



## HEAVY CIVIL CHIEF OPERATING OFFICERS REPORT

On the margins of the recently held Canadian Construction Association Industry Summit, the Heavy Civil Chief Operating Officers committee held its first meeting of the new board year. The following is a short summary of some of the issues discussed and decisions taken. For more information, please contact Bill Ferreira of the Canadian Construction Association.

### Prince Edward Island Mechanics Lien Act

The committee reviewed developments pertaining to the Curran & Briggs vs 100875 Inc. case in Prince Edward Island that could, if the PEI Supreme Court sides with the defendant, might undermine the lien rights of contractors across Canada.

At issue is the priority under the Mechanic's Lien Act the courts assign to claims filed in the event of a bankruptcy. In this case, the contractor is asserting lien rights on the remaining assets of the failed Charlottetown Royalty Heights Subdivision development and its defunct owner, 100875 Inc. The Bank of Montreal is challenging their rights arguing that the bank's rights should supersede those of the contractor.

On Prince Edward Island, whenever projects enter into bankruptcy, a receiver is appointed to determine creditor payment priority. A lien filed under the Mechanic's Lien Act can supersede a bank's mortgage rights in some instances. The BMO appeal, if awarded, would overturn that right giving banks the upper hand, in nearly all circumstances, when the projects they fund go into bankruptcy. There is about \$1.4 million currently being held by the receiver, PricewaterhouseCoopers Inc. and Curran & Briggs is seeking to recover \$820,000 of that total.

Given the possible national implications, the HCCOO committee will continue to monitor developments closely and work with legislators across the country, if necessary, to retain contractor priority under the various Canadian lien acts.

### Silica Regulations

Committee members also reviewed recent efforts on the part of Alberta Occupational Health and Safety and Worksafe BC to introduce new testing and enforcement procedures for existing silica regulations.

Silica is one of the most common minerals on earth and a basic component of soil, sand and rocks of all types. It exists in both crystalline and non-crystalline forms.

From a health perspective, silica can be an issue when it is disturbed by grinding, cutting, drilling or chipping creating silica dust. Epidemiological studies have drawn links between occupational exposures to crystalline silica and lung cancer, silicosis, pulmonary tuberculosis, chronic obstructive pulmonary disease and autoimmune disease.

Governments across Canada have introduced regulations to govern exposure levels. These levels are:

Canadian Jurisdiction	Occupational Exposure Limits (OEL) – OEL <sup>1</sup> (mg/m <sup>3</sup> )
Canada Labour Code:	0.025 respirable fraction for cristobalite and quartz
AB, BC, MB, NL, NS, PE:	0.025 respirable fraction for cristobalite and quartz
NB:	0.100 respirable fraction for cristobalite and quartz
SK:	0.050 respirable fraction for cristobalite and quartz 0.100 respirable fraction for tripoli
ON:	0.050 respirable fraction for cristobalite 0.100 respirable fraction for quartz and Tripoli
NU, NT, QC:	0.050 respirable fraction for cristobalite and quartz 0.100 respirable fraction for Tripoli
YT:	300 particles/mL for quartz 150 particles/mL for cristobalite, tridymite and Tripoli

There are silica deposits found in every Canadian province and territory, though the primary producers of silica are Quebec, Ontario and Alberta. Saskatchewan, British Columbia and Nova Scotia also produce silica, though in much smaller quantities.

According to health studies, the workers most are risk work in the following industries:

- Construction: sandblasting, rock drilling masonry work, jack hammering, tunneling
- Mining: metal, non-metal and coal miners, granite quarrying and processing
- Stone cutting (including jewellery): sawing, abrasive blasting, crushing, chipping and grinding
- Ceramics, clay and pottery industries
- Manufacturing: glass industries, soaps, detergents and abrasives
- Agriculture: dust from plowing or harvesting
- Foundries: casting, abrasive blasting
- Mills & refractory brick work: maintenance, repair and replacement
- Automotive industry: sandblasting
- Diatomaceous earth: production and use (i.e. as a filtering agent in the food and beverage industries)
- Dental offices: polishing and sand blasting

While HCCOO members appreciate the potential risks associated with the management of silica, the proposed Alberta and BC monitoring and enforcement procedures will make industry regulatory compliance extremely challenging, particularly in an outdoor environment where external factors or ambient levels cannot be readily controlled.

To help the construction industry better manage the inherent compliance challenges with current silica regulations, the HCCOO members recommended that the CCA's Civil Infrastructure Council fund from TRIP Canada funds the development of a national best practices guide and code of practice, modelled on those developed by the Alberta Roadbuilders and Heavy Construction Association earlier this year. The Council agreed and the documents are expected to be available for members use in the early fall.



**The next meeting of the HCCOO will take place in Mont Tremblant, Quebec, during the annual CCA Chief Operating Officers Conference, September 22 – 24.**