

April 15, 2020

**The Hon. Stephen Lecce**  
**Ontario Minister of Education**

Mowat Block  
22nd Floor  
900 Bay St  
Toronto ON M7A 1L2

**Reference: Need for Clarity on School Construction and COVID-19**

Dear Minister Lecce:

The Ontario General Contractors Association (OGCA) and its 200 members deliver over \$12 billion of GDP of Ontario's Industrial, Commercial and Institutional (ICI) construction work annually. Several OGCA members build and maintain schools across the province and are essential to the continued growth of our education system. These contractors are some of the safest in Ontario, with the safety of most workers delivered under the COR health and safety accreditation process.

We are writing to you regarding industry-wide concerns about the lack of consistency across the province's school districts. Although three school boards have officially indicated their Project sites as shutdown and thus issued legal stop-work orders, many others have not formally stopped work and have left potentially significant legal ambiguities for contractors. To solve this problem, the OGCA recommends that the Government of Ontario send a definitive message to contractors working on school construction in Ontario that there is no clear exemption for projects of this nature under the Regulation.

Ever since the Government of Ontario began restricting construction projects on the Essential Services list, the OGCA has been advocating for greater clarification and contractual relief. Although your government has been clear regarding its intent to protect workers, we have raised the issue of confusion regarding schools as an essential service. To provide further clarity, contractors must either communicate directly with the District School Boards (the "Boards") or call the Ministry of Labour hotline. This has only led to more confusion as the hotline operators are unable to provide clarity and navigate the complexities of construction contracts.

To date, members have only received confirmation of worksites shutting down from the Toronto District School Board, the Durham Catholic District School Board and the Hamilton Public School Board. This confirmation only happened after the OGCA inquired, causing the "Boards" to issue orders that they were nonessential. As a result, confusion remains across Ontario as there is no commonality amongst each school board. Even worse, by lacking direction, many school boards have sent a series of owner threats to contractors foreshadowing a legal quagmire that will occur if the government does not act to clarify the status of schools. Provincial leadership is needed to formally clarify what projects should continue and what projects should not. This will allow contractors the assurance that they are not liable for delays outside their control.

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An example of this inconsistency involves one of our members who is working on the Pte. Buckam Singh Public School in the Peel District School Board. In a letter sent on April 14, the "Board" explains how the current situation is not the same as a stop-work order, and that contractor took it upon himself to determine to stop work. As such, any reimbursement for reasonable costs incurred as a result of delays solely due to construction being deemed nonessential can happen if the application of the list "is determined to be the case." Please see the attached letter sent to Remo General Contracting Ltd. for an example of the lack of clarity regarding this issue.

Minister, while we appreciate the safety of students, teachers and staff is of the highest priority, school builders need further clarification on these crucial contracts. These contractors who have been working on public and Catholic school board project sites urgently need a decision from the Ministry of Education that shall apply across the province.

Ontario's construction industry will support the continued growth of our education system through this most difficult time. To do so, we need to partner with you to clear a few roadblocks and confirm our dedication to keeping sites safe. We appreciate your time and thank you for your leadership in this challenging time. If you have any questions, please do not hesitate contacting me directly.

Sincerely,

ONTARIO GENERAL CONTRACTORS ASSOCIATION

A handwritten signature in black ink, appearing to read "Clive Thurston". The signature is fluid and cursive, with a large initial "C" and a long, sweeping underline.

Clive Thurston  
President

cc: The Hon. Doug Ford, Premier of Ontario  
Hon. Laurie Scott, Minister of Infrastructure  
Hon. Monte McNaughton, Minister of Labour  
David Corbett, Deputy Minister (Labour, Training and Skills Development)  
Raymondo Mollica, Remo General Contracting Ltd

April 14, 2020

Raymondo Mollica  
Remo General Contracting Ltd.,  
2400 North Park Drive  
Brampton, ON L6S 5M5  
info@remogc.ca

Dear Raymondo,

**Re: Pte. Buckam Singh Public School**

We received your email, dated April 6, 2020 in respect of the Peel District School Board's (the "Board") construction project at Pte. Buckam Singh Public School (the "Project").

We understand that you have taken steps to close the Project site as a result of the government's order made on April 3, 2020 that places of business not identified on the government's list of essential places of business must close their physical locations by 11:59 p.m. Saturday, April 4, 2020.

As you may know, because the government listed "construction and maintenance activities necessary to temporarily close construction sites that have paused or are not active and to ensure ongoing public safety" as an essential place of business, the Board expects that you have taken or will take the necessary steps to close the Project site so as to maintain public safety. The Board also expects that you will mitigate any damage or losses that may occur as a result of closing the Project site.

We understand that you have taken the position that the government's directive is effectively a stop work order. If such is determined to be the case, in accordance with the contract the Board may, in conjunction with its Consultant, consider claims for reimbursement for reasonable costs you have incurred as a result of delays solely due to the government's order. A final determination of this will be made at the time of Substantial Performance.

In accordance with the contract, the Board will in any event, in conjunction with its Consultant, consider what a reasonable extension of the Contract Time may be once the government permits construction activity on projects of this nature to continue.

**Trustees**

Brad MacDonald, Chair  
David Green, Vice-Chair  
Carrie Andrews  
Susan Benjamin  
Stan Cameron  
Robert Crocker

Nokha Dakroub  
Will Davies  
Sue Lawton  
John Marchant  
Kathy McDonald  
Balbir Sohi

**Director of Education and Secretary**  
Peter Joshua

**Associate Director, Instructional and Equity Support Services**  
Poleen Grewal

**Associate Director, Operational Support Services**  
Jaspal Gill

**Associate Director, School Support Services**  
Mark Haarmann

We remind you that, in accordance with the contract, you are responsible for maintaining the safety of the site. In addition, you are responsible for providing, maintaining, and paying for the insurance coverage specified in the contract from the date the work commences until the final certificate of payment.

Please note that the restrictions on construction projects do not apply to design services, to the extent that such services are required in connection with the Project, provided that such services are performed remotely without attending at a place of business.

We appreciate your cooperation during this time.

If you have any questions, please contact the undersigned.

Yours truly,

A handwritten signature in blue ink that reads "C.R. Wright". The signature is written in a cursive, flowing style.

C.R. Wright, Controller  
Planning and Accommodation Support Services

- c Eugene Radley/Michael Arruda – PDSB
- Mariusz Gontarz – MG Architects Inc.