

CCA Fall Meeting Highlights on Prompt Payment

I attended the CCA Fall meeting in Niagara last week. There was excellent discussion on many issues that we at OGCA and others are facing: from legalized marijuana in the workplace to Federal tax changes, there was a lot to discuss and take in.

The Ontario Construction Act was a major topic, and Bruce Reynolds addressed the attendees, updating them on how it was proceeding. Members are aware that Bill 142 has passed second reading and is now moving to committee hearings. OGCA has submitted its name to be heard at these hearings.

At this time, OGCA has no major objections and is very supportive of the Bill. There are amendments that are needed to deal with “operational” and technical issues not foreseen when the Bill was first crafted, and we are confident that such amendments will be forthcoming. The committee hearings are an opportunity to support the Bill and to highlight those amendments which we expect to see prior to the hearings.

The CCA Task Force on Bill 224 Federal Prompt Payment, a Senate Bill, reported on the status of that proposed legislation which has not been introduced in the House and remains a Senate Bill.

During the Senate process, OGCA members and Contractors from across the Country were very concerned by what was being tabled. Yonni Fushman of AECON, and a member of OGCA’s Lien Task Force, attended the hearings to try and advise the senators of the one-sided effort they were putting forward, and though some minor amendments were made, the Bill remains a Bill 69 clone and is dangerous to Trades, Generals and Owners.

A CCA Task Force began meetings with the Federal Government and the following report was made at the meetings.

- No Bill has been introduced into the House
- Some Liberal MPs are consulting in their regions with stakeholders on an informal basis.
- Problems associated with payment were discussed, such as to the removal of the Holdback on Federal Projects, improving flow down payment times and Adjudication.
- Discussion that perhaps legislation is not needed as these issues could be dealt with through the contract.
- Federal reports and discussions are “murky” and there is push back from Government agencies who do not support the Senate Bill as currently written.
- CCA Task Force was divided on the need for legislation, or deal through contract.
- Strong agreement that no legislation as currently being proposed (Federally) will be sufficient to end abuses to the payment system.

The Task Force then made three motions on how to move forward, essentially ending the current Task Force and creating two others as described in the following motion.

Federal Prompt Payment

1. “THAT, CCA endorses the spirit and intent of Federal Bill S-224 and undertakes to work with industry and government to find a broad consensus on effective legislation.” 80%

2. "THAT, the CCA Board create a Task Force on the culture of payment with a mandate to identify initiatives that will improve industry and stakeholder knowledge of payment processes and mechanisms and improve the culture of compliance." 80%
3. "THAT, the CCA Board create a Task Force on Federal Payment with a mandate to consult broadly with CCA members, LCAs, industry stakeholders, and the federal government in order to make a consensus submission to government on federal payment legislation." 80%

During discussion on these motions (all were passed) and taking into account comments made by Bruce Reynolds, many agreed the real problem and difference between Ontario's plan and the Senate Bill was Consultation.

In Ontario, we had a thorough and exhaustive consultation period, leading to the Reynolds/Vogel Report that resulted in an industry consensus support for a new or revised Act. This did not happen federally and is a major flaw in the Senate Bill: no industry consultation.

The OGCA strongly agrees with this position, and to ensure that General Contractors are heard, has formed a Federal Task Force to provide input to both CCA and the Federal Government. This effort, supported by OGCA members, has engaged a major consulting firm StrategyCorp to assist us in communicating our concerns and recommendations to federal MPs.

We have extended an invitation to Generals across Canada to join us to ensure that the voice of contractors is heard and that a fair open and consultative process is implemented before any Bill is introduced into the House.

The OGCA will be adding a Federal update section to our Website under the Lien Act section.

The government is serious about addressing prompt payment and the recently released mandate letter to Minister Qualtrough (see below) outlines this in these key lines:

"Modernize procurement practices so that they are simpler, less administratively burdensome, deploy modern comptrollership, encourage greater competition, and include practices that support our economic policy goals, including innovation, as well as green and social procurement.

This includes: Ensuring prompt payment of contractors and sub-contractors who do business with your department."

The OGCA thanks those members who have contributed to a special fund to finance our work on this important issue. Any member or other contractor from any sector who wishes to join us and help support our efforts can contact David or myself at OGCA for details.