CITATION: Association of Architectural Technologists of Ontario v. Ontario Association of Architects, 2025 ONSC 3555
COURT FILE NO.: CV-22-00688335-0000
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SUPERIOR COURT OF JUSTICE - ONTARIO

RE: ASSOCIATION OF ARCHITECTURAL TECHNOLOGISTS OF ONTARIO, Applicant

AND:

ONTARIO ASSOCIATION OF ARCHITECTS, Respondent

BEFORE: Akazaki J.

COUNSEL: Valerie Wise and Victoria Tremblett, for the Applicant

Laura Wagner and Rebecca Lang, for the Respondent

HEARD: April 10, 2025

REASONS FOR DECISION

OVERVIEW

[1] What is an architect? That question lies at the heart of this contempt motion. The court had ordered the regulator of architects to stop licensing architectural technologists, because it could only issue licences to architects. The regulator then licensed the technologists as architects, with the same practice restrictions as the banned licences.

[2] For almost two decades, the Ontario Association of Architects ("OAA") licensed and allowed architectural technologists to design buildings Ontario law reserved for architects. It issued these licences, flouting the Ontario government's refusal to amend the regulation under the *Architects Act*, R.S.O. 1990, c. A.26 ("the Act") to extend the licensing authority to a second class of licences. The Association of Architectural Technologists of Ontario ("AATO") objected to this practice as unsanctioned empire building. The AATO eventually sued the OAA. The OAA capitulated and consented to a court order prohibiting it from licensing technologists and nullifying existing technologist licences.

[3] In the wake of the suit's exposure of its conferral of unlawful licences and the stranding of licensees, the OAA renewed its lobbying campaign for the amendment of the regulation. It also resumed its licensing of technologists, only this time by issuing them architect licences. It did so by exempting them from the requirement to hold accredited university degrees and stipulating their scope of practice to conform to the very licence the court ordered it not to confer. The OAA was ultimately successful in obtaining the amendments

to the regulation sanctioning its separate licensure of technologists. However, the amendments did not allow the OAA to sweep its interim measure of licensing technologists as architects under the rug.

[4] "The OAA is a regulator and is entrusted with a great deal of authority," the AATO submitted. "The OAA needs to be held accountable." The AATO sought an order finding the OAA in contempt of court, because the regulator abused its authority to licence architects to reinstate the technologists' licences.

[5] The OAA defended the motion, arguing it did not disobey the order. The OAA's position was that the architect licences issued to the technologists emerged organically from a separate statutory process that the OAA did not control and without basis in any written policy. The fact that this was a peculiar outcome without OAA precedent required the AATO to comb through the records to find out what happened. The AATO discovered that the OAA steered the process in favour of restoring the licences, in violation of the court order.

[6] I find the OAA in contempt of court. To arrive at this conclusion, I have considered the following issues:

1. Statutory context and events leading to the court order
2. Events after the court order
3. Was the OAA in contempt of court?
4. Effect of amendment of the Act and regulation

[7] I will now turn to these issues, before setting out the procedure for sentencing.

1. STATUTORY CONTEXT AND EVENTS LEADING TO THE COURT ORDER

Licensing of Architects

[8] The parties settled the original application brought by the AATO with an order:

> 1. stating the OAA had no lawful authority to issue licences to technologists based on its Council Policy or any similar policy not contained in the regulation,
>
> 2. voiding the existing licences, and
>
> 3. prohibiting it from issuing further licences based on the prior policy or any similar policy not set out in a regulation under the Act.

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[9] Appreciating the OAA's attempt to circumvent the court order by licensing technologists as architects requires an understanding of the uniqueness of the licence of architect.

[10] The 2024-25 amendments to the Act and regulation did not change the fact that there is only one licence for architects in Ontario. The only relevant change in 2025 was to grant the OAA authority to issue a limited licence to technologists called "Licensed Technologist." The word "limited" is instructive, because it constrained the size and type of buildings their clients hire them to design. Architects have unlimited licences, in the sense that they are governed by professional standards of law, honesty, and integrity, but not by the type or scale of buildings the client wants to build.

[11] Depending on the size and use of the structure, anyone can play at being an architect, short of holding oneself out to the public as being one. Subsection 11(1) of the Act restricts the practice of architecture to OAA licence holders, but only for buildings exceeding the sizes and specifications described in s. 11(3). The design of buildings falling within s. 11(3) is in the public domain. The handy weekend warrior designing a doghouse or a gazebo need not worry about breaching the statute. The more adventurous can design a three-storey house, but the plans will probably suffer increased scrutiny from the municipal building department. Beyond that scale, property owners and constructors will need to hire an architect.

[12] Architecture, like other professions, predated government regulation. The profession in Canada traces its lineage to the designers of the great monuments of Europe who received their commissions after studying under successful architects and belonging to recognized guilds. In Britain, building laws governed the design and construction of buildings for almost two centuries, before architecture became a profession requiring formal admission and regulation. The 1666 Great Fire of London precipitated the enactment of building standards now embodied in laws such as the *Building Code*, O. Reg. 332/12. These laws govern buildings, not their designers or constructors.

[13] In the 1830s, British architects formed a professional accreditation body that became the Royal Institute of British Architects. In Canada, the Architectural Guild of Toronto was founded in 1887 as the precursor to the OAA, incorporated in 1890. Provincial authority over professional regulation falls under the property and civil rights power in s. 92(13) of the *Constitution Act, 1867*: *Law Society of British Columbia v. Mangat*, 2001 SCC 67, [2001] 3 S.C.R. 113, at para. 38. For this reason, every province regulates architects independently through delegated agencies such as the OAA.

[14] Like law and medicine, self-regulation allowed architects a zone of autonomy to define the public interest in enforcing their monopoly. Qualification for architect licences came to be defined as a combination of university-based teaching and practical apprenticeship. This combination, typically an accredited Master of Architecture degree and a set number of hours of supervised work experience, makes the path to licensure among the most challenging of any profession in Canada. The OAA's role, in the public interest, is to reject licence applications from unqualified individuals.

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[15] Like other professions emerging from the humanities, architecture entails more than technical or utilitarian skills. Since classical times, architects have transformed inanimate stone and other materials to monuments and spaces of ambition, worship, industry, community, amusement, and high art. The phrase, "space between," coined by Hannah Arendt, captures how architecture has influenced how people live, congregate, and grow networks. In the words of the OAA Registration Committee in its February 29, 2024, decision:

> The Committee carefully considered the role of the accredited degree in architecture as part of the requirements for licensure, and notes that university schools of architecture provide an education that is not offered at the college level. University schools of architecture teach both the art and science of architecture in the broadest and yet, most connected sense. History and theory, critical thought, philosophy, advanced technology, sociology, ecology, design and debate all form part of the curriculum. Students are both inspired and grounded by the responsibility of working at the scale of architecture and urbanism. Students are taught to think about architecture as an expression of contemporary culture and a way to advance culture. That architecture affects us all remains engrained in the architect. The understanding that what we, as a society, choose to build reflects us and in turn affects us all.

[16] As a simple example of these principles, the Toronto Courthouse from which this decision will be released integrates numerous departures from previous preconceptions about the look and function of courthouses. Its architects employed exterior fin walls to catch the eye along University Avenue, as a nod to classical columns, but substituting grandeur with humility. Before the security restrictions following 9/11, its entrances allowed anyone with business before the County Court and later the Superior Court access to the halls of justice from the precinct's four compass points. In harmony with a growing city and province, the design allowed it to grow a seventh floor. Anyone can appreciate a significant building's architecture, but only architects can conceive it and oversee its construction.

[17] The enduring public policy of entrusting the design of large buildings only to those who have completed a second-entry university architectural program may appear elitist. Not every building's design requires such a combination of visual, social, and behavioural intention, in addition to knowledge of limestone cladding. Historically, Ontario and other jurisdictions have entrusted the design of all buildings beyond minor dimensions to architects. A badly designed building is more than an enduring eyesore. It can also deter people from wanting to work or participate in gatherings in it. As in the case of most professions, the public need not understand the details of a professional's skill or creativity to value its protection from unaccredited practitioners. The public policy embodied in legislation and regulations inform the principles at play in this case.

[18] The 2024-25 amendments leading to the current *Architects Act* and regulation did not abandon that trusted role of architects and the expectations placed on persons entitled to

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hold themselves out as members of the profession. As amended, the Act kept the division between architects and technologists. In fact, para. 2 of s. 32.1(1) states:

> 2. The holder of the limited licence may only use the titles "Licensed Technologist" and "technologue agréé".

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Licensing of Architectural Technologists

[19] Architectural technology describes a paraprofession combining several disciplines traditionally employed by design firms, municipal building departments, real estate developers, and other organizations. Technology such as AutoCAD and other computer programs led to the obsolescence of both the pencil and the draftsman. However, the innovations enabled practitioners to combine expertise in building codes, construction technologies, estimating, and site planning, into diploma programs offered at the community or polytechnic college level. Most small buildings of lesser architectural significance do not require an architect to design. However, the average lay person would never design them either.

[20] Until 2025, the *practice* of architectural technologists was entirely in the public domain. Founded in 1965 and continued by the *Association of Architectural Technologists of Ontario Act, 1996*, S.O. 1996, c. Pr.20, the AATO regulated and restricted the use of the *title* of "architectural technologist" to its members. This regulatory model offered protection to the public against those holding out to have the education and training of a technologist. However, the scope of practice in architecture was no different than any member of the public, in being defined by the prohibition against designing structures only architects could design.

[21] One way to describe the AATO's regulatory model would be certification. For example, customers wishing to construct a three-storey house but not wanting to design it themselves can hire an architectural technologist with the confidence that the person they hire will have the required college education and training.

[22] In 1984 amendments to the *Architects Act* (previously consolidated under R.S.O. 1980, c. 26), the AATO obtained an exemption for its members to use the designation "architectural technologists." (That exemption currently appears in s. 46(8) of R.S.O. 1990.)

[23] Between 1984 and 2002, the OAA and the AATO engaged in a tug-of-war over the regulation of technologists. The OAA desired expansion of its regulatory authority to cover AATO members. These organizations also engaged in federal trademark litigation from 1998 to 2002, over the AATO's attempt to register "architectural technologist" and "architectural technician" under the *Trademarks Act*, R.S.C. 1985, c. T-13. During this litigation, the dialogue between the organizations broke down.

[24] At about the same time, from 1997 to 2003, the OAA developed a class of licence for architectural technologists to perform work carved out from the lower end of the scope of

practice restricted to architects. Its efforts to obtain amendments to the regulation under the Act stalled, because of the need to amend provisions in the *Building Code*. Undeterred by the legislative setback, it proceeded with what the OAA Executive Director styled in her affidavit as "Plan B": licensing technologists without legal authority.

[25] In a joint venture with the Ontario Association of Engineering Technicians and Technologists ("OAETT"), the OAA incorporated a rival organization to the AATO called the Ontario Association for Applied Architectural Sciences ("OAAAS") in 2003. The OAAAS administered an application and examination program to refer candidates to the OAA's Registrar for licensure as "Licensed Technologist OAA". In 2011, the OAA acquired OAETT's share of OAAAS, and the licensing program came fully into the OAA tent.

[26] Through corporate and administrative organization and through internal policies enacted by its governing council, the OAA attempted to take over the regulation of architectural technologists from the AATO. By expanding the licence beyond the public domain and carving out a portion of the restricted domain of architects, OAA licensure bettered AATO certification by allowing technologists to work on incrementally larger and more complex projects than what was in the public domain. The OAA Council promulgated the "Terms, Conditions and Limitations" of the "Licensed Technologists OAA" licence in a January 2010 Policy, updated as late as December 4, 2020 ("2010-20 Policy"). The 2010-20 Policy also exempted those holding the new licence from the academic and experience requirements of architect licences.

[27] The Comparison Chart appended to these reasons shows, side by side, the public domain exceptions of s. 11(3); the Terms, Conditions and Limitations of the 2010-20 Policy; and the Terms, Conditions and Limitations imposed on technologists issued architect licences in 2024. The two differences between the 2010-20 Policy and the public domain exceptions of s. 11(3) were restaurants seating less than 100 customers and residential dwellings of four storeys, increased from three. Because restaurants are businesses, arguably the only real difference was the licensing of architectural services for four-storey residences. But for this increment being placed outside the public domain, the OAA effectively took over the AATO's statutory mandate to regulate the use of the title of architectural technologists. Ceding the four-storey buildings from the exclusive practice of architects allowed a membership-recruitment advantage over the AATO.

[28] There were two flaws in the OAA plan. In granting licenses to non-architects to render architectural services for four-storey residential projects, every Licensed Technologist OAA stamping a drawing for such buildings became a lawbreaker. Since neither the Act nor the regulation permitted the OAA to issue any licence other than that of architect, these licences were also unlawful.

[29] In 2022, this situation, combined with the ongoing competition and animus between the OAA and the AATO, resulted in this lawsuit and the subject court order. The AATO sued for an order declaring the unlawfulness of the OAA licences issued to technologists,

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voiding all outstanding licences to them, and prohibiting the OAA's unlawful licensure of technologists. Recognizing it had no defence, the OAA settled the suit.

[30] On May 10, 2023, this court issued an order declaring the unlawfulness and nullity of the licences. In paragraph 3, it also issued the following prohibition:

> 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 "Licensed Architectural Technologist OAA"

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2. EVENTS AFTER THE COURT ORDER

[31] On the same day the court issued the order, the OAA sent out a "regulatory notice" informing technologists that the court had voided their licences. The notice also provided the following advice:

> As always, if any individual applies for a licence or CoP [certificate of practice] with the OAA without meeting all the requirements set out in s. 13 of the Architects Act, the Registrar is required, pursuant to s. 25(1)(a), to serve a notice of proposal, together with reasons, on the applicant.
>
> The notice will explicitly tell the applicant they are entitled to a hearing by the Registration Committee if they deliver, within 30 days, a written request.

[32] The AATO read this notice as a coded invitation to the technologists to apply to be licensed as architects, with the expectation that their applications would first be rejected as meeting none of the basic academic requirements to qualify as an architect but would then be capable of acceptance by an OAA committee. A week later, the AATO's suspicions proved justified. On May 17, 2023, the OAA issued another regulatory notice containing the following advice:

> Following a hearing, the panel may make a number of recommendations, including the possibility of directing the Registrar to issue a licence or CoP [certificate of practice] subject to specified terms, conditions, or limitations, or requiring the applicant to successfully complete further examinations or training.

[33] Many former licensed technologists deciphered the OAA's intention to reissue their licences by redesignating them as architects with practice restrictions. The OAA received 39 applications from technologists to be registered as architects, out of the 150 affected by the court order. Only one of the applicants had studied to become an architect. The

Registrar dutifully proposed to reject them and gave the applicants the option of a committee review. Once the committee hearings started, the Registrar shifted positions from refusing to restoring the limited licences. The committee then directed the Registrar to issue architect licences on ten applicants, subject to practice restrictions identical to those of the licences prohibited by the court order. The committee attempted to justify the conferral of architect licences to those with none of the educational requirements by arguing that university architectural programs did not have a monopoly on the curriculum.

[34] The OAA committee possessed discretionary authority to exempt from the accredited degree requirements exceptional candidates capable of showing qualifications for an architect licence equivalent to the OAA's published requirements. The committee used that authority to exempt candidates from the requirements, based on the idea that restricting the scope of practice to the 2010-20 Policy would reinstate the technologist licences. The problem with this attempt to circumvent the court order was the immutable fact that there was and remains only one architect's licence in Ontario. Whether imposed at the time of licensure for making up an academic or training requirement, or mid-career because of discipline, restrictions on the scope of practice cannot change the genus of the architect's licence and be used to invent a subsidiary licence.

[35] Decoding the regulatory notices requires the context of ss. 13 and 25 of the Act before the 2024-25 amendments. Subsection 13(1) requires the Registrar to issue an architect licence to any applicant of good character, over the age of 18, who has met certain status and residency requirements, complied with academic and experience requirements, and passed OAA examinations. This gatekeeper role entailed little discretion to refuse a qualified candidate, except on ethical grounds under s. 13(2). If the Registrar was unsure of the candidate's qualifications, s. 13(3) allowed the Registrar to refer the application to one or both of two Requirements Committees, respectively called the Academic and Experience Requirements Committees. On a plain reading, the discretion to refer an applicant to one of these committees is for close calls. Since the outcome remains a binary choice of acceptance or rejection, there is no outlet for imposing conditions, such as obtaining additional academic qualifications or working under supervision for longer.

[36] For those whose candidature the Registrar intended to refuse, the legal regime provided a review mechanism to allow applicants to show they met the requirements in other ways. If the Registrar proposed to refuse a licence, ss. 25(1) and (3) required the issuance of a notice to the unsuccessful applicant informing them of their right to a hearing by the Registration Committee. Subsection 25(2) did not grant this right to those refused by one of the Requirements Committees under s. 13(3). The importance of the finality of this s. 13(3) exception to the s. 25 process will be clear momentarily.

[37] The s. 25 process starts when the Registrar rejects an application under s. 13 and "proposes," under s. 25(1):

> (a) to refuse an application for a licence, a certificate of practice or a temporary licence;

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(b) to suspend or revoke a certificate of practice or a temporary licence; or

(c) to issue a licence, a certificate of practice or a temporary licence subject to terms, conditions or limitations.

In the 2024 applications in question, the Registrar proposed "(a)": to refuse the application.

[38] A candidate rejected by the Registrar directly under s. 13 without resort to s. 13(3) could then invoke s. 25(5) to request a Registration Committee hearing. Subsection 25(8) authorized the Registration Committee to exercise certain powers couched in dense regulatory language. For ease of review, I reduce the powers to their logical elements and to direct the reader to the Registration Committee's critical path in issuing architect licences to the technologists after the court order:

(a) if the applicant meets the requirements, issue the licence;

(b) → *if the applicant does not meet the requirements,*

(i) refuse the licence, or

(ii) → *exempt the applicant from the requirements and issue the licence; or*

(c) if necessary to ensure that the applicant will engage in the practice of architecture with competence and integrity,

(i) require the applicant to pass examinations,

(ii) require the applicant to take additional training, or

(iii) → *issue a licence, "subject to such terms, conditions or limitations as the Registration Committee specifies."*

[39] I have intentionally not inserted a directional arrow or italicized the condition in "(c)." Prior to the 2025 statutory amendment, s. 11(1) excluded anyone other than a licensed architect from "the practice of architecture." Using the power under s. 25(8)(c)(iii) to issue an architect's licence to a technologist was inconsistent with the purpose of the Act which delegated to the OAA the licensing and regulation of architects. As stated by the Supreme Court in *Alberta Union of Provincial Employees v. Lethbridge Community College*, 2004 SCC 28, [2004] 1 S.C.R. 727, at para. 25, one reads the words of an Act in their entire context, in their grammatical and ordinary sense, and "harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament." By ignoring "(c)," the OAA shepherded technologist applicants into a process intended for licensing architects.

[40] On October 6, 2023, the Registration Committee held its first review hearing of the Registrar's proposal to refuse an architect's licence to a technologist. The committee released its decision on November 2, 2023, agreeing to the refusal. As will be detailed later

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in the contempt analysis, this was not the result the Registrar or her counsel contemplated or advocated for. The committee's reasons offered detailed exegesis of the conjunction "or" separating paragraphs (b) and (c), to determine that s. 25(8) did not allow it to exempt the applicant from the academic requirements *and* issue a licence subject to terms, conditions, or limitations. The postscript to the decision, however, stated the more obvious point, that the Act did not contemplate the creation of a separate class of licence by exempting the applicant from academic requirements and by limiting the work he could perform:

> The Committee acknowledges that this is undoubtedly an unsatisfactory result for Mr. [X]. However, as the Act prescribes only one class of licence and Mr. [X] does not meet the academic qualifications and experience requirements to obtain that licence, it is the only result open to the Committee. It is up to the legislature, not this Committee, [to] determine whether or not to accommodate those previously qualified as Licenced Architectural Technologist OAA through the creation of an alternate path to licensure.

[41] On February 29, 2024, a differently constituted committee released a decision concluding the opposite result and directing the Registrar to issue architects licences to four applicants, subject to the same terms, conditions, and limitations ("TCL") as the licences prohibited by the court order. The only functional difference was the requirement that the licensee use the designation "Architect (Limited Scope)," "Limited Scope Architect," or similar. The OAA later employed the title "Architect TCL" on its own website for registration details of the licensees.

[42] To exempt the applicants from the academic and work requirements and scale back the licence to the banned technologist licence, the committee read the word "or" separating paragraphs (b) and (c) as inclusive rather than exclusive:

> The Committee finds that the word "or" between subparagraphs (b) and (c) of section 25(8) of the Act is to be read inclusively rather than exclusively. Therefore, in circumstances where the Committee determines that it is appropriate to "*exempt the applicant from any of the requirements of this Act and the regulations*" (section 25(8)(b)(ii)), it may direct the Registrar "*to issue a licence, certificate of practice or temporary licence, as the case may be, subject to such terms, conditions or limitations as the Registration Committee specifie*s" (section 25(8)(c)(iii)).

[43] In isolation, the second committee's inclusive reading of the word "or" in this context was legally correct: *Rooney v. ArcelorMittal S.A.*, 2016 ONCA 630, 133 O.R. (3d) 287, at paras. 45-48. A reasonable reading of the connected elements of s. 25(8) would permit the committee to exempt a candidate from an academic or experiential requirement and then impose the completion of additional examinations or additional training. The exemption and the remedial measure can work hand in glove.

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[44] After construing "or" as non-exclusive, the second post-injunction committee dispensed with the four applicants' academic qualifications on a loose "university of life" theory:

> However, this is not to say that one cannot learn these things outside of the walls of a university school of architecture. In fact, having limited scope practitioners as members of the OAA provides the opportunity for broadening their knowledge and understanding of architecture as a cultural expression.

The resort to this kind of reasoning betrayed the unsoundness of employing s. 25(8)(c)(iii) to craft an ersatz technologist licence out of the architect licence, because it ignored the phrase "the practice of architecture" operative in "(c)" as the exclusive domain of architects. The correct interpretation of the conjunction "or" did not authorize the committee to direct the issuance of separate class of architect licences.

[45] After the release of this decision, not all applicants appearing before the Registration Committee were successful. By July 2024, the Registration Committee had granted a total of ten "Architect TCL" licences. (On July 3, 2024, it also issued an unrestricted architect licence to one candidate who had obtained a Master of Architecture from Boston Architectural College in December 2023.)

[46] The OAA thus granted the only licence authorized by statute to issue – architect – by exempting them of the degree requirement altogether. The OAA effectively allowed technologists to leap over many whose applications were refused or who never applied for licensure as architects because their qualifications fell short of the requirements. Subsection 25(2) removes the right to a hearing before the Registration Committee to a candidate for an architect's licence if a Requirements Committee has already weighed in pursuant to s. 13(3). An applicant whose candidature could be borderline and rejected under s. 13(3), such as one with a master's degree from an architecture faculty not on the accredited list, is at a disadvantage over a clearly unqualified applicant who never enrolled in a university architecture course of any kind. This unfair and absurd outcome illustrates the basic flaw in licencing technologists as architects.

[47] Statutes follow well-established drafting conventions: Ruth Sullivan, *The Construction of Statutes*, 7th ed. (Toronto: LexisNexis, 2022), at p. 203. The first convention is to group related concepts and provisions and sequence words, phrases, clauses and larger units following a rational plan: at pp. 208-209. Reading ss. 13 and 25 in this manner, the purpose of the committee review in each instance is to allow the OAA to relieve the candidate of an academic or experiential element of the licence, if the Registrar's disqualification is based on formal or technical points. If candidates provide the committees evidence of equivalency of a non-accredited degree-granting university faculty or of employment in architectural training, the committees can either level up the qualification or exempt the candidate from the formal criteria.

[48] The case of the technologist to whom the Registration Committee conferred a full licence on July 3, 2024, illustrated this point. That candidate obtained a master's degree, after the

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court order nullified his Licensed Technologist OAA, and demonstrated that his work experience resembled that of a trainee architect. Thus, the committee recognized his academic credentials and exempted him from the formal experience requirements. The only condition it imposed was to pass the examination.

[49] No reasonable reading of ss. 13 and 25 would contemplate issuing an architect licence to a candidate who had never matriculated the equivalent of an accredited university architecture degree. But the OAA Registration Committee proceeded to do just that.

[50] The final event relevant to the motion was the 2024 amendments to the Act and regulation. These came into effect on January 1, 2025. These changes to the law did not ratify the OAA's issuance of architect licences to non-architects. On the contrary, they preserved the bright-line demarcation between architects and technologists. The OAA, however, treated the amendments as ratification of their conduct.

[51] To determine whether the above conduct and process amounted to contempt of court, the court must first consider the applicable law and analyse the evidence in closer detail.

3. WAS THE OAA IN CONTEMPT OF COURT?

[52] The Superior Court's power to punish a person for contempt of court is a remnant of the common-law criminal power that survives the statutory codification of Canadian criminal law. The *Criminal Code*, R.S.C. 1985, c. C-46, s. 9 preserved that jurisdiction. There are two types of contempt of court, criminal and civil contempt. The criminal form entails sanctions for disruption of court proceedings. In contrast, civil contempt is a method of enforcing court orders in disputes: *B.C.G.E.U. v. British Columbia (Attorney General)*, [1988] 2 S.C.R. 214, at para 33. Unlike criminal contempt, civil contempt entails court intervention to assist litigants' enforcement of court orders. It has been called "a private wrong": *R. v. Clement* (1980), 114 D.L.R. (3d) 656 (Man. C.A.), at paras. 42-43. In *Carey v. Laiken*, 2015 SCC 17, [2015] 2 S.C.R. 79, at paras. 31 and 36 ("*Carey*"), the Supreme Court held that the primary purpose of civil contempt is "coercive rather than punitive" and that "it is an enforcement power of last rather than first resort."

[53] Because of the criminal nature of a finding of contempt, the moving party must prove every element beyond a reasonable doubt. A common description of the standard of proof is that it much closer to absolute certainty than it is to a balance of probabilities: *R. v. Rathore*, 2025 ONCJ 291, 2025 CarswellOnt 8088, at para. 3. The standard applicable in this contempt motion is the same as in a first-degree murder trial. Judges must be mindful of the guidance of appellate courts, used to instruct juries on how to weigh the evidence and on the meaning of a reasonable doubt. A helpful summary of the case law appears in *R v Edwards*, 2025 ABCJ 100, 2025 CarswellAlta 1265, at paras. 6-7:

> [6] The main question in a criminal trial is always whether the Crown has proven each element of the offence beyond a reasonable doubt. *R v*

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> *Lifchus*,1997 CanLII 319 (SCC), [1997] 2 SCR 32; *R v Starr*, 2000 SCC 40; and *R v Squires*, 2002 SCC 82 provide key principles as to this onus:
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> 1. The standard of proof beyond a reasonable doubt is "inextricably intertwined" with the principal fundamental in all criminal trials, the presumption of innocence.
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> 2. The burden of proof rests on the Crown throughout the trial and never shifts to the Accused.
>
> 3. A reasonable doubt
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> a. is based upon reason and common sense, and is not a doubt based upon sympathy or prejudice;
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> b. is logically connected to the evidence or absence of evidence;
>
> c. does not involve proof to an absolute certainty, is not proof beyond any doubt, nor is it an imaginary or frivolous doubt; and
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> 4. More is required than proof that the accused is probably guilty.
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> [7] As stated by the Court in *R v Torrie*, 1967 CanLII 285 (ONCA) at para 10, the requirement that the Crown prove its case beyond a reasonable doubt does not "mean that the Crown must negative every possible conjecture, no matter how irrational or fanciful, which might be consistent with the innocence of the accused".

[54] In this motion, the evidence consisted almost entirely of a fixed record of events, including the OAA's publications. To the extent the affidavits interpreted events or documents differently, I have considered only the evidence tendered by the OAA and the cross-examination testimony of the Registrar. The nature of the evidence is therefore such that doubt is not a factor infiltrating much of the fact-finding. Because the outcome of the events was the OAA's licensure of technologists, the court had to concentrate on the OAA's path to those outcomes. The fact that the OAA's process comes under the loupe does not mean the burden ever shifted to it to justify its conduct. If there is a reasonable basis to doubt that its conduct breached the order, there will be nothing for the OAA to justify.

[55] At paras 32-35 of *Carey*, the Supreme Court set out the three elements of civil contempt the moving party must prove beyond a reasonable doubt. The first is that the order the alleged contemnor breached must be clear and unequivocal. The second is the alleged contemnor's actual knowledge of the order. The third is intentional disobedience. I will deal with each element in turn.

1. Was the meaning of the order clear and unequivocal?

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[56] The first part of the contempt analysis requires the conduct to come within the clear and unequivocal language of the proscription. Otherwise, there can be no breach. In most instances, the language of the order is the focus, because the breach does not entail much complexity (e.g., picketing within an exclusion zone, movement of frozen assets, failing to abide by a parenting time schedule, etc.). The OAA's conduct in this case engages both the language and the conduct, because the court order prohibited the corporate act of issuing licences to technologists. The OAA believed that rerouting the application process through a statutory committee before the Registrar issued the licences did not flout or circumvent the court order.

[57] The injunction alleged to have been breached must be found within the four corners of the order, and the OAA is entitled to the most favourable interpretation: *Gurtins v. Goyert*, 2008 BCCA 196, at para. 14. However, the OAA must diligently obey the order and cannot circumvent it by clinging to a possible interpretation of one or more terms: *Ceridian Canada Ltd. v. Azeezodeen*, 2014 ONSC 3801, at para. 32, and 2014 ONCA 656, at para. 8. Applying these principles to this case, the court must determine whether the OAA issued licences to architectural technologists in 2024 without a basis in the 2010-20 Policy or a similar policy that is not found in the regulation.

[58] The AATO argued that the OAA restored licences to ten architectural technologists, in breach of the order prohibiting the issuance of licences based on the 2010-20 Policy or similar policy not set out in a regulation under the Act. The AATO pointed out that the Registration Committee used the same restrictions as in the 2010-20 Policy defining the scope of practice. Using this policy as the template for a technologist licence by labelling it as a separate class of architect licences violated the court order in letter and in spirit.

[59] The OAA argued that the AATO has not proved beyond a reasonable doubt that the OAA intentionally committed an act that the order clearly and unequivocally prohibits. The OAA submitted that the licences issued to technologists after the court order were not based on the 2010-20 Policy or similar policy not set out in a regulation under the Act. Rather, the Registration Committees followed a process under s. 25 of the Act to issue architect licences to the technologists. The Registrar then followed the committees' directions to issue the licences. I distill the OAA's characterization of its role and conduct as follows:

1. The two regulatory notices to the affected architectural technologists alerted them that their licences were null and void and did not invite the former licensees to a process to get their licences restored. The notices then informed the affected former licensees of their statutory right to a review hearing by the Registration Committee, "if" they were to apply for a licence without meeting the requirements under s. 13 of the Act.

2. The Registration Committee performed its independent statutory role. Its process in conferring the limited architect licences was not a sham and did not amount to a "policy" within the meaning of the court order. It was entitled to exercise its powers under s. 25 and direct the issuance of the limited licences without reliance on any written OAA policy.

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[60] The Registration Committee's February 29, 2024, decision became the precedent and template for subsequent limited licence approvals. It is therefore important to focus on this first use of the s. 25 process and the role of the OAA, whose position was represented by a lawyer described in the record as "the Registrar's counsel." That decision stated the following position of the OAA:

> The Registrar's counsel noted that the order was issued by the Ontario Superior Court of Justice and the Committee is bound by it. The order determined that it was unlawful and therefore prohibited for the OAA to issue licences or certificates of practice based on the "*Policy of the Council with respect to the Licensed Technologist OAA*" or "*similar policy not set out in a regulation under the Architects Act*." The Registrar's counsel further submitted that the licences in question in the current matter are not based on policy, rather, they are based on legislation, specifically section 25 of the *Act*. Therefore, while the OAA is prohibited from issuing licences based on any policy that is not set out in the regulations to the *Act*, it is not prohibited from issuing licences pursuant to the *Act*.

[61] The dispute over the language of the order therefore zeroed in on the words, "or similar policy." The record disclosed no written policy of the kind issued by the OAA Council prior to the court order. The Registrar gave the following compiled answers at different points of her cross-examination by AATO counsel:

> Q. Do you agree with me, given the language of the order, that it's a reasonable interpretation that the OAA would stop issuing licences to architectural technologists until they had a regulation?
>
> A. No. I do not agree with that statement. More specifically, I would agree with what the order says, explicitly that licences, based on a policy with respect to licence technologists OAA or similar policy not set out in regulation, that there's no lawful authority to issue licences in that manner.
>
> …
>
> Q. … I put to you that it was a reasonable interpretation of the order that the OAA would stop issuing licences to architectural technologists until they had a regulation. And you said no. Right?
>
> A. I think it is a reasonable interpretation to read the order in its plain language and follow the strict reading of it.
>
> …
>
> Q. You agree with me the court order does not say "written policy" or "policy in writing."

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> A. I do agree with that. But I will add that the policy it is referring to is a written policy.
>
> Q. Well, the specific policy, but then it also says "or similar policy" not set out in regulation, right?
>
> A. Correct. But I will add that for a policy of the OAA, it must be written. There are no unwritten policies, as you previously were asking about.

[62] The OAA thus read the words, "similar policy," as meaning a written policy, because the 2010-20 Policy was in writing. Because the OAA had no unwritten policies and did not issue a new written policy, it argued the court order did not constrain it from issuing licences to technologists by crafting the identical licence from its authority to licence architects. An unwritten policy would have been dissimilar to the 2010-20 Policy, at least in that one respect.

[63] The OAA's grammatical interpretation resembles the logic of the limited class rule, that a general term following a list of specific items is restricted to any genus or class to which the specific items all belong: *Walker v. Ritchie*, 2006 SCC 45, [2006] 2 S.C.R. 428, at para. 25. Here, the general term follows a list of one, making it hard to limit the words "or similar policy" to written policies.

[64] The AATO focused on the prohibition against the absence of a basis for the licences in the regulations. The pre-2025 Act provided for imposing limitations on licences, but limited licences as a separate type of architect licence did not exist in the Act or regulation. Since the point of the underlying suit was to recognize the unlawfulness of the OAA technologists, the meaning of the order was to require the OAA to wait until the government amended the regulation to grant it authority to license and regulate persons other than architects.

[65] Had the prohibition ended at the words, "or similar policy," the OAA's argument that the word "policy" was limited to a specific written format could be more plausible. However, similar things are distinguishable in one or more respects; otherwise, they would be the same. In the institutional context, the idea that the OAA would licence technologists as architects in the absence of a policy defied reason. The issue here is whether the fact that the referenced policy was written is a defining feature of any "similar policy". The point of the order was expressed by the words, "not set out in a regulation under the *Architect's Act*." This clause made it clear that the prohibition applied to a class of policies that were not provided in the regulation, and the fact that the specific policy was in written form was not a defining feature. A more reasonable reading of the order was that the OAA had to wait for an amendment to the regulation before issuing licences to technologists.

[66] The OAA urged the court to adopt an interpretation of the order according to which the regulator could issue such licences *ad hoc* to unqualified applicants based on no policy and through reliance on an organic process of a committee exercising wide discretion. It is a

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reading that should surprise any reasonable person expecting the OAA to be the public's gatekeeper of rigorous architect licensing requirements.

[67] The court order must be read in context. The prohibition appeared in the third paragraph of an order declaring the OAA's issuance of licences by policy and not by regulation unlawful and then declaring the licences invalid. No reasonable person would expect a professional regulatory agency to issue licences without a policy of some kind. The 2010-20 Policy required over a decade for the OAA Council to develop, and a further decade to update. The Registrar's evidence that the OAA has no unwritten policies ties into this rationale, but probably not in the way she intended. The point she asserted would mean the OAA could restore the voided licences, if its Council met and developed a policy, provided no one took minutes and published a document spelling out the intended process.

[68] A regulator issuing licences to candidates without statutory credentials and without following *any* policy lets loose the forces of chaos into an application process that is supposed to be transparent and orderly. Doing so with *unwritten* policies undermines public confidence in the institution and, by extension, the practice of architecture. Given this basic rationale for modern professional regulation to develop, publish, and follow policies, I find the Registrar's answers to AATO counsel's questions to mean she understood the court order as not prohibiting a course of action to license technologists, provided the OAA published only advice and no formal policy. This did not mean her answers proved there was an unwritten policy. Rather, it meant the OAA was prepared to compromise its public-protection mandate to perform an end run around the court order. That said, the court must determine whether the OAA disobeyed the court order. The OAA can continue to act unlawfully or against its statutory mandate without necessarily defying the court order. The contempt analysis therefore cannot end with the flaws in the OAA's meaning of the phrase, "or similar policy."

[69] The process for restoring the technologists' licences was not wholly organic or *ad hoc*. There was evidence of a policy, in the sense of a predetermined course of conduct, and some of it was in writing. The most obvious role of a written policy was the 2010-20 Policy, which the court ordered that the OAA could not use as the basis for licensing technologists. It was beyond dispute that the limited licences directed by the committees were "based" on that policy in that they incorporated it word for word and only changed the name of the licence from "Licensed Technologist OAA" to "Architect TCL." Moreover, the Registration Committee did not use its powers under s. 25 to impose terms, conditions, and limitations of licence specific to the applicant's individual circumstances, other than the common fact that they had all lost their licences because of the court order. The imposition of a common set of licence restriction, regardless of individual education, training, and work experience, means the committee followed a policy.

[70] The 2010-20 Policy was developed over time, as part of the OAA's program to develop licensing criteria and competencies with various educational and occupational stakeholders. The OAA's evidence outlined this process in detail. The terms, conditions, and limitations obviously required considerable deliberation, if only to conclude that architects were prepared only to cede one increment of their exclusive practice to the new

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class of licensees. The point is that the Registration Committee did not frame the licence restrictions based on a tailored or *ad hoc* review of candidate qualifications. The fact that the same restrictions were used in every case meant the 2010-20 Policy was the "policy" on which the licences were based.

[71] The committee reasons from the failed first attempt to replace the applicant's licence with one "commensurate to the restrictions imposed upon him pursuant to the former Licensed Architectural Technologist OAA designation" left no doubt that the new limited licences were based on the unlawful 2010-20 Policy. The very fact that the licences were to be issued with these restrictions meant the Policy was still governing the OAA's limited licensing of architectural technologists.

[72] The Registrar's evidence was that 39 applications by technologists for architect licences during a short period was an unusually high volume. I accept her position that the OAA would have expected those who learned about the court order to follow the regulatory notices to find out the steps available to them. Nevertheless, the information in the OAA's notices about steps for technologists to apply for architect licences made no sense, unless it meant to telegraph the OAA's intent to facilitate a way around the order. The OAA had the biographical data on the technologists and knew their college diplomas did not qualify them to apply to be licensed as architects, in Ontario or in any other province. The one candidate to whom the committee direct the Registrar to issue a full architect licence would have applied for it even if he had not been stripped of the technologist licence, because he completed the requisite master's degree.

[73] The OAA's position that the information about applying for architect licences was purely informational was disingenuous. As a semi-tacit invitation to apply, the notices prompted the applications. Many hired lawyers to represent them at the hearings and to appear with the Registrar's counsel to make submissions. To the extent the notices communicated the OAA's receptiveness to such applications, I find that they were expressions of policy. And they were in writing.

[74] Once the OAA received the applications, the ensuing process proved its role was hardly neutral. The evidence of the committee reasons, whose accuracy the Registrar did not dispute, proved beyond a reasonable doubt that the OAA followed through on the invitation to technologists to apply to be licensed as architects, by changing its position at the hearings from refusal to issuance and by making joint submissions with the applicants for the restoration of the licences.

[75] In every one of the post-injunction licence applications by technologists who regained their OAA limited licences, the Registrar served notice of her proposal under s. 25(1)(a) to refuse to issue the licences. Before the Registration Committee, her counsel then reversed course and sided with the applicants point by point, as if she had proposed under s. 25(1)(c) to issue limited licences with precisely the same terms, conditions, and limitations as those the court order had annulled.

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[76] In the first application which reached a hearing, the Registration Committee agreed with the Registrar's proposal to refuse the application. This was the outcome, despite the strange spectacle of the Registrar's counsel disagreeing with the Registrar's own proposal. Her counsel and the applicant's counsel jointly "invited the Committee to exercise its broad powers under s. 25(8)" to exempt the candidate from the academic and work experience requirements and to limit the licence "commensurate to the restrictions imposed upon him pursuant to the former Licensed Architectural Technologist OAA designation." When cross-examined on this point, the Registrar quibbled with the questioner before trying to finesse the answer, as follows:

> Q. Do you agree with me that she invited the Committee to exercise its broad powers to both exempt and impose terms, conditions and limitations?
>
> A. I agree with you that that is what the decision and reasons of the tribunal states. But I can confirm that in the hearing [my counsel] did not invite or suggest that the Committee find one way or the other for the applicant.

[77] The OAA's position was that the Registrar simply performed her duty by proposing to refuse the application and then the Registration Committee independently issued the limited licences conforming to the terms, conditions, and limitations of licence set out in the 2010-20 Policy. By following the s. 25 path instead of a policy, the OAA contends, there was no disobedience of the court order. The court is left with the following question: If the Registrar was going to make a joint submission consistent with s. 25(1)(c) in every case, why not start the committee review with a proposal under that provision? The obvious reasons were that a proposal under s. 25(1)(c) would have been an open breach of the court order, and a proposal to refuse would have allowed the OAA to place the statutory decision-maker between the OAA's course of conduct and the court prohibition.

[78] The OAA's argument that it did not invite the committee to find one way or the other for the applicant was further undermined by the fact that the combined use of the exemption and licence restriction powers in the shape of a licence for technologists was unprecedented. In response to the committee's question to the Registrar's counsel whether s. 25(8)(c)(iii) had previously been used to issue a limited licence in the manner proposed, the answer was that it had only been employed to order the candidate to complete further training. The Registrar's evidence that her counsel did not invite or suggest the outcome lacks credibility, not only because of the undisputed record of the proceedings, but also because her counsel's clear duty was to support her proposal to refuse the applications.

[79] The absence of precedent for using s. 25 to licence as architects applicants with no qualifications as architects did not mean the OAA devised this method as a plan to restore the licences voided by the court order. The idea that one thing must have prompted the other simply because one followed the other, a.k.a. *post hoc ergo propter hoc* is a fallacy. To establish that connection or motive, there must be some basis for comparison between this use of s. 25 and previous ones.

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[80] To its credit, the OAA provided examples of previous Registration Committee implementations of the section. The Registrar's responding affidavit provided historical examples of committee outcomes after Registrar's proposals under s. 25(1)(c) to issue a limited or conditional licence to applicants. They were architects from outside Ontario. The specific conditions imposed on the licence came after the committee considered the Registrar's recommendations tailored to the applicant's circumstances. One could clearly infer that, after the candidates fulfilled the probationary conditions, they would have expected to proceed to unrestricted architect licensure in due course. These precedents for the proper use of s. 25 added proof that the OAA used of the Registration Committee process as a false cover for issuing licences prohibited by the court order.

[81] The AATO argued that the s. 25 process before the Registration Committee was essentially a sham. There was no evidence of collusion between the OAA and the committee members. The court can draw the inference, however, that the alignment of the Registrar's counsel took an unexpected turn in the hearings before the committee. I was unable to find any submission made by the Registrar's counsel supporting the s. 25(1)(a) proposals to refuse the applications beyond entering the proposals into the committee record. In the one instance where the committee agreed with the proposal to refuse, it did so above the argument of the Registrar's counsel about the proper construction of the conjunction "or" in linking the two statutory powers of discretion.

[82] Counsel for the AATO submitted that a party to a court order pretending to comply with a court order but taking steps to undermine or circumvent it appeared to be without precedent in the Canadian law of contempt. She offered the analogy of criminal cases involving breaches of combines legislation. In those cases, our courts have long embraced the maxim that actions speak louder than words, when the offence of which the accused is charged entails an accumulation of "several isolated doings": *Ed Miller Sales & Rentals Ltd. v. Caterpillar Tractor Co*. (1994), 151 A.R. 1 (KB), at paras. 58-62. The price-fixing cases described in that decision deal with offences whose outcomes (e.g., lock-step pricing) are readily proven but direct evidence of a link with collusion is elusive.

[83] In *R. v. Hoffman-La Roche Limited* (1980), 28 O.R. (2d) 164 (S.C.), aff'd (1981) 33 O.R. (2d) 694 (C.A.), at para. 99, Linden J. held that the word "policy" in combines legislation did not require a formal corporate by-law or resolution. This court held that, "All that is required to come within this language is a planned and deliberate course of conduct by responsible employees". This judicial interpretation of "policy" recognizes the ordinary meaning of the word to include any underlying idea guiding an institutional party's conduct.

[84] A party with knowledge of a court order must obey it, in letter and in spirit, and cannot finesse or circumvent it: *Zhang v. Chau*, 2003 CanLII 75292 (QC CA), at para. 32; *Sure Track Courier Ltd. v. Kaisersingh et al*., 2011 ONSC 4810, 2011 CarswellOnt 8004, at paras. 53-54. Taking a panoramic view of the events from the time the court issued the order, one cannot escape the inference the AATO asked the court to draw, that the two regulatory notices telegraphed the existence of a plan to restore the annulled licences.

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[85] The OAA obviously needed to manage the fallout of having to inform former licensees, not only that their licences were revoked but also that their practices could have included unlawful activities. Less than a third of those affected felt compelled to take up the OAA's invitation. Because the voided licences had ceded them only an increment of the domain of architects, there could have been any number of reasons why 111 out of 150 former licensees accepted the court order and took no further action. To the 38 who applied without any of the application requirements, the notices' reference to the s. 25 process would have made no sense other than as an intended path for restoration of the licences prohibited by the court order.

[86] The above inference of a plan to restore the licences by circumventing the court order would not be sufficient evidence to prove the breach. There is sufficient ambiguity in the regulatory notices to question the existence of a plan to defy the order. The notices were only groups of pixels in the overall image. The Registrar could then have assumed a position at the hearing honouring the court order, by instructing her counsel to support her proposal to refuse the applications. Such a position should have been consistent with its Registrar's role as the issuer of one class of architect licence. Her role should not have been to facilitate the licensing of technologists by exempting them from requirements and defining the scope of practice using the 2010-20 Policy.

[87] Even if the OAA observed the correct s. 25 process, the administrative framework presented two constraints for the Registrar issuing licences without breaching the order.

[88] First, the Registration Committee did not develop its own licence criteria. Instead, it used the wording of the 2010-20 Policy. Because this was the only OAA Council policy governing the issuance of licences to technologists, it tied the committee's hands. The applications were for architect licences, by default without restrictions. Therefore, the committees could have imposed different terms. For example, a technologist who demonstrated experience in assisting architects with low-rise six-storey buildings of more than 600 m^2 could have received a licence with those modifications to the s. 11(3) restrictions. The committee was under institutional compulsion to follow the 2010-20 Policy as the product of the OAA's deliberations of the appropriate scope of practice for technologists. It would have been difficult for it to develop an *ad hoc* scope of practice and direct the Registrar to issue a licence that was not based on the 2010-20 Policy.

[89] Second, the committees directed the Registrar under s. 25(8)(c)(iii), but it was the Registrar – the OAA – who issued the licences. The committee's direction under the statutory mandate would not have excused the OAA if it had been directed to issue licences in violation of the court order. To ensure the OAA did not disobey the order, the appropriate procedure would have been to inform the court of the committee direction and seek directions before issuing the licences. Instead, the Registrar's counsel informed the committee that the court order did not prohibit her from issuing licences pursuant to s. 25. The case is no different from any instance where an administrative body directs a person to do something contrary to a court order. The fact that such a body exercised a statutory power would not allow the person to disobey a court order.

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[90] A comprehensive reading of the committee narratives of the hearings left the court with a profound sense that the s. 25 process was used for a purpose other than intended. The words in the court order, "not set out in a regulation under the *Architect's Act*," describing the unlawful and prohibited licensing policy, could not have meant the OAA could manipulate the committee review process to achieve the identical outcome as the banned licensure policy. The admitted absence of precedent for this use of s. 25 was further evidence that its object was to restore the banned licences.

[91] To sum up, the OAA cannot deny the ten limited licences matched almost word for word the 2010-20 Policy the court order directly prohibited. It also cannot deny its failed effort to restore the first applicant's limited licence. It argued that the licences were the outcome of a s. 25 procedure and not of the Policy or any similar policy. It also believes the quasi-judicial function of the Registration Committee under s. 25 shields the Registrar from being accused of having issued the licences. The uncontested evidence, from the time of the court order's issuance, established that the OAA provided the former licensees a process to regain their licences and then tilted the wheel more than a half-turn at the committee hearings to steer them into issuing limited licences to the technologists in the very form the court order prohibited. The committee does not issue licences. The Registrar must still issue the licences. The OAA, and not the Registration Committee, breached the clear and unequivocal meaning of the order.

2. Did the OAA have knowledge of the order?

[92] The OAA consented to the order, and the order is cited in the various regulatory notices and committee decisions. There can be no reasonable doubt about its knowledge.

3. Did the OAA intentionally disobey the order?

[93] In *Carey*, at para. 38, the Supreme Court stated that the moving party need not prove that the contemnor intended to disobey the order. To place the test at this level amounts to making ignorance of the law a defence to an allegation of civil contempt when the same would not be an answer to a murder charge. Instead, contumacy or lack thereof is relevant to the sentence or penalty. In short, there need be proof only that the alleged contemnor intended to commit the act or omission.

[94] I believe, if only for the deference to be accorded to statutory bodies in the interpretation of their home statutes and regulations, that the OAA honestly believed the s. 25 powers to exempt and limit provided a loophole to get around the court order that it cannot issue licences to technologists based on its own policy, if not founded in the regulation. Having accepted this lack of intent to at least openly breach the order, I would have considered a professional licensor and regulator's natural response to a licensing loophole to want to

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plug it, instead of trying to force a licence application through it. Insofar as the OAA misinterpreted s. 25 as providing a way around the court order, an honest belief in the legality of the conduct does not provide a lawful excuse.

[95] Every step the OAA took from the time of the court order was intentional. The lack of a coherent plan or protocol did not make the course of conduct inadvertent. The regulatory notices were not inherently intentional, because it owed a responsibility to the public to alert the former licensees to stop working on prohibited projects. Telling them about the path to licensure as architects may have been innocuous in isolation, but inserting the information in this package was intentional. Once 39 applications came in, proposing to refuse them was the standard and expected response. Inviting the Registration Committee to exempt the applicants from the requirements was an intentional about-face that could only be explained by an intention to steer the outcome toward directing the issuance of architect licences to clearly unqualified candidates. Telling the committee it could restrict the licence only shed the absurd pretence of the formal proposal to refuse their issuance. Accepting the committee's direction to issue a licence in violation of the order, after this sequence of conduct, could not be excused as inadvertent or unintentional.

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4. EFFECT OF AMENDMENT OF THE ACT AND REGULATION

[96] The OAA also argued there was no meaningful purpose to a contempt order, now that the Act and regulation provide for OAA licensure of architectural technologists. This ties into the coercion versus punishment principle, that civil contempt is mainly an instrument to enforce private rights. The OAA relied on *Jackson v. Jackson*, 2016 ONSC 3466, 2016 CarswellOnt 8650, at para. 49, in which this court stated that the contempt remedy "is only available to redress breaches of orders that are live and operative when the contempt finding is made, and which the aggrieved party wishes to enforce." The court cited *Fiorito v. Wiggins*, 2015 ONCA 729, 2015 CarswellOnt 16481, at para. 17, dealing with interim orders that were no longer in place.

[97] There is no merit to this argument. The court order was a final order and remains in full effect today. The amendments allowing the OAA to licence technologists are wholly consistent with the order prohibiting the licensing of technologists without regulatory authority. They are also consistent with my holding that architect licences can only be issued to licence architects. After 2025, the OAA was authorized to licence technologists to hold themselves out as "Licensed Technologist." If the OAA desired to create yet a further class of licences, it would have to return to Queen's Park and not attempt to cobble together statutory authority out of s. 25.

[98] Beyond the requirement of a live and operative order, the coercive purpose of civil contempt is to deter future disobedience, not only by the contemnor but also by others: *Carey*, at para. 31. If courts turn a blind eye to disobedience, the administration of justice and the public interest suffer. Peaceful adjudication of civil disputes depends on public confidence in the enforceability of court orders.

[99] Having agreed to an order declaring that it operated a licensing program unlawfully for almost two decades, the OAA's position is that another year should not really matter, now that the government has enabled the objects of the 2010-20 Policy. This argument illustrates the need for a finding of contempt, as a final resort. The contrition the OAA had to swallow in agreeing to a court order that its practices were unlawful and in having to announce to its technologist licensees that their licences were revoked evidently did not stop it from contriving an interim circumvention of the order.

[100] Analogies to the licensing of M.D.'s or lawyers who had never obtained accredited medical or legal degrees further illustrates the deafness of the OAA's argument that its conduct was inconsequential, coming from an agency with a duty to regulate a profession in the public interest. I was not referred to evidence of the status of the ten licensees after January 1, 2025. On the face of the record, there remain ten architectural technologists at large, calling themselves "Architect TCL". Even if those licences have since been converted, the brief time they were permitted to hold themselves out to the public as architects represented a risk the OAA was bound to prevent and not create.

CONCLUSION

[101] The moving party has proven, beyond a reasonable doubt, the required elements for finding the Ontario Association of Architects in contempt of court. The parties shall coordinate with the motions office to convene a sentencing hearing.

[102] Because liability for costs at an elevated scale is frequently one of the sanctions imposed on a contemnor, I will consider the AATO's bill of costs and the parties' costs submissions at the time of sentencing.

Akazaki J.

Date: June 16, 2025

APPENDIX – COMPARISON CHART

Differences between public domain and technologist licences appear in bold font.

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PUBLIC DOMAIN S. 11(3) OF THE ARCHITECTS ACT	2010-2020 OAA COUNCIL POLICY WITH RESPECT TO LICENSED TECHNOLOGIST OAA	2024 TERMS, CONDITIONS AND LIMITATIONS OF ARCHITECT LICENCES GRANTED TO TECHNOLOGISTS
Exception (3) Subsections (1) and (2) do not apply to, (a) the preparation or provision of a design for the construction, enlargement or alteration of a building, (i) that is not more than three storeys and not more than 600 square metres in gross area as constructed, enlarged or altered, and (ii) that is used or intended for one or more of residential occupancy, business occupancy, personal services occupancy, mercantile occupancy or industrial occupancy; (b) the preparation or provision of a design for the construction, enlargement or alteration of a building that is not more than **three** storeys and that is used or intended for residential occupancy and, (i) that contains one dwelling unit or two attached dwelling units each of which is constructed directly on grade, or (ii) that is not more than 600 square metres in building area as constructed, enlarged or altered and contains three or more attached dwelling units, each of which is constructed directly on grade, with no dwelling unit constructed above another dwelling unit; (c) the preparation or provision of a design for the construction, enlargement or alteration of a building used directly in the extraction, processing or storage of ore from a mine; (d) the preparation or provision, under the personal supervision and direction of a member of the Association or the holder of a temporary licence, of a design for the construction, enlargement or alteration of a building; (e) the preparation or provision of a design for interior space for a building, including finishes, fixed or loose furnishings, equipment, fixtures and partitioning of space, and related exterior elements such as signs, finishes and glazed openings used for display purposes, that does not affect or is not likely to affect, (i) the structural integrity, (ii) a fire safety system or fire separation, (iii) a main entrance or public corridor on a floor,	*Terms, Conditions and Limitations of Licence* 1. The Licensed Technologist OAA may provide, and personally supervise and direct, architectural services for a building that: a) as constructed, enlarged, or altered, is not more than three storeys in height and not more than 600 square metres in gross area and is used or intended for one or more of the following occupancies: i. Residential; ii. Business; iii. Personal services; iv. Mercantile; v. Industrial; or **vi. a restaurant designed to accommodate not more than 100 persons consuming food or drink;** b) is used or intended for residential occupancy, and contains one dwelling unit or two attached dwelling units, and, as constructed, enlarged, or altered, is not more than **four** storeys in height; c) is used or intended for residential occupancy, that contains three or more attached dwelling units and, as constructed, enlarged, or altered, is not more than four storeys in height and not more than 600 square metres in building area; d) is excepted by the Architects Act, S.11 (3). 2. The Licensed Technologist OAA shall use the designation "Licensed Technologist OAA," or "Lic.Tech.OAA" in every aspect of the practice of architecture. The Licensed Technologist OAA may not use the title "Architect" in any form.	*Terms, Conditions and Limitations of Licence* 1. The Applicants may provide, and personally supervise and direct, architectural services for a building that: a. as constructed, enlarged, or altered, is not more than three storeys in height and not more than 600 square meters in gross area and is used or intended for one or more of the following occupancies: i. Residential; ii. Business; iii. Personal Services; iv. Mercantile; v. Industrial; or **vi. a restaurant designed to accommodate not more than 100 persons consuming food or drink;** b. is used or intended for residential occupancy, and contains one dwelling unit or two attached dwelling units, and, as constructed, enlarged, or altered, is not more than **four** storeys in height; c. is used or intended for residential occupancy, that contains three or more attached dwelling units and as constructed, enlarged, or altered, is not more than four storeys in height and not more than 600 square meters in building area; or d. is excepted by the Architects Act, s. 11(3). 2. The Applicants shall ensure that their limited scope of practice is clearly indicated to the public in a manner set out and approved by the Registrar (e.g., website, letterhead, business cards, social media profile). 3. The Applicants may act as the prime consultant for the construction, enlargement, or alteration of any building. However, where the Applicants have agreed to arrange for the provision of architectural services to a member of the public beyond those permitted in Paragraph 1, they must engage a holder of a Certificate of Practice not subject to these Terms, Conditions, and Limitations.

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(iv) an exit to a public thoroughfare or to the exterior, (v) the construction or location of an exterior wall, or (vi) the usable floor space through the addition of a mezzanine, infill or other similar element, of the building; (f) the preparation or provision of a design for alterations within a dwelling unit that will not affect or are not likely to affect fire separations, firewalls, the strength or safety of the building or the safety of persons in the building; (g) the doing of an act that is within the practice of architecture but that is exempt from the application of this Act when performed or provided by a member of a class of persons prescribed by the regulations for the purpose of the exemption, if the act is done by a person who is a member of the class. R.S.O. 1990, c. A.26, s. 11 (3).		

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