

Perils of Contracting for Construction Work: Uncertain Responsibilities of Project Owners



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Most construction project owners assume that the expert contractor they retain is competent and responsible for health and safety on the project.

Unfortunately, due to a combination of complex regulations, Ministry of Labour assertive enforcement practices, and recent jurisprudence, making that assumption may give rise to significant risk and liability.

One of the most complex issues under Ontario occupational health and safety law relates to determining which party is the “constructor” on a construction project. The constructor of a project has extensive responsibilities, including the need to file documents with the Ministry of Labour and ultimate responsibility for health and safety on the project for all workers.

Unfortunately, it is possible for owners to unknowingly assume the role and responsibility of a constructor even when they hire an experienced general contractor for that purpose. And worse still, the Supreme Court of Canada is presently considering an appeal that may result in most owners being labelled as “employers” under the law, which would foist on them very similar (if not identical) OHS responsibilities.

Knowledge of the fine line between owner and constructor is critical not just for construction contractors, but for any organization that plans to have construction work done, even work as minimal as office renovations or HVAC installation.

At this seminar, you will hear from the lawyer who successfully argued the trial decision in *R v City of Greater Sudbury*, and the lawyers who recently argued the case before the Supreme Court of Canada, about:

- How your organization can plan projects to avoid unintentional constructor status;
- How courts determine who is the “constructor” and “employer”;
- How to determine which party should take on the role of constructor;
- How to minimize the risk that an owner or developer is found to be the constructor on site;
- How to balance the need for an owner/developer to monitor construction and

be involved in planning

- How owners can avoid “back-door” liability as an employer