

Schedule “A”

1. The Interior Systems Contractors Association of Ontario (“**ISCA**”) seeks to intervene in this accreditation application brought by the Windsor Wall & Ceiling Contractors Association (the “**Applicant**”).
2. ISCA is directly affected by this application and thus has a legal interest in it. ISCA seeks standing pursuant to the Board’s discretion to add it as a party under Rule 40.8 of the Board’s *Rules of Procedure*.
3. ISCA was incorporated on September 1, 1971. In 1984, ISCA was issued a Certificate of Accreditation by the Board, which gave ISCA the right to negotiate with the United Brotherhood of Carpenters & Joiners of America, Drywall Acoustic Lathing & Insulation Local 675 (“**Local 675**”) in the residential sector of the construction industry in the Province of Ontario (see **Tab 1**).
4. ISCA’s Certificate of Accreditation provides it the right to represent employers across Ontario in the drywall trade in the residential sector of the construction industry. ISCA represents,

"all employers of carpenters and carpenters' apprentices engaged for the application of metal and gypsum lath, gypsum drywall boards and metal components to receive same, screeds and bead accessories, acoustical ceiling systems, thermal insulation, including vapour barrier, metal door frames installed in lath and plaster and drywall partitions for whom the responding party has bargaining rights in the Province of Ontario in the residential sector of the construction industry". [emphasis added]

5. Since being accredited, ISCA has negotiated province-wide collective agreements with Local 675 for employers of carpenters and carpenters’ apprentices engaged in the drywall trade in the residential sector of the construction industry, the most recent effective May 1, 2022 and expiring April 30, 2025 (the “**ISCA Collective Agreement**”; see **Tab 2**).
6. Pursuant to Article 6.02 of the ISCA Collective Agreement, the parties have met during the term of the most recent collective agreement to negotiate and agree to appropriate wage rates and benefits in OLRB Geographic Area 1 (see **Tab 3**).
7. In its application for accreditation, the Applicant proposes a bargaining unit of employers in OLRB Geographic Area 1 that covers the same work in ISCA’s Certificate of Accreditation highlighted above:

“All Employers of carpenters and carpenters’ apprentices engaged in drywall boarding and all associated carpentry work, metal components, acoustic ceiling systems, metal door frames, drywall cleanup and material handling for whom ... Local 494 has bargaining rights in OLRB Geographic Area 1, in the residential sector of the construction industry.” [emphasis added]

8. The Board has rejected such duplication due to the recognized mischief it causes:

“The whole point of an accreditation order is to create a ‘level playing field’ in the industry and eliminate anomalies that can result from ‘whipsawing, ‘leapfrogging’ and other disruptive tactics. ... It would be entirely inappropriate and antithetical to good labour relations to have two competing accredited collective agreements covering exactly the same work.” (emphasis added) See *Oshawa Area Signatory Contractors Assn.*, [2022] O.L.R.D. No. 27 at para. 21 (see **Tab 4**).

9. ISCA submits this is sufficient to warrant the dismissal of the application.

10. In addition, the application should be dismissed because the Applicant does not have the required double majority support of employers who employ the majority of employees in the proposed bargaining unit.

11. Regarding SBT Construction Ltd. (“**SBT**”) – #7 on the Applicant’s List of Employers – on May 20, 2023 the Board issued a certificate to what is now called the Carpenter’s Regional Council of the United Brotherhood of Carpenters and Joiners of America (“**CRC**”) in respect of all labourers, carpenters and carpenters’ apprentices in all sectors of the construction industry (other than ICI) in OLRB Geographic Area 1. See [*Carpenters' District Council of Ontario, United Brotherhood of Carpenters and Joiners of America v SBT Construction Ltd.*, 2023 CanLII 56741 at para. 19 \(ON LRB\)](#).

12. Similarly, on April 25, 2023 the Board issued a certificate to the CRC for all carpenters and carpenters’ apprentices employed by T.I.C. Contracting Ltd. (“**TIC**”) – #8 on the Applicant’s List of Employers – in all sectors of the construction industry (other than ICI) in OLRB Geographic Area 1. See [*Carpenters' District Council of Ontario, United Brotherhood of Carpenters and Joiners of America, and its Local 494 v Robson Acoustics & Drywall \(2002\) Inc. and*, 2023 CanLII 37020 at para. 11 \(ON LRB\)](#).

13. By operation of sections 145 and 146(1) and (2) of the *Act*, the CRC and each of its local trade unions (including Local 675), within their jurisdictions, are deemed to be the bargaining agent for the carpenters and carpenters’ apprentices employed by both SBT and TIC in all sectors of the construction industry (other than ICI) in OLRB Geographic Area 1. These sections of the *Act* state the following:

145. (1) In sections 146 to 150,
“constitution” means an organizational document governing the establishment or operation of a trade union and includes a charter and by-laws and rules made under a constitution;

“jurisdiction” includes geographic, sectoral and work jurisdiction;

“local trade union” means, in relation to a parent trade union, a trade union in Ontario that is affiliated with or subordinate or directly related to the parent trade union and includes a council of trade unions;

“parent trade union” means a provincial, national or international trade union which has at least one affiliated local trade union in Ontario that is subordinate or directly related to it.

146. (1) This section applies with respect to employees in a bargaining unit in the construction industry other than in the industrial, commercial and institutional sector referred to in the definition of “sector” in section 126.

Bargaining rights

(2) If a parent trade union is the bargaining agent for employees described in subsection (1), each of its local trade unions is deemed to be bargaining agent, together with the parent trade union, for employees in the bargaining unit within the jurisdiction of the local trade union.

14. As a consequence, Local 675 was deemed by the *Act* to be the bargaining agent for the carpenters and carpenters’ apprentices engaged in the drywall trade in the residential sector of the construction industry in OLRB Geographic Area 1 who were employed by both TIC and SBT, effective April 25 and May 20, 2023, respectively.
15. On those same dates, both SBT and TIC were deemed to be bound by the ISCA Collective Agreement by operation of sections 137(4) and 138(2) of the *Act*. These sections of the *Act* state the following:

Effect of accreditation

Same

137 (4) Where, after the date of the making of an application for accreditation, the trade union or council of trade unions obtains bargaining rights for the employees of an employer through certification or voluntary recognition, that employer is bound by any collective agreement in existence at the time of the certification or voluntary recognition between the trade union or council of trade unions and the applicant employers’ organization or subsequently entered into by the said parties.

Binding effect of collective agreement on employer

138 (2) A collective agreement between an accredited employers’ organization and a trade union or council of trade unions is, subject to and for the purposes of this Act, binding upon the accredited employers’ organization and the trade union or council of trade unions, as the case may be, and upon each employer in the unit of employers represented by the accredited employers’ organization at the time the agreement was entered into and upon the other employers that may subsequently be bound by the said agreement, as if it was made between each of the employers and the trade union or council of trade unions and, if any such employer ceases to be represented by the accredited employers’ organization during the term of operation of the agreement, the employer shall, for the remainder of the term of operation of the agreement, be deemed to be a party to a like agreement with the trade union or council of trade unions.

16. The two collective agreements between TIC and SBT and the Respondent that are referenced in the Applicant's List of Employers are deemed void by operation of section 140(1) of the *Act*, which states the following:

Individual bargaining prohibited

140 (1) No trade union or council of trade unions that has bargaining rights for employees of employers represented by an accredited employers' organization and no such employer or person acting on behalf of such employer, trade union or council of trade unions shall, so long as the accredited employers' organization continues to be entitled to represent the employers in a unit of employers, bargain with each other with respect to such employees or enter into a collective agreement designed or intended to be binding upon such employees and if any such agreement is entered into it is void.

17. The analysis described above was recently affirmed by the Board in [*Carpenters' District Council of Ontario, United Brotherhood of Carpenters and Joiners of America v Ironclad Developments Inc.*, 2023 CanLII 79716 at paras. 19-27 \(ON LRB\)](#).
18. In the result, neither TIC nor SBT are properly included in the Applicant's List of Employers. Absent those employers, the Applicant does not have the required double majority support of employers who employ the majority of employees in the proposed bargaining unit.
19. The application for accreditation should therefore be dismissed.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 29th day of April, 2024.

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