



June 17, 2019

Mayor John Tory and Toronto City Council
100 Queen Street West
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Sent via email: councilmeeting@toronto.ca

Your Worship John Tory and Councillors:

You have an important decision in front of you today. A decision that's about fairness. Fairness for your taxpayers, fairness for the workers that live in your city, and fairness for an industry as whole.

You will be re-writing the history books with this one.

You will be deciding to embrace Bill 66, opt out of Bill 66, or in some fashion allow one or two more unions into the exclusive club that has been benefitting from high construction costs for a number of decades.

Mayor Tory was correct in his statement to the media – there is a lot on the line – opinions from past, present and future.

There has a been a lot of misinformation spread around this issue. A lot of 'rhetoric' that has not been backed up by factual evidence. Some of this was discussed at the Executive Committee (i.e. the problem with safety claims that certain unions have made, the issue with only using labour costs to determine cost savings etc.).

We would like to clear the air on a few things:

1. **The rumoured LIUNA deal**

This will cost the city:

This move could make Toronto the only Ontario city that deliberately chooses to prevent workers and companies from building taxpayer-funded projects because of their union affiliation. It will cost Toronto taxpayers tens of millions more in construction costs, could lead to significant labour disputes and project disruptions.

This deal will increase your already expensive legal costs due to the labour oligopoly you currently are under.

The question is: how will LIUNA work with the Carpenters union on projects? How will you deal with the increased jurisdictional disputes that have plagued other cities in the same situation, including Sault Ste. Marie? Do you recognize that the City, as a construction employer, must bear the nuisance, mediation, grievances and costs of these disruptive and sometimes heated disputes?

You have the ability, to act as a municipality and prevent these costly disputes through Bill 66. It is hard to understand why you would expose taxpayers to greater cost and project uncertainty. There's a much better option. You could treat all workers fairly regardless of union affiliation and realize major cost savings on your infrastructure projects.

Is this deal even legal?

PCA's labour partner CLAC has obtained a legal opinion on the City's proposed deal with LIUNA. It shows that playing favourites with one or two additional unions violates the City of Toronto Act and the city's own bylaws and procurement policies, by privileging one group over others. It is very likely that such an arrangement to add only "handpicked favourites" to the mix of unions could withstand a legal challenge.

2. The cost savings based on additional competition

We're urging you not to be misled by rhetoric and misinformation aimed at discounting the millions of dollars in savings the City could realize by embracing Bill 66.

First, procurement 'expert' Stephen Bauld's recent comments questioning the major cost savings that result from opening up construction competition lack any credibility whatsoever. It's worth reminding you that Bauld co-authored a research paper called "[Hiding in Plain Sight.](#)" That paper, evaluating the merits of construction competition, suggested that increasing the pool of bidders could result in savings ranging from 20 to 30 percent on public construction projects. The paper also concluded the following:

- “Numerous studies have shown that these closed tendering arrangements lead to significantly higher costs for taxpayers without providing any clear benefits in return.
- “Limiting public procurement by union affiliation does not promote the public interest.”
- “The results of this paper should cause politicians, regardless of their partisan affiliation to find cause to remove the “construction employer status” obstacle from public bodies’ bidding practices. The result will be a more open, fair and transparent bidding environment in Ontario – and one which will help the government achieve its difficult objective of balancing the budget.”
- “Closed tendering can also undermine workers’ rights to choose what organization they associate with and restrict their ability to work on the public contracts that their own tax dollars fund.”

Bauld highlights several of his “Hiding in Plain Sight” findings in this [YouTube video](#), in which he says: “By reducing competition the price escalates tremendously ... what is the point of closed tendering. What is the point of not getting value for money and how does it affect the taxpayer ...”

It’s also worth noting that from one of Bauld’s own textbooks on procurement, he states the following:

- “A party conducting a tender process is well advised to structure it in a way it in a way that attracts the maximum number of bidders.”
- “A greater number of bidders is more likely to lead to greater value for the purchaser; a government is more likely to receive better quality construction for a lower price as the number of bidders increase.”
- “Put simply, reducing competition increases price.”

Since the publication of “Hiding in Plain Sight,” Cardus, the Hamilton based think tank, has partnered with noted labour economist **Dr. Morley Gunderson** from the University of Toronto. Together they’ve conducted further and more extensive research on the cost implications of limiting competition on public construction work. That research again confirms that competition leads to cost savings.

There is a growing global body of research confirming the benefits of an open construction market. For example, a study published in the Journal of Construction Engineering and Management by Cornell professor Paul G. Carr, concludes: “On

taxpayer funded construction projects, government officials should be doing all they can to find savings and increase competition. It is in the public interest.”

Carr, who is well recognized and respected for his research in the field of public procurement also finds **that increasing competition not only adds more contractors to the mix, but also subcontractors and suppliers, all of whom are forced to sharpen their pencil to win contracts.** “As the additional prime bidders involve their favourite suppliers and subcontractors to the project, the overall competition increases at all levels. The more interaction among the prime contractors and subcontractors, the more opportunity for the cost implications of that creativity and competition to be carried through to the low bid offered.”

The City of Toronto does not have to revert back to granting only certain unions an exclusive contract on construction work. When construction costs are higher, we all know that fewer funds are left over for libraries, splash pads and recreational centres. But it doesn't have to be this way.

Quibbling about the amount of cost savings is pointless. Even by the most modest of measures the City *will* save taxpayer dollars by embracing Bill 66. Faced with a budget shortfall, is the City really in a position to discount any savings that could save programs and prevent cuts?

Do the right thing!

On behalf of the member companies of PCA, our workers, and taxpayers across Toronto, I am asking you to do the right thing: reject the illegal and unfair special deal with LIUNA and embrace the fairness and fiscal responsibility inherent in Bill 66.

Sincerely,



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