivery Method: In-Class and Online

Location (In-class): 120 Carlton Street, Toronto.

The Technical Representative (TR) course will provide a better understanding of contract documents and bidding procedures, product representation, professionalism and ethics, and will provide a new depth of understanding and explanation of concepts beyond those previously introduced in the PCD course. The course is designed for individuals involved in the supply section of the construction industry, such as manufacturer representatives, agents or distributors of products.

## Specifier 1

Term: Winter 2013 (14 weeks - start: 2013/02/04; end: 2013/05/27)

Delivery Method: In-Class and Online

Location (In-class): 120 Carlton Street, Toronto.

Specifier 1 is an intermediate level course that will take the individual beyond the concepts previously introduced in the Principles of Construction Documentation (PCD) course. Although some of the same topics are included in this course, the depth of comprehension and explanation exceed that of the PCD course. The Specifier 1 course is a prerequisite for the Certified Specification Practitioner (CSP) designation from CSC. Successful completion of the course may be credited toward the experience component requirements for the Registered Specification Writer (RSW) designation.

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## Professional Development Officer Report (Cont.)

By: Paul Wong

### Specifier 2

Term: Winter 2013 (14 weeks - start: 2013/02/04; end: 2013/05/27)

Delivery Method: In-Class and Online

Location (In-class): 120 Carlton Street, Toronto.

The Specifier 2 course is an intermediate-level course that will take the individual beyond the concepts previously introduced in the PCD course. This course provides an in-depth look at the project manual, its parts and usage, and addresses some of the latest information and trends in construction today.

The course is designed for those wanting to know more about the preparation and processes needed to produce quality documents.

### Additional Information

Please note that the **Construction Contract Administration** and **Specifier 2** courses will be offered at The Delta Chelsea Hotel in Toronto (33 Gerrard Street West) in March 2013 in a 5 full-day course workshop format.

For more detailed information about any of these courses, please contact the CSC Association office or Paul Wong (pwong.csc@gmail.com). For additional information specific to the online courses, please visit <http://toronto.csc-dcc.ca/Education/CSC+On-Line+Courses/>.

### Registration Information

Please visit <http://toronto.csc-dcc.ca/Education/Education+in+Toronto> for more information or to register. Register early to avoid disappointment. Please remember that registration and payment must be received prior to the issuance of a textbook. All cancellations must be in writing. All cancellations are subject to a cancellation fee of \$40.00. Cancellations one week prior to the start of the course will be refunded up to 50% of the registration fee. Cancellations after the start of the course will not be refunded.

## Letter To The Editor

Dear Editor:

Further to the email blasts regarding the use of MasterFormat I recently came across a situation which involved my firm. Recently my firm was forced on a project to use MasterFormat 1995 (MF95) thus proving some Consultants are resisting progress on how Specifications are organized. During this experience we were informed there were still many Consultants demanding their Subconsultants use MF95 even though MasterFormat 2004 (MF04) has been in existence for several years.

A refresher for those not familiar with MasterFormat; MF95 used a 16 Division format with a 5 digit numbering system for each Section of the Specifications. MF04 and subsequent updates uses a 49 Division format with minimum 6 digit numbering system. Construction Specifications Institute (CSI) and Construction Specifications Canada (CSC) have formally announced they no longer support the use of MF95.

After informing the CSC association executive of our experience, it was revealed that geographically southern Ontario appears to have the largest contingent of Specifications being written in MF95 format. This is unbelievable since CSC's headquarters is in Toronto. We even received an email from an association/chapter executive member stating they still use MF95 with the excuse they have been too busy to switch to MF04. Quite frankly this is an unacceptable excuse as they have had more than enough time to switch since MF04 was introduced.

As an association it is our responsibility to use and promote the usage of MF04, furthermore it is incumbent that our association's executive use MF04 and subsequent updates. In light of this and in the interest of accelerating the use of MF04 throughout our industry, I offer the following challenge: If anyone on the CSC (association or chapter levels) executive are still writing Specifications using MF95, it is their responsibility to switch to MF04 before CSC Conference 2013 or resign their position on CSC until such time they have made the switch.

MF04 and subsequent updates are here to stay, so let's embrace it!

**Sender:** Matthew E. Roberts, Associate|Director of Specifications, B+H Architects.





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## Legal Corner: How To Get Quality Completion on Time...


By: Bill Preston

**In Western Canada's construction demand market (owners want more done faster than contractors can supply), this has certainly become a dominant challenge. In Alberta and Saskatchewan, as measured by dollar value, the industry is expected to annually fast track nearly twice the value of projects with ten percent fewer experienced site supervisors and foremen than was the case ten years ago!**

What incentives can/should an owner choose to be sure that their project is not dragged out beyond the expected/required completion date? Traditionally, owners have relied upon contractual penalty clauses. Indeed, the City of Saskatoon incorporated the below penalty clause together with a performance holdback clause into its design-build contract for the Saskatoon South Bridge project, which is now forecasted to be ten months delayed, namely:

*"If the Contractor fails to achieve Traffic Availability on or before the ... Target Date, then ... the City shall have the right to set-off ... amounts owing to the Contractor ... of (\$10,000.00) per day as liquidated damages for late Traffic Availability for each calendar day between April 1st and October 31st inclusive annually or part thereof between the Traffic Availability Target Date and Traffic Availability."*

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*"If ... the Contractor has not achieved Construction Completion ... the City may hold back an amount equal to two (2) times the cost, estimated by the City acting reasonably, of achieving Construction Completion."*

As the Lac La Ronge Indian Band harshly learned and as Saskatoon's Mayor now appears to recognize by his public statements, "We'll negotiate," penalty clauses supported by a performance holdback clause are no longer a perfect incentive in our construction industry. In the Lac La Ronge v. Dallas Contracting Ltd. Case, the Band announced that it critically required completion of a new sewage lagoon before winter conditions and thus, it included in its Bid Documents a penalty clause to motivate Dallas' completion by November the 12th, 1996, but by November 12th, Dallas was nowhere near completion and its Work which had been performed have serious defects! What was the Board to do given the unpaid balance of Dallas' Contract Price was at least \$250,000.00 short of the Band's anticipated costs to terminate Dallas and hire a substitute to finish the project next spring? The Band chose to terminate Dallas and look to Dallas' performance surety to pay both its delay costs as well as the replacement contractor's completion costs. What the Band actually experienced was:

- For eight years, it had to finance all of the resultant costs while the case made its way through the Saskatchewan court system;
- In Court, Dallas defended by arguing that the Band's consultant had caused the delay, not Dallas; and
- In Court, the surety argued both that Dallas was wrongfully terminated and, in any event, the performance bond excluded responsible for the Band's delay costs.

### Steve Gusterson, CTR

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## Legal Corner: How To Get Quality Completion on Time... (Cont.)

By: Bill Preston

Also, the Band experienced that, during the eight-year court process journey, Dallas had become insolvent with insufficient assets to cover any of its responsibilities to either the Band or to the surety. At the end of this legal journey, the Band found:

1. Penalty clauses are not a perfect incentive for timely completion;
2. The law gives contractors many arguments (e.g.: not my fault; owner failed requisite notices; daily penalty amount is unreasonable) to weasel around penalty clauses; and
3. The Dispute Resolution Clauses (in this case, the court system) gives the contractor lots of opportunity to become judgment proof while most performance bonds are written so that the owner's delay claim is inferior to the surety's claim against the owner for all of the unpaid contract price performed by the defaulting contractor.

What else has been tried to assure that the contractor timely completes your project, and what has been my experience with these alternatives?

### 1. A SITE LEASE/LICENSE FEE

For an earlier project, the City of Saskatoon included a contractual clause which required that the contractor pay a daily site rental for access to the construction site to perform work after the completion date, and the contract also linked this provision to a clause permitting the City to set off these rentals against the unpaid Contract Price. Did this incentive work? No.

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Again, this was a civil works project where the schedule was actually 150% of the initial project completion forecast. Now, the City of Saskatoon did not go to Court; rather, it negotiated. Thus, I was not able to find any court decisions which decided whether this form of a penalty clause would checkmate a contractor's complaint that the City had caused the delay and thus, the rental was not payable. My research is that at the bottom line, I doubt that this attempt by the City of Saskatoon would have checkmated all of the difficulties which the Lac La Ronge Band had experienced.

### 2. BID DOCUMENTS WHICH ACCOMMODATE SPEC'ING CONTRACTORS' PROJECT LEADERSHIP

This alternative is based on the wisdom that if the project is being performed by a contractor, project manager, and site superintendent/foreman with a reputation for timely performance of quality, experience persuades that this is the owner's best chance of getting what it requires. To use this alternative, what owners have done is they have modified their procurement documents so that:

- If the Project is a Design-Bid-Build, the owner's privilege clause permits it to ignore the lowest bid and award to the bidder whose reputation and named project manager and site superintendent in the supplements of the bid have the most satisfactory history; and
- The Construction Contract also requires that these names proffered by the bidder in its bid form supplements must exclusively work on the Owner's project and they can only be changed by a written change order signed by the owner, thus giving the Owner a timely opportunity to assess and negotiate the scope, price, and completion time.

Yes, the standard of "exclusive commitment" certainly can invite disputes, but most construction contract language requires that these disputes be, in the first instance, resolved by the owner's consultant.

## Legal Corner: How To Get Quality Completion on Time... (Cont.)

By: Bill Preston

So while my experience has been limited, these contractual provisions give the opportunity to, as early as possible, assess and negotiate. On the other hand, of course, if the owner must select the lowest compliant bidder (I'm thinking of Governments), this alternative isn't available.

### 3. BONUS CLAUSE

I've seen a number of bonus clauses (CCDC has a standard option for bonuses), but the alternative which I recently witnessed is found in an Integrated Project Delivery Agreement. The Agreement which I witnessed was incorporated into the Contract language for a new hospital construction project in Saskatchewan with a 20-month construction schedule. I'm still watching to see whether it works. The scheme of this contract is persuaded by the wisdom that too much productivity is lost and thus, construction schedule is wasted, when all of the participants on a project minimize communication, see their role at the project as a silo and bring with them the attitude of: To hell with what happens to the others. Basically, the contract tries to checkmate this silo mentality with the following:

- The owner only pays for completed milestones;
- The value of each milestone does not encourage front-end loading of the project's budget price;
- These milestone payments cover only the verifiable direct costs of the designer, general contractor, and major trades;
- For owner changes in work, the price adjustments will include ripple effect impact costs to the productivity of the designer, contractor, and major trades;
- A 15% bonus/profit fund is payable only upon completion, and the owner has a first claim to deduct all of its budgeted overrun costs and its delay costs;

- And, only then, is the balance of the 15% bonus/profit fund divisible among the designer, general contractor, and major trades according to their originally agreed shares adjusted by the degree to which they're responsible for delays or overrun costs suffered by the owner or others in the pool.

What I noticed is that if the owner's overrun costs and delay costs exhaust the 15% bonus fund, then the designer, general contractor, and major trades make no profit! Also, if there's not enough money in the 15% profit/bonus fund to cover all of the owner's overruns and delay costs, then the owner eats the excess. It's a glorified holdback scheme; but, while it's not been legally dealt with by the courts, my initial opinion is that the owner's claim for overrun costs and delay costs will likely trump the unpaid lien claimants' entitlement to any more than 10% of the direct costs. Also, these clauses seem to be a good incentive for everyone to optimize everyone's productivity and communicate early.



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## Legal Corner: How To Get Quality Completion on Time... (Cont.)

By: Bill Preston

The short-coming with this alternative is that the direct investment in preconstruction negotiations and monitoring/negotiating throughout the performance of the project means that the direct costs must be more than \$45 million. It doesn't work for small projects.

### 4. PERFORMANCE HOLDBACK

Where the project budget is less than \$45 million or where the owner must select the lowest bidder regardless of its reputation for quality on time, I've recommended the below supplementary general condition as a performance holdback term which is intended to assure that all of the participants on the project have substantial skin in the game until completion, and my experience has been that this term does not seem to attract higher pricing, namely:

*"No statutory holdback will be paid until the contractor is substantially performed; while, until the Work is 95% performed, the amount claimed shall be for the value of the Contract Price, proportionate to the percentage of Work performed and Products delivered to the Place of the Work at that date. Thereafter the amount claimed and certified shall be for the amount of the Contract Price less the reasonable costs for a qualified and alternate contractor to complete all the deficient Work and Products not delivered to the Place of the Work at that date."*

### 5. CONCLUSION

1. I'm not a fan of penalty clauses because it's well-known in the construction industry that the contractors can weasel around them.
2. I like the bid documents alternative, particularly where it gives the owner an opportunity to assess the reputation and resources (does the contractor validly use a CPM schedule) for timely completion, but some owners don't have the requisite bid evaluation discretion to use this alternative.

3. I expect that for project budgets greater than \$45 million, the Integrated Project Delivery Agreement will have all the right bells and whistles, but I'm still in the wait-and-see phase.
4. Otherwise, all that's left is a performance holdback term supported by a payment certifier who does not buy in to the wisdom that they can buy harmony on the construction project by certifying the contractor's front-end loaded payment applications.

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## Social Club Update: "Extra Special Dinner & Dance Cruise on the Empress of Canada, summer 2013"

By: Brian L Abbey



Brian L Abbey  
(Architectural Officer)

**Apart from my official role as Architectural Officer, I do chair the Social Sub Committee and with the holidays now behind us, I thought this would be an ideal opportunity to let you all know about the special dinner & dance cruise that we have planned for the summer, as an end of season, member appreciation event.**

The Empress of Canada has been booked for **Thursday, June 6th 2013** exclusively for CSC Toronto Chapter members with one partner or guest. Being a member appreciation event the price has been significantly reduced. We have had to set a limit of 160 persons for the event and it will be on a first come first serve basis to each member and their partner or guest. Non members will be welcome at the normal price but only if space is available after the members have had their chance.

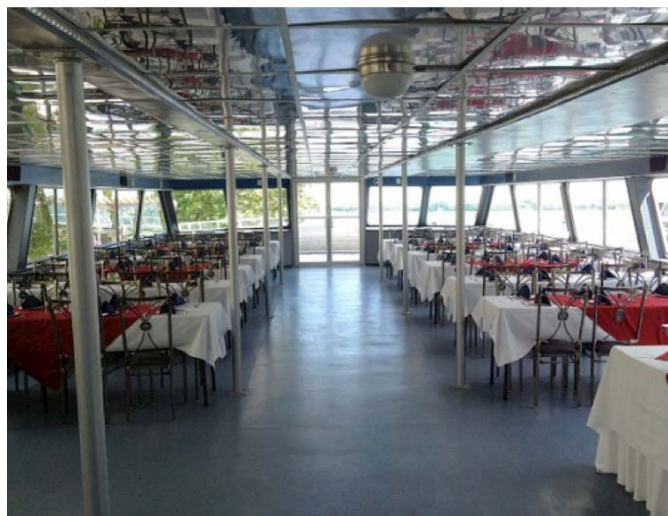
The Empress of Canada is a three deck large ship and the only ship of her size that can navigate The Toronto Islands and Lagoons as well as have the largest third open dance deck that can be enclosed during inclement weather (let's hope not!) Boarding is normally at 11 Polson Street but to encourage members to use public transport we will be boarding in the Heart of Harbour Front at Queen's Quay West at the foot of York Street.

Boarding will commence at **7:00pm**. Cruising will be from **7:30 to 10:30pm**. Disembarking up to **11:00pm**. There will be a Professional DJ on board that will sound on all three levels with dancing on the top level.

The price per person would normally be \$65.00 (non members) for the cruise, dinner and one domestic drink (inclusive of taxes and gratuities) upon arrival on board but as this is a member appreciation event we are offering tickets at only **\$35.00** per person (**\$70.00** for two) up to the deadline date of **Friday, May 31st 2013** and, as a further bonus, we are offering an early bird special of only **\$30.00** per person (**\$60.00** for two) if you sign up and pay in full before **Friday, May 3rd 2013**.

In addition to the cruise, dinner and dancing we will be having draws for door prizes.

As this is sure to be the event of the year, I urge you to sign up as soon as you get the flyer that you should be getting in the coming weeks that will have more details about the complete Itinerary. I look forward to seeing you all on **June 6th 2013**.





## MEETING NOTICE

### LUNCHEON PRESENTATION

### STRUCTURAL THERMAL BREAKS FOR CANOPIES, BALCONIES AND BEAMS

Other Chapters

- when:** Thursday, January 17, 2013
- venue:** Royal Canadian Legion, 828 Legion Road, BURLINGTON, ON.
- time:** **Registration: 11:30 AM**  
Literature/Product Tables\*: Before lunch and after the Presentation.
- Lunch: 12:00 Noon**  
**Presentation: 12:45 PM (Meeting to end by 2 PM)**
- \*A Networking opportunity for manufacturers and suppliers. Literature /product tables are available at \$50.00 each, book with Terry
- cost:** \$25.00 Per Person, payable at the door. Receipts on arrival, ATM on site. (Cheques payable to CSC Hamilton/Niagara Chapter).
- target audience:** Architects, Landscape Architects, Engineers, Specification Writers, Building Code Professionals, Owners, Property Managers, Contractors, Sub-Contractors.
- reserve:** With Terry Johnson FCSC,  
Preferred Email: [tjohnson32@cogeco.ca](mailto:tjohnson32@cogeco.ca)  
Cell: 905 220 5366

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Thank You.



## MEETING NOTICE

### LUNCHEON PRESENTATION

## STRUCTURAL THERMAL BREAKS FOR CANOPIES, BALCONIES AND BEAMS

*Other Chapters*

#### course description:

Balconies and other cantilever construction elements, which project through the building envelope break the insulation layer and create thermal bridges. Maintaining a thermal break along structural elements provides significant benefit to achieving high performance building envelopes. This course discusses solutions to separate the external components from the building envelope, minimizing thermal bridging, and energy loss and moisture issues.

Attendees learn to save significant time and resources through off-the-shelf thermal break innovations. Structural design components for balconies provide a load-bearing insulation element, ensure fatigue-proof construction, and allow freedom of design.

This course presents strategies for creating a high performance building envelope with thermal breaks, which contributes to attaining LEED certification for your projects.

#### Learning Objectives:

- Identify thermal bridge problems such as energy loss and mold growth in design stages.
- Compare advantages vs. disadvantages of thermal break solutions.
- Integrate thermal break technology to use energy sensibly, and create buildings that are comfortable
- Assess how thermal break elements fit into LEED certification
- Site reference projects where thermal break technology has been utilized

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## MEETING NOTICE

### LUNCHEON PRESENTATION

#### STRUCTURAL THERMAL BREAKS

#### FOR CANOPIES, BALCONIES AND BEAMS

Other Chapters

#### seminar presenter:

**Bill Chihata, P.Eng., MBA, CEM, LEED Green Associate**  
**Technical Sales Manager, Thermal Break Technology**  
**Schoeck Canada Inc**

Bill Chihata has over 20 years of field experience in energy management, and building systems within Commercial and Industrial properties. Bill led energy efficiency programs in commercial buildings while working with an electricity provider for eight years. He earned the Certified Energy Manager (CEM) designation from the Association of Energy Engineers (AEE) in North America, and he teaches "Energy Efficiency" courses required by the Building Environmental Systems, Facility Management Program for commercial property managers, at Seneca College.

Bill specializes in preventing thermal bridging with structural thermal break technology. He earned an Engineering degree from Concordia University in Montreal, and MBA from Wilfred Laurier in Waterloo. He is a true believer in pursuing sustainability, a safe environment and energy efficiency, with real world practices.

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- Review and prepare contract change orders and addenda
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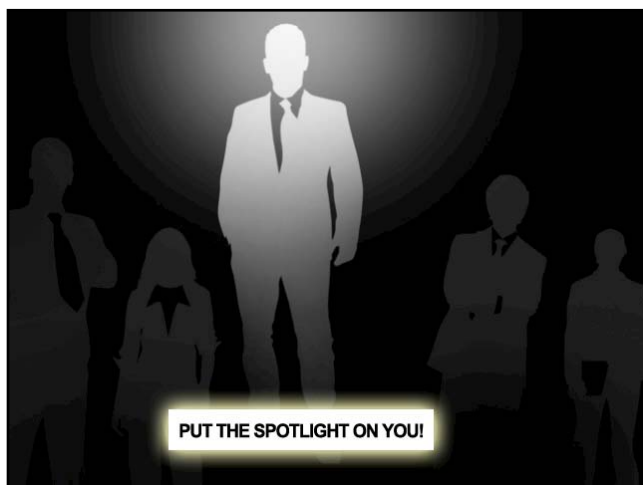
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			<b>CSC Member</b>	<b>Non-Member</b>	
<input type="checkbox"/> 1	<input type="checkbox"/> 2	Aisle Table(s) .....	<input type="checkbox"/> \$750.00 ea.	<input type="checkbox"/> \$1030.00 ea.	.....
<input type="checkbox"/> 1	<input type="checkbox"/> 2	Wall Tables(s) .....	<input type="checkbox"/> \$900.00 ea.	<input type="checkbox"/> \$1180.00 ea.	.....
<input type="checkbox"/> 1	<input type="checkbox"/> 2	Wall Tables(s) with Electrical Service .....	<input type="checkbox"/> \$1000.00 ea.	<input type="checkbox"/> \$1280.00 ea.	.....
		Guest Speaker Luncheon <input type="checkbox"/> \$475.00 Table of 8	<input type="checkbox"/> \$65.00 per person + HST	.....	
		Wine Sponsor <input type="checkbox"/> \$300.00 + HST	.....		

**Cancellation Policy:** A \$100 administration charge will be deducted from all refunds of exhibitor registration fees on receipt of an exhibitor's request for cancellation. Cancellation requests that are received by our office later than Friday, December 14, 2012 will not be refunded.

**ADD - 13% HST # 106970973RT** .....

**TOTAL: \$** .....

☐ **Yes!**

**I would like to be a  
Wine Sponsor for the  
Guest Speaker Luncheon**

My payment is enclosed with my registration.

### Mail registration form with cheque to:

Toronto Chapter Trade Show  
131 Corbett Drive, P.O. Box 349  
Pontypool, ON L0A 1K0  
Toll Free/Fax: 1-888-494-9350

### Please make your cheque payable to CSC Toronto Trade Show

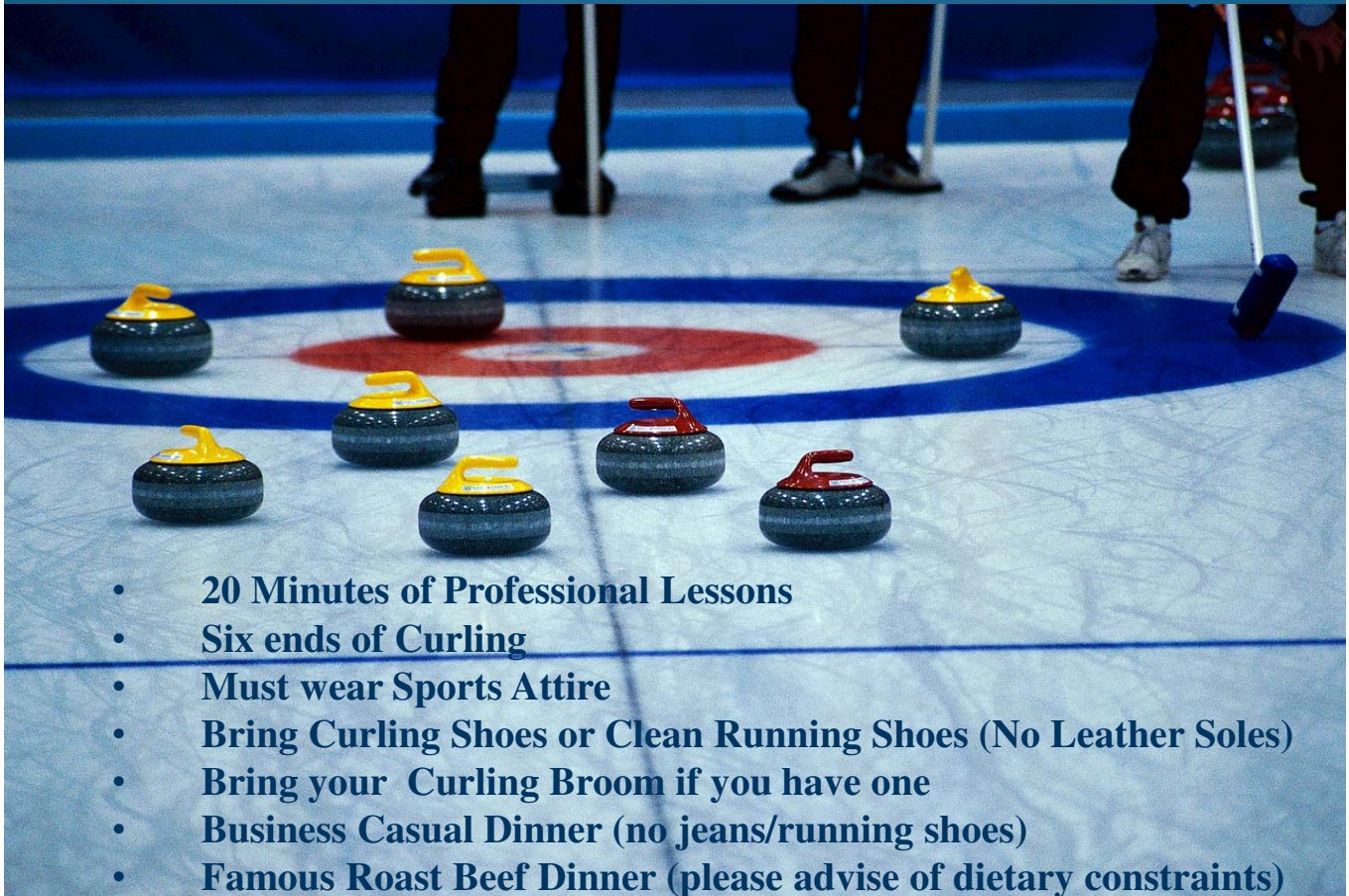
Unless otherwise requested, your cancelled cheque is your receipt.

**To pay by credit card**, please register on line at:

<http://www.csctradeshow.com/forms.html>



## Thursday, February 28, 2013. 5<sup>th</sup> ANNUAL CURLING BONSPIEL



- **20 Minutes of Professional Lessons**
- **Six ends of Curling**
- **Must wear Sports Attire**
- **Bring Curling Shoes or Clean Running Shoes (No Leather Soles)**
- **Bring your Curling Broom if you have one**
- **Business Casual Dinner (no jeans/running shoes)**
- **Famous Roast Beef Dinner (please advise of dietary constraints)**

Location: Toronto Cricket, Skating & Curling Club  
141 Wilson Avenue, Toronto, ON. M5M 3A3.  
Curling & Dinner: \$70.00 per person + HST

Curling : 2-4 pm – Cocktails (Cash Bar) 4-5 pm – Dinner 5-8 pm



# Thursday, February 28, 2013.

## 5<sup>th</sup> ANNUAL CURLING BONSPIEL

### Event Registration

Name: \_\_\_\_\_ Email: \_\_\_\_\_

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ Province: \_\_\_\_\_ Postal Code: \_\_\_\_\_

Tel: \_\_\_\_\_ Fax: \_\_\_\_\_ Cell: \_\_\_\_\_

### ADDITIONAL GUESTS

Name : \_\_\_\_\_ Name : \_\_\_\_\_

Name : \_\_\_\_\_ Are your guests part of your team: Yes/No.

### PAYMENT INFORMATION\*

Payment method: Visa: \_\_\_\_\_ Cheque: \_\_\_\_\_ Sponsorship Voucher: \_\_\_\_\_

- Registration and payment by credit card is only through Karelo at [www.csctoronto.ca](http://www.csctoronto.ca)
- Registration and payment by Sponsorship; please send this form to the address below
- Registration and payment by cheque; please send this form and payment to the address below

**GOLD, PLATINUM AND DIAMOND CHAPTER SPONSORS HAVE TWO FREE TICKETS TO THIS EVENT. NO ADJUSTMENTS OR REFUNDS WILL BE ISSUED FOR NON-USE**

### FINAL BILLING

I am registering: \_\_\_\_\_ persons @ \$79.10/each (\$70 + \$9.10 HST)

Signature: \_\_\_\_\_

Total Amount Due: \$ \_\_\_\_\_ (A receipt will be issued) Date: \_\_\_\_\_

Construction Specifications Canada Toronto Chapter; P.O.Box 349, Pontypool, ON, L0A 1K0.

Phone/Fax 1 888 494 9350 - [djfournier@csctoronto.ca](mailto:djfournier@csctoronto.ca) - [www.csctoronto.ca](http://www.csctoronto.ca)

**Curling & Dinner \$70.00 per person + HST**

\*cancellation fee of \$10.00 p/p applies



# 2012/2013 Executive Committee

## Chapter Director

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