

## **Authority to Make Submissions on the Construction Act**

**Date:** May 13, 2024

**To:** City Council

**From:** Chief Engineer & Executive Director, Engineering and Construction Services and City Solicitor

**Wards:** All Wards

### **SUMMARY**

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The purpose of this report is to seek authority from Council to make submissions on behalf of the City of Toronto to protect the City's interest on issues related to the *Construction Act*, which is now under Provincial review.

### **RECOMMENDATIONS**

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The City Solicitor and Chief Engineer & Executive Director, Engineering and Construction Services recommend that:

1. City Council authorize the Chief Engineer & Executive Director, Engineering and Construction Services and the City Solicitor and/or their delegates, as appropriate, to participate in the process for review of the *Construction Act* by making oral and/or written submissions to any groups or bodies, including the Ontario Legislature, on such issues as required to protect the interests of the City.

### **FINANCIAL IMPACT**

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There is no financial impact for this Report.

### **DECISION HISTORY**

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On December 16, 2013, City Council authorized City staff to make submissions to the Ontario Legislature, including any standing committees or other bodies, to express the

City's concerns with *Bill 69 – Prompt Payment Act, 2013* (“Bill 69”) and any subsequent bill or regulations dealing with payment issues.

<https://secure.toronto.ca/council/agenda-item.do?item=2013.CC45.7>

On September 30, 2015, City Council authorized the Executive Director, Engineering and Construction Services and the City Solicitor and/or their delegates to make oral and/or written submissions to any groups or bodies, including the Ontario Legislature, to protect the interests of the City by expressing the City's opinion on issues related to the *Construction Lien Act* and its potential amendment.

<https://secure.toronto.ca/council/agenda-item.do?item=2015.EX8.3>

## ISSUE BACKGROUND

In February, 2015, the Ministry of the Attorney General and the Ministry of Economic Development, Employment and Infrastructure launched an expert review of the *Construction Lien Act* (the “Review”) and retained counsel to conduct it. The purpose of the Review was to identify issues with the Construction Lien Act, including an examination of payment issues raised by Bill 69.

The Review involved extensive consultation with the construction industry, which was documented in a report to the Attorney General and the Minister of Economic Development, Employment and Infrastructure, delivered on April 30, 2016 (<http://www.constructionlienactreview.com/wp-content/uploads/2015/07/Striking-the-Balance-Expert-Review-of-Ontarios-Construction-Lien-Act.pdf>) (the “Report”).

On December 12, 2017, Ontario's Bill 142 received Royal Assent and significantly amended the *Construction Lien Act*, including renaming it to the *Construction Act*.

## COMMENTS

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Since the Construction Act took full effect in 2018, the construction industry and property owners, such as the City of Toronto, have made relevant changes to their practices and observed the effects of the amendments. While many of the changes have worked well in practice, there are some issues that remain unresolved and new issues related to the amendments that have arisen. Recently, ECS and Legal Services have become aware that an informal review of the legislation by the Province is underway.

Consequently, City Staff seek authority from Council to make submissions on behalf of the City of Toronto on such issues as may be required to protect the interests of the City on issues related to the *Construction Act*. To ensure submissions are comprehensive and coordinated, City lawyers and divisional staff that support and perform significant City construction work are being engaged for their input.

## **CONTACT**

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## **SIGNATURE**

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City Solicitor

Jennifer Graham Harkness, P. Eng  
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Engineering and Construction Services