



The Fundamentals of Construction Contracts: Understanding the Issues in Ontario

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J. Stephen Tatrallyay, C.S.

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Audrey Warner

McLauchlin & Associates

Andrew Wong

Osler, Hoskin & Harcourt LLP

This seminar is designed for lawyers, construction and project managers, engineers, contractors, subcontractors, presidents, vice presidents, architects, developers and contract managers.

TORONTO, ON
AUGUST 26, 2008

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Critical Issues on the Agenda

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- 8:30 AM – 9:00 AM **Registration**
- 9:00 AM – 10:10 AM **Current Trends in the Law on Tendering** — *Audrey Warner*
- Summary of the Current State of the Law on Tendering
 - Practical Advice for Owners When Drafting Tender Documents
 - Practical Advice for Bidders When Responding to Tender Calls
- 10:10 AM – 10:25 AM **Break**
- 10:25 AM – 11:35 AM **Changes in the Work** — *Robert J. Kennaley*
- The Original Scope of Work and What Is a Change
 - The Change Request and the Claim for Additional Compensation
 - Managing Disputes Over Changes in the Work
- 11:35 AM – 12:35 PM **Lunch (On Your Own)**
- 12:35 PM – 1:45 PM **Alternative Dispute Resolution** — *Joseph Cosentino*
- Mediating Construction Disputes
 - Understanding the Arbitration Process
 - ADR vs. Litigation – Pros and Cons
- 1:45 PM – 2:55 PM **The New CCDC-2, 2008 Contract – What General Contractors, Trade Contractors, Owners and Consultants Need to Know** — *J. Stephen Tatrallyay, C.S.*
- Why It Matters to Anyone Other Than Owners and GCs
 - What's Changed and What Hasn't – Overview
 - Implications of the CCDC Dispute Resolution System
 - Changes to Consultant's Role and Responsibility
- 2:55 PM – 3:10 PM **Break**
- 3:10 PM – 4:20 PM **Structuring Your Project Properly and Effective Use of Standard Form Documents** — *Andrew Wong*
- Project Delivery Systems and Their Pros and Cons: Design-Bid-Build, Construction Manager (Not At-Risk) and Design-Build
 - Which Standard Form Document Is Right for Your Project?
 - Proper Allocation of Contract Risk: Amending the Standard Form Document to Suit the Circumstances of the Project
- 4:20 PM – 4:30 PM **Questions and Answers** — *Joseph Cosentino, J. Stephen Tatrallyay, C.S., and Andrew Wong*

Attendee comment from another Lorman seminar:

"I found it to be extremely important for my profession and would recommend it to anyone who wants to do things correctly."

— *William Hunt, Contractor
Ralph Hunt*

Registration

The Fundamentals of Construction Contracts Toronto, ON - August 26, 2008



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Our Distinguished Faculty

Joseph Cosentino is a partner with Goodmans LLP in their Toronto office. Mr. Cosentino focuses on litigation with an emphasis on construction law and energy disputes. His construction law practice involves negotiating major contracts, lien litigation and resolving disputes for owners, general contractors, subcontractors, material suppliers and lenders. Mr. Cosentino's practice also involves a broad range of commercial litigation matters. He has handled a variety of claims and disputes in connection with municipal utilities. He is a frequent speaker and contributor to a number of industry trade conferences and publications. Mr. Cosentino is also the editor of the *Goodmans' Construction Law Update* newsletter and has written a number of articles. He earned his B.A. degree, with honours in political science and history, and M.A. degree in history from the University of Toronto and his LL.B. degree from Osgoode Hall Law School. Mr. Cosentino is a member of the Toronto Construction Association, the Canadian Bar Association of Ontario and the Advocates Society.

Robert J. Kennaley is a lawyer with McLaughlin & Associates in Toronto. With a background in construction, he brings practical experience with contract negotiations, project management and contract administration to his practice. Mr. Kennaley has acted for clients at all levels of the construction industry. His day-to-day practice involves negotiations; contract drafting; construction lien and trust claims; claims against owners, consultants and insurers; tendering issues; building code violations; claims against performance, and labour and material payment bonds; Workplace Safety and Insurance Act claims; and Occupational Health and Safety Act charges. Mr. Kennaley writes and speaks frequently in the area of construction law; is a member of the Construction Law Section of the Canadian Bar Association, the Advocates Society and the Metropolitan Toronto Lawyers Association; and is the legal representative to the Judicial/Advisory Committee of the Construction Bid Depository of Ontario.

J. Stephen Tatrallyay, C.S., has been a practising construction lawyer since 1984. He has been certified by the Law Society as a designated specialist in construction law since 2000, when the program was initiated. Mr. Tatrallyay has represented every actor in the construction industry, from owners and developers to design professionals, to mortgagees to general and trade contractors, to workers. Although his practice is based in Toronto, it involves cases all over the province, from Kenora to Ottawa to Windsor, as well as cases in Nova Scotia and Alberta, among others. In the past few years, Mr. Tatrallyay has become interested in nonadversarial ways of resolving disputes, has studied mediation and arbitration in some depth, and has conducted many mediations himself. He is a member of various organisations, such as the

Perth County Law Association, the Advocates Society and the Canadian College of Construction Lawyers, which is a nationwide group of the top 75 construction lawyers in the country. Mr. Tatrallyay has been listed in the *National Post's* Best Lawyers in Canada and the *International Who's Who of Lawyers* for a number of years.

Audrey Warner is with McLaughlin & Associates. Over the years, Ms. Warner's construction law practice has focused predominantly on construction litigation, representing owners, developers, contractors and subcontractors. Recently, she has expanded her practice to include architects' and engineers' professional negligence, as well as the litigation of hospital construction claims. Ms. Warner has concentrated specifically on developing innovative and creative strategies to resolve construction lien, general contract, negligence and delay claims. In addition, her practice includes the review and revision of construction contract documents and general advice with respect to contract administration. Ms. Warner has assisted in the review and drafting of requests for tenders and proposals, and has worked closely with senior counsel in ensuring that clients are informed of their rights, duties and obligations, and that their specific needs are addressed. She has published a number of articles on construction law related topics and speaks regularly at various seminars, workshops and conferences directed at the construction industry. Ms. Warner is also a member of the Construction Law Section of the Canadian Bar Association – Ontario. She earned B.A. and B.Comm. degrees from Carleton University and an LL.B. degree from the University of Ottawa. Ms. Warner was called to the Ontario bar in 1995.

Andrew Wong is a lawyer in Osler, Hoskin & Harcourt LLP's Construction and Infrastructure Group. He is a civil engineering graduate whose practice includes work in all aspects of typical international and Canadian construction law and infrastructure matters, such as project planning and related corporate advice, risk assessment and procurement issues. Mr. Wong's work includes reviewing, negotiating and drafting design-build agreements, construction agreements, tender and request for proposal documents, architectural service agreements, engineering service and consulting agreements, construction management agreements, and other related corporate/commercial and technical agreements, including joint venture agreements, development agreements, purchase orders, operation and maintenance agreements, and supply agreements. He also provides construction lien advice. Mr. Wong can be reached at 416-862-6564 or anwong@osler.com.

Seminar Highlights

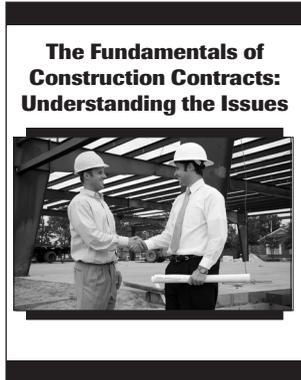
How to avoid the pitfalls of construction contracting – what you don't know *could* hurt you.

Contracts are a legally charged part of every construction project – they can impact the rights and remedies of owners, lenders, contractors, subcontractors and suppliers positively *and* negatively. Building a strong knowledge of construction contracts and related terms and conditions will go a long way in helping you avoid disputes. Attend this seminar and get the knowledge and practical insight you need to understand the legal and administrative issues associated with construction contracts. Our experts will guide you through the entire process of contract development so that you better understand important contract provisions and how to properly document project conditions to minimize your risk of devastating financial loss.

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- Get up to speed on current trends in the law on tendering
- Learn how to manage disputes over changes in work
- Enhance your understanding of the arbitration process
- Find out what you need to know about the new CCDC-2, 2008 contract
- Determine which standard form document is right for you



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- identify current trends in the law on tendering
- discuss alternative dispute resolution
- review the new CCDC-2, 2008 contract

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TORONTO, ON AUGUST 26, 2008

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**Understanding the Issues
in Ontario**



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