Submissions of the Thunder Bay Law Association

I am writing on behalf of the Thunder Bay Law Association and its members in response to the Ministry of the Attorney General and Ministry of Economic Development, Employment & Infrastructure's review of the *Construction Lien Act*.

Our comments are as follows:

1. The lien period for registering lien's should be extended to no less than 60 days for all lien claimants. 45 days is not enough time to register liens.

2. Construction lien claims should be case managed and mediated as early on in the process as possible. This will allow such actions to proceed and be resolved on a more timely basis.

3. The Act should deal with "pay when paid" clauses. It is confusing for contractors who are subjected to these types of clauses when it comes to registering a lien. These clauses should be prohibited.

4. A plaintiff should be able to join trust claims with lien claims.

5. The *Act* should adopt the litigation process set out in the Rules of Civil Procedure for any claims in excess of $100,000.00. That would avoid the necessity of having to set up a Settlement Meeting to discuss and resolve such issues.

6. Expand Section 39 to require the production of documentation to support the information being requested. Also expand it to include having to provide information and documentation to prove that trust money has been properly allocated.

7. Allow early release of holdback. A contractor early on in the process should not have to wait until the end of the project to get its holdback money. Certification of subcontracts should be mandatory.

8. Allow the Court the authority to amend a lien if the other parties are not unduly prejudiced by such amendment.

9. Trust funds should be held in a separate account.

We appreciate the opportunity to comment on proposed changes to the *Act*.

Regards,

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