



Council Resolution Form

Date: 21 Mar 2024 No: Resolution No.62-24
Moved By: Councillor Tripp Disposition: CARRIED.
Seconded by Councillor Popkie
Item No: 12.2

Description: Occupational Health and Safety Act Definition of "Employer"

RESOLUTION:

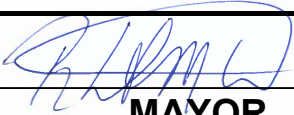
That Council support Resolution CC2023-303 passed by the Council of the City of Greater Sudbury on December 5, 2023 regarding the Amendment of the Occupational Health and Safety Act to Clarify the Definition of "Employer", including that the definition of "employer" excludes owners that have contracted with a constructor for a project;

And furthermore that a copy of this resolution and a copy of the City of Greater Sudbury's resolution be circulated to the Honourable Doug Ford, Premier of Ontario, the Honourable David Piccini, Minister of Labour, Immigration, Training and Skills Development, the Honourable Paul Calandra, Minister of Municipal Affairs and Housing, John Yakabuski, MPP for Renfrew-Nipissing-Pembroke, the Association of Municipalities of Ontario and all Ontario Municipalities.

Recorded Vote Requested by:

.....n/a.....

	Yea	Nay
J. Levesque	_____	_____
T. Popkie	_____	_____
L. Thomson	_____	_____
R. Tripp	_____	_____
R. Weir	_____	_____


MAYOR

Declaration of Pecuniary Interest:

.....n/a.....

Disclosed his/her/their interest(s), vacated he/her/their seat(s),
abstained from discussion and did not vote

December 12, 2023

Sent Via Email

Municipalities of Ontario

Re: Amendment to the Occupational Health and Safety Act to Clarify the Definition of "Employer"

PO BOX 5000 STN A
200 BRADY STREET
SUDBURY ON P3A 5P3

The following resolution was passed by Council of the City of Greater Sudbury on December 5, 2023:

CP 5000 SUCCA
200, RUE BRADY
SUDBURY ON P3A 5P3

CC2023-303: WHEREAS in 2015 the City of Greater Sudbury (the "City") entered into a contract with a contractor experienced in road construction projects to complete a project on Elgin Street in the City's downtown core;

AND WHEREAS the contract provided that the contractor would be the constructor for the project as that term is defined in the Occupational Health and Safety Act (the "Act");

AND WHEREAS an employee of the constructor operating a grader on the project struck and killed a pedestrian;

AND WHEREAS the City was charged with offences under the Act as the constructor and the employer;

AND WHEREAS after being acquitted at trial and on appeal, the Ontario Court of Appeal, in a decision issued on April 23, 2021, found the City to be liable for contraventions of the Construction Regulations as an employer as it employed quality control inspectors to monitor the quality of work on the project from time-to-time;

AND WHEREAS the Supreme Court of Canada, in a decision issued on November 10, 2023, was evenly divided 4-4 on the issue resulting in dismissal of the City's appeal;

AND WHEREAS the consequence of this decision is that municipalities in Ontario, as well as all other owners of property in the province, who wish to undertake construction, are subject to being charged and convicted as an employer for offences in relation to project sites for which they have no control and have, in accordance with the Act, contracted with an entity to assume plenary oversight and authority over the work on such site as the constructor; AND WHEREAS the potential of an owner being charged as an employer as that term is defined in the Act in circumstances where it has engaged a constructor disregards and renders meaningless the owner-constructor provisions contained in the Act and presents an unacceptable level of increased risk and confusion for owners and contractors throughout the province;

705.671.2489

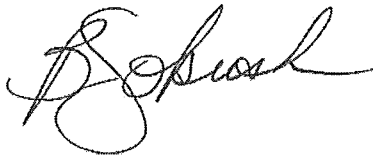
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AND WHEREAS the City believes that the safety of workers is paramount however the safety of workers on construction projects in Ontario is not increased by placing liability on parties that do not have control of and are not responsible for the conduct of the work on such sites;

NOW THEREFORE BE IT RESOLVED THAT the Council for the City of Greater Sudbury requests that the province amend the Occupational Health and Safety Act to clarify the definition of "employer" to exclude owners that have contracted with a constructor for a project;

AND BE IT FURTHER RESOLVED THAT this motion be provided to the Honourable Doug Ford, Premier of Ontario, the Honourable David Piccini, Minister of Labour, Immigration, Training and Skills Development, the Honourable Paul Calandra, Minister of Municipal Affairs and Housing, France Gelin, MPP for Nickel Belt, Jamie West, MPP for Sudbury, the Association of Municipalities of Ontario, the Federation of Northern Ontario Municipalities, Ontario's Big City Mayors, Mayors and Regional Chairs of Ontario, Northern Ontario Large Urban Mayors, the Council of Ontario Construction Associations, the Ontario Chamber of Commerce and all Ontario municipalities.

Yours truly,

A handwritten signature in black ink, appearing to read 'Brigitte Sobush', with a stylized, flowing script.

Brigitte Sobush
Manager of Clerk's Services/Deputy City Clerk

- c. Members of City Council
Eric Labelle, City Solicitor and Clerk