



The Construction Act, Warts and All



Council
of Ontario
Construction
Associations

Topics

- (1) Adjudication Stats
- (2) Refresher On Key Prompt Payment Timelines
- (3) COCA's Prompt Payment And Adjudication Webpage
- (4) Tips for "Proper" Invoices
- (5) Using the "Receipt" Function on Your Email
- (6) Extending Your Right to Adjudication
- (7) Starting an Adjudication
- (8) Request for information about proper invoice – 6.6(10);
- (9) Tips for Building Your Case
- (10) Taking Photographs
- (11) Tracking Costs

Adjudication Stats

- We are seeing a healthy upward trend in the number of adjudications.
- In the year ending July 31, 2022, there were only 50 adjudications.
- For the year beginning July 31, 2023, we are on pace for a six-fold increase in the number of adjudications.

Refresher on Prompt Payment Timelines

- All timelines for payment run from the delivery of a “proper invoice” by the GC to the Owner.
- If the Owner intends to dispute an invoice, they must deliver a “notice of non-payment” within **14 days**.
- If you are served with a notice of non-payment by your client, you have 7 days to serve a notice of non-payment on your subs and suppliers.
- If the Owner doesn’t deliver a notice of non-payment, then they must pay in **28 days**.
- If the Owner doesn’t deliver a notice of non-payment, and does not pay in 28 days, then the GC has until day 35 to deliver a notice of non-payment to their subs and suppliers.

COCA Prompt Payment Awareness Toolkit



<https://www.coca.on.ca/advocacy-prompt-payment/>



Prompt Payment for
OWNERS



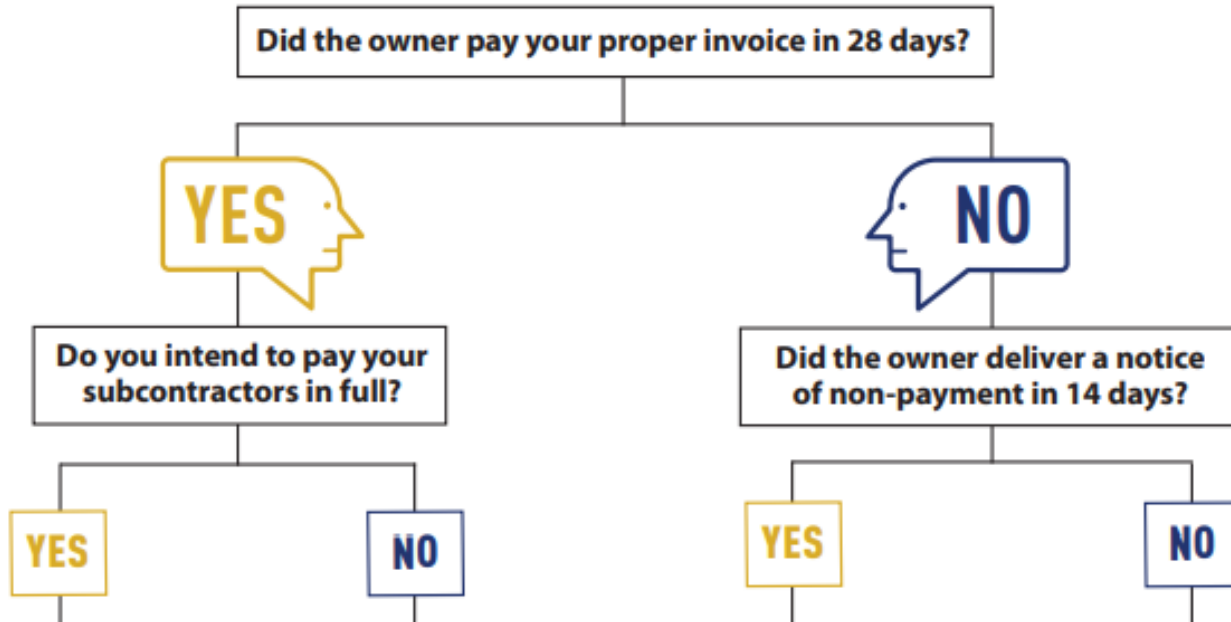
Prompt Payment for
CONTRACTORS



Prompt Payment for
SUBCONTRACTORS

The Prompt Payment and Adjudication Toolkit

The notice must be in Form 1.1*.



Tips for “Proper Invoices”

The Construction Act defines what is required for a “proper invoice”.

2. ...the **period** during which the services or materials were supplied.
3. Information identifying the **authority**, whether in the contract or otherwise, under which the services or materials were supplied.
4. A description, including quantity where appropriate, of the services or materials that were supplied.
5. The amount payable for the services or materials that were supplied, and **the payment terms**.
6. **The name, title, telephone number and mailing address of the person to whom payment is to be sent.**

Delivery of Proper Invoices - Request a Receipt

The image shows the Microsoft Word ribbon with the **Options** tab selected. The ribbon includes the following sections and options:

- File**: Themes (Aa icon)
- Message**: Colors (dropdown), Fonts (A icon, dropdown), Effects (dropdown)
- Insert**: Page Color (dropdown)
- Options**: Bcc (dropdown), From (dropdown), Show Fields (checkbox)
- Format Text**: Use Voting Buttons (dropdown)
- Review**: Request a Delivery Receipt (checkbox), Request a Read Receipt (checkbox), Tracking (checkbox)
- Help**: (empty)

Below the ribbon is the email composition area:

- Send**: Send button (with envelope icon)
- To**: []
- Cc**: []
- Bcc**: []
- Subject**: []

A red arrow originates from the **Request a Read Receipt** checkbox in the **Review** section and points to the **Bcc** field in the email address list.

Request for information about proper invoice

A sub or supplier does not necessarily know when the proper invoice was rendered by the prime contractor to the owner.

Section 6.6(10) of the Act compels the prime contractor to advise you when it rendered its proper invoice to the owner:

6.6. (10) On the request of a subcontractor who is required to make payments in accordance with this section, a contractor shall, as soon as possible, provide to the subcontractor confirmation of the date on which the contractor gave a proper invoice to the owner. 2017, c. 24, s. 7.

Extending Your Adjudication Rights

- ▶ Adjudication rights expire when your work is complete. **SAD!**
- ▶ You should include a term in your quote/contract extending your adjudication rights:

Adjudication – [Insert Your Name Here] may refer a dispute to adjudication respecting the matters described in subsections 13.5(1) of the Construction Act for up to 180 days after the contract or subcontract is complete.

Starting an Adjudication

Tel: 416-307-0008 | Contact: authority@odacc.ca

AAA

English

ODACC
Custom
System Login

ODACC

[HOME](#) [CLAIMANTS](#) [RESPONDENTS](#) [ADJUDICATORS](#)






ODACC

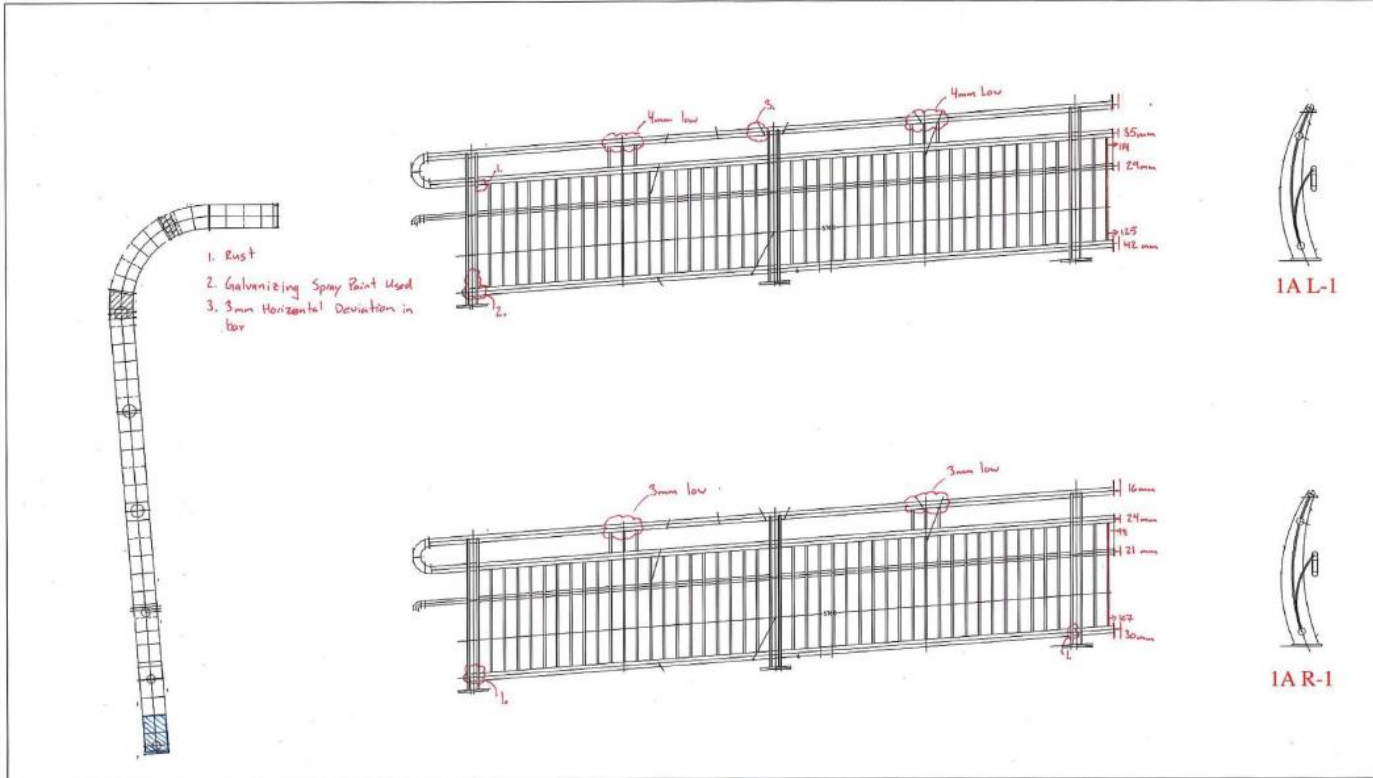
Ontario Dispute Adjudication for Construction Contracts





Building Your Case

		<h2 style="text-align: center;">Quality Incident Report Non Conformance Report</h2>				PCL Construction Management 		
LOCATION	West ramp and abutment handrail. Various pieces as per attached do not fit and are misaligned.							
	SCOPE OF WORK		Misc Metal Handrail Fabrication					
DESCRIPTION <small>INCLUDE DATE AND TIME OF INCIDENT</small>	Several pieces of the west ramp and abutment handrail have been fabricated to incorrect dimensions. The proper dimensions were noted on the shop drawings by PCL during the review stage. All of the rail sections appear to be deformed and do not allow for a visually acceptable straight installation. This has resulted in unacceptable misalignment in the grab rail connection and the inability to install the splice connections bolts at near all locations.							
	RESPONSIBLE PARTY <small>COMPANY NAME</small>							
OTHER TRADES AFFECTED	URGENCY		X A DISPOSITION PREFERRED WITHIN 3 BUSINESS DAYS		B DISPOSITION PREFERRED WITHIN 5 BUSINESS DAYS		C DISPOSITION PREFERRED WITHIN 10 BUSINESS DAYS	
	PCL Construction		OTHER WORK AFFECTED					
IMMEDIATE ACTIONS TAKEN	Handrail installation has stopped until direction is provided by the fabricator on how they wish to repair the issues noted above.					SUMMARY OF INITIAL COSTS		
						LABOUR	\$3,500	
						MATERIAL		
						TRADE CONTRACTORS		
					TOTAL	\$3,500		
ROOT CAUSE <small>IF KNOWN - ONLY ONE ROOT CAUSE SHOULD BE SELECTED</small>	DESIGN ISSUE	FIELD COORDINATION	X	MANUFACTURING DEFECT	X	WORKMANSHIP	SURVEY	PLAN, SHOP DWG, SUBM. REVIEW
	1. Failure to update shop drawings as per the review comments							
	2. Failure to fabricate the rail to the reviewed shop drawings							
	3. Quality control processes did not catch the inconsistencies in the fabricated sections before shipment to site							
ISSUED BY	NAME	Brandon Schwartz, Ciaran Curran, Jason Whitney, Lichen Zhang, Justin Muirhead				SIGNATURE		
	DATE AND TIME ISSUED	September 13, 2014 Reissued January 21, 2015						



Handrail Section 1A L-1 & 1A R-1



CONSTRUCTION LEADERS

Shaganappi Pedestrian Overpass - Handrail Deficiency Tracking

REVISIONS

NO	MM/DD/YY	REMARKS
1	-/-/-	-
2	-/-/-	-
3	-/-/-	-
4	-/-/-	-
5	-/-/-	-

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How to Build Your Case

- (i) Take photographs, download them, separate them from irrelevant photographs.
- (ii) Obtain Names of Witnesses, Cell No. and a summary of their evidence
- (iii) Gather any relevant emails
- (iv) Salvage materials

Building Your Case (cont.)

(v) Give timely and proper notice

(vi) Quantify the loss

(vii) Prepare a summary that brings everything together.

Taking Good Photographs

- (i) Make sure that you have adequate lighting
- (ii) Always Use a Date stamp
- (iii) Identify the Location
- (iv) Use a Tape Measure for Scale
- (v) Record Who Took the Picture
- (vi) Record Why Is the Picture Important







Photo 6 - Electrical Box at North Berm



Tracking Costs

Gather:

- (i) Time Sheets
- (ii) Invoices
- (iii) Receipts

Instruct your subs and workers to segregate their costs!

THANKS!