



ONTARIO LABOUR RELATIONS BOARD

OLRB Case No: **0360-21-R**

Greater Toronto Sewer and Watermain Contractors Association, Applicant v Labourers' International Union of North America, Local 183, Responding Party v **The Oshawa Area Signatory Contractors Association**, Intervenor

OLRB Case No: **0482-21-R**

The Oshawa Area Signatory Contractors Association, Applicant v Labourers' International Union of North America, Local 183, Responding Party v Greater Toronto Sewer and Watermain Contractors Association, Ontario Concrete and Drain Contractors' Association, and Utility Contractors' Association of Ontario, Intervenors

OLRB Case No: **0487-21-R**

Greater Toronto Sewer and Watermain Contractors Association, Applicant v International Union of Operating Engineers, Local 793, Responding Party v **The Oshawa Area Signatory Contractors Association**, Intervenor

OLRB Case No: **0489-21-R**

Oshawa Area Signatory Contractors Association, Applicant v International Union of Operating Engineers, Local 793, Responding Party v Greater Toronto Sewer and Watermain Contractors Association, Ontario Concrete and Drain Contractors' Association, Utility Contractors' Association of Ontario, and Crane Rental Association of Ontario, Intervenors

BEFORE: Jack J. Slaughter, Vice-Chair

DECISION OF THE BOARD: October 12, 2021

1. These are four applications for accreditation made pursuant to section 134 of the *Labour Relations Act, 1995*, S.O. 1995, c.1, as amended (the "Act").
2. In two of the applications, the Greater Toronto Sewer and Watermain Contractors Association (the "GTSWCA") seeks to be accredited as the bargaining agent of all employers of construction labourers and operating engineers respectively employed in the sewers and watermains sector of the construction industry in a number of Ontario Labour Relations Board Areas, including Board Area No. 9, which is essentially Oshawa and vicinity.
3. In the other two applications, the Oshawa Area Signatory Contractors Association (the "OASCA") seeks to be accredited as the bargaining agent of all employers of construction labourers and operating engineers respectively employed in the roads, sewers and watermains, and heavy engineering sectors of the construction industry in Ontario Labour Relations Board Area No. 9.
4. Section 135 of the Act requires the Board, upon an application for accreditation, to determine "the unit of employers that is appropriate for collective bargaining in a particular geographic area and sector...". Section 135 also provides that the Board, in making that determination, "need not confine the unit to one geographic area or sector but may, if it considers it advisable, combine areas or sectors or both or parts thereof."
5. In a decision dated August 11, 2021, the Board directed each party to file a list of outstanding issues it wishes to have heard or resolved in these matters with the Board on or before August 27, 2021, and further directed that any party wishing to file a response to any other party's list of issues is directed to do so on or before September 13, 2021. These timelines were extended by mutual agreement of the parties.
6. At the end of the day, the Board received the following submissions: August 31, 2021 submissions from Labourers' International Union of North America, Local 183 ("Local 183"), the Ontario Concrete and Drain Contractors Association (the "OCDCA"), the Greater Toronto Sewer and Watermain Contractors Association (the "GTSWCA"), International Union of Operating Engineers, Local 793 ("Local 793"), and the Oshawa Area Signatory Contractors Association ("OSIG"); September 1, 2021 submissions from the Crane Rental Association of Ontario ("CRAO") and Utility Contractors Association of

Ontario ("UCA"); and finally September 13, 2021 submissions from Local 183, Local 793 and OSIG.

7. The Board finds it appropriate to give the parties guidance and direction prior to the mediation meeting with a Labour Relations Officer set for October 22, 2021 and the videoconference hearing before this panel set for December 16, 2021.

8. These files are representation proceedings. The Board agrees with the sentiments expressed by Local 183 and Local 793 that they should be processed expeditiously. This is in accordance with the statutory purposes set out in section 2 of the Act. However, these cases involve competing employer association accreditation applications raising a number of unique issues, a situation that to the best of the panel's knowledge is unprecedented in the history of the Board. In light of the complex and interwoven outstanding issues, the Board did not find it appropriate to direct written submissions as it said in its August 11, 2021 decision, and nothing has been submitted that would alter that. However, the Board finds that it can decide some of the outstanding issues now, and will hear all of the other salient issues on December 16, 2021. The Board will set time limits at the outset of that hearing day to ensure that argument is completed in a day for any issues not resolved by this decision or in the mediation process.

9. The Board will deal with the various issues set out by the parties now.

10. The status of the OCDCA, the CRAO and the UCA should be issues the parties can resolve amongst themselves. If not, the Board will hear them on December 16, 2021. They should not take much time.

11. The argument about the potential dismissal or holding in abeyance of the OSIG accreditation application pertaining to Local 183 is less likely to be resolved by mediation, but again it will be heard on December 16, 2021 and should not take much time.

12. The Board will not determine any "double majority" argument about either OSIG application at this time, as any such argument is premature until the appropriate bargaining unit determinations are made.

13. The four applications will be heard together on December 16, 2021 for the purposes of economy and efficiency as the arguments about the appropriate bargaining unit descriptions are largely the same. The Board will deal with any issues about who gets to speak to which

files at the hearing, if necessary. After the appropriate bargaining unit descriptions are determined, the Board may separate the Local 183 files from the Local 793 files.

14. The most important issue remains the bargaining unit descriptions. It appears that all parties except OSIG are aligned to a greater or lesser degree with the positions of the GTSWCA. In the Board's view it would make sense for the GTSWCA to proceed first on all outstanding issues, followed by Local 183, Local 793, and if necessary, the OACDC, the CRAO and the UCA, followed by OSIG, with appropriate rights of reply. The parties may vary this order by agreement, and if necessary the Board will deal with this issue at the hearing, including the time allotments for each party.

15. The Board will also have to consider and determine the appropriate notice to affected employers and the timing of employer filings. These determinations may be done at the December 16, 2021 hearing or thereafter, as circumstances dictate.

16. The Board expresses its sincere hope that at least some of the outstanding issues may be resolved in mediation. Those that are not will be heard and considered by the panel at the December 16, 2021 hearing on the terms set out above, as may be modified by agreement of the parties or by the Board at the hearing.

17. This panel is seized.

"Jack J. Slaughter"

for the Board