



ELECTRICAL
CONTRACTORS
ASSOCIATION OF
ONTARIO

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The Honourable Prabmeet Sarkaria
Associate Minister
Ministry of Small Business & Red Tape Reduction
56 Wellesley Street West
Toronto, ON M5S 2S3

VIA E-MAIL ONLY

May 4, 2020

Dear Minister Sakaria,

RE: Ensuring the Health of Ontario's Electrical Subcontractors.

I write to you in my capacity as the Executive Director of the Electrical Contractors Association of Ontario (ECAO) and on behalf of our 550+ members who serve the electrical needs of Ontarians to thank you for offering us the opportunity to draw your attention on the important issues affecting electrical contractors, and more widely, the construction industry. We are particularly grateful that you reached out to us specifically through Jenna Bendayan, your Director of Stakeholder Relations.

It is our intent to provide you with a more precise and complete set of suggested actions to assist our members, and Ontario's construction industry as whole, to help remove obstacles and streamline Ontario's ability to respond to the outbreak and navigate through (and following) COVID-19. We hope to have these suggested actions to you in the next day or two. Nonetheless, we believe it useful to provide you with the following, more general, suggestions at this time. We proffered the following to the Honourable Premier Ford on April 29, nonetheless, ECAO believes that all of these issues previously raised with our Premier are just the types of obstacles you have referenced and for which you are looking to Ontario businesses to provide suggestions for streamlining that align with your Ministry's goals.

1. ECAO feels that it is critical to legislate fair extensions of time and fair compensation for reasonable costs incurred due to COVID-19. Compensation for reasonable costs may include, but are not limited to, any unanticipated expenses incurred relating to:
 - Demobilization and remobilization;
 - Making the site safe;
 - Interruptions of the supply chain and increased costs of certain materials;
 - Extended rentals;
 - Unanticipated and extended overheads during the pandemic; and
 - Site security.
2. Financing, insurance, bonding, and equipment rental costs are just a few of the expenses that will continue to accrue even as projects sit idle or are delayed.

None of these costs were anticipated when the projects were bid and there will have to be a further discussion on how they will be addressed so that bankruptcies do not sky rocket. The first part of the solution is legislation or a regulation that exempts contractors and subcontractors from liability for delays caused by the pandemic.

Such legislative exemption(s) should include, at the very least, schedule and change orders to the extent that they are/were caused by the pandemic. The second part of the solution is giving relief to construction owners. Owners are our customers. We will need construction owners to be in good economic health so construction can bounce back after the crisis has passed.

3. In the legal arena we should quickly move to electronic bond acceptance and the virtual commissioning of Affidavits and Declarations. A simple amendment to the *Electronic Commerce Act, 2000* would address this issue.

A time-limited hiatus on the enforcement of liquidated damages in Ontario is also advisable, as our members remain exposed to such contractual claims from owners and general contractors. It is, in our respectful view, that they would be penalized for delays experienced because of the pandemic, but nonetheless may have no recourse against such penalties in their respective contracts.

ECAO, our members, and our partners appreciate that a number of measures suggested above would have the Government of Ontario intervening in contractual provisions in private contracts. We further believe that this is not an area into which your Government would ordinarily venture. However, our Federal Government and, indeed, your Provincial Governments have already done so given the unique challenges before us. Such legislative action has, and does, engage various strategies to both contain the spread of COVID-19 and manage the economic impacts of the virus. This has included the legislative imposition of contractual terms and conditions, which have altered the way parties had previously allocated risks between them, in an effort to curb the spread of the virus. Further allocating risks in an effort to manage the significant economic impacts of the virus is a logical next step.

We look forward to the opportunity to communicate with you further on these important issues and, as committed above, we will have a follow-up letter to you shortly. Further, we have provided our members and local electrical contractors associations with the link to the Ontario Government's page, "Frontline and business: help us support you during COVID-19", and we expect that you will hear from them, and our Affiliate Partners through the on-line questionnaire provided.

Sincerely,



Graeme Aitken,
Executive Director
Electrical Contractors Association of Ontario