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VIA EMAIL

The Honourable Madeleine Meilleur
Attorney General of Ontario
Ministry of the Attorney General
McMurtry-Scott Building
720 Bay Street, 11th Floor
Toronto, ON M7A 2S9

Dear Madam Attorney:

RE: Appointment of Construction Lien Masters in Toronto

Thank you again for speaking at our Board dinner on February 24, 2015. We very much appreciated the time you and the Deputy took to speak to our Board and guests.

Today I am writing to you about the shortage of Masters dedicated to hearing construction lien matters in Toronto ("Construction Lien Masters"). This shortage has led to significant access to justice issues, as the hearing of lien matters is now very delayed, to the detriment of litigants in lien proceedings, and consequently to the broader construction and development industries as well as individual homeowners.

Since January 1, 2015, there has been only one full-time Master (Master Albert) and one part-time Master (Master Wiebe) dealing with construction lien proceedings in Toronto. Masters Albert and Wiebe represent only 50% of the judicial resources available for construction lien matters prior to February, 2013. As a result, a significant backlog is developing. Indeed, as of early December 2014, Master Albert was already fully booked with lien trials to the end of 2015, with the exception of one to two day trials. In other words, litigants are waiting a full year to have their cases heard when the legislation contemplates a speedy disposition of disputes using a summary procedure.

How did we get to this situation?

Prior to December 2012, the Construction Lien Masters' office included Masters Sandler, Polika, and Albert, all three of whom were entirely dedicated to hearing construction lien matters on a full-time basis. Master Wiebe was appointed on December 19, 2012 in anticipation of Master Polika's retirement on February 8, 2013. However, subsequent to Master Polika's retirement, Master Wiebe was off on an extended medical leave, and since his return he splits his time between bankruptcy and construction matters. Master Sandler retired as of January 1, 2015 and, prior to his retirement, he was able to spend only 87 days a year assisting the court. While Master Short previously dealt with lien proceedings, he is currently dealing exclusively with bankruptcy and civil motions. Master Muir's duties do not currently include lien trials, though he does share duties for construction lien *ex parte* court with other Masters.

The *Construction Lien Act* contemplates the resolution of lien disputes using procedure that is as far as possible of a summary character; unfortunately, these objectives are seriously compromised when parties to a lien action are unable to book trial dates for more than a year, at the end of a lengthy pre-trial procedure which often takes years in itself. Justice is delayed both for owners – whose title may be clouded with a lien, or whose capital may be tied up in security for that lien – and contractors – who may have gone unpaid for years. Facilitating reasonable access to justice for lien litigants is crucial to preserving the health and competitiveness of the Ontario construction industry.

The backlog created by this resource issue will only get worse unless the complement of Construction Lien Masters is restored to, at least, the level at which it stood in February, 2013 when there were three Masters entirely devoted to hearing construction lien masters.

I write to ask you to prioritize hiring Construction Lien Masters in Toronto to restore the complement to 2013 levels.

I look forward to hearing from you.

Yours very truly,

A handwritten signature in black ink, appearing to read "Peter Lukasiewicz". The signature is fluid and cursive, with a large initial "P" and a long, sweeping tail.

Peter J. Lukasiewicz
President

cc. Patrick Monahan, Deputy Attorney General