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Construction Comment

By Keith Sasban, President of the Vancouver Regional Construction Association and past Executive Director of ECABC

After many years of wallowing at very low levels of activity, the construction industry is heading for what everyone hopes will be a long and sustained period of prosperity and growth. Continuing stories of strong housing markets and increased interest in non-residential construction encourages the industry. Contractors in all aspects of construction are beginning to once again feel optimistic after a decade of languishing starts and mediocre performance.

In fact, the industry has been down so long, that some are concerned that we will not be able to cope with a positive building environment and are raising dire specters of extreme shortages and calling on the government to control building. While the positive increase in construction activity does bring some challenges, these are challenges that the industry can handle if the proper steps are taken.

First of all, let's put into perspective what is happening in construction. The papers are, quite rightly, glowing about a strong housing market, with several months of double-digit growth in starts. In fact, while the housing sector is doing very well, with the seasonally adjusted annualized rate running at 31,000 units, let us not forget that in 1993, there were 45,000 housing starts in B.C. This number dropped to just over 14,000 only three years later. The experience in the non-residential, while not quite as dramatic, was similar. As a result of this incredible decline in construction, we lost tens of thousands of skilled workers to Alberta, Ontario and the United States, as they took their skills, families and investments elsewhere.

Now is the time to send out the message to these workers that had to seek employment elsewhere that it is safe to come home, that there are several years' worth of work and that the conditions are such that they can bring home their families, hopes and dreams.

This is not to say that there should not be proper planning and that we will not have some challenges ahead of us. However, there are steps that can be taken to mitigate problems and ensure that the construction industry functions smoothly.

While there are billions of dollars' worth of projects planned, these projects need to be rolled out in an orderly manner, so as to avoid competing unnecessarily for workers. VRCA and BCCA have discussed this issue

with the premier, who has expressed full appreciation for proper timing.

Given the level of anticipated activity, it will be more important than ever that owners and developers, both public and private, ensure that the plans, specifications and other construction documents are clear and well documented, with ample time to properly tender the project on the part of the contractors. Projects get into trouble when insufficient time is allowed for everyone in the industry to effectively do their job. Investing in the right process at the start of a project ultimately saves time and money in the long run.

We will be able to ensure a healthy construction industry by engaging in full and frank discussions at the start of projects to make sure everyone is in agreement. VRCA is already having positive discussions with the Vancouver Convention Centre Expansion Project on broad general issues, which will have considerable benefits when construction starts.

Using established industry practices such as the VRCA Plan Rooms, where trade contractors can view documents in order to prepare the most competitive bids, would access the largest pool of trade contractors in the province. This would distribute the workload of the construction industry, addressing some of the capacity concerns.

The construction industry is a huge economic engine, creating thousands of well-paying jobs and enhancing our communities. It is a resourceful, innovative and responsive sector that has risen to challenges in the past and will do so in the future. Certainly, we need to train more young people. Yes, we need to encourage those who left in the '90s to return home. We also need to look at credentialing foreign-trained professionals and develop mechanisms so they can contribute to the industry in their chosen fields. We also know that if proper steps are taken by people in the construction chain, from owners to architects and other design professional to contractors and the ultimate users, we can continue to provide quality projects on time and on budget, while creating employment for thousands.

Courtesy: Brian Martin of Construction in Vancouver – A Business in Vancouver supplement

Compulsory Certification

Two years ago Murray MacLeay, then president of BCCA, proposed to the Transition Advisory Council, that the compulsory designated trades be put to a public interest test to determine if they should retain their compulsory designation. Unfortunately the council, which was heavily influenced by ICBA and others, didn't agree.

Not surprisingly perhaps, all references to compulsory certification were removed from the new Industry Training Authority Act, which had to be blessed by TAC before becoming law. Despite that, we have forged ahead on the naive theory that common sense would prevail and so would compulsory certification for the regulated trades, at least.

In October, however, the Premier officially dashed our hopes with a letter, which stated: "*compulsory certification requirements are no longer being considered due to their inability to enforce it.*" We agree that with the elimination of the Industry Training and Apprenticeship Commission and most electrical inspections it would be a difficult thing to enforce.

With the proposed changes to the Electrical Safety Regulations however, enforcement won't be an issue anyway because trade qualifications will no longer be required to do electrical work.

The only stipulation will be that one electrician must be on the site to supervise anyone he or she thinks can do the work. As it stands, the one electrician could supervise an unlimited number of untrained and/or partially trained workers.

ECA Logo

Please remember to use the ECABC logo in conjunction with your stationery or any advertising you do. Association membership reflects well on a contractor or supplier and the association. For your convenience, here is an electronic version of our logo that you may cut and paste.

Apparently, the threat or monetary penalties or fines are going to make the difference as far as the quality and safety considerations are concerned. With legions of unqualified workers and even fewer inspections, presumably these will be applied after someone dies in a fire or is electrocuted.

All this is to say nothing of the effect that this will have on the trade itself. Apprenticeship will become a vestige of the past because contractors will no longer be able to afford them. Without any apprentice or worker/ journeyman ratios, imagine how little training a worker will receive on the job! Government supposedly remains committed to the Red Seal program, but who will be able to qualify?

You've heard most of this before and so have the powers that be in government. Some of this must be filtering through because of recent feedback that would suggest government is reconsidering the issue and *may* implement supervisory ratios. ECABC would prefer status quo, but has recommended a ratio of two apprentices to one journeyman for the sake of flexibility and to create more opportunities for apprentices. You will notice that apprentice is the operative word as opposed to helper, semi-skilled "specialist," untrained or partially trained worker.

Watch for more news on this important issue in the next edition of The Conduit!

For those of you still receiving The Conduit by fax, please call Zana at 604-294-4123 and she will be pleased to email it to you or send it to you on a CD.



COCA and WCB Partner to assist Small Construction Business Courtesy: VRCA Jackhammer

COCA and the WCB will work together to assist small construction businesses with claims processing issues. The WCB will establish a Small Business Contact Centre for Construction and will have a 1-800 number for companies to call when they need to report a claim or have questions about how to proceed with the process.

One of the most widespread problems is the Construction Industry has been the lack of knowledge about how the WCB system works and even how to make contact with the proper person at the WCB. This has resulted in expensive delays with added costs paid for by the contractor.

Construction has a large number of small businesses -- over 95% of construction companies registered with the WCB have 10 or fewer workers.

With the new system, Client Service Representatives -- who only deal with construction -- will be available to take calls from small construction businesses and speed the process and the efficiency of claims adjudication.

COCA will be working with the WCB to provide orientation for the WCB staff to our industry, so that they have a better understanding of how construction works.

The new 1-800 system is scheduled to begin operation on February 1, 2004.

COCA is completing other positive steps that can be taken to reduce the duration of claims -- especially Soft Tissue Injuries -- with the WCB. Future COCA Updates will describe these changes.



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CCA Annual Survey Forecasts Growth

Courtesy: Journal of Commerce

While 2003 was flat, the Canadian construction industry is poised to record impressive growth over the next two years, says a forecast prepared by Informetrica for the Canadian Construction Association.

Gross output of the construction industry is expected to rise by 4.5 per cent in 2004, while growth in 2005 is anticipated to be around 3.9 per cent.

Growth is then expected to moderate to two per cent by 2006, the forecast says. Gross output is the total value of all inputs used in the construction process, including labour, equipment and material, as well as the value of the output produced.

“With Canadian gross output of just over \$1 trillion, the construction industry will continue to account for just over 12 per cent of Canada’s GDP,” the forecast says.

Meanwhile, following several years of strong employment growth – 4.6 per cent in 2002 and 4.4 per cent in 2003 – it is expected that the construction labour market will tighten in 2004, the forecast says.

Part of the explanation for slower employment growth in 2004 is expected productivity gains. Following declining productivity in 2002 and 2003, productivity is expected to reach 2.9 per cent in 2004, but then taper off to 1.2 per cent in 2005 and just 0.1 per cent in 2006.

However, with expected skills shortages in upcoming years, productivity is expected to slowly rise over the coming decade.

The forecast says employment growth will pick up again in 2005 with an increase in the construction labour force of 3.4 per cent.

BCCA Welcomes a new President

BC Construction Association (BCCA), the largest and most inclusive construction organization in the province, announced today that Manley McLachlan has been hired as President and Chief Executive Officer. McLachlan is currently the chief executive officer of the Saskatchewan Construction Association and expects to assume his new position with BCCA March 1, 2004.

“We are very pleased to have Mr. McLachlan on board,” stated Bill Gyles, President of Kinetic Construction Ltd. and Chair of the BCCA Board of Directors. “He is not only well versed on construction issues, he has proven himself to be a strong leader within the industry.” McLachlan has been leading the Saskatchewan Construction Association (SCA) for the past eight years and is highly regarded as having expanded and solidified their influence within the industry as a whole. In particular, he has significant experience dealing with construction safety, aboriginal involvement within the industry, and education & training for construction trades.

A closer examination of figures in the forecast shows that nonresidential building construction is expected to outpace, on average, most other construction sectors over the next three years due to projected investment in public infrastructure.

Nonresidential construction is expected to grow by 4.3 per cent in 2004, six per cent in 2005, and 6.3 per cent in 2006. Nonresidential includes all forms of commercial and institutional building, including office construction, commercial space and recreational facilities.

Only engineering construction activity is expected to outpace non-residential growth in 2004 with a growth rate of 7.5 per cent. Engineering construction is all industrial-based construction, including roadbuilding, energy production facilities, mines and industrial plants.

The forecasts say much of the growth can be attributed to planned development in mega-projects such as Voisey’s Bay in Labrador, hydroelectric developments in Quebec and continued development of the oilsands in northern Alberta.

Meanwhile, repair construction – all repair and renovation work of existing facilities – is expected to grow by 3.3 per cent in 2004 and residential construction is expected to grow by 2.6 per cent next year.

“While respectable, residential construction growth will not be as strong as other forms of construction due to expected higher interest rates and softening of demand,” the forecast says.

CCA represents a membership of more than 20,000 enterprises in the non-residential building construction industry. Its members include people involved in everything from design to management of finished projects and from roadbuilding to general contracting.



McLachlan has also been a strong supporter of innovation within the industry. He introduced and promoted the implementation of information technology solutions for his membership. In addition, he recently led SCA’s ‘Project Cornerstones’, a groundbreaking restructuring initiative designed to address change across the industry.

Prior to working in the construction industry, McLachlan worked as a sales manager in both the automotive and the communications industries. McLachlan is an active contributor to his community, serving as fundraiser and representative for numerous not-for-profit organizations such as the United Way and the Canadian Diabetes Association. He has served as Director for the Saskatchewan Forestry Association, the Prince Albert Nancy Greene Ski League, and the 1992 Saskatchewan Summer Games. McLachlan holds a Bachelor of Arts from the University of Saskatchewan.

ECABC’s Outside Involvement (ECA is involved with the following organizations/associations)

BC Electrical Association (BCEA), BCIT Construction Management Program Advisory Committee, BCIT Electrical and Electronic Program Advisory Committee, Camosun Electrical Program Advisory Committee, College Instructors Articulation Committee, Construc-

tion Specifications Canada (CSC), Council of Construction Associations (COCA), Council of Construction Trade Associations (COCTA), Electrical Inspectors Association (EIA), Electrical Safety Review and Appeal Boards, Electrical Safety Advisory Committee (ESAC), IBEW 213/ECA Joint Training and Journeyman Upgrading Committee (EJTC), Public Construction Council (PCC) and Western Joint Electrical Training Society (Western Jets)

Federal Business Tax Picture Appears Brighter for 2004

Courtesy: Journal of Commerce

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New CEO to lead Industry Training Authority

Courtesy: VRCA Jackhammer

A human resources executive who started his working life as an apprentice in the automotive industry has been appointed chief executive of the new Industry Training Authority created to increase access to training in trades and technical sectors.

Brian Clewes, who was most recently vice-president of human resources for Telus, took the helm of the new authority earlier this month. Clewes was chosen after a nationwide search to lead the authority as it moves ahead with the transition to a modern, innovative system that will be able to respond to skills shortages, B.C.’s growing economy, and the demands of the 2010 Olympic Games. The authority will be in place Jan. 2.

The Ministry of Advanced Education has committed more than \$73 million per year to the Industry Training Authority for the next three years. In addition, almost \$3 million has been set aside for pilot projects testing new ideas for training.

Colleges and other institutions throughout B.C. are opening up new programs to meet demand since apprentices were given the ability to schedule their technical training when and where it suits them and their employers. The new industry-training model, which will emphasize training divided into modules for flexibility, will also allow trades people to earn

qualifications based on the skills they can demonstrate, rather than how long they’ve been on the job.

Government is targeting a 30 per cent increase in trainees over the next three years, which would bring the total number to 30,000. The new model is also being designed to reduce the apprentice dropout rate, which is close to 50 per cent.

Clewes trained as an apprentice with Chrysler UK and became a mechanical engineer before moving to Canada and spending 25 years in human resources and senior management.

VRCA looks forward to working with Mr. Clewes and the rest of the Industry Training Authority to develop ways of improving the training of people in construction.

Legal Specs

Courtesy: Brian Martin of Construction in Vancouver – A Business in Vancouver supplement

Sometimes it is better to be rejected. At least this is what Graham Industrial Services Ltd apparently thought when it recently went to court to establish that its tender was not capable of acceptance. The decision resulting from this proceeding, *Graham Industrial Services Ltd. v Greater Vancouver Water District*, reaffirms the limits of the traditional privilege and discretion clauses found in most Instructions to Tender.

The facts of the case are relatively straightforward. Graham was the successful tenderer on the Capilano Pump Station Project. Graham's \$21.5 million bid was the lowest of four bids for the project by about \$5 million. After the tenders were opened, Graham advised the district that its bid on the mechanical portion of the project was \$2 million too low and requested that it be allowed to withdraw its tender as a result of the error.

Subsequently, Graham advised the district that it had identified a number of material deficiencies in its tender, which rendered the tender incapable of acceptance. The district's response was to notify Graham that its tender was accepted.

Graham then sought the assistance of the courts. Graham alleged that that there were 10 deficiencies in its tender, which rendered it incapable of acceptance despite the existence of the usual privilege and discretion clauses in the Instructions to Tender.

Those deficiencies included, amongst others, the misidentification of the appropriate obligee for both the bid bond and the agreement to bond, the failure to sign the tender, the failure to provide construction milestones, and the failure to prove an environmental protection plan as required by the Instructions to Tender.

The court began its analysis with the comment that while it was an "unseemly spectacle" for a winning tenderer to seek to avoid a contract by taking the position that its tender was non compliant, it was not en-

tirely unprecedented as a similar argument has been successfully advanced in the Saskatchewan courts.

After finding that the majority of the deficiencies asserted by Graham were not material or did not provide an advantage to Graham over its competitors, the court then turned its attention to Graham's failure to provide an environmental protection plan with the tender. This failure was found to be so "patently deficient" that Graham's tender on an objective reading could not be said to conform in all material respects to the Invitation.

The court concluded that this patent deficiency could not be saved by the privilege and discretion clauses as they can only be exercised in good faith and in a manner, which can withstand objective scrutiny. If they were used otherwise, those clauses could be used to deem a non-compliant tender to be a compliant tender, which would undermine the fairness of the tendering process. Preservation of that fairness is the underlying rationale for the requirement for substantial or material compliance.

As a result, Graham was successful and obtained an order declaring that its tender was not capable of acceptance.

In our opinion, the court got it right. The decision reaffirms the limits on the use of privilege and discretion clauses. Such clauses cannot be used so as to substantially undermine the fairness of the bid process. The integrity of the process requires that reasonable restrictions be placed on the expansive and unfettered discretion often sought by those calling for tenders.

Written by Norm Stren and Chris Hurst



Benefits of Membership in ECABC

Advocacy

- 1 Strong united voice to government for expressing opinions and concerns regarding issues that directly affect the electrical industry
- 2 Representation on other associations, committees and councils that deal with apprenticeship, safety, WCB and other issues

Consulting - Contract interpretation service

Discounts and Special Services

- 1 Petro-Canada SuperPass Program - New!
- 2 Esso Fleet Discount Program
- 3 Accent Inns – Preferred Rates
- 4 DM Credit Services

Education

- 1 Seminars or information sessions and speakers at chapter meetings
- 2 Salaried Employees Training Trust Fund (SETTF)
- 3 BC Electrical Association Scholarship Fund

Health Care – BC Construction Association Group Benefit Plan

Insurance - Industry specific insurance from Federated Insurance

Marketing – ECA website, advertising, electrical engineering/consultants program ECABC logo/membership stickers

Networking - Regular networking opportunities at monthly chapter meetings, annual general meetings, and an annual national conference

News

- 1 The Conduit and Relay newsletters to keep you up to date on industry issues and events and
- 2 NECA/WCB Safety Alerts

Publications – Access to a host of publications, videos, and manuals such as the Seismic Restraint Standards Manual and Health & Safety Policy Manual.

Benefits currently in negotiation—

- Legal work, discounted
- Accounting (taxes, etc) discounted
- Cellular phone discounts
- ECABC Scholarship Fund



Electrical Contractors Association of BC

201 - 3989 Henning Drive
Burnaby, BC
V5C 6N5
Phone: 604.294.4123 Fax: 604.294.4120
Email: eca@eca.bc.ca

Schedule of Events

January 21, 2004
Vancouver Chapter Meeting
Accent Inn, Burnaby

February 18, 2004
Vancouver Chapter Meeting
Accent Inn, Burnaby

February 24—25
BC Construction Show
Vancouver Trade & Convention Centre

March 11, 2004
Vancouver Island Chapter Meeting
Location TBA (Probably Nanaimo)

March 19—24
Board of Directors
Spring Planning Retreat

Doctors Orders

A woman accompanies her husband to the doctor's office.

After his checkup, the doctor called the wife into his office alone.

He said, "Your husband is suffering from a very severe disease, combined with horrible stress. If you don't do the following, your husband will surely die."

"Each morning, fix him a healthy breakfast. Be pleasant, and make sure he is in a good mood. For lunch make him a nutritious meal he can take to work. And for dinner, prepare an especially nice meal for him.

Don't burden him with chores, as this could further his stress.

Don't discuss your problems with him. It will only make his stress worse.

Try to relax your husband in the evening by wearing lingerie and giving him plenty of back rubs.

Encourage him to watch some type of team sporting event on television.

And most importantly, make love with your husband several times a week and satisfy his every whim."

"If you can do this for the next 10 or 12 months, I think your husband will regain his health."

On the way home, the husband asks his wife "What did the doctor say?"

She replies, "He said you're going to die."



If you get a chance, please join us at the biggest and best BC Construction Show ever, on February 24th and 25th at the Vancouver Trade and Convention Centre. ECABC will be sharing booth #1909 with five other COCTA members.

If you pre-register you will save a \$25.00 admittance charge. Simply go onto their website at www.bcconstruct.com to register, or call us and we'll mail you a free pass and registration form that you must mail in. I will also be passing them out at the next chapter meeting.

Attention Employers! Have a position to fill?

Post/Advertise your job opportunity for: \$45.00

Let us help you fill your job vacancy by posting it on our web site for 60 days at the special rate of \$ 45.00. This offer is valid until Feb 29, 2004.

We are excited and pleased by the response from both the job seeker and employers. The service is continuing to gain momentum. We have registered 1928 construction job seekers to date – framers, cement finishers, electricians, welders, road construction equipment operators, project coordinators and more in our database. However additional job opportunities on the web site will attract more job seeker registrations. It's that simple!

The **VRCA Construction Job Centre** provides a central place for job seekers and employers to connect and is an excellent recruitment tool for

you. The service needs your participation to attract more job seekers and that's the reason for extending our special introductory offer. It is becoming the first place construction job seekers visit when searching for work.

We look forward to working closely with you to ensure the service is successful in providing you with a recruitment employment service that meets your needs. See web site www.construction-jobs.ca

We welcome the opportunity to assist you with your recruitment needs and look forward to hearing from you.

Contact: Marlene Derksen, Manager; Phone: (604) 855-7227; Fax: (604) 855-7189;

E-mail: info@construction-jobs.ca