

# The Land Economist

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### PROFESSIONAL JOURNAL



**ASSOCIATION OF  
ONTARIO LAND  
ECONOMISTS**

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COVID-19 POSTER from the Infrastructure Health and Safety Association (IHSA) . Photo: Rowena Moyes

## Jobsite health and safety

The Daily Commercial News contacted six construction management and labour groups for reactions after the industry was included in Ontario's list of 'essential businesses' allowed to stay open. "The celebrations were muted" says the March 26 article by reporter Don Wall. Each one "focused on the heavy responsibility they said the sector would bear to keep jobsites safe and sanitary to prevent the spread of the virus."

Comments included surprise that the type of projects included was so broad, ongoing concern for workers, and warnings that there are dozens of provincial labour inspectors at large jobsites who "won't hesitate to shut those sites down." See the full article [here](#).

# Life in the Pandemic

by Rowena Moyes

Until recently, the impact of the coronavirus on the construction industry in Ontario seemed to be limited to some delays in supply of some materials – especially from China.

There had been growing concern as cases of COVID-19 spread out beyond China and started to rise here. But the World Health Organization's March 11 declaration that novel coronavirus had become a pandemic suddenly made everything feel a lot more real.

Now, it's a whole new world - with all non-essential businesses, institutions and services shut down or working from home, and everyone hand washing and staying 6 feet apart.

Construction did end up being included in Ontario's list of 'essential businesses' after Premier Doug Ford announced his state of emergency closing all non-essential ones on March 23.

But after tighter and tighter recommendations on social distancing for everyone, and news reports of obviously non-conforming conditions on some building sites, the industry only narrowly dodged calls to close them all down.

The Carpenters District Council of Ontario was one group seeking a shutdown. Key complaints were no soap, no sanitizer, and overcrowding making social distancing impossible.

After his state of emergency announcement, Ford said he had seen images of unacceptable work sites. Workers who face those kinds of unsafe conditions on their sites should "leave the site and not come back", he [said](#).

The emergency measures are being described as a two-week shutdown. But Premier Doug Ford made a point of saying he is prepared to extend them. The next question might be: will the list of 'essential businesses' be changed - and if so, by how much.

## Two priorities: Wilkes

BILD GTA president and CEO Dave Wilkes says the global society has never been in a state like this "where the decisions are so fluid and constantly changing. There is a constant need to reassess how we can manage something

that comes without a play-book." Wilkes says his members "recognize our responsibility to provide safe worksites for our employees. We also recognize our responsibility to provide the homes that will shelter people down the road."

Companies are carefully scheduling for social distancing and increasing hand sanitizer as they focus on "the significant number of homes that are nearing completion," Wilkes said. Bringing them to the final stage of occupancy will really help buyers and renters who need to move out of their existing homes.

"Our goal is a healthy, safe work environment. If there is a challenge, we would all hope it gets addressed immediately and remedied," he said. "Our workers are our partners - as are our suppliers. We need to support each other in all of this to make sure we can get these homes done."



Premier Doug Ford listed construction as 'essential'

Some projects are going to be delayed, but the association continues its work partnering with municipalities across the region to make sure inspection and permitting continues, he said.

In all this, "I am very proud to be a citizen of Toronto, Ontario and Canada. The leadership has been exceptional."

PHOTO: Office of the Premier of Ontario

## Legal and Management

Many people in the industry are wondering what their next steps should be now. Gowling WLG has a lot of good answers to that question in a March 18 bulletin ["What should I do on my construction project, right now?"](#) Topics include Health and Safety, Project Management, Force Majeure Clauses, Construction Contracts, Insurance and Proactive Communications Strategy. Here are just a few key quotes:

- Check that all payment processes are still in place so the payment cycle is not impacted. Are payment certifiers still planning to attend on site to certify work or is some accommodation required? If cheques need to be issued, are signing authorities readily available or working off-site? Can you switch to electronic transfers? If your project is in Ontario, are the strict payment timelines of the new prompt payment rules impacted?
- Document, document, document. ... Establish the paper trail early and maintain it consistently. When were notices received? What specific work is actually being delayed? What was changed to allow work to proceed? It will be important to segregate COVID-19 related changes, delays and impacts. Consider maintaining a daily impact record noting "due to COVID-19" where appropriate.
- Check and carefully follow the notice requirements of the contract. Prompt notice is likely required in order to be protected by a force majeure clause ...  
Many contractors are proactively providing a 'head's up' notice of possible delays. These are prudent and good practice, but may not constitute a proper and compliant notice triggering the contract's delay provisions.
- Courts and most contracts will require you to have made a reasonable effort to avoid or minimize the consequences of the impact of COVID-19. If a certain supply of goods is at risk of being cut-off in the supply chain, did you consider stockpiling or seeking alternatives, for example?



**With the world changing so rapidly,  
who can keep up?**

## **Land Economist Newsflash**

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### **COVID-19 'UNAVOIDABLE DELAYS' UNDER TARION**

New home builders may be able to extend home delivery timelines caused by the COVID-19 Pandemic. Notice will have to be given to the homeowner within the time period set out in the standard Addendum to the agreement of purchase and sale. That is either before the next Critical Date, or 10 or 20 days after they know (or should know) that the pandemic will affect delivery. There can be two segments - the actual delay caused by the pandemic and the "remobilization" after it ends. It is critical to follow the rules set out 'Unavoidable Delay' in the Addendum. See Tarion's instructions [here](#), list of all Tarion's COVID-19 docs [here](#), and a Gowling WLG article [here](#).

## **Workers & Site Practices**

RESCON has issued an [information sheet](#) full of valuable information and links on health and safety and working on site. Some key recommendations are:

### **ILLNESS & REPORTING**

- At this time, it is recommended that any worker who is experiencing any symptoms should be sent home ... and advised to complete the [self-assessment](#) on the Ontario COVID-19 website and follow instructions there
- [Public Health](#) is the go-to place for detailed instructions
- COVID-19 illnesses must be reported to the Ministry of Labour within 4 days (and to the joint H&S representative, and trade union if applicable)
- Employers should keep track of when workers reported illnesses and where they worked. (If they test positive, Public Health will ask for this and for contact information for anyone who may have been exposed.)

### **SOCIAL DISTANCING, SCHEDULING & MORE**

- Plan for the number of people on site and where they will be working
- Avoid multiple crews working in the same unit
- Stagger start times, breaks and lunches
- Plan handling of potential pinch points, including hoists and trailers
- Ensure proper hand washing facilities and enforce sanitation of the site and workspaces

.....  
Canada's Building Trades Unions (CBTU) [asked governments](#) March 18 for two measures specifically to help construction workers, including:

- an Employment Insurance extension for construction workers who may have already exhausted some or all of their benefits, and
- the Right to refuse unsafe work due to
  - a) possible exposure to workers with COVID-19-like symptoms, and
  - b) workplaces not following social distancing measures.

*"Please protect the workers  
and their families.  
This virus is serious.  
People need water to wash  
their hands and sanitizer in  
all the porta potties.  
Enforce social distancing,  
including at breaks and in  
hoists. Otherwise, they can  
get infected and bring the  
virus home to their babies."*

These concerns are echoed around the world. See Construction News (UK) [here](#). The UK Construction Leadership Council published [detailed site procedures](#) March 23.

### **DELAY AND FORCE MAJEURE**

This [Daily Commercial News article](#) reports on Osler, Hoskin and Harcourt LLP's close look at those Unavoidable Delay clauses in other contracts. Some of them specifically identify epidemics and pandemics as triggers allowing delays. Others often include a generalized wording that is likely to work for COVID-19.

Some cautions from the law firm: these clauses only cover unforeseeable events; all new contracts should specifically list epidemics/pandemics now (and possibly should have since December), and the existence of the pandemic itself will not be enough to qualify; there must be work interruption from illness or quarantine. Osler's article can be found [here](#).

### **HOME BUILDER POLICIES**

The Greater Ottawa Home Builders' Association [posted a statement](#) on its website March 19. "During this critical time individual companies are making the decision that's best for their home buyers, employees and contractors," it says. "Members are doing their utmost to protect the health and safety of those working onsite while at the same time providing the homes that families across the city are counting on to live in – some of whom don't have alternative accommodations if that home is not ready for them in time."

To address the challenges, "firms are distancing trades, changing their work schedules and minimizing the number of people on site at any given time. At the same time, members are dedicated to the safety of municipal staff and inspectors, and will follow all city-directed protocols during site visits." The document includes links to best practices and communications resources.

# NEWS BRIEFS

## APPROVALS, INSPECTIONS, ETC

### Enbridge Gas Attachment Services

In a Q & A prepared for residential builders and associations, Enbridge sets out nine continuity specifics re new homes that are sold and closing soon. Here are two examples:

- Construction heat is not considered an emergency and will not be provided.
- Homes requiring homeowner occupancy by April 12 (subject to extension) will be considered a priority. Builders in this situation should give their regional representative a list of the addresses, prioritized to immediate need.

See more details [here](#).

### Ontario One Call

This service is focusing on emergency (imminent or significant safety or environmental hazard, or threat to people) and Sewer Lateral requests via 1-800-400-2255, 519-265-7612 or 226-646-2591. Standard requests should be submitted via the [web portal](#).

### Municipal Continuity Plans

Local and regional municipalities are posting information about service levels and closures in COVID-19 times. These include planning submissions and resubmissions, permit applications, inspections, etc. The CBC has assembled links to these local municipal web pages as part of its COVID-19 coverage. See its list for Toronto and the GTA [here](#). That page also has links to lists for local municipalities in seven more Ontario CMAs.

For example, emergency building inspection services in the City of Toronto will continue 24/7, but suspended services include:

- Building, Sign Permit and Zoning intake, review and issuance

- all building inspection services other than emergency inspections
- all information requests, complaints and reports

Construction may proceed without a City inspection, provided the applicant submits a report from the qualified designer responsible for the design, after City services have resumed.

BILD GTA and other local home builder associations also collect this information.

### 'ESSENTIAL BUSINESS' LIST

Ontario's new list of Essential Businesses casts a wide net. Although there had been some political pressure to close down construction sites, that industry was included. So were: supply chains serving essential businesses; institutional, residential, commercial and industrial maintenance; professional services including lawyers and paralegals, engineers, accountants, and translators; real estate agents, appraisers and moving services; and organizations, including Administrative Authorities, that regulate and inspect businesses -among others. For the complete list, click [here](#).

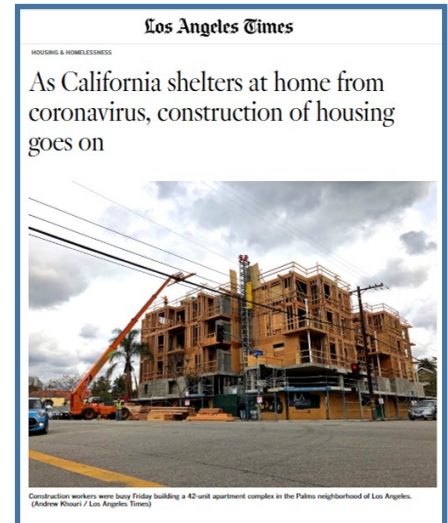
### ONTARIO LIMITATION PERIODS SUSPENDED

Ontario's declaration of emergency measures included a suspension of limitation periods and procedural time limits for the duration of the pandemic. This appears to mean that time periods to preserve and perfect Construction Liens are suspended - which could create significant delays in the release of holdbacks.

A [bulletin](#) from McCarthy Tetrault warns owners: "statutory holdback that would otherwise have come due, cannot at this time be paid since potential lien claims have not expired." The suspension could affect more, e.g. professional negligence.

## CONSTRUCTION DEEMED 'ESSENTIAL' IN CA, NY, IL

A Reuters article [Factbox: California, New York and Illinois 'stay at home' orders - What's allowed?](#) gives the situation as of March 20. The three similar orders direct more than 72 million residents to self isolate, but construction is one of the 'essential businesses' that can stay open. New Jersey and Connecticut are expected to follow suit.



A [March 21 article](#) in the Los Angeles Times (above) looked at the reasons for continuing construction, and talked to industry leaders the day after the order came down. The well-documented housing shortage was a key one. "You can't shelter in place with no shelter."

### BOSTON, CAMBRIDGE & PA BAN CONSTRUCTION

On March 16, to protect workers' safety, the Mayor of the City of Boston suspended all regular activity at construction sites for at least two weeks, effective the following day. Employers had until March 23 to secure their sites. Only emergency projects are permitted, such as utility, road and building work, public health and shelters. Neighbouring Cambridge introduced a similar ban the next day.

The Associated General Contractors responded that firms have brought in anti-coronavirus measures, workers use protective gear, and construction bans do much more harm than good for everyone. See article from Engineering News Record [here](#) and another from Equipment World [here](#).

On March 20, Massachusetts [brought in](#) an 'essential services' order (allowing construction) and has told municipalities to bring their policies into compliance. But Pennsylvania [banned general construction](#) in a March 19 order.

## Wage subsidy level boosted to 75%

In his March 27 door-step announcement, Prime Minister Justin Trudeau hiked -- by a factor of 7.5 -- the level of wage subsidies Canada will make available to businesses affected by COVID-19. The jump responds to many requests.

- The program will be available to small and medium sized businesses.
- The subsidy will be equal to 75% of the remuneration the business pays to employees (up from the previous 10%) and be back-dated to March 15.

The original program was limited to three months and set maximum subsidy amounts per employee and per employer.

In addition, Trudeau announced a new Canada Emergency Business Account:

- Banks will soon offer up to \$40,000 loans, guaranteed by government.
- The loans will be interest-free for the first year, and up to \$10,000 will be forgivable for those who qualify.

Details on both will be available by month end. For the self employed, the Canada Emergency Response Benefit provides \$2,000/month for up to four months.

See Canada's webpage with details of its COVID-19 support for business [here](#).



## NEWS BRIEFS

### VACANT STOREFRONTS TAX?

In late February, Toronto City Council adopted a motion to assess how a vacant storefront tax could help reduce retail vacancies on Toronto's main streets.

"Our City's growth and buoyant real estate market sometimes creates a perverse incentive to keep a store vacant rather than renting it out to people willing to invest in our communities," says the [backgrounder](#).

Beaches-East York Councillor Brad Bradford's motion did not propose specifics. It called for staff to investigate potential policy options (e.g. timing, amounts and property classes), feasibility and effectiveness, and to analyze other jurisdictions using similar taxes. They are to report back in time for the 2021 budget.

In early March, a vacant storefront Ballot measure won its required 2/3 vote in San Francisco. A [CBC news item](#) said the proposal was to tax local properties that sit vacant for more than 182 days per year. The tax would be \$250 per foot of sidewalk frontage, escalating to \$1,000 per foot if the property remained vacant for three years."

.....



### 50 YEAR RETROSPECTIVE FROM EXPO 67 TO PRESENT

This new book was launched last fall at the Royal Architectural Festival in Toronto. It is published by Canadian Architect magazine and Princeton Architectural Press and includes 15 original essays plus 500 photographs and drawings.

The anthology covers national institutions and movements, how Canadian architects interpreted major external trends, regional and Indigenous architectural tendencies, and the influence of architects in Canada's three largest cities—Toronto, Montreal, and Vancouver.

For more information, click [here](#).



### PORT LANDS FLOOD PROTECTION

In March, a rock ripping bucket with googly eyes and his own twitter handle showed up for his first day on the job down in Waterfront Toronto's Port Lands. Assignment: help Ellis Don dig a new 1 km long stretch of river at the mouth of the Don. "Well technically," he tweeted, "I'm digging slurry walls to provide cutoff for the new river valley. But potato potato." Rocky will dig trenches up to three metres in to bedrock to create those walls down either side of the new river valley. If you look carefully in the artists rendering above, you can see them near the edges of the green space. Once the slurry has hardened they will keep groundwater out while the new river valley is excavated. The new naturalized mouth of the Don River will remove the flood risk from large swaths of land - about 240 hectares. And the accompanying public spaces, roads, bridges, utilities and control structures will complete the base for a major new opportunity in city building.



Rocky @TheRockRipper & friends

### JUDGE ORDERS NEW YORK DEVELOPERS TO REMOVE 20+ FLOORS OF A CONDO

The New York Times reported in February that a State Supreme Court judge has ordered developers of a nearly completed 668-foot condo tower to remove as many as 20 or more floors. The 52-story building is located at 200 Amsterdam Avenue.

"It is common for developers to purchase the unused development rights of adjacent buildings to add height and bulk to their project," Stefanos Chen wrote in his article. "But in this case opponents of the project argued that the developers, SJP Properties and Mitsui Fudosan America, created a 'gerrymandered,' highly unusual 39-sided zoning lot to take advantage of the development rights from a number of tenuously connected lots." See the full article [here](#).

A March 3 article on Curbed New York says the City has taken two responses:

- it has changed the zoning policy for future buildings

- it has filed a challenge to the ruling on 200 Amsterdam. Check out that article [here](#).

### DOWNSVIEW LANDS OFFER HUGE OPPORTUNITY

In early March, Northcrest Developments, a subsidiary of Public Pension Investments, and Canada Lands told the Globe and Mail they were exploring a mixed use development on 520 acres of land. Zoned as employment lands, it may take some stick handling to get through council. But if it does, Globe architecture critic Alex Bozikovic [wrote](#) that Downsview offers "a tremendous opportunity to build a 21<sup>st</sup> century urban district, bordering three subway stations and a GO Transit station".

Spacing magazine editor John Lorinc [agreed](#). The plan "holds out the entirely attainable promise of massive change for Toronto's housing crisis. As the city is doing with the first Housing Now sites, this game-changing undertaking should be cleared for take-off as quickly as possible."

# Mayor John Tory: 'good fundamentals'

Back on February 20, before the World Health Organization declared coronavirus a pandemic, and before Ontario Premier Doug Ford and Toronto Mayor John Tory and many of his peers each declared states of emergency, the Mayor of North America's fastest-growing city spoke to AOLE's annual general meeting.

It's worth remembering that, at the time, Tory had just recently managed to get approval for a 1% property tax increase for 2020 and 2021, rising to 1.5% in 2022-2025, with the monies dedicated to housing and transit. Toronto is extremely successful as a city, he said, but that success had exacerbated the already serious problems with both.

Asked how he managed to get that support for the City Building Fund, Tory said people seemed to understand that "once we had agreement on a housing plan and a new transit plan, I had to be able to come to the table and put up that money."

CREATE TO is making city land available for housing, and the city has released the first competitive bids. NIMBY is a problem, but projects don't have to be 50-storeys, they can be 8 to 10, he said. And although it's "sinful that we haven't collected some of the value of the transit lines" in the past, that is in the plans now.

One cost cutting measure might be parking standards. The City is allowing relaxations on an episodic basis, he said. In some downtown towers 40% of residents walk to work, and 20% don't even have a driver's licence.

One member stated that the City's Open Door policy has created an incentive for affordable multi-residential building, but that is "deincentivized" by increasing taxes and fees. Tory said there are a number of incentives, but "if people are deciding not to do these projects, we need to hear from you."

Another mentioned the very long time for approvals. "There are under-used shopping malls that would be great redevelopment projects, but it is a huge challenge in time and money and people get very nervous." Tory replied that processes and technology are being improved. "You will be saying things are improving by the end of 2020 ... and by the end of 2021, they'll be even better."



**John Tory**

## Welcome New Members!

### Jaclyn Hall

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## Two new Board Members

### Jameson (Jason) Chee-Hing



Jason was a Member of the Ontario Municipal Board (Local Planning Appeal Tribunal) for 14 years and recently retired. He has since formed his own company, [Jameson Lands Corporation](#). Jason is formally trained as an urban and regional planner and has extensive experience in the fields of land use planning and land development. He is a graduate of Ryerson and York Universities.  
647-978-5529  
jchee-hing@sympatico.ca

### Clarence Poirier



Clarence is President of [P+B Marketing](#), a firm which has received more than 40 industry awards. His studies at York and Ryerson Universities (major in marketing) and his understanding of architecture and development have helped launch more than 300 residential projects. The firm's client roster includes Bank of America, Standard Life, Tridel, Tribute, Urban Capital, and Pinnacle International.  
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# Annual General Meeting

The Association of Ontario Land Economists' Annual General Meeting was held February 20, 2020, at the Royal Canadian Military Institute in downtown Toronto. President Andrea Calla presided.

## **FINANCIAL STATEMENTS**

After adoption of the Minutes of the last AGM, held on January 24, 2019, Stefan Krzeczunowicz, Treasurer reported on the financial statements for the 2018-19 fiscal year, which ended March 31, 2019.

AOLE is in stable condition, he said. However, revenue was down in 2018-19 by more than 7.5 per cent from the previous year (\$37,745 as compared to \$40,392). Expenditures were up by 20 per cent (\$44,919 as compared to \$37,331 the year before, although that had been a lower-than usual year). As a result, the excess of revenue over expenses for the year stood at minus \$7,174. The fund balance, which was \$1,695 in the red at the beginning of the year, was \$8,869 in the red by March 31, 2019.

This is not healthy for the organization, Krzeczunowicz said. So, the Board is putting measures in place to reduce expenditures while continuing to provide affordable event admission prices and produce the Journal on a regular basis. Chief among those measures is having Board members take on administration duties formerly performed by Naomi Irizawa as the paid administrator.

## **MEMBERSHIP**

Registrar John Morrison reported that there were 22 new well-qualified members approved over the year. Total membership now is 208.

## **PROGRAM**

Nominated new Program Chair Christina Kalt presented the event highlights:

- Last year's AGM, with presentation by Phil Verster, President and CEO of Metrolinx, on effective ways to meet the GTHA's transportation needs, including a focus on transit-oriented development.
- The July walking tour of two below-grade Crosstown LRT stations and the Eglinton Maintenance and Storage Facility.
- AOLE's Holiday Get Together in November at the Wallace Gastropub.

Suggestions for future speakers or venues are welcome.

## **THE LAND ECONOMIST**

Journal Chair John Blackburn reported that there were two well-received issues of Journal in the 2018-19 year. For 2019-20 (which ends March 31), AOLE published its first short Land Economist Updater in September, followed by the fall Land Economist Journal, then another Updater in January. The Winter-Spring issue of the Journal would be published in March, Blackburn said.

## **LEGISLATIVE BEAT**

The provincial Legislature had resumed sitting two days before AOLE's AGM. Legislative Beat writer and Board member Andy Manahan said implementation of the *More Homes More Choices Act* 2019 will affect development charges, conservation authorities and the Local Planning Appeal Tribunal.

Last year's meetings to discuss a new plan for the Relief subway line (now the Ontario line) may have heralded a 'new norm' in transit planning, he warned. The task force set up to look at alternatives to the Hamilton LRT is meeting in camera. Similarly, last summer's report on improving regional government still has not been released.

## **INTERNET**

Internet Chair Mike Real reported that the **AOLE.org WEBSITE** continues to fill an important role. In the coming year, AOLE will become more active in social media as well.

## **NEW BOARD OF DIRECTORS**

John Morrison reported that three Board members have stepped down (Rawle Agard, Naomi Irizawa and David Scott), and Clarence Poirier of P + B Marketing had been added to the nominations for the 2020-2021 Board. Jason Chee-Hing of Jameson Lands Corporation was nominated from the floor. The members voted to add his name to the list, and then approved the nominated slate, as shown at left.