ONTARIO ELECTRICAL LEAGUE

To Promote, Strengthen and Represent the Electrical Industry in Ontario

November 25, 2015

Via Email

Mr. Bruce Reynolds
Counsel for the Review
Construction Lien Act
Borden Ladner Gervais LLP
Scotia Plaza, 40 King Street West
Toronto, ON M5H 3Y4

Dear Mr. Reynolds,

We are writing to formally provide you with our submission in regards to your current review of the *Construction Lien Act.* The Ontario Electrical League (OEL) would like to present our current concerns and comments in regards to the Review and to explain how these concerns will directly impact our members.

There are approximately 7,000 private sector electrical contractors in Ontario, and the OEL speaks for its members and the other 6,000 contractors, who are small business people looking to the OEL for guidance on regulatory issues which affect them. While we are optimistic that the Review will update the current outdated legislation, we do have the following concerns:

1. We believe the Construction Lien Act should include a provision to enable electrical contractor's legal ability to seize machinery and equipment from a customer who has not paid the contractor for the installation of that property. Contractors should be allowed to put a lien for all work done. In our industry the work done for process work far exceeds the "building" work.

2. The Construction Lien Act should be revised to reflect other similar liens allowed by the automotive sector, where by the mechanic has the ability to claim assets for services not paid for on the vehicle.

3. The OEL agrees with several other industry associations, in recommending and endorsing mandatory owner and general contractor financial disclosure requirements to help manage risk by sub-contractors and ultimately improve cash flow to those sub trades by either the owner or general contractor.

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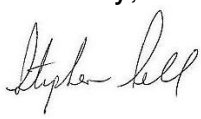
4. We believe the that existing liens be easily extended beyond the current 45 days, since this would allow normal business practices to take place in evaluation of non-payment from customers and owners. The current 45 days does not allow for a prudent period of time for normal business practices. Some electrical contractors are currently obtaining a lien at the beginning of a job, and do not release the lien until they are paid. In some cases when contractors conduct an ownership search for purposes of a lien, they find that there may be multiple owners, native bands, or a trust which makes perfecting the lien a problem at time of execution.

5. The OEL strongly believes that electrical contractors should not be required to sign a release form or a waiver before they are paid for the work done for an owner or general contractor.

6. We would like to suggest that the Review investigate other jurisdictional models for liens, where the project funds are placed in a trust or into escrow between the owner and contractor to secure funding is available for all sub-contractors.

The OEL is pleased to be meeting with you on December 2nd in regards to the Review, and please accept the above comments as our submission on the Construction Lien Act. I will be joined for this meeting by members of our OEL Contractor Committee.

Sincerely,



Stephen Sell
President

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