



British
Columbia
Construction
Association

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January 10, 2020

Mr. Gregory G. Blue, Q.C.
Senior Staff Lawyer
British Columbia Law Institute
1822 East Mall, University of British Columbia
Vancouver, BC
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Dear Mr. Blue:

RE: BUILDERS LIEN ACT

Thank you for your letter of October 3, 2019 with the invitation to provide comment on the changes proposed in the Consultation Paper on the Builders Lien Act (BLA).

The BC Construction Association (BCCA) represents employers of all labour affiliations across BC's industrial, commercial, and institutional construction sector. We are a recognized industry expert in matters of construction procurement best practices and serve more than 10,000 companies through our suite of business services. In partnership with the four Regional Construction Associations, our mission is to ensure a regulatory environment that exceeds the needs and expectations of industry, which I'm sure you are aware contributes nearly 10% of provincial GDP.

We wish to acknowledge the work of the BCLI Builders Lien Act Reform Project Committee, who undertook an extensive review in order to provide these recommendations. BCCA supports the recommendations with the following considerations:

Chapter 1 Introduction, E. Prompt Payment and Payment Dispute Adjudication

BCCA supports a British Columbian initiative to implement Prompt Payment and Payment Dispute Adjudication similar to what has been done in other jurisdictions across Canada (in particular, Ontario), where changes have been made to Construction Lien Acts in order to create a legally binding regime to ensure prompt payment.

In July of 2018, BCCA coordinated this effort in BC by securing 28 industry signatures on a joint letter to the Attorney General. It is our sincere hope that the BC Government will build on the efforts of the BCLI to introduce comprehensive prompt payment legislation, in consultation with the construction sector.

We would support a similar process involving BC's BLA but would not encourage any industry consultations that would delay the Legislative schedule for the proposed changes in the Consultation Paper.

Chapter 12 Conclusion, List of Tentative Recommendations

Item 14 (Page 190); the Builders Lien Act should be amended so the default is that phased contracts are considered to be separate improvements for the purposes of the Act in a project involving multiple components. On phased contracts where a component of the work has been completed, and the duration between the phases is prolonged (Builders Lien Act to define), the Act should allow for completed component's Lien funds to be released without consideration to the overall construction duration.

Item 43 (Page 195); the default should be that the holdback account is mandatory except as the two parties agree otherwise.

Further, an issue regarding Holdbacks was not identified in the Consultation Paper but does need to be amended:

In the current Builders Lien Act, Rights on Payment of Holdback, 9 (4) should be strengthened to read 'If a contractor is entitled to an amount under subsection (1), payment ~~may~~ **must** be made from the holdback account established under section 5.'

Thank you for your continued support on this issue and your consideration of our proposal. The Builders Lien Act has a significant impact on the health of our industry and the ability of contractors to operate their businesses successfully in communities across our province. Should you wish to discuss these items or require additional information in support of our response, please feel free to contact me.

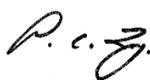
Sincerely,



Chris Atchison
President
British Columbia
Construction Association



Scott Bone
Chief Executive Officer
Northern Regional
Construction Association



Phil Long
A/Chief Executive Officer
Southern Interior
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Rory Kulmala
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