Carpenters' District Council of Ontario

United Brotherhood of Carpenters and Joiners of America

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BILL 66, RESTORING ONTARIO'S COMPETITIVENESS ACT, 2018

Written Comments of
CARPENTERS' DISTRICT COUNCIL OF ONTARIO, UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA

In accordance with the opportunity provided by the Government, the Carpenters' District Council of Ontario, United Brotherhood of Carpenters and Joiners of America (the "Carpenters' Union") is hereby providing its written comments concerning Bill 66, Restoring Ontario's Competitiveness Act, 2018 ("Bill 66"). In particular, the Carpenters' Union is providing its comments concerning those portions of Schedule 9 of Bill 66 which propose to amend the *Labour Relations Act*, 1995 (the "LRA"), by introducing new provisions of the LRA concerning *deemed non-construction employers*.

The Carpenters' District Council of Ontario is composed of 16 affiliated Local Unions of the United Brotherhood of Carpenters and Joiners across the province. In total, we represent approximately 27,000 women and men working in a wide range of skilled trades, including carpentry, drywall, resilient flooring, concrete formwork, underwater construction, welding, scaffolding, and a long list of other related work, primarily in the construction industry but also in other industries. The Carpenters' Union, and/or its Local Unions across Ontario, are bound to collective agreements with tens of thousands of employers that perform work in the construction industry, including various employers that will be directly affected by the proposed changes to the LRA found within Bill 66.

The relevant portions of Schedule 9 of Bill 66 (Sections 12 to 15) will amend the LRA by declaring certain employers to be *deemed non-construction employers.* Such deemed non-construction employers will include municipalities, local municipal boards, school boards, hospitals, colleges, universities and various other public bodies. On the date that Bill 66 (as it is currently proposed) is proclaimed into force, all bargaining rights which relate to the construction industry for the employees of such deemed non-construction employers will vanish. Further, on that day, all deemed non-construction employers will cease to be bound to existing collective agreements that relate to the construction industry.

The Carpenters' Union, and/or its relevant Local Unions across Ontario, currently hold bargaining rights for employees (primarily carpenters) employed by a number of entities which fall within the deemed non-construction employer definition. Such entities include the City of Toronto, the City of Hamilton, the Region of Waterloo, the City of Sault Ste. Marie, the Toronto Community Housing Corporation and the Board of Governors of the Canadian National Exhibition.

The work that our members perform for these types of employers primarily involves construction industry work. Essentially, these deemed non-construction employers employ members of the Carpenters' Union to perform specialized construction industry carpentry work which, as skilled/qualified journeypersons and apprentices, our members are particularly qualified for. The Carpenters' Union and its members have always been committed to providing the best possible skilled labour, at the best possible overall cost, to all of the employers that are bound to our collective agreements. In the case of many of the deemed non-construction employers, the productive and harmonious relationships with the Carpenters' Union have existed for decades.

As noted above, should Schedule 9 of Bill 66 come into force (without amendment), we will automatically lose all of our existing construction industry bargaining rights with deemed non-construction employers and our members working for such employers in the construction industry will no longer be covered by their existing collective agreements. We recognize that the proposed language of Schedule 9 of Bill 66 does allow for the survival of bargaining rights and collective agreements, with deemed non-construction employers, which do not relate to the construction industry. However, this is of little solace to us and our members. As noted, the members of the Carpenters' Union that are employed by deemed non-construction employers perform the vast majority of their work, for their respective employers, in the construction industry. Therefore, upon this Bill coming into force they will essentially become non-union workers, by government fiat and without having any say in the matter.

In many cases, like in the City of Toronto, the relationship with the employers and Carpenters have been harmonious for decades. A number (and perhaps even the majority) of the members of the Carpenters' Union currently working for the City of Toronto, are long service employees. Many of these carpenters have spent 20 years or more of their working lives providing skilled labour to the City under, and in accordance with, the Carpenters' Provincial Collective Agreement. Once Bill 66 is proclaimed, that will end and their terms and conditions of employment, concerning the construction work which they primarily perform, will thereafter be left to the unlimited discretion of their employer. For these employees, the impact will go far beyond their hourly wage. As is common in the construction industry, all of these employees receive access/entitlement to health and welfare and pension benefits through the Carpenters' Union and the Collective Agreement under which they work. The Bill, by eliminating the bargaining rights and by tearing up the Collective Agreement, relating to the City of Toronto and the construction industry work which our members perform for the City, will end this and these employees will be denied ongoing access to their prior benefit coverage and pension plans.

The impact of Bill 66 will go beyond the existing employees of the employers involved and our existing relationship with the Toronto Community Housing Corporation ("TCHC") provides a prime example of this phenomenon. Under the existing collective agreement which covers members of the Carpenters' Union performing construction industry work for TCHC, the employer and the Union have committed to provide access to the industry, and in particular the carpentry trade, to young people who live in TCHC housing. Every year, such young people work, as pre-apprentices, alongside our carpenters performing construction work in the communities and housing developments in which they live. In this way, they gain knowledge and experience about the carpentry trade and the construction industry, along with earning

some income. After their pre-apprenticeship period, any of the candidates who are interested are then taken into the Union and are signed up for carpentry apprenticeships. The success rate in this program has been quite phenomenal, with more than 75% of the pre-apprentices becoming actually registered apprentices who can then go on to acquire the skills which will provide them with a secure and rewarding work future. Bill 66 will end all such collective agreement relationships.

The Government claims that the purpose of Bill 66 is to *stimulate business investment, create good jobs, and make Ontario more competitive.* We do not believe that the deemed non-construction employer provisions of this Bill advance such purposes in any meaningful and material way. Some commentators have claimed that removing collective agreement obligations, particularly in relation to subcontracting from deemed non-construction employers, will save hundreds of millions of dollars for the employers involved but such claims are simply *false.* The labour cost component of any major construction project is, certainly as a percentage of the total cost of the project, on average now quite low, and is becoming increasingly lower given ongoing changes in technology and work methods. Unless they are contemplated a return to the construction techniques of the 1920s and 1930s, anyone who pontificates about huge savings to be had simply on the basis of reducing labour costs for construction projects (of the type that the deemed non-construction employers engage in) is deliberately misstating facts or is completely unaware of the modern day realities of our industry. Construction in Ontario is one of the most efficient and competitive industries in this country, and indeed in North America. The public tendering and bid process not only ensures that this is the case now, but also ensures that it will continue to be so in the future.

The construction industry provisions of the LRA, as they currently exist, include various consensus developed compromises to ensure that labour relations in our industry and our collective agreements are not inflexible and/or uncompetitive. All employers have the opportunity to take advantage of provisions which allow for, and indeed encourage, variances to collective agreement provisions needed for efficiencies and competitiveness on either a project by project basis and/or for larger, systemic, issues. Many of the deemed non-construction employers that we are in bargaining relationships with take advantage of such flexibility on a regular basis. Accordingly, there is simply no current or pressing need for the draconian actions contemplated within Bill 66.

The lack of a relationship between the stated purpose of Bill 66 and the effect of Schedule 9 is perhaps made most clear by examining the current provisions of the LRA concerning non-construction employers. Those provisions were brought into effect in 2000 and have represented a compromise which all parties have been able to live with for the last 18 years. Quite simply, if a particular employer does not wish to be subject to the provisions of the LRA which apply to the construction industry, then that employer can achieve this result simply by *not performing any construction work for compensation for a third party* and thereafter applying to the Ontario Labour Relations Board to have it declared to be a non-construction employer. In this way, employers that do not wish to be, and are not in fact, part of the construction industry are not subject to the construction industry provisions of the LRA while the fairness of the level playing field for all construction industry employers is maintained and construction workers are not stripped of their rights. Unfortunately, the same cannot be said for the amendments proposed within Bill 66.

Based on all of the above, it is our position that the non-construction industry employer portions of Schedule 9 of Bill 66 are unfair, unnecessary, and will only weaken Ontario's thriving construction industry. Therefore, we would seriously urge the Government to reconsider these portions of this Bill and significantly amend them if not remove them entirely.

ALL OF WHICH IS RESPECTFULLY SUBMITTED BY:

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