

# Construction in Ontario

Serving the Ontario Construction Industry



Issue 1, Volume 70

November 2008

## An Environment of Change

From the desk of COCA President Ian Cunningham



This is my second writing in "Construction in Ontario" since assuming the role of president of COCA in late August and I can't help but be struck by the fast-paced and ever-changing environment in which we all work and live. In the short time I have been with COCA, two events of worldwide proportion have taken place. First, there was the meltdown in the credit markets which caused successive financial dominoes to fall creating widespread economic slowdown. And second, there was the election of Barack Obama as president of the United States opening a new chapter in the politics of the world's only superpower.

The provincial public policy arena has been a fast-paced locus of change also. Since joining COCA, our provincial government has introduced at least three new initiatives that should be of interest to everyone in the construction industry. First was the announcement by the Minister of Training Colleges and Universities, John Milloy, of the government's intention to establish a College of Trades and his appointment of Labour Relations Board Chair, Kevin Whittaker, to consult and generally figure out how the new College should work. If you would like a copy of Mr. Whittaker's consultation document, please don't hesitate to contact us and we would be happy to provide it to you.

Secondly, the WSIB has gone public with its plan to merge the 13 existing safe workplace associations (SWAs) into four. The current plan would have our world renowned CSAO thrown in with electrical, natural gas, landscaping, farming, pulp and paper, mines/metals/minerals, aggregates and forestry for all customer facing services, with back office services and prevention services shared across all of the four new SWAs. I can't help but believe that the valuable programs, services and information that our industry currently receives from CSAO will be seriously watered-down under the proposed new arrangement and that construction workplaces will be less safe as a result. Also called into question will be the availability (and quality) of prevention services for our Northern Ontario members. Will they be included in the catchment detailed for the new "Prevention Services A" entity of the new service model, or will they be relegated to drawing services from the "catch-all" Prevention Services North"

provider that will have a heavier focus on the pulp & paper, mines and forestry sectors? Significant concern over this lack of detail has been raised and no answer seems apparent.

And finally, the issue of Mandatory Coverage, introduced into the Legislature as Bill 119 by the new Minister of Labour, Peter Fonseca. Regular readers of "Construction in Ontario" will already know that COCA has consistently supported the principal of mandatory coverage for some time. COCA believes that WSIB premiums should be paid on behalf of every worker who might qualify for benefits in the event of a workplace accident or sickness. We believe that every construction employer has an obligation to pay his fair share and COCA cannot tolerate construction employer freeloaders who go underground and essentially allow WSIB coverage for their workers to be paid for by others in the industry who abide by the rules and pay more than their fair share.

While COCA supports the general direction of Bill 119, we take great exception to the elimination of the executive officer exemption for legitimate construction executives who are not exposed to construction risk. Furthermore, we strongly believe that the exemption for home renovators, proposed in the bill, needs to be tightened up so that the rest of the industry doesn't end up subsidizing the home renovators' coverage.

COCA exists to serve the public policy and advocacy needs of its members. COCA is a forum where members can get together to identify barriers to business success that are rooted in public policy. It's also a place where members work together to develop solutions to those barriers to recommend to the government. I realize that your work environment is fast-paced and ever-changing too and that you have more than enough issues already filling your desk. But if you have the time, please make yourself familiar with these issues and provide me with your considered views. As always, we invite, welcome and value your input.

## Value of ICI Building Permits Rises Sharply in September

After a series of declines, the value of national building permits (residential and non) rose 13.4% in September as a result of gains in all three components of the non-residential sector. The most significant increase occurred in Ontario, where permits rose 17.9% to \$2.4 billion.

The value of institutional building permits more than doubled (+108.8%) in September to a record \$986 million. Values for commercial buildings rose by 11.7% after three consecutive declines. Industrial intentions increased by an incredible 64.4%.

Additional information regarding the value of building permits in September can be found in the November 6th edition of The Daily: Statistics Canada at <http://www.statcan.ca/Daily/English/081106/td081106.htm>

## Mandatory Coverage a Step in the Right Direction

Minister of Labour, Peter Fonseca, recently introduced legislation mandating WSIB coverage for the construction industry in the form of Bill 119, *An Act to amend the Workplace Safety & Insurance Act, 1997*.

The Act, if passed, will bring independent operators (sole proprietors who do not employ workers) and partners in partnerships that do not employ workers, into the WSIB insurance system. It also provides an exemption from mandatory insurance coverage for those who do home renovation work.

New to the Act are liability provisions. Sections 141.1 and 141.2 specify that the engager of the contractor or sub-contractor may be responsible for payment of WSIB premiums. If the engager hires an independent operator to perform construction work and obtains proof of insurance from the Board (clearance certificate), they will be free from any liability for unpaid premiums or financial penalties. This is a positive, as such limiting of liability does not exist in the current legislation. As stated above, these rules will not apply to homeowners directly retaining contractors or sub-contractors to perform home renovations.

The Bill, if passed, will also enable the government to create regulations requiring construction employers to provide the WSIB with detailed information about their workers and requiring their workers to have an approved identification card available for inspection when at work. These provisions would enable the WSIB to create a "name insured" insurance system at a future date.

COCA's position has been to support a mandatory coverage system. Such a regime ought to ensure those exposed to risk on construction sites pay or have paid on their behalf WSIB premiums. This would foster a level business environment and serve to reduce the size and scope of the underground economy. Presently, just 61% of the construction industry pays 100% of benefits. This is unacceptable and unsustainable as the

resulting significant loss of revenue to the WSIB serves to inflate current premium rates by about 20%.

The McGuinty government has taken a step in the right direction with Bill 119. One of the barriers to adequate funding of the WSIB has been the lack of a mandatory coverage system. Amendments to the Bill however are required to address COCA's concerns about the elimination of the coverage exemption for executive officers and the coverage exemption for the home renovator industry before an endorsement can be considered.

COCA's support of mandatory coverage does not extend to executive officers (presidents, chief executive officers, chief financial officers, vice presidents etc.) who do not perform construction work or who are not exposed to the risks associated with attending a construction site. Granted, a broad executive officer exemption could create a significant loophole allowing an opportunity for some who ought to be included in the WSIB system to avoid paying premiums. However, a more specific executive officer exemption is necessary.

Of even greater concern for COCA is the exemption of mandatory coverage for the home renovation industry. It is our belief that the current exemption will unjustly transfer the cost of WSIB coverage for the home renovation sector of the industry to the rest of construction. COCA would like to work with the government to amend the current language of the Bill to include a tighter definition of those undertaking this type of work and to explore new processes to validate coverage.

COCA will continue to work with the Ministry of Labour to incorporate its suggested amendments to this legislation. In addition to two meetings with Minister Fonseca we have been in continual contact with his senior staff and have had discussions with senior ministry officials detailing the finer points of the legislation. We have also been and will continue to be in contact with the membership and other industry stakeholders as the legislative process continues.

### Safety Blitzes Target Workplace Hazards

MOL inspectors are concentrating on workers aged 24 and under as well as those employing workers of any age who are new to their jobs. Inspections and blitzes are part of the province's new four year plan --Safe at Work Ontario, launched in June.

- In November, inspectors will focus on electrical hazards that can cause workers to fall
- Early next year, inspectors will conduct special checks on industrial sector forklift operations and on construction site conditions that could cause workers to be struck by equipment.



**SAVE THE DATE!**

**COCA's Annual General Meeting**  
will take place on

**Thursday, February 26 2009 at the**  
**Hilton Toronto Airport.**