

Prompt Payment Ontario

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Vol. 4

PROMPT PAYMENT ONTARIO 42 MEMBERS STRONG

5 NEW MEMBERS JOINED SINCE THE LAST NEWSLETTER

The issue of prompt, transparent and fair payment practices continues to attract new members to Prompt Payment Ontario. We welcome 5 new

members since the last edition of the newsletter. An updated list of all the members is on the last page of this newsletter.

Welcome to our new members:

Association of Millwrighting Contractors of Ontario

The Architectural Glass and Metal Contractors Association,

Crane Rental Association of Ontario

Ontario Association of Demolition Contractors

The Ontario Pipe Trades Council

PPO MEETINGS AND INITIATIVES

PREP WORK FOR CLA REVIEW SUBMISSION

On May 19th, 2015 PPO held a meeting of all members at ISCA. The purpose of the meeting was to provide an update of activities and propose some next steps while we await the release of the CLA Review Submission Guidelines.

The meeting included – a review of the un-audited year-end financial statements. If any member is interested in getting

this information please contact Sandra Skivsky at (905) 564-6622.

There was a brief update on the CLA Review. The submission guidelines were to be released mid-May and as of this date we have not seen them. A letter from the Ministry of the Attorney General regarding the delay and some updates to the process was sent out on June 4th,

CANADIAN CONSTRUCTION ASSOCIATION STILL HAS NO “FORMAL” POSITION ON PROMPT PAYMENT

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Last November the National Trade Contractors Coalition of Canada provided the CCA with the draft federal prompt payment language and asked for CCA’s support. No response was received and the issue was raised again this April when CCA representatives met with the NTCCC Board. At that meeting CCA President - Mike Atkinson, Past-Chair - Serge Massicotte and Chair – Anibel Valente stated that Prompt Payment would be discussed at their Vertical Meetings at the end of May and they would give NTCCC the answer as to their formal position.

The issue was discussed but however any motions were discouraged and in recent correspondence the CCA indicates that it will announce its position in October.

and it was circulated to all PPO members. If you need a copy please contact Sandra Skivsky at sskivsky@canadamasonrycentre.com.

As soon as the submission guidelines are released PPO will call another meeting of its members.

LEGAL/RESEARCH TEAM:

We have had a number of teleconferences with the PPO Legal Team of Geza Banfai, Dan Leduc and Mike Mazzuca and Research/Analysis support from John O'Grady (Prism Economics). While we are awaiting the questionnaire from the CLA Review we have begun work on the PPO submission. Two surveys are being prepared, one of the benefit plans and one for trade contractors/suppliers. Your assistance will be requested when these surveys go out into the field. The results of these surveys will provide quantifiable results that support the case for prompt payment legislation.

CLA REVIEW ADVISORY PANEL:

The review will create a small advisory group which will provide advice to the review. Its members will consist of subject matter experts, particularly in respect of legal issues. It will meet to further the discussion of issues of relevance and to identify opportunities for

consensus building. The discussions of the Advisory Group will be confidential in nature to encourage open communication. Geza Banfai (McMillan) has been asked to be part of this Expert Panel and the PPO Executive have agreed to have him represent the PPO in that role, as Geza is also part of the PPO legal team.

NTCCC and CCA meet over prompt payment

by **RICHARD GILBERT** Apr 20, 2015

The National Trade Contractors Coalition of Canada (NTCCC) is urging the Canadian Construction Association (CCA) to take a policy position on prompt payment, while voicing concerns about their involvement with legislation on the same subject in Ontario.

"Although they haven't taken an official position on prompt payment legislation, it is the hope of NTCCC that the CCA will very soon adopt a formal position of support for a legislative solution to this growing problem," said John Galt, the chair of the NTCCC in a press release.

"There is no single issue of greater importance to the entire construction industry.

ALBERTA CONSTRUCTION ASSOCIATION AGREES TO PUSH FOR PROMPT PAYMENT SOLUTIONS



On Friday June 12th, 2015 the ACA Board agreed on a number of recommendations regarding Prompt Payment, including:

To develop a code of best practices and adopt them even before legislation is developed

To advocate a legislative solution to the issue of late payments that are not in compliance with CCDC contract language

Build a coalition

Undertake research

Develop evidence based rationale

Identify potential champions

Work with champions to advance a proposal for legislation.

FOR MORE INFORMATION CLICK ON THE LINK BELOW.

<http://albertaconstruction.net/?p=747legislation>

Contractors need to get paid for work that they've done within a month of doing it so that they can pay their own

workers and continue to create jobs."

According to the press release, Galt recently met with Anibal Valente, CCA chair and Michael Atkinson, CCA president, to discuss their views on the need for prompt payment legislation.

Galt said the meeting was good but he was surprised that a national association would be getting involved on the scale that the CCA seems to be with the Construction Lien Act review in Ontario.

In response, Atkinson said the CCA has not yet taken a formal position on whether prompt payment legislation is appropriate at the federal level. Atkinson said the CCA will probably be discussing the issue at its upcoming board meeting in May.

"We have also decided that for the expert review in Ontario, that we wanted to be registered as a stakeholder, primarily to get all the information," he said.

"But, we want to assure NTCCC, that we are not going to be making specific recommendations with respect to what Ontario should do legislatively."

The Ontario government selected Bruce Reynolds on Feb. 11 to conduct an expert review of the Construction Lien Act, which will focus on prompt payment and effective

dispute resolution.

Atkinson said the CCA will provide its national perspective on payment and non-payment issues in the industry. This will take the form of some sort of commentary.

"But, we will not be making any specific recommendations vis-a-vis what might be done with the Construction Lien Act or any other specific piece of legislation in Ontario," said Atkinson.

"We wanted NTCCC to understand that as well, because they heard we were going to be involved in the consultation. They wanted to know why a national association would wade in provincially." Atkinson and Valente also met with the board of the Ontario General Contractors Association (OGCA) recently at its Construction Symposium 2015 to clarify their position at the provincial level.

"CCA is a national body that has been hearing about this issue from many sides and provinces," said Clive Thurston, OGCA president.

"So, for them to be involved is only natural, but in the sense of providing information, not policy. And, I think that is a very good role for them to play, because once we are successful in Ontario, this is going to spread."

One of the prompt payment

concerns identified by the CCA is the extension of payment terms.

"We are seeing situations where owners routinely remove from standard contract provisions dealing with the automatic payment of interest on late payments or the ability to get reasonable evidence of financing from the owner," Atkinson said.

"We are also probably going to mention restrictive bidding clauses and all the municipal clauses that say if you bring a lawsuit against us you will be barred from bidding our work."

Atkinson said this creates a situation in which a contractor is not being paid in a timely manner or at all, but is reluctant to take advantage of any statutory or contractual remedies that are available.

Members of Prompt Payment Ontario as of June 24th, 2015:

- 1 Acoustical Association Ontario
- 2 Association of Millwrighting Contractors of Ontario
- 3 Architectural Glass and Metal Contractors Association
- 4 Brick & Allied Craft Union
- 5 Canadian Automatic Sprinkler Association
- 6 Canadian Concrete Masonry Producers Association (CCMPA)
- 7 Canadian Institute of Steel Construction - Ontario Region
- 8 Carpenters District Council of Ontario Political Action / Promo Fund
- 9 Concrete Forming Association of Ontario
- 10 Council of Ontario Construction Associations
- 11 Crane Rental Association of Ontario
- 12 Electrical Construction Association of Hamilton
- 13 Electrical Contractors Association of Ontario
- 14 Electrical Contractors Association of Quinte - St. Lawrence
- 15 Greater Toronto Electrical Contractors Association
- 16 IBEW Construction Council Of Ontario
I.B.E.W. Local 353 Welfare Plan c/o Toronto Electrical Industry Benefit Administration Services
- 17 Limited
- 18 Independent Plumbing & Heating Contractors Association
- 19 Independent Unionized Landscape Contractors Association
- 20 Interior Systems Contractors Association of Ontario
- 21 International Brotherhood of Boilermakers
- 22 International Union of Operating Engineers, Local 793
- 23 Labourers' International Union of North America
- 24 Masonry Contractors' Association of Toronto
- 25 Mechanical Contractors Association of Ontario
- 26 Ontario Association of Demolition Contractors
- 27 Ontario Concrete & Drain Contractors Association
- 28 Ontario Council of Painters/International Union of Painters and Allied Trades
- 29 Ontario Erectors Association/Ironworkers Association Council of Ontario
- 30 Ironworkers Association Council of Ontario
- 31 Ontario Masonry Contractors Association
- 32 (The) Ontario Pipe Trades Council
- 33 Ontario Sheet Metal Contractors Association
- 34 Residential Siding Contractors Association of Greater Toronto
- 35 Residential Carpentry Contractors Association Of Greater Toronto
- 36 Residential Tile Contractors Association
- 37 Ontario Formwork Association
- 38 Ontario Painting Contractors Association
- 39 The Ontario Pipe Trades Council
- 40 The Residential Low Rise Forming Contractors Association of Metro Toronto and Vicinity
- 41 Toronto & District - Carpentry Contractors Association
- 42 Trim Association of Ontario