

Committee Notes: Standing Committee on Finance and Economic Affairs

Date: August 4, 2020

Time: 11:00am

- Hello
- My name is Giovanni Cautillo. I'm the new president of the Ontario General Contractors Association.
- Our members account for approximately \$12 Billion dollars of construction each year in Ontario in the Industrial, commercial and Institutional sectors (Generally referred too as ICI)
- We are focused on supplying the infrastructure needed to support Ontario's growing communities.
- Our 190 members include small, medium and large firms representing both union and open-shop contractors.
- In my presentation, I will address the impacts of COVID-19, the effect of the subsequent closing of most of the ICI industry on our businesses, and its impact generally on infrastructure contracts.
- I will also explain how our sector requires a quick response from this Government to deal with the financial and contractual cries we are now facing.
- (Pause)
- In general, due to the existing safety culture, our ICI segment of the construction industry has managed the challenge of COVID-19 very well.
- The biggest hit to our industry was the government mandated shutdown when ICI construction was deemed "non-essential" from April 3rd to May 17th. Since reopening, we have been focused on the workers safety that much more
- To illustrate, as of last week, the WSIB has accepted over 4,340 work place claims, with only 18 from construction.
- We have invested heavily in training, sanitation, cleaning, physical distancing, and PPE.

- In a survey of over 200 contractors done by the Ontario Construction Secretariat, the cost of new safety initiatives was shown to have increased project costs by 13%.
- This same survey determined that the pandemic has also caused supply chain interruptions, which continue to impact most projects.
- The crisis now facing us is that the standard “force majeure clauses” used in contractual agreements do not allow for a pandemic or a mandatory closure of the industry.
- Unless the owner agrees to these costs, the contractor is legally liable for all costs and delay penalties.
- When the Ontario Construction Secretariat asked about this in the survey I have referenced, 18% of owners said they are somewhat or very inflexible in accommodating new costs or any delays.
- This crisis is soon to be compounded over the next few months by a cash flow shortage caused by the six-week gap in billings.
- The timing literally cannot get any worse as contractors are presenting their second quarter statements to their banks and bonding companies.
- Last week one of Canada's largest general contractors rescued a similarly sized firm, which was no longer financially sustainable.
- We are fortunate that bankruptcy was avoided, but industry experts are convinced that without intervention, many companies will soon fail.
- This is the start of a financial crisis that requires the government's immediate response.
- As we enter stage 3 of recovery, contractors are bearing even more of the actual costs associated with delays and this problem is getting worse, with 41% of the scheduled work that was to start this year, remaining delayed.
- To solve this, labour lawyers across the province have suggested solutions including a separate standardized clause addressing costs induced by COVID-19.
- Another solution is to include "pandemic" as a component of the force majeure section in contracts.

- By taking this action, the government would be able to protect the parties while allowing them to continue to build under challenging and uncertain conditions.
- However, being able to build infrastructure only works if there is something **TO build**.
- When the economy is suffering, the Government turns to our construction industry to be the engine that drives the growth that will keep our economy thriving.
- And shovel-ready infrastructure projects, whether they be large or small, are critical to the success of our industry and our province.
- However, public infrastructure projects are only one part of the ICI construction industry, a sector that contributes just under \$9 Billion to our province's GDP.
- It is important to remember that, like the rest of the economy, the vast majority of those employed in the construction industry, work for small to medium-sized firms.
- Some of these smaller projects have been vital to Ontario's COVID recovery, like the retrofit of health care centres with barriers to keep employees safe.
- I want to give credit to the government for their announcement of the Accelerated Build Pilot Program.
- Still, I also want to tell you that now more than ever, our economy is dependent on the Infrastructure Ontario pipeline.
- The pandemic has stopped much of the planning and approvals for construction in 2021.
- The only way to fix this is by providing a **long-term** infrastructure pipeline that will encourage investment.
- It will serve as an incentive to train those who lost jobs due to the pandemic.
- Infrastructure investment has been shown throughout our province's history to put billions of dollars back into our economy.
- Our sector and the people of Ontario will need this when the full impact of this pandemic is known.
- As I am sure you all know, it takes billions of dollars in investment to build the critical infrastructure we rely on every day.

- For every ICI project that gets built, every general contractor must calculate the project cost.
- Delays caused by the shutdown, increased safety standards, supply chain issues, and reduced productivity have all been felt by general contractors.
- The principal issue here is the difference between being busy and billing at full capacity.
- Many trade contractors have reported being busy in May, but they are finishing off jobs that are taking longer than anticipated or starting new work with fewer workers on site.
- The result, is that not as much work is being completed, and therefore, there are less billings.
- Stepping up and establishing a relief provision that allows banks and bonding companies to support contractors financially while they are dealing with contractual and payment delays will be critical to our economic recovery.
- In summary, here are our recommendations:
 1. Apply pandemic related costs to the force majeure clauses of contracts.
 2. Remove regulatory impediments to the planning and delivery of all construction projects, including the removal of exclusion clauses from procurements policies, and
 3. Establish a relief provision that allows banks and bonding companies to financially support contractors while they deal with contractual and payment delays.
- We're very grateful to the Ministry of Labour Training and Skills Development, the Attorney General's Office and the Ministry of Infrastructure for the ongoing support of Ontario's construction industry.
- I want to personally give special thanks to Minister McNaughton for his unwavering support for this sector and his commitment towards ensuring that all workers are kept safe during the crisis.
- Thank you. I look forward to your questions.