



**AATO SUBMISSION TO STANDING COMMITTEE
ON JUSTICE POLICY ON BILL 157
“Enhancing Access to Justice Act, 2023” (Schedule 1)**

February 22, 2024



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SUBMISSION TO STANDING COMMITTEE ON JUSTICE POLICY ON BILL 157 (SCHEDULE 1)

SECTION 1 | SUMMARY

As the judicially-recognized¹ statutory regulator of Architectural Technologists, Architectural Technicians, Registered Building Technologists and Registered Building Technicians since 1969, the AATO urges the Standing Committee to recommend that Schedule 1 be completely dropped from Bill 157.

If passed, Schedule 1 would establish an entirely unnecessary, duplicate regulatory regime for Architectural Technologists that would, in turn, create confusion and impair competition in the marketplace; generate unnecessary costs; create regulatory conflict, inconsistency and duplication; and interfere with the interjurisdictional mobility of members of the profession.

Passing Schedule 1 also rewards the OAA for its past, and continuing bad behaviour. The OAA created its class of members "Licensed Technologists-OAA" knowing that it had no legal authority to do so and, thereby, created the "chaos" that the OAA and the Attorney General now claim Schedule 1 is needed to resolve.

In its simplest terms, the AATO has been a fully-effective regulator of the profession in the public interest since 1969. No public policy or public interest purpose is served by establishing a second regulator for the profession, but doing so will create multiple problems.

Furthermore, one would have assumed that the established, long-time regulator of Architectural Technologists would have been consulted on any legislation pertaining to regulation of the

¹ Ontario Assn of Architects v. Architectural Technologists of Ontario (C.A.), 2002 FCA 218 (Canlii) at paras. 67 and 68.



profession. Despite multiple requests to the Ministry of the Attorney General, the AATO was neither advised of, nor consulted on, Schedule 1 prior to its tabling.

A complaint relating to Schedule 1 and the OAA's attempts to regulate Architectural Technologists and other “paraprofessionals” in the sector has been made to the Competition Bureau of Canada. At a minimum, Schedule 1 should be put in abeyance pending a determination by the Bureau as to whether Schedule 1 offends the *Competition Act (Canada)*.

It is significant that, over nearly two decades, the OAA could attract no more than 152 Licensed Technologist-OAA, of which at least one third were also AATO members. This clearly demonstrates that when given the choice, the vast majority of Architectural Technologists prefer regulation by the AATO.

It has been suggested that the issues raised by the AATO can be worked out as part of the regulation-making process after Schedule 1 comes into effect. That is an entirely unsatisfactory solution for the AATO. Despite its protestations before this Standing Committee, past behaviour clearly indicates that the OAA will never consult, or collaborate with the AATO. If Schedule 1 becomes law, the OAA will have the leverage that it has long sought to regulate Architectural Technologist and the other professions within the sector. The same is true of suggestions that there be some sort of “mediation” between the two organizations to resolve the issues.

It is significant that, over nearly two decades, the OAA could attract no more than 152 Licensed Technologist-OAA, of which at least one third were also AATO members. This clearly demonstrates that when given the choice, the vast majority of Architectural Technologists prefer regulation by the AATO.

The only course of action acceptable to the AATO that will allow the AATO and the profession of Architectural Technology to survive in Ontario is the complete retraction of Schedule 1.



SECTION 2 | SPECIFIC ISSUES WITH BILL 157 (Schedule 1)

A. Schedule 1, if passed, will create a duplicate regulatory regime for Architectural Technologists that is completely superfluous and will add unnecessary red tape and create regulatory confusion.

The AATO has been a robust and effective regulator of the profession in the public interest for 50 years, without complaint or major incident. The AATO is completely self-financing and funds its operations entirely through membership dues and related revenues. It receives no government funding whatsoever. It sets and enforces a code of professional conduct for the professions it regulates. It operates a publicly-accessible complaints and disciplinary process. It accredits educational programs. It promotes adoption of the latest best practices and encourages intra-and inter-professional collaboration and communications. It fosters and promotes interjurisdictional and international communications, collaboration and professional mobility through its participation in a network of peer regulatory bodies and associations. It does all of this at no cost whatsoever to the Ontario government.

The statements made during the Second Reading debate on Bill 157 that Schedule 1 is necessary to embrace "unregulated practitioners", or to regulate practitioners who are left "in limbo" because of the AATO/OAA legal settlement are false. About 50 of the (approximately) 150 "Licensed Technologists-OAA" were also accredited by the AATO and the AATO made arrangements, and offered, to grandparent the remainder.

Moreover, it was the OAA that created the problem and left its members "in limbo" in the first place. Leaving aside the evidence that the OAA knew for 20 years that its licensing program was unlawful, the OAA was certainly aware of the AATO's legal position for over a year before formal litigation was commenced. The OAA defended and resisted the AATO's position for another several months until finally conceding that the AATO's position was correct. The Court Order granted, with the consent of the OAA, was entirely consistent with AATO's legal position, without compromise. Throughout the legal process, the OAA said nothing to its purported "members", and now relies on the alleged chaos and "limbo" it created to try to justify the proposed legislation. (A copy of the Court Order can be found at Appendix B.)



Creating a class of members for technologists within the OAA is completely unnecessary. Furthermore, the OAA has consistently refused to communicate or collaborate with the AATO and there is no reason to believe that this pattern of behaviour will change should the OAA become a co-regulator of the profession. Schedule 1 is a recipe for regulatory duplication, conflict, confusion and inconsistency; more, completely, unnecessary “red tape”.

Many Architectural Technologists would likely feel it prudent to be a member of both associations, which will create needless costs and regulatory complexities.

The OAA class of technologists would also create public, employer and industry confusion. Who is likely to understand the difference between an “Architectural Technologist” and a “Licensed Technologist OAA” who can practise architecture?

Bill 157, Schedule 1 is completely unnecessary legislation that, if passed, will add to red tape and regulatory duplication and confusion.

B. Bill 157 (Schedule 1) Would Constrain Healthy Competition.

The Architectural profession has attempted to regulate and thereby control the Architectural Technology profession for decades, principally because Architectural Technologists can and do provide many of the services provided by Architects, but at a lower cost to customers.

If Schedule 1 is passed, Licensed Technologists will constitute less than 3% of the membership of the OAA (according to the submissions to the Standing Committee, about 150 technologists vs 6,000 architects).

Per s. 3 of the *Architect’s Act*, the Council of the OAA is comprised of 12 to 20 **elected** professional members and only 3 to 5 public members appointed by government.



The OAA can, therefore, be expected to continue to pursue directions that favour the architecture profession (97% of its membership) and not the architectural technology profession (3%), which poses real risks not only to the architectural technology profession but also to market competition.

There is, therefore, a clear and undeniable conflict of interest of major proportions in the OAA regulating Architectural Technologists. Established government policy and practice for many years and by many governments in Ontario has been to separate the regulation of subordinate professions from the regulation of dominant professions in order to maximize competition, restrain prices and to maximize access to services and consumer choice.

Even Mr. Mateljan, the former licensed technologist OAA, who spoke in support of the legislation expressed that he wanted an expanded scope of practice for technologists (in line with other jurisdictions) and more of a voice at the OAA Council table for technologists. Based on past conduct by the OAA and simple math, there is no reason to expect the OAA to pursue such initiatives to benefit technologists.

The OAA has demonstrated for decades a refusal to grant AATO members an expanded scope of practice. The fight has always been for control of technologists. Schedule 1 of Bill 157 would give the OAA even more power, so there is no reason to expect them to be more fair or generous if that gain is achieved.

Make no mistake about it. As the OAA's Briefing Notes to MPPs disclose, the OAA's ultimate objective is to take over the regulation of all (what the OAA calls) "paraprofessionals" in architecture for the benefit of the Architecture profession and to nullify the AATO as the current regulator. There is no public interest or public policy objective achieved in doing so and the outcome will allow the Architecture profession to dominate and control the Architectural Technology profession and eventually the entire sector. Doing so will impede market competition and the public's and the industry's access to the professionals of their choice and preference and impede competitive pricing.

As a consequence, a complaint pertaining to Schedule 1 has been made to the Competition Bureau. The Bureau has previously taken stands, for example, against dentists regulating or



otherwise controlling the dental hygiene profession, or optometrists limiting the scope of practice of opticians. Based on those precedents, the AATO anticipates that the Bureau will take the same position with respect to the OAA regulating Architectural Technologists, or any of the other so-called “paraprofessionals”.

While not binding on the Government or the Legislative Assembly of Ontario, there should be an overwhelming and compelling public policy or public interest case for taking any initiative that offends the Competition Act (Canada). There is no such case in this instance.

C. If Implemented Schedule 1 Will Impair International Collaboration and Mobility

The AATO has long-standing relationships and agreements with the Architectural Technology regulators and associations in other provinces and foreign countries, such as with the Chartered Institute of Architectural Technologists in the UK. CIAT is recognized as the leader within this network. It has written to the Attorney General opposing Schedule 1 (See letter from CIAT at Appendix C.)

Those relationships and agreements promote and foster collaboration and cooperation, the sharing of best practices and facilitate the movement of practitioners from one jurisdiction to another.

The OAA has none of those relationships or agreements and even if Schedule 1 were passed the OAA would have no particular motivation for creating them. It is difficult to conceive why Architectural Technology regulators and associations in other jurisdictions would rush to enter into such relationships or agreements with the OAA in any event.

Schedule 1 if passed will, at a minimum, weaken the AATO and, thereby, diminish its role in this interjurisdictional network, to the disadvantage not only of the AATO, but also to the Province of Ontario in terms of its interjurisdictional voice and standing.



Implementation of Schedule 1 can be expected to seriously undermine the position of Ontario's Architectural Technologists within the profession internationally and to impair the ability of foreign and out-of-province practitioners to practise in Ontario, or Ontario's practitioners to practise elsewhere.

D. Whereas the OAA should be admonished for its Bad Behaviour and for Creating Chaos in the Industry, Schedule 1 Rewards It.

The OAA and the Attorney-General refer to the OAA as having regulated technologists for “decades”. This is an inaccurate description, as the May 10, 2023 Court order confirms that the OAA never had legal authority even to issue licences to technologists in the first place, let alone “regulate” them.

Contrary to the assertion of the Attorney General to the Standing Committee, there is no court order or determination seeking to “regularize” the regulation of architectural technologists in Ontario.

As is discussed in detail in Section 3, the OAA unlawfully established its former class of members “Licensed Technologist-OAA”. The OAA asserted before the Standing Committee that it did so in good faith based on legal advice. The evidence filed in the AATO/OAA dispute, which is a matter of public record, however, clearly reveals that the OAA knew that it needed a regulation, but proceeded without it when the Ministry of Municipal Affairs and Housing raised an “impediment” to the proposed regulation. There was no assertion in the OAA’s evidence to the court that it proceeded on the basis of “legal advice”. The OAA asserted to the court that its policy was a “happy compromise” with the MAG and the AATO, which it clearly was not.

In fact, the OAA refused all offers to negotiate with, or to talk to, the AATO and threatened to defend any legal challenge vigorously. At considerable financial cost to the AATO, the OAA was ultimately forced to reverse course and concede entirely to the AATO’s legal position. The ensuing



Court Order nullified the class "Licensed Technologist-OAA" and voided the licences unlawfully issued by the OAA ab initio.

Rather than punishing the OAA for its bad behaviour, Schedule 1 rewards it. In doing so, Schedule 1 sets a very dangerous precedent and sends a very unfortunate message to other regulatory bodies, agencies, boards and commissions who might now contemplate similar strategies to get what they want, even when their constituting legislation doesn't allow it.

E. Schedule 1 was drafted without any consultation with the existing regulator.

The AATO is the statutory regulator of Architectural Technologists in Ontario and has been since 1969. Over two decades ago (in 2002), the Federal Court of Appeal rejected the OAA's arguments that the AATO was not a regulator in the public interest and specifically found that the AATO is a regulator of architectural technologists and exists for the benefit of the public.

[67]I agree that the AATO does not regulate a profession in the sense of controlling professional activities in which only its members may lawfully engage. However, I do not accept that the Applications Judge committed a legal error in expressing himself as he did. For, as counsel for the AATO pointed out, by setting and enforcing standards of professional competence and ethical conduct of its members, the AATO regulates part of the practice of the profession. That is, it regulates the part of the profession in which practitioners use their membership in the AATO and the statutory designations, including architectural technician or architectural technologist, in connection with the services that they provide.

[68]Further, it was entirely reasonable in my opinion for the Applications Judge to conclude that the AATO's regulatory activities benefit the public. By engaging a member of the AATO, a client who requires the services offered by architectural technicians or architectural technologists has some assurance that the person engaged is competent and honest. Moreover, because the registrar of the AATO is under a duty to ensure the accuracy of the register, which must be available for public inspection, potential clients or employers can check whether a given person is a member.²

² Ontario Assn. of Architects vs Association of Architectural Technologists of Ontario, Ibid



Incidentally, the OAA's documented, extensive history of wilfully ignoring the AATO gives the AATO no confidence whatsoever that it will change its ways and effectively engage and collaborate with the AATO as it committed to do before the Standing Committee.

Completely ignoring the AATO, despite its known opposition to and its requests for collaboration and consultation to both the OAA and the Ministry of the Attorney General, in the development of a second regulatory stream for Architectural Technologists -- and in fact clouding the entire initiative with secrecy--is both incomprehensible and poor, ill-informed and untransparent public policy development.

Incidentally, the OAA's documented, extensive history of wilfully ignoring the AATO gives the AATO no confidence whatsoever that it will change its ways and effectively engage and collaborate with the AATO as it committed to do before the Standing Committee.



SECTION 3 | BRIEF HISTORY OF THE RELATIONSHIP BETWEEN THE AATO AND THE ONTARIO ARCHITECTS ASSOCIATION (OAA)

For decades, the OAA has tried to take over the Architectural Technology profession by acquiring regulatory authority over Architectural Technologists.

In 2003, over the protests of the AATO, the OAA established a class of members it called "Licensed Technologists-OAA". It offered a more extensive scope of practice to members of that class than the scope available to AATO Architectural Technologists in order to make membership in the OAA class attractive. OAA licensees were also not required to pass the Building Code Identification Number (BCIN) examination, which is a requirement for AATO members. At the same time, the OAA has consistently opposed any scope of practice expansion for AATO-Architectural Technologists, despite that they have the same education as Licensed Technologists-OAA. The result is that AATO Architectural Technologists in Ontario are performing far below their competencies and within a scope of practice that is very limited compared to Architectural Technologists in other jurisdictions.

The first Licensed Technologist-OAA licences for the class were issued in 2006. To the best knowledge of the AATO, no more than about 150 professionals joined the class between 2006 and 2023, of which about one third were also AATO members. Many of the remainder joined the OAA because they had not managed to secure their BCINs.

The OAA had no legal authority to establish such a class of licences by way of a policy, but did so nonetheless. When challenged on the creation of the class in 2017, the OAA falsely claimed to the Ministry of the Attorney General that the AATO and Ministry of the Attorney General (previously) had approved.

Having been left with no other option, the AATO commenced legal action against the OAA to stop the unlawful issuance of licences to the Licensed Technologists-OAA class of members. Earlier this year, and only after months of litigation, the OAA finally consented to a Court Order declaring that it had no legal authority to create the class of Licensed Technologist-OAA, and paying a



portion of their legal costs to the AATO. (See Appendix A for a more detailed description of the legal process prepared by the AATO legal counsel and Appendix B for a copy of the Court Order.)

After achieving the Court Order, the AATO engaged in a series of consultations with senior officials of the Ministry of the Attorney General in order to reach a comprehensive solution to this long-standing dispute. The AATO asked the Ministry of the Attorney General to ensure that the AATO is effectively engaged in any consultations involving the development of any legislation relating to the regulation of Architectural Technologists and that AATO-regulated Architectural Technologists be granted a legislated scope of practice commensurate with their competencies and in line with the scopes of practice in comparable jurisdictions.

The AATO was not consulted in any way on Bill 157 and learned of it only on the morning of its tabling.



SECTION 4 | BACKGROUND ON THE AATO

The Association of Architectural Technologists of Ontario (the “AATO”) was established in 1969 as a corporation without share capital and continued pursuant to its enabling statute, *An Act Respecting the Association of Architectural Technologists of Ontario, 1996*, S.O. 1996, Ch. Pr-20 (the “AATO Act”) by the Government of Ontario. Under the AATO Act, the AATO is the statutory regulator of Architectural Technologists in Ontario, and it has been in continuous and robust operation since 1969.

In addition to Architectural Technologists, under the AATO Act, the AATO also is given the responsibility to regulate Architectural Technicians, Registered Building Technologists and Registered Building Technicians. Under the AATO Act, the professional designations relating to those professions are protected titles that may only be lawfully used by members in good standing with the AATO, for public protection and to avoid misrepresentation and confusion. AATO certification is highly-valued and is often required by employers in the industry and by government authorities. Most building officials and inspectors are dual members of the AATO and the OBOA (the Ontario Building Officials Association).

The AATO is a professional, self-governing regulator, It establishes the criteria for membership in each of the categories, establishes and enforces Standards of Practice and a Code of Conduct for the professions, keeps members abreast of the latest industry regulations, codes and standards, accredits educational programs, operates a public complaints and disciplinary process and is the connector with the regulators of Architectural Technologists in other provinces and countries, such as the Chartered Institute of Architectural Technologists in the UK.

The AATO is funded entirely by the members and receives no funding or other support from any government.

The AATO is recognized as an important source of expertise, advice and assistance by municipal, provincial and federal governments and by nongovernment industry stakeholders, for example on important matters such as revisions to the Ontario Building Code and national building code, for example.



AATO members are critically important contributors in the execution of the safe design and management of construction projects and are critically important in municipal governments' enforcement of the building code in the approval of individual construction projects, large and small.

AATO MEMBERSHIP	
Students	40
Interns	67
Registered Building Technicians	116
Architectural Technicians	24
Registered Building Technologists	22
Architectural Technologists	455
Life Members	109

The AATO's website is at <https://aato.ca/>



APPENDIX A: WISE HEALTHLAW LETTER EXPLAINING LEGAL DISPUTE



Argus Corporate Centre
Suite 200, 586 Argus Road
Oakville, Ontario L6J 3J3

Reply To:
Valerie Wise, LL.B., LL.M., C.S.*
**Certified by the Law Society of Ontario
as a Specialist in Health Law*
Phone: 416-915-4234
1-844-451-1804
Email: vwise@wisehealthlaw.ca

Our File No. 242-001

May 10, 2023

BY EMAIL: sheryl.cameron@ontario.ca; candace.whitney@ontario.ca

Ms. Sheryl Cameron and Ms. Candace Whitney
Counsel, Justice Policy Branch
Ministry of the Attorney General
Third Floor McMurtry-Scott Building,
720 Bay Street,
Toronto, Ontario, M7A 2S9

Dear Ms. Cameron and Ms. Whitney,

Re: Association of Architectural Technologists of Ontario (AATO)

I write further to our meeting of May 1, 2023, to formally document the requests made by the AATO.

Background

The AATO was formed in 1965, and was continued in 1996 under its enabling statute, *An Act Respecting the Association of Architectural Technologists of Ontario, 1996*, S.O. 1996, Ch. Pr-20 (the "AATO Act").

Pursuant to section 9(1) of the *AATO Act*, only registered members of the AATO are permitted to use the designations "architectural technologist", "architectural technician", "registered building technologist", "registered building technician" or their French equivalents in Ontario. There is, however, an exemption for individuals holding a license or certificate of practice under the *Architects Act*, R.S.O. 1990, c. A.26 ("Architects Act"), permitting them to use the titles.

Architectural Technologists do not have a legislated scope of practice. Rather, Architectural Technologists' scope of practice is the same as that of the general public. This is because section 11 of the *Architects Act* prohibits anyone who does not hold a license under the Act (i.e., is not a member of the OAA) from engaging in the "practice of architecture".

The *Building Code*, O. Reg 332/12 under the *Building Code Act, 1992*, S.O. 1992, c. 23 ("Building Code") includes similar prohibitions and requirements that certain acts/services be provided by an

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architect (or in some cases an engineer) only. Architectural Technologists are therefore limited to designing buildings of up to 600 square meters of gross floor area, and three stories.

One of the primary goals of the AATO has been to achieve enhanced recognition and scope of practice for its members. On numerous occasions spanning multiple decades, the AATO has engaged in negotiations with the OAA to further this goal, without success.

Instead of working with the AATO, in the early 2000's, the OAA launched a program to license persons as "Licensed Technologist, OAA." The OAA created a *policy* stating that these individuals were exempt from meeting the requirements to obtain a license to practice architecture outlined in the *Architects Act*, and were issued Certificates of Practice subject to specified terms, limits and conditions. The effect of this policy was that Licensed Technologists OAA were granted an enhanced scope of practice in comparison to members of the AATO, notwithstanding their near identical education, experience, and qualifications.

As you are aware, in the fall of 2022, the AATO commenced an application in the Ontario Superior Court of Justice against the OAA (Court File No. CV-22-00688335-0000), seeking, *inter alia*, a declaration that the OAA had no lawful authority to issue Certificates of Practice or licenses to Licensed Technologists OAA based on a policy of council not set out in regulation under the *Architect's Act*, and that any such certificates of practice were void *ab initio* and of no force and effect.

Both the AATO and the OAA engaged in a fulsome exchange of materials, including lengthy affidavits with numerous exhibits, all of which were filed with the court.

In the course of attempting to negotiate a resolution to the litigation, the AATO raised its desire to establish a scope of practice for its members. However, the OAA terminated negotiations, and instead consented to the relief sought by the AATO in its Notice of Application. We have now obtained the court order (copy enclosed) which states:

1. THIS COURT ORDERS that the OAA has no lawful authority to issue Certificates of Practice or licences based on the OAA's "Policy of the Council with respect to the Licensed Technologist OAA" or similar policy not set out in a regulation under the Architect's Act, RSO 1990, c. A.26 (the "Architects Act"), including without limitation Certificates of Practice or licences described as "Licensed Technologist OAA" or "Licenced Architectural Technologist OAA";
2. THIS COURT FURTHER ORDERS that any Certificates of Practice or licenses issued by the OAA based on the OAA's "Policy of the Council with respect to the Licensed Technologist OAA" or similar policy not set out in a regulation under the Architect's Act, including without limitation Certificates of Practice or licences described as Certificates of Practice or licences described as "Licensed Technologist OAA" or "Licenced Architectural Technologist OAA", are void *ab initio* and of no force and effect;
3. THIS COURT FURTHER ORDERS that the OAA is prohibited from issuing Certificates of Practice or licences based on the OAA's "Policy of the Council with respect to the Licensed Technologist OAA" or similar policy not set out in a regulation under the Architect's Act,



including without limitation Certificates of Practice or licences described as “Licensed Technologist OAA” or “Licenced Architectural Technologist OAA”; and

4. THIS COURT FURTHER ORDERS that the OAA pay to the AATO costs in the amount of \$35,000.00, all-inclusive, within thirty days of the date of this Order.

The AATO’s Requests of the Ministry of the Attorney General

In the course of the litigation, it was suggested by the OAA that even if the AATO were to succeed in obtaining the relief sought, as it did, the OAA would approach the Ministry of the Attorney General seeking a regulation under the *Architects Act* establishing a class of membership for technologists, and potentially other (unnamed) “paraprofessionals”. The OAA suggested that they would likely request that any such regulation be retroactive in effect.

The AATO therefore respectfully makes the following two requests of the Ministry of the Attorney General regarding any regulation sought by the OAA relating to architectural or building industry paraprofessionals, including but not limited to technologists:

1. That any potential regulation not be given retroactive effect; and
2. That the AATO be recognized as a principal stakeholder and as such:
 - a. Be given notice and the opportunity to participate early in the consultation process regarding any such proposed regulation; and
 - b. That the Ministry of the Attorney General require sign-off from the AATO on any regulation with the potential to impact upon Architectural Technologists, or regarding the scope of practice of any paraprofessional in the architectural and/or building industry.

Request 1: Any Regulation not be Retroactive

The AATO asks that any regulation not be given retroactive effect as to do so would, in essence, reward bad behavior on the part of the OAA.

Based on documentation exchanged in the course of litigation, and obtained through a Freedom of Information and Protection of Privacy Act request, it is apparent that the OAA has been aware since at least the early 2000s that any new class of membership needed to be established by way of a regulation, not a policy. That was in fact what they started to do, but then changed to a policy, apparently for efficiency’s sake.

Documents obtained by the AATO in the course of the litigation reflect that, in 2017, the OAA sought a regulation to create a seat on OAA Council for a “Licensed Technologist OAA”. At this point, the Ministry of the Attorney General questioned the OAA’s authority to create the Licensed Technologist OAA class of membership. The OAA’s response to the Ministry was that after “years of back and forth and meetings,” the Licensed Technologist OAA was “the OAA, architectural technologists, and MAG’s happy compromise.”

This response is untrue with respect to the AATO’s involvement and any alleged “happy compromise”. The AATO was not involved in any discussions with the OAA and Ministry about any “compromise”



and has consistently indicated its disapproval of the OAA's program. There is no contemporaneous documentation produced in the litigation to support the OAA's statement that the Ministry of the Attorney General knowingly supported the OAA's issuing unlawful certificates of practice.

The AATO therefore requests that the OAA not be granted any regulation with retroactive effect. A retroactive regulation would minimize the specific and general deterrent effect of the Court order, which renders any certificates issued unlawfully void *ab initio*, and would reward bad behavior.

Request 2: The AATO's Position as a principal Stakeholder

The AATO very much expects that the OAA will be seeking a regulation(s) in the future to create new classes of membership and govern "paraprofessionals" in the industry. The AATO is a long-established and principal stakeholder in this industry, representing hundreds of members. The AATO, therefore, requests the opportunity to participate in any and all consultative processes, and respectfully submits that AATO's approval should be required for any such regulations.

The AATO has specifically heard that the OAA is in negotiations with the Association of Registered Interior Designers of Ontario (ARIDO) regarding an exemption to the *Architects Act* which would, in effect, give Registered Interior Designers a scope of practice outside of the public domain. The AATO respectfully requests that it be included in any discussions regarding any exemptions or legislated scope of practice for any paraprofessional in the industry, and that if such regulations are being considered, an enhanced scope of practice also be considered for AATO members.

Scope of Practice

While it is not a formal request at this time, the AATO wants the Ministry to be aware of its continued desire to obtain a legislated scope of practice outside of the public domain.

This would require an exemption to the application of s. 11(2) of the *Architects Act*, which states that no person shall provide services to the public that are a part of the practice of architecture, except in accordance with a certificate of practice or temporary license issued under the Act (i.e., by the OAA). Changes to the Ontario Building Code would also be required in order to recognize and give effect to the architectural technologists' scope of practice.

As discussed in our meeting, the AATO appreciates that there must be a demonstrated public policy or public interest need to support a change to the architectural technologists' scope of practice. However, the OAA implicitly recognized this need when it created the Licensed Technologist OAA class of membership, with its expanded scope of practice.

The AATO also made submissions to the Ministry of Municipal Affairs and Housing in January 2023, regarding the proposed changes to the Qualifications of Building Practitioners in order to achieve the Ontario government's goal of building 1.5 million housing units over the next decade. In brief, the MMAH is considering changes to the building code certification exams in order to address the labor shortage of building practitioners by improving exam success and thereby increasing the number of practicing building professionals.

The AATO expressed concerns that the proposed changes to the certification exams would compromise public safety, as it would be easier for individuals with no formal training or education in the building industry to obtain their certifications. AATO members, on the other hand, must have post-secondary education, as well as meet additional educational and experiential requirements in order to obtain



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accreditation as an Architectural Technologist. An enhanced scope of practice for AATO members, including general review of designs/plans, and exemptions from Building Code Exams, would therefore increase the number of building practitioners capable of completing the necessary work, while maintaining public safety.

Lastly, you asked during our meeting whether the AATO is seeking an exclusive scope of practice, to which President of the AATO, Mr. Alonzo Jones, replied that exclusivity is not the AATO's objective. The AATO's primary goal is to obtain a scope of practice for its members in accordance with their education and experience, and to regulate the practice of architectural technologists in the public interest. The AATO values the skills and knowledge of their colleagues in the architectural and building industry, and acknowledge that there may be overlaps in the services each professional can safely and competently provide.

As previously stated, the AATO is not seeking approval from the Ministry of the Attorney General regarding a legislated scope of practice at this time. Rather, the AATO wanted the Ministry to be aware of its intentions moving forward, particularly in light of the fact that significant changes to the National and Ontario Building Codes are contemplated to come into effect in 2025.

We appreciate your time in meeting with us and considering this letter, and we look forward to ongoing dialogue. We would of course be happy to answer any questions or concerns you may have.

Yours truly,

WISE HEALTH LAW PROFESSIONAL CORPORATION

Valerie Wise

VW:

Encl. Order of Justice Akbarali dated May 10, 2023.

Cc: Alonzo Jones, President, AATO
Don Gracey
Victoria Tremblett (WHL)



APPENDIX B: COURT ORDER



Court File No. CV-22-00688335-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE) Wednesday, THE 10th
JUSTICE Akbarali) DAY OF May, 2023

B E T W E E N:

(Court Seal)

ASSOCIATION OF ARCHITECTURAL TECHNOLOGISTS OF ONTARIO
Applicant

and

ONTARIO ASSOCIATION OF ARCHITECTS
Respondent

ORDER

THIS APPLICATION, made by the Applicant Association of Architectural Technologists of Ontario ("AATO") for the declarations and interlocutory and permanent injunction set out in the Amended Notice of Application dated December 12, 2022, was read this day at the court house, 330 University Avenue, Toronto, Ontario, M5G 1R7.

ON READING the Amended Notice of Application, Application Record, Responding Application Record and the Consent signed by the lawyers for the parties,



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1. THIS COURT ORDERS that the OAA has no lawful authority to issue Certificates of Practice or licences based on the OAA's "Policy of the Council with respect to the Licensed Technologist OAA" or similar policy not set out in a regulation under the *Architect's Act*, RSO 1990, c. A.26 (the "*Architects Act*"), including without limitation Certificates of Practice or licences described as "Licensed Technologist OAA" or "Licenced Architectural Technologist OAA";
2. THIS COURT FURTHER ORDERS that any Certificates of Practice or licenses issued by the OAA based on the OAA's "Policy of the Council with respect to the Licensed Technologist OAA" or similar policy not set out in a regulation under the *Architect's Act*, including without limitation Certificates of Practice or licences described as Certificates of Practice or licences described as "Licensed Technologist OAA" or "Licenced Architectural Technologist OAA", are void *ab initio* and of no force and effect;
3. THIS COURT FURTHER ORDERS that the OAA is prohibited from issuing Certificates of Practice or licences based on the OAA's "Policy of the Council with respect to the Licensed Technologist OAA" or similar policy not set out in a regulation under the *Architect's Act*, including without limitation Certificates of Practice or licences described as "Licensed Technologist OAA" or "Licenced Architectural Technologist OAA"; and
4. THIS COURT FURTHER ORDERS that the OAA pay to the AATO costs in the amount of \$35,000.00, all-inclusive, within thirty days of the date of this Order.



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THIS ORDER BEARS INTEREST at the rate of 6% per year commencing on
May 10, 2023 in accordance with the *Courts of Justice Act*.

(Signature of judge, officer or registrar)



ASSOCIATION OF ARCHITECTURAL TECHNOLOGISTS OF
ONTARIO
Applicant

-and- ONTARIO ASSOCIATION OF ARCHITECTS

Respondent

Court File No. CV-22-00688335-0000

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT
TORONTO

ORDER

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Lawyers for the Applicant



APPENDIX C: LETTER FROM THE CHARTERED INSTITUTE OF ARCHITECTURAL TECHNOLOGISTS



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REG NO. RC000803
VAT REG NO. 318 0552 21

1 February 2024

Hon. Doug Downey
Attorney General of Ontario (Canada)
11th Floor
McMurtry-Scott Building
Toronto, Ontario
Canada, M7A 2S9

Via email: Doug.Downey@ontario.ca

Dear Attorney General

Re: Schedule 1, Bill 157 (Enhancing Access to Justice Act, 2023)

I am writing in relation to Schedule 1 of the aforementioned Bill 157 which has been brought to our attention by the Association of Architectural Technologists of Ontario (AATO), and to urge you to reconsider its implementation. The Chartered Institute of Architectural Technologists (CIAT) has a long-standing relationship with the AATO which facilitates communication, collaboration, the sharing of best practice and the mobility of our respective members.

CIAT is a professional membership Institute dedicated to the discipline of Architectural Technology. CIAT qualifies Chartered Architectural Technologists who are recognised in the UK and elsewhere on a par with other professionals such as architects to design, manage, and lead on all building projects from inception to completion, including small scale to large commercial, industrial, residential and public projects with no restrictions on building size, type, function or use.

Architectural Technology is an essential and unique professional design discipline which focuses on the anatomy and physiology of buildings in terms of building structures and systems, materials, and components, fabric and services relating to production, performance and processes. The fundamental purpose of Architectural Technology is to ensure robust design and technological solutions which achieve long-term durability, efficiency and effectiveness, putting user needs, health and safety, environmental sustainability, regulatory and briefing requirements at the forefront. As such, its

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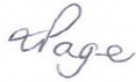


importance in today's ever evolving and increasingly complex built environment cannot be understated.

If passed, Schedule 1 would fragment the profession of Architectural Technologist in Ontario without any public policy or benefit to public interest. It would establish an unnecessary para-professional class which would undermine the discipline of Architectural Technology and professionals working within it, as well as the valuable and significant work undertaken by long-established professional bodies such as the AATO and CIAT. We therefore consider that the creation of a duplicate regulatory regime for Architectural Technologists in Ontario is completely unnecessary, costly and confusing to the public and industry.

We thank you for your consideration and look forward to a positive response to our concerns and recommendation, that I am sure are shared by our peer organisations in other jurisdictions.

Yours sincerely



Tara Page
Chief Executive