

ATCC Update for October PGAA meeting.

PPCLA

McLeod Law-CWB Seminar

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PPCLA since 2023-08.

AB,SK, ON, PQ all have similar acts.

Starts with a proper invoice which must say "Proper Invoice." Odd, but true.

Must follow the rules. Some do not make sense, like the "proper" invoice issue.

Prompt payment needs adjudication to work. Avoids long court battles.

So far, seven adjudication in year one. ON had only three in year one, but over 500 in year four.

Exceptions and exemptions-Alberta Public Works and projects started before 2022-09 and finishing prior to 2024-09. Those extending beyond will come into the PPCLA.

Process the invoices properly.

Government of ON especially the Department of Transportation has embraced the act.

Where is the AB government on this?

Government of Canada legislation is in the works and should come into effect in the new year. May force a lot of the provinces' (AB gov to join in?) hands.

This is a tool that is effective only if it is used. More should/need to jump on board.

Five key points- paid in 28 days with proper invoice, takes out pay when paid, cannot contract out, must meet non-intuitive clauses, way less expensive.

Owner/GC must advise of non- payment issues within 14 days. No recourse. If not notified, payment is due in 28 days. No defense. Adjudication process is very fast with court orders and garnishes. Invoice starts when GC sends the proper invoice. For subs, if the GC fails to issue their invoice, they have breached their duty. $28 + 7 = 35$ 35 days maximum. Comply precisely. You need to go to an adjudicator at day 35. Process with adjudication should be 46 days total.

Must follow the subcontract. Good idea to walk through your first invoice with the GC. New forms of contract are coming. Owners must get their notices out quickly.

Is the GC able to sign off on large change orders?

Process takes 46 days-quick and dirty. Better than courts which could take 10 years.

Has not cut the number of liens in ON.

Not allowed to comment on the DOW issue, but the AB government not joining in (leading?) is viewed skeptically/negatively.

CWB comment was that this should drive down the trades need for larger lines, offset by GCs/owners needing larger lines/interim finance amounts.

You can ask for an inspection of contractual documents. Always ask to see the prime contract. Check the dates.

CCA Letter sent 2023-08-09

Member Survey-Posted to the PGAA Website 2023-10-03

If you have not heard, the provincial government has chosen to provide Dow Chemical with an exemption to a small portion of the PPCLA. See attached Order in Council. It is our understanding that it applies only to length of time for a proper invoice to be issued to the owner. Rather than a proper invoice being required every 31 day, the owner can set the number of days. The intent is that once established, the invoicing interval will apply all the

way down the chain. We are seeking clarity on this as the OIC is vague. Once an invoice has been issued the 28 – 7 – 7 payment terms will apply.

Obviously, we are very disappointed and we are taking some time to temper our response.

With the announcement of the Order in Council, Service Alberta also announced their Stakeholder Consultation to review the impact of the PPCLA over the past year. With the exemption being used by government, we intend to push very hard for having prompt payment apply to Albert Infrastructure and for the reinstatement of the Stay provision for an adjudicator's decision.

To support our position on these and other fixes that may be needed, we are seeking input from your members. The first stakeholder meeting is scheduled for October 24, so please push your members as hard as you can to have them fill out this [ATCC Survey](https://docs.google.com/forms/d/e/1FAIpQLSdTBjMBBIZ3EV_6KIpmHymnwry72YXJSzVdgP4-HPkuPxsI9g/viewform?usp=sf_link):

https://docs.google.com/forms/d/e/1FAIpQLSdTBjMBBIZ3EV_6KIpmHymnwry72YXJSzVdgP4-HPkuPxsI9g/viewform?usp=sf_link

DOW

Done Deal-See attached Order in Council from the Alberta Government and the Calgary Construction Association's response.

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