



RESCON[®]

RESIDENTIAL CONSTRUCTION COUNCIL OF ONTARIO

March 3, 2009

I am writing with respect to the recent regulatory announcement amendment to Bill 119 concerning Executive Officers and their ability to be exempt from the compulsory WSIB coverage as prescribed in the Bill. As you are aware, Bill 119 completed the legislative process in November 2008. During the legislative process, a regulatory amendment to the Bill was added which provided the ability for an executive officer who does not perform construction work to be exempt from compulsory coverage. RESCON, along with many other construction stakeholders supported the amendment to the Bill on the basis that if properly administered, it would not become another loophole to evade WSIB coverage

In early January, the Minister of Labour held a very brief consultation with all of the construction stakeholders to discuss how the amendment should be applied to prevent its abuse and ensure the goal of mandatory coverage was preserved. In our meeting with the Minister, we provided a simple five point test which we believed would allow for executive officers who do not perform construction work to be exempt from coverage while ensuring that Bill 119 was not undermined. The five points were as follows.

- 1) Apply the current operational definition of an executive officer (as defined by the WSIB)
- 2) Any executive officer exemption must be applied for and granted by the WSIB
- 3) All executive officers must be named and identified in order to be granted the exemption
- 4) A signed declaration that executive officer does not perform construction work and is not eligible for WSIB benefits should he/she be injured during the course of their duties.
- 5) The exemption remains in place unless the WSIB is notified about a change in status of the executive officer

We also made the point with the Minister of Labour that there should not be any limit on the number of executive officer exemptions granted to an individual firm or partner in partnerships. We argued that if an executive officer satisfied the criteria for the exemption, then it is irrelevant how many exemptions are granted. This five point position was advocated by many other "non-affiliated" construction associations.

While many of our points were included in the regulation, the Minister of Labour has included a limit of one executive officer exemption per firm. In our view, this limit is unfair, unnecessary and undermines the very purpose of having an executive officer exemption in the first place. Given that the regulation is now filed, RESCON will now be pushing the WSIB to introduce an "executive officer" construction premium rate that is commensurate with the degree of risk (very little if any at all) they are exposed to. This premium rate would be substantially less than any Class G rate group and would mitigate the financial impact of the regulation on our members.

We will continue to put forth positions that are in the best interests of our membership - exclusively new home and multi-family builders. Attached is a copy of the regulation. If you have any questions, please do not hesitate to contact me at 905 760 7777, ext 103.

Sincerely

Jason Ottey