

LAWSUIT LAUNCHED AGAINST CITY OF TORONTO OVER CLOSED TENDERING Addition of LIUNA to city's construction monopoly contravenes provincial and municipal laws

—for immediate release—

June 26, 2019

TORONTO—A lawsuit was filed today against the City of Toronto by CLAC, supported by the Canadian Taxpayers Federation, the Progressive Contractors Association of Canada, and Merit Open Shop Contractors Association.

The suit stems from Toronto City Council's decision on June 19 to add LIUNA to the labour monopoly held by nine other unions over municipally funded ICI work. CLAC believes that by entering into a voluntary recognition agreement with LIUNA, the city has violated the *City of Toronto Act* and the city's *Procurement Bylaw and Policy*.

The city added LIUNA when it opted out of Bill 66. That bill set out to make clear that municipalities are construction purchasers, not construction contractors, and as a result no longer subject to construction tendering restrictions. However, the province gave municipalities that were already in a monopoly situation, including Toronto, the option of opting out of the legislation and continuing to use restricted tendering.

While it looks like all the other municipalities in the province and Toronto's Exhibition Place will opt for open tendering, Toronto chose to remain closed, which is very poor public and fiscal policy. However, adding LIUNA to the list of unions that held a monopoly was, in the view of CLAC's legal experts, illegal.

The group launching the suit is also very concerned with the process that unfolded on the council floor to allow this decision to go forward in the first place.

The motion, [MM8.51](#), to enter into a voluntary recognition agreement with LIUNA was not brought forward publicly until the council meeting started on June 19 and there was no public consultation or staff analysis offered to support it. Questions from a minority group of councillors about why the city was not taking an open and inclusive approach to construction procurement were dismissed. The questionable legal standing of the motion was made known to council members, but it still advanced with 20 members of council supporting it.

Quotes

"We heard rumours that the city was considering opting out of Bill 66, but were shocked when they decided to enter into an exclusive agreement with LIUNA. This agreement gives LIUNA exclusive rights to all skilled labour work on city construction projects. We believe that the council's decision is not rational or legal. While we regret having to take legal action, it is the only way to shine a light on what seems to have been a deal cooked up in the backrooms of city hall in an effort to avoid public scrutiny."

- Ian DeWaard, Ontario director of CLAC

"Mayor Tory and the majority of Toronto City Council played favourites when they voted to allow only one more labour group access to bid on Toronto infrastructure projects. Legislation, bylaws, and policies prohibit preferential treatment for anyone doing business with the City of Toronto. This kind of political favouritism is unfair for workers, unfair for taxpayers, and just plain wrong. That is why we are joining this lawsuit."

- Sean Reid, vice president and regional director, Ontario, of the Progressive Contractors Association of Canada

“Everybody wins when the tendering process is an open competition—especially taxpayers. We proudly support this action against Toronto City Council’s decision to limit construction contract bidding to a handful of select unions. City councillors need to do the right thing for their constituents and open the bidding process to all construction workers—union or non-union.”

- Jasmine Pickel, interim Ontario director, Canadian Taxpayers Federation

“It was disappointing to witness what occurred at Toronto City Council on June 19. The mayor and councillors are elected to be impartial in safeguarding the public purse and should not be entering into exclusivity arrangements on public infrastructure. We support fairness, inclusiveness, and transparency. Taxpayers deserve better.”

- Michael Gallardo, executive director of Merit Open Shop Contractors Association of Ontario

Quick Facts

- After July 3—the deadline to opt out of Bill 66—the City of Toronto will likely be the only municipality in Ontario to restrict tendering on the basis of union affiliation.
- City of Toronto staff wrote two reports prior to June 19 that recommended council choose open tendering, however, council voted against this advice.
- City of Hamilton staff released an in-depth report on the cost of closed tendering that showed open tendering would save their municipality approximately 20 percent in construction costs. On June 19, Hamilton City Council opted for open tendering.

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