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Re: Construction Prompt Payment Act (CPPA) Discussion Paper

I would like to thank you and other Provincial staff for meeting with Urban Development Institute (UDI) members on May 13th and June 26th regarding the *Construction Prompt Payment Act Discussion Paper*. As discussed, the phased implementation of the legislation is critical for our members, as are the timeframes to review and pay invoices. Please see our comments below regarding the *CPPA* and the *Discussion Paper*.

Phasing

As we have stated in previous correspondence, ***UDI strongly recommends that the Province phase in the application of the CPPA, beginning with Broader Public Sector (BPS) projects – before it is applied to private sector projects. There also needs to be additional phasing for smaller projects.***

UDI recognizes "... *that exempting certain sectors or groups could create uncertainty and confusion and negatively affect parties throughout the construction chain*." This is why the phasing should be based on the type and/or size of projects. If the Ministry were to phase in the BPS first, we would expect that the *CPPA* would still need to apply to any private sector entities involved in BPS-led projects to avoid the "... *downstream effects (payment delays to parties down the construction chain)* ...,' for those projects.

In terms of industry readiness, even though seven months have "... *elapsed since the legislation was enacted* ...," our members are not familiar – or even aware of – the *CPPA*. The Ministry of the Attorney General provided little information about the legislation on its website, and during the development of the prompt payment regime, industry associations were instructed not to share information with their membership.

As discussed at our June meeting, there has been little capacity for our members to review the *CPPA*. They are facing the worst housing market in four decades. In Q1 2026, pre-sales across Metro Vancouver totalled just 87 units, compared to a ten-year average of approximately 3,900 — a decline of more than 95 percent. For all of 2025, pre-sales totalled 5,822, representing a 61 percent decline from the long-term average of over 15,000. In addition, developers continue to face an array of new Provincial and municipal requirements, including:

- New and increasing development charges;
- Inclusionary housing requirements;
- New seismic requirements that came into effect last year and have increased construction costs on some sites by 10% to 20%;
- Apartment unit accessibility requirements that also came into effect last year;
- Energy efficiency and greenhouse gas emission requirements;
- The implementation of the *Heritage Conservation Act Transformation Project*;
- A new *BC Building Code* next year;
- Electric Vehicle Charging mandates;
- Changes to the *Real Estate Development Marketing Act*; and
- The Ministry of Water, Land and Resource Stewardship is introducing new requirements for sites near water bodies.

If a phasing approach is not adopted, the implementation of the legislation needs to be delayed – at least two years after the release of the regulations – and after an extensive education and training campaign by the Ministry.

UDI would still advocate for phasing because it would give the Ministry the opportunity to test and adjust the regulations with BPS projects before it is applied to private sector ones. In addition, phasing allows for better education and training. BPS entities would have the resources to assist in the educating and training of their contractors and subcontractors (including those in the private sector) regarding the new *CPPA* requirements. In addition, UDI and similar trade associations would be able to hold educational and training events for their members with BPS staff who have instituted prompt payment systems for their organizations.

We note that phasing has been used for other pieces of Provincial legislation, such as the *Pay Transparency Act* reporting requirements, which applied to the public sector first and then was rolled out over multiple years based on employer size.

Phasing in the BPS first would also resolve most of the delayed payment concerns. As we note in our July 30, 2025, joint letter with the Canadian Home Builders' Association of BC to the Attorney General, "*Anecdotally, we have heard from contractors and subcontractors that payment delays of 90+ days are most common for large public infrastructure projects*."

Calculation of Days

We have raised concerns in the past about the short timeframes in the *CPPA* for both the seven days to review invoices and the 28 days to process payments. However, they were instituted in the *Act*, to align with other jurisdictions.

Our members have found that it takes at least ten calendar days to adequately review invoices with owners/developers or payment certifiers needing to go on-site to conduct site reviews and ensure that the progress being claimed is fairly accurate and reasonable. This takes time and effort, especially on larger projects.
It can also take well over thirty days to process payments (please see our July 30th letter for more details), as some projects require significant lender/funding approvals that can cause delays. This is especially true for government-funded non-profit housing projects.

Given the need for additional time, ***we recommend that the regulations state that the seven-and-28-day periods be "business days" – as opposed to calendar days***. This would extend the timeframes closer to typical business practice.

Invoicing

We concur that the regulations need to provide "... *clearer guidance on what it means to 'give' a proper invoice*." ***We recommend that several options be included in the regulations that the parties can then agree to in their contracts. This should include digital options such as email (with receipt confirmation) as well as private couriers and the registered mail option.*** We agree that limiting the delivery of invoices to Canada Post registered mail "... *could add cost, delay, and the risk of disputes unrelated to the payment itself*," especially if there is a postal strike.

While Section 7 of the *Act* has a clear definition of the minimum information required for an invoice, ***we are pleased with and support the flexibility to allow developers, through contracts, to include requirements for supplementary materials (e.g., proof that the work was done) as part of the invoices. Ideally, this can be clarified in the regulations.***

UDI is also pleased and supportive that the "clock" resets if an invoice is corrected, in terms of the 7- and 28-day timeframes – if the invoice needs to be corrected.

Other Issues

As noted below, UDI is generally supportive of the other proposals in the *Discussion Paper*.

- Instream Protection - We were pleased with the confirmation at our June meeting that under the *CPPA*, if the head contract receives instream protection, the sub-contracts will receive instream protection as well. This makes sense. As noted above, it "... *could create uncertainty and confusion and negatively affect parties throughout the construction chain*," if some are under the prompt payment system for a project – and others are not.
- Interest on Late Payments – UDI agrees with following the lead of other Canadian jurisdictions that have implemented prompt payment regimes to align the prompt payment interest rate with general pre-judgement interest rate rules. In British Columbia, this would be the rates published by the Registrar of the B.C. Supreme Court.
- Fees – We support basing the adjudication fees "... *on the amount in dispute, rather than the total amount of the contract*." The amount in dispute is what is being adjudicated – not size of the contract. In terms of the administration fees, UDI supports a cap that aligns with the Manitoba and Saskatchewan charges "... of $500 for disputes under $25,000 and $1,000 for disputes over $25,000."
- Standardized Forms – UDI supports the Ministry establishing "... *standardized forms for industry's use* ...," to make it easier for organizations (especially smaller ones) to implement the *CPPA*. However, like the invoices, flexibility should be provided for the parties to agree to additional provisions that may not be on the standardized forms.
- Education/Training – At our June meeting, we were pleased to hear that the Ministry will be conducting an extensive education and training program to prepare organizations for implementing the *CPPA*. As noted above and during our discussion, UDI is very supportive of this. We would be pleased to work with the Ministry to provide a webinar to our members about the *CPPA* and its implementation as well as share guidance materials through our newsletter.

  Education and training are especially important for smaller and less sophisticated subcontractors. If they were to follow the regime, our members may face fewer "*surprise*" liens on their sites. It is also important for smaller firms to align their business practices with the *CPPA* regime. As discussed at the June meeting, if the paperwork is not completed appropriately and a smaller firm is not in the chain of contracts, they may not receive payments.

Finally, after the *CPPA* is implemented, we would like to discuss amending to the *Builders Lien Act* (*BLA*) with the Province to address unwarranted and vexatious liens on properties. The *CPPA* is supposed to resolve payment issues and has a built-in adjudication system. We are concerned about sub-contractors launching liens under the *BLA* when it is not necessary. This still occurs in Alberta, despite its implementation of prompt payment legislation. Penalties need to be considered if superfluous liens are applied to a project that is subject to the CPPA.

Thank you again for meeting with us to discuss the *CPPA* and the Ministry's *Discussion Paper*. If you have any questions regarding our comments, we would be pleased to meet with you and Provincial staff again. We would also like to have the opportunity to review the regulations before they go through the approval process, as we did when *Bill 20, the Construction Prompt Payment Act*, was being drafted.

Yours sincerely,

Michael Drummond
Interim President and CEO, Urban Development Institute