



REPRISAL CLAUSES A 'FORM OF INTIMIDATION': CCA

Warren Frey, *Journal of Commerce*, October 10, 2016

Canadian Construction Association board members are not mincing words about exclusionary clauses, calling them offensive and a possible infringement of the Charter of Rights and Freedoms.

"We intend to fight (exclusionary clauses) and really don't feel they serve the industry or the taxpayer well," CCA president Michael Atkinson said.

The matter recently surfaced during the CCA's fall board meeting in Fort McMurray, Alta. Exclusionary or reprisal clauses can be used by a municipality to restrict a company from bidding on future public projects for a set period of time if that company is currently or has previously been involved in litigation with that city over work or services.

The CCA's civil infrastructure council met on Sept. 27 as part of the board meeting and decided to aid in a B.C. contractor's legal battle against the City of Burnaby's use of an exclusion clause.

The council approved \$20,000 of its own funds, with the BC Road Builders and Heavy Construction Association contributing \$10,000, to aid J. Cote and Son Excavating Ltd.'s civil suit against Burnaby City Hall, which will be heard in B.C. Supreme Court. It should be noted that no decision has been made yet to the CCA to formally proceed.

One case in Quebec suggested those kinds of clauses infringe on the Charter, Atkinson said. While the Quebec case proved favourable to the industry in terms of limiting the use of exclusionary contracts, Quebec uses a civil code while the rest of Canada uses common law.

The B.C. challenge is the first such a case, outside Quebec, going before the courts.

In the J. Cote case, exclusionary or reprisal clauses were implemented in 2014 shortly after the company sued the city for payment from a 2012 contract. Under the new clause, the city would not accept tenders from any company or person that took legal action against the city of Burnaby in the last two years.

"It's an extremely offensive solution to a problem that perhaps would be better dealt with through some kind of prequalification or performance evaluation system. It's a form of intimidation really, when you think about it, when you say 'if you're going to put a claim in and we're wrong and you're right, that we're not going to let you bid on publicly funded work anymore,'" Atkinson said.

Municipalities across Canada have made use of exclusionary clauses, a report to the CCA civil infrastructure council stated.

Atkinson noted that recourse to the courts is a constitutional right. Reprisal clauses are "way too strong a response to a problem that could be addressed in a more reasonable fashion."

Editor's note: Henry Borger (MHCA) CIC Chair and Chris Lorenc, MHCA President, were named to oversee a task force managing the matter on behalf of the CCA.

Visit journalofcommerce.com to read the full article.

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SHWALUK**



Awards Breakfast & Annual General Meeting

Friday, November 18, 2016 8 am - 11:30 pm
RBC Convention Centre, room 2EF (second floor)

Keynote Speaker: TBA

Awards, Year in Review, Membership and Future Priorities presentations

Tickets: \$49 +GST (per person)

No. of tickets: _____

MHCA Annual Chairman's Gala *Under The Sea*

Friday, November 18, 2016

**RBC Convention Centre
York Ballroom
Winnipeg, MB**

Cocktails 6:30 pm
Dinner 7:30 pm
Tickets \$205 +GST per person
(all inclusive)

Tickets available as individual or tables of 10

No. of tickets: _____

Company: _____ **Contact Person:** _____

Phone: _____ **Please Invoice:** _____

Credit Card #: _____ **Exp. Date:** _____ **3-Digit Security Code:** _____

Card Holder Name: _____ **Signature:** _____

Delta Winnipeg, reservations: 1-844-294-7309 - room rates starting at \$135

Quote: Manitoba Heavy Construction Association

Fill out this form in full and fax it to Christine Miller at the MHCA office at 204-943-2279 or email christine@mhca.mb.ca
To request a special meal, to accommodate any food allergies and/or dietary restrictions, please call or email Christine at 204-947-1379

WHAT MATTERS IS THE RIGHT INFRASTRUCTURE INVESTMENT

Gergory Mason

When politicians debate whether deficits are needed for economic stimulus, the entire discussion is pointless. It's not the deficit that matters, it's how it is spent.

Imagine your household were a break-even operation — your income covers food, utilities, entertainment, home and transportation costs. Now you decide to go to the bank and take out a loan for additional education. You have a debt, which puts your household budget into a deficit.

This is a good plan, unless you decide not to go to school and spend the money on a holiday. Clearly, this is foolish because the debt and deficit remain, but you have nothing to show long-term for the spending. You have incurred a debt without a higher future income to manage the resulting deficit.

Even the decision to return to school is tricky. Completing a degree is no guarantee the investment will pay off. Graduates with a degree in art history have much lower lifetime earnings than those who graduate with a degree in science, technology, engineering or math, the so-called STEM educational stream.

Before anyone assumes I am “dissing” art history or liberal arts education, I am not. One could get job in a museum or even Sotheby's, rising in the organization to eventually receive a high salary in management. But a STEM degree increases the odds of high lifetime incomes.

The same lessons translate to deficits and debt incurred by government. Manitobans have a provincial government seeking to trim every possible expenditure in an effort to reduce the deficit. At the same time, we have a federal government that campaigned on the promise that increased deficits would create fiscal stimulus. It has passed out \$8 billion in cheques over the summer to a wide range of organizations and causes.

How has this worked? Not so well. The Canadian economy continues to amble at a very low level despite an uptick in June. What is going wrong?

Well, politicians make two mistakes. First, there is no question investing in infrastructure has become the mantra for curing our economic malaise. But as the example of education shows, what we choose to support matters. Take an example close to home. Imagine the provincial government used debt to finance the construction of a gravel road between two northern lakes. The construction involves airlifting in the equipment, with labour and gravel locally sourced. At the end, we are left with a road between two lakes, but no way to get there except by air. Certainly, some benefits may occur from the purchase of services and training local labour, but in the long term, we have little to show. It may have been better to send a cheque to every Manitoban or reduce taxes by an amount equivalent to the cost of construction.

Now, if that road ran from Winnipeg to some remote communities — say, those on the east side of Lake Winnipeg — the investment might have enduring benefit. This is especially so if the formerly remote communities became entrepreneurial and created recreational and other business opportunities that attracted visitors, especially from other countries. The ongoing payments to service the debt result in higher future incomes to the communities and Manitoba.

The second mistake is to expect infrastructure investment pays off quickly. Like investment in education, most of the return lies in the future.

Those who advocate running deficits and those who promote cutting spending as unique avenues to economic prosperity offer simplistic solutions for our economic malaise. Policies such as regulatory change, creating incentives to entrepreneurship and efficient management of public and private enterprise are also vital.

But wise investments on infrastructure are an essential foundation to return our economy to prosperity. We must be patient and understand that like spending on education, it does matter greatly how we invest.

Gregory Mason is an associate professor of economics at the University of Manitoba and a senior consultant at PRA Inc. His views are his own. This article first appeared in the Winnipeg Free Press on October 06 under the title “Guaranteed annual income difficult to implement”.

UPCOMING MHCA MEETINGS

MHCA Executive Committee
MHCA Office
October 19, 2016 - 12:00 Noon

Membership Committee
MHCA Office
November 02, 2016 - 12:00 noon

Aggregate Producers Committee
MHCA Training Room
November 02, 2016 - 2:00 pm

MHCA Annual General
RBC Convention Centre
November 18, 2016 - 9:30 am

MHCA Board of Directors
RBC Convention Centre
November 18, 2016 - 11:00 am

MHCA Executive Committee
MHCA Office
November 30, 2016 - 12:00 Noon

MHCA Executive Committee
MHCA Office
January 18, 2017 - 12:00 Noon

MHCA Board of Directors
Location TBD
January 25, 2017 - 12:00 Noon



COMMUNITY CONVERSATIONS: SPRINGFIELD'S 10-YEAR STRATEGIC VISION!

Springfield Council wants to hear your input, thoughts and ideas on what your vision is for your community in the next ten years. Pivot Performance (www.pivotservice.ca) has been engaged to lead Council and Administration through a comprehensive planning process that will enable them to identify a Vision and Key Strategic Directions for the community to achieve in the next ten years.

Your participation is an important contribution to the development of the vision. Please join us and let us know what your 10-Year Vision for Springfield is.

Meetings will be held on Thursday, October 20th and Monday, October 24th from 7:00 p.m. to 9:00 p.m. at the Oakbank Baptist Church – lower level hall (26033 Springfield Road, two blocks West of Highway 206 at the South end of Oakbank).

For more information, please contact the Municipal Office at 204-444-3321.

Russell Phillips

Chief Administrative Officer



WHAT ARE AMERICANS WAITING FOR?

Peter G Hall, Vice President and Chief Economist



Americans are the world's glass-half-full people. They're the can-do frontier-conquerors, risk-lovers, prodigious globalizers, labour and investment mobilizers, inventors, educators, and so much more – and they've consistently reaped the resulting dividends. But look at the news networks, the political debates, reality TV and the person on the street, and you'd never know it. It seems these days that everyone stateside wants to outdo each other's gloom. Does all the negativism make sense?

Maybe. America has taken a long time to shake off the Great Recession. Its banks were weakened. Its debt has soared. Its trade balance is persistently negative, too many, a critical sign of the failure of liberalized trade. Interest rates seem stuck at zero. All of this coming in the wake of 9/11, which leveled a stunning blow at US confidence. Since pessimism sells at a large multiple to optimism, the bad-news stories are the ones getting all the airplay, and the population seems to have an insatiable appetite for it. And the election campaign is leveraging it to the max.

Is the discourse somehow missing the point entirely? The Democratic nominee's close relative had it right when he campaigned on the belief that what Americans wanted above all was a solid economy. And one of the prime indicators of that is a vibrant job market. Yet nobody seems to realize that for 72 consecutive months, the economy has pumped out an average of 200,000 jobs. That rivals some of the country's best runs of growth in recent history, and there are clear signs that this run is still going strong. This should be boosting the feel-good factor.

If that isn't working, then labour-market tightening should be. The US job machine has sopped up workers at such a pace that the unemployment rate has plummeted from 10 per cent in 2010 to just 5 per cent as of last week. That's a level that most economists consider the full-employment level, technically known as the non-accelerating-inflation rate of unemployment (NAIRU). At these low levels, wage pressures typically start to shoot up. And that's just what's happening – the pressures have caused real wages to rise at a pace unseen in the post-recession period. This shift first occurred in mid-2014.

So, why are many still grumpy? In good part because there are groups in the US economy that have been bypassed by all this growth. At the same time as job counts have soared, labour force participation has been sluggish. The unemployment rate actually looks better than it should, because droves of potential workers have, in frustration, dropped out of the labour force. Put them back in, and the unemployment rate shoots up to about 8 per cent. But even this is changing; for the first time since the recession, the participation rate has just begun to turn around meaningfully – it seems that these displaced workers are returning to the market, as companies are finding fully skilled and experienced workers in shorter supply.

Tightening conditions are also pulling in a key group – the young. Unemployment rates in the 16-19 age group soared in the wake of the recession to levels far above typical recessionary peaks – and they stayed there far longer than in the past. Now, the rate is down sharply, and is below normal. Labour force participation among this group has been very low, but following the recent trend, has started to rise. It remains low for the 20-24 age category, but lower unemployment rates for this group should see participation begin to pick up shortly.

This is a critical development, as youth categories play a key role in overall consumption. Increased employment typically boosts household formation, which in turn boosts demand for housing. Given that housing markets are in deficit and dealing with very low inventory levels, a spark in demand would have an almost immediate effect on new construction. As the housing market is an engine of a lot of other activity in the economy, this nascent increase in 'feeder' demand could well be the start of a new wave of economic growth that in our view has years of runway ahead of it. It's just starting, but it's pretty exciting.

The bottom line? It's really not clear what Americans are waiting for. It has indeed been a long wait, but there is plenty of evidence that for a number of year now, the job market has been on a very impressive roll. What's good for employment is good for consumption, which powers 70 per cent of the US economy, a good chunk of the world economy – and Canadian exports.

Training Schedule

WINNIPEG - MHCA Office
3-1680 Ellice Ave.

OCTOBER

- 17-18 COR™ Leadership in Safety Excellence**
- 19 COR™ Principles of Health and Safety Management**
- 20-21 COR™ Auditor**
- 25 Flagperson 1/2 day AM
- 25 Committee/Representative Training 1/2 day PM
- 26-27 Traffic Control Coordinator
- 28 Excavation & Trenching 1/2 day AM
- 28 Auditor Refresher 1/2 day PM

NOVEMBER

- 8 Flagperson 1/2 day AM
- 8 Committee/Representative Training 1/2 day PM
- 9-10 Office Traffic Control Coordinator
- 17 Environmental Practices 1/2 day AM ★
- 17 Written Communication 1/2 day PM ★
- 21-22 COR™ Leadership in Safety Excellence**
- 23 COR™ Principles of Health & Safety Management**
- 24-25 COR™ Auditor**
- 28 Excavation & Trenching 1/2 day AM
- 28 Auditor Refresher 1/2 day PM
- 29 Train the Trainer

DECEMBER

- 12-13 COR™ Leadership in Safety Excellence**
- 14 COR™ Principles of Health & Safety Management**
- 15-16 COR™ Auditor**
- 19 Flagperson 1/2 day AM
- 19 Committee/Representative Training 1/2 day PM
- 20-21 Traffic Control Coordinator
- 22 Excavation & Trenching 1/2 day AM

BRANDON - St. John's Ambulance
Shopper's Mall, 1570 8th Street

OCTOBER

There is no scheduled training for Brandon in October at the moment.

NOVEMBER

- 21-22 COR™ Leadership in Safety Excellence**
- 23 COR™ Principles of Health & Safety Management**
- 24-25 COR™ Auditor**

DECEMBER

There is no scheduled training for Brandon in December at the moment.

★ Leadership Certificate Program/Gold Seal

Construction Safety Excellence™

SAFETY TALK



Driving and Back Pain

Explain dangers

Even when you are sitting still in a moving vehicle, your body is subject to forces that can increase your risk of developing lower back pain.

Because your hands and feet are actively involved in the driving task, they are not able to support and stabilize your lower body.

In order to support the upper body, the lower back muscles have to be constantly active. This results in muscle pain in the lower back.

Identify controls

- Adjust the seat for a comfortable sitting position that gives you full access to the vehicle controls
- Adjust the steering wheel for a comfortable arm position
- Adjust the mirrors so that you have good visibility while maintaining a neutral neck position
- If the seat has an air suspension system, adjust it so that the seat is comfortable and provides support

- Try to get out of your vehicle every hour or two to stand, stretch, and move around for a few minutes.
- Do not do any heavy lifting immediately after a long period of driving
- Try not to sit down with your wallet in your back pocket
- Maintain a good sitting posture by putting a cushion between your lower back and the seat to keep the natural curve of your lower back
- Do not sit in one position for a long time. Change your position by arching your back to reduce muscle tension

Demonstrate

Ask your workers to describe any back problems they have had while driving.

Show workers a comfortable sitting position while driving. With feet on the pedals, recline the seat so that shoulders are slightly behind the hips and move the seat until the knees are the same height as the hips.

Print and review this talk with your staff, sign off and file for COR™ / SECOR audit purposes.

Date: _____

Performed by: _____

Concerns:

Employee Name:

Supervisor: _____

Location: _____

Corrective Actions:

Employee Signature:



END OF SEASON INJURIES

WORKSAFELY™ Back to You

Workplace injuries do not happen at an even rate all year long. In fact, studies done in the heavy construction field show that injuries tend to rise during the late summer and into the fall, as the heavy construction season comes to an end.

We want to remind our industry to take care during this busy season, but also stress the importance of safe work practices in avoiding workplace injury.

According to a study done for the Manitoba Workers Compensation Board, the most common work-related injuries during this busy time are sprains and strains. A further look into specific incident reports for sprains and strains shows that the most frequently injured body parts are the back, leg and ankle. These injuries are most commonly caused by slips and trips, and lifting, pushing and pulling.

Safety is of paramount importance all year, but it is particularly critical to address hazards during construction's peak time. Our weekly Safety Talks include tips on preventing sprain and strain injuries. WORKSAFELY™'s focus is to provide our industry with tools needed to reduce workplace injuries.

If you would like to learn more about preventing workplace injuries, visit our website at mhca.mb.ca and click on the Safety Talks link. Additionally, training in preventing sprain and strain injuries can be provided to individual companies throughout the year. Please contact Kristen Ranson for more information at 204-947-1379.

KNOW YOUR WORKSAFELY™ ADVISOR

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Kristen Ranson

WORKSAFELY™ Administrative Assistant
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To contact your WORKSAFELY™ Advisor assigned to your area, please see mhca.mb.ca/worksafely/know-your-advisor

MEET YOUR WORKSAFELY™ ADVISOR

Trevor Shwaluk



Trevor Shwaluk is the newest Safety Advisor to join the WORKSAFELY™ team. Coming to us in January of 2016, he is the Safety Advisor for Central Manitoba.

Trevor holds a degree in Physical Education with a minor in Athletic Therapy and Kinesiology.

Before joining WORKSAFELY™, Trevor worked for 7 years as a Safety Coordinator with Meseyton Construction Ltd., one of our COR™ companies and members. Prior to working in the heavy construction industry, he worked with MPI as a Senior Case Manager in Bodily Injuries, and as an Injury Case Manager for the WCB.

Trevor has extensive experience in the area of coaching and training. His career began while working with Baseball Manitoba and Softball Manitoba, training and instructing the coaches to help them obtain their coaching levels.

If you would like to contact Trevor Shwaluk regarding workplace safety, injury prevention, auditing and training for your company, he can be reached at:

Trevor Shwaluk
3-1680 Ellice Ave
Winnipeg, MB
204-594-9061
trevor@mhca.mb.ca

Upcoming training with Trevor:

- Oct. 17-18 COR™ Leadership in Safety Excellence - MHCA Office
- Oct. 20-21 COR™ Auditor - MHCA Office
- Oct. 25 Flagperson - MHCA Office
- Nov. 8 Flagperson - MHCA Office
- Nov. 24-25 COR™ Auditor - MHCA Office
- Dec. 14 COR™ Principles of Health & Safety Management - MHCA Office
- Dec. 20-21 Traffic Control Coordinator - MHCA Office

Starting November 17th, WORKSAFELY™ will be bringing back the Leadership Certificate Program.

These courses are the best way to become Gold Seal Certified.

November 17

Environmental Practices 1/2 day AM - MHCA Office
Written Communication 1/2 day PM - MHCA Office

January 16

Team Leader 1/2 day AM - MHCA Office
Human Resource Practices 1/2 day PM - MHCA Office

February 13

Effective Delegation 1/2 day AM - MHCA Office
Resolving Workplace Conflicts 1/2 day PM - MHCA Office

March 13

Effective Meetings 1/2 day AM - MHCA Office
Verbal Communication 1/2 day PM - MHCA Office



ORDER # 1: 2016-2017 WINTER SEASONAL WEIGHTS (WSW)

RESPECTING THE OPERATION OF VEHICLES ON HIGHWAYS
IN THE PROVINCE OF MANITOBA

ORDER FOR THE START AND END DATES OF THE WINTER SEASONAL WEIGHTS (WSW) WHICH INCLUDE:

- **WINTER WEIGHT PREMIUM,**
- **WINTER SEASONAL CLASS A1 HIGHWAYS DESIGNATION, AND**
- **WINTER SEASONAL RTAC ROUTES DESIGNATION**

Pursuant to subsection 29(3), 30(3), Schedule B- subsection 2(2) and Schedule C- subsection 2(2) of the Vehicle Weights and Dimensions on Classes of Highways Regulation (*MR 575/88*), *Highway Traffic Act*, I order that Winter Seasonal Weights (WSW) on Manitoba provincial routes/highways will be permitted as follows:

AXLE AND GROSS VEHICLE WEIGHTS

Winter Weight Premium (WWP) means: 10% increase in the maximum gross axle weights-

For Non-RTAC Vehicles as set out in Schedule E (MR 575/88):

- a) On a single axle or axle group on a class A1 highway or class B1 highway.
- b) The gross vehicle weights not to exceed the prescribed maximum for a normal class A1 highway or class B1 highway.

For RTAC Vehicles as set out in Schedule H (MR 575/88):

- a) On a single axle on a RTAC route.
- b) On a tandem axle on a RTAC route up to but not to exceed 17,600 kg.
- c) On a single or a tandem axle on a class A1 highway or class B1 highway.
- d) Normal weight on a tridem axle on a RTAC route, class A1 highway or class B1 highway.
- e) The gross vehicle weights not to exceed the prescribed maximum for a normal RTAC route, class A1 highway or class B1 highway.

Winter Seasonal RTAC Routes Designation means: Reclassification of specific portions of class A1 highways and class B1 highways as RTAC routes-

- a) Normal RTAC route gross axle weights on all axle units plus the allowable WWP on a winter seasonal RTAC route.
- b) The gross vehicle weights not to exceed the prescribed maximum for a normal RTAC route.
- c) Winter seasonal RTAC routes are listed in Schedule B- subsection 2(1) of MR 575/88.

Winter Seasonal Class A1 Highways Designation means: Reclassification of specific portions of class B1 highways as class A1 highways-

- a) Normal class A1 highway gross axle weights on all axle units plus the allowable WWP on a winter seasonal class A1 highway.
- b) The gross vehicle weights not to exceed the prescribed maximum for a normal class A1 highway.
- c) Winter seasonal class A1 highways are listed in Schedule C- subsection 2(1) of MR 575/88.

IMPLEMENTATION DATES

- A.** For the province of Manitoba, south of the virtual line that includes PTH 77, going easterly to include PR 513 (Gypsumville) and the northern tip of Black Island, following the eastern shore of Lake Winnipeg to the north shore of the Winnipeg River, easterly along the north shore of the Winnipeg River to PR 304 and easterly to the Ontario border.

Start Date: 12:00 A.M., Thursday, December 01, 2016.

End Date: 11:59 P.M., Tuesday, February 28, 2017.

- B.** For the province of Manitoba, north of the virtual line specified in A (above).

Start Date: 12:00 A.M., Thursday, December 01, 2016.

End Date: 11:59 P.M., Tuesday, February 28, 2017.

Please refer to website www.gov.mb.ca/mit/wsw for details and updates.

Information is also available by calling the Road Information Line at 511 in Manitoba or at 1- 877- 627- 6237 outside Manitoba, and by calling Motor Carrier Permits and Development at 204- 945-3961 or toll free at 1- 877- 812-0009.

BY ORDER

Original signed by

Ron Weatherburn
ASSISTANT DEPUTY MINISTER
ENGINEERING & OPERATIONS

October 06, 2016

Unreserved Public Equipment Auction

Saskatoon, SK October 18, 2016 · 8 am



2012 Ditch Witch JT3020 Mach 1 Crawler



2009 to 2005 Case 580SM Series II & III



2012 John Deere 750J LGP



2012 Hitachi ZX2250SLC-3



2007 Hitachi Z270LC-3



5-2009 to 2005 Kubota Mini Excavators



1 of 2-2007 Caterpillar 730

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2003 John Deere 770CH Series II



2006 Ditch Witch JT921 w/18 Ft Trailer



2010 Ditch Witch RT95 4X4X4



2016 John Deere 316GR - Low Hours



2015 Ditch Witch SK750



Sam Webber
Industrial Territory Manager
Manitoba

204.894.3324

swebber@rbauction.com



1980 Grove TMS-475 50 Ton



2-2006 JLG 450 AJ Series II

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