

ARCHITECTS WIN APPEAL

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A March 2007 Client Alert detailed a decision of the British Columbia Supreme Court in *Howe Sound School District No. 48 v. Killick Metz Bowen Rose Architects and Planners Inc.* In this case, the school board had sued the architects of a leaking school building alleging errors in design and field reviews. The parties had used the Canadian Standard Form of Agreement between Client and Architect which stated that the client could not make a claim against the architects any later than six years after the date of substantial performance of the work. Maintaining that it did not know of the leaks until after this limitation period had lapsed, the school board sued the architects. At trial, the Court dismissed the claim, holding that the school had no right to commence an action after the expiration of the limitation period, even in the circumstances that the school board described.

A similar result was reached by the B.C. Supreme Court in *The Board of School Trustees of School District No. 72 (Campbell River) v. IBI Group Architects et al.* The Court of Appeal heard both cases and handed down its reasons for dismissing both appeals on May 7, 2008. The Appellate Court agreed with the trial decisions in both instances stating that the six-year limitation clause found in the standardform, client-architect agreement was unambiguous and must be given its full effect — liability for all claims absolutely ceases to exist after a period of six years. The Court went on to hold that the school boards were not entitled to postpone the six-year period until such time as they came to learn of the alleged design defects.

The architectural community no doubt welcomes this decision which brings business certainty to risk management when using this type of standard-form contract.