



## Assessment Department

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November 6, 2018

Tanya Patterson  
Emergency Program Coordinator  
City of Victoria  
1234 Yates Street  
Victoria, BC V8V 3M8

Dear Ms. Patterson:

**Subject: Application for extended coverage under section 3(5)(b)**

I refer to your application for extended coverage under section 3(5)(b) of the *Workers Compensation Act* (the *Act*) for individuals voluntarily engaged in earthquake emergency response under the City of Victoria Urban Search and Rescue (VUSAR).

Generally, a volunteer does not meet the *Act's* description of 'worker', and therefore, a volunteer cannot have coverage under the *Act*. However, section 3 of the *Act* grants WorkSafeBC discretion to extend the application of Part 1 of the *Act* to a person or group of persons engaged in an undertaking that affects a broad segment of the public. WorkSafeBC policy and practice applicable to such are found in *Assessment Manual Item: AP1-3-1* and in *Practice Directive 1-3-1(A)*.

As section 3(5)(b) of the *Act's* extension of coverage is an exceptional exercise of authority, it requires strict compliance with the policy and the terms and conditions set forth in the application. The first such condition is that the organization seeking coverage must be a legally constituted non-profit organization. Since the Emergency Management division is part of the City of Victoria's Fire Department, and the City of Victoria is not a non-profit organization, this condition is not met. Thus, as the VUSAR does not satisfy the terms and conditions for extended coverage under section 3(5)(b) of the *Act*, the volunteers do not have coverage under the *Act* for those services.

I considered my discretion to deviate from strict application of policy and practice in order to affect a reasoned balance between an affected person's interests and "the best interests of the workers' compensation system" [s. 36(2) of the *Act*]; however, I was not able to find a justifiable rationale to deviate from the application of WorkSafeBC's long-standing terms and conditions.

If you disagree with this decision, you may request a review from the Review Division within 90 days of the date of this letter. If additional information comes to light, the department may reconsider its decision within 75 days of the date of this letter. Please note that the department cannot reconsider a decision once a request for review has been filed with the Review Division, and that a review request can only be accepted within 90 days of this letter.

Please contact the Assessments department directly should you have any questions.

Yours truly,

Howard Chang  
Director, Assessments  
WorkSafeBC