

ONTARIO LABOUR RELATIONS BOARD

Between:

The General Contractors' Section of the Toronto
Construction Association, Applicant,
- and -
The International Union of Operating Engineers,
Local Union #793, Respondent,
- and -
The Ontario Erectors Association, Intervener #1,
- and -
The Metropolitan Toronto Sewer and Watermain
Contractors Association, Intervener #2,
- and -
Ontario Road Builders Association, Intervener #3,
- and -
The Metropolitan Toronto Road Builders'
Association, Intervener #4,
- and -
Heavy Construction Association of Toronto, Intervener #5,
- and -
Toronto and District Excavators Association, Intervener #6,
- and -
Crane Rental Association of Ontario, Intervener #7.

BEFORE: J. H. Brown, Q.C., Alternate Chairman, and Board
Members E. Boyer and F. W. Murray.

APPEARANCES AT THE HEARING: B. W. Binning and G. A. Becigneul
for the applicant; B. W. Binning for interveners #2, #3, #4, #5;
A. M. Minsky and H. Herron for the respondent; Robert D. Perkins
and William T. White for interveners #6 and #7.

DECISION OF THE BOARD:

1. This is an application for accreditation of an employers'
organization under the construction industry provisions of the
Act.

2. In paragraph 7 of the Board's decision of March 5, 1973, the Board found that it was satisfied that the applicant was an employers' organization within the meaning of section 106(d) of the Act and we are further satisfied that it is a properly constituted organization for purposes of section 115(3) of the Act.

3. In support of its application the applicant filed Employer Authorizations on behalf of 188 employers. The applicant has also filed in support of its representation documents a duly completed Form 62 in respect of the documents. The Board in paragraph 7 of its decision of March 5, 1973 found that it was satisfied that the form of Employer Authorizations submitted in support of the application was acceptable evidence of representation in accordance with section 96 of the Board's Rules of Procedure. The Board is therefore satisfied that the individual employers on whose behalf the applicant has submitted evidence of representation have vested appropriate authority in the applicant to enable it to discharge the responsibilities of an accredited bargaining agent.

4. In paragraph 5 of its decision of March 5, 1973, the Board found that all employers of operating engineers for whom the respondent has bargaining rights in Metropolitan Toronto, the Counties of York and Peel, the Township of Esquesing and the Towns of Oakville and Milton in the County of Halton and the Township of Pickering in the County of Ontario in the industrial, commercial and institutional sector, save and except those employers of operating engineers for whom the respondent has bargaining rights who are regularly employed throughout the Province of Ontario in the erection of structural steel and mechanical equipment, constitute an appropriate unit of employers for collective bargaining.

5. The parties to this proceeding at a hearing on August 21, 1973 were in agreement as to the accuracy of the Report of the Examiner dated April 3, 1973. By letter dated June 19, 1973, however, counsel retained by the respondent submitted that the employers represented by the Crane Rental Association of Ontario ought not to be included in the unit of employers which the Board found to be appropriate in paragraph 15 of the Board's decision of March 5, 1973. The Board advised counsel for the respondent and the other parties that at the hearing on August 21, 1973 the respondent would be afforded an opportunity to show cause as to why the Board should reconsider its decision of March 5, 1973 and exclude those employers represented by the Crane Rental Association of Ontario from the unit of employers found to be appropriate by the Board. Having considered the representations of counsel for the respondent and counsel for the other parties to the proceeding, the Board ruled orally at the hearing on August 21, 1973 that having regard to the late date at which the respondent has made its request and more particularly the fact that throughout all of the lengthy proceedings before the Board, the representative of the respondent at the hearings had at all times agreed that the employers represented by the Crane Rental Association of Ontario were appropriate for inclusion in any bargaining unit found to be appropriate by the Board, the Board was not prepared to reconsider the bargaining unit which it found to be appropriate in paragraph 15 of its decision of March 5, 1973. The request of counsel for the respondent accordingly was denied.

6. Attached as Exhibit #1 to the Report is a list of 50 employers of operating engineers whom the applicant, the respondent and the Toronto and District Excavators Association agreed are employers for whom the respondent has bargaining rights who are regularly employed throughout the Province of Ontario in the erection of structural steel and mechanical equipment. Attached as Exhibit #2 to the Report is a list of 181 employers who did not file Form 68 or Schedule "H". The applicant, the respondent, the Toronto and District Excavators Association and the Crane Rental Association of Ontario agreed on which of the 181 employers listed on Exhibit #2 were to be included on either Final Schedule "E" or Final Schedule "F" and the number of employees for each of the said employers on Schedule "H". Exhibit #3 attached to the Report lists 45 employers whom the applicant, the respondent and two named associations agreed operate solely in the residential sector and therefore should not be included on any Schedule.

7. Having regard to the foregoing considerations, the filings of the individual employers and the Report of the Examiner, the Board has compiled a Final Schedule "E" and a Final Schedule "F". Taken together, Final Schedule "E" and Final Schedule "F" comprise the complete list of employers in the unit of employers on the date of the making of the application, that is, those employers for whose employees the respondent has bargaining rights in the unit determined to be appropriate, as set out in paragraph 15 of the Board's decision of March 5, 1973. Schedule "E" contains the names of those employers, in the unit of employers, who have had employees affected by the application in the year immediately preceding the date of the making of the application, that is, those employers with whom the union is entitled to bargain and who have worked in the area and sector described in the unit during the year prior to the application. Schedule "F" sets out those employers who are in the unit of employers but who have not had employees affected by the application in the one year period. The Final Schedule "E" and the Final Schedule "F" are set out below:

FINAL SCHEDULE "E"

Abe Dick Masonry Limited
Acme Crane Rentals
Acton Excavating Contractors Ltd.
Agatha Excavating Contractors Ltd.
Albany Contracting Company (Charles Santagato Limited)
Albian Pumcrete Ltd.
Ambler-Courtney Limited
American Construction Company
Amherst Crane Rentals Ltd.
Amherst Pumping Co. Ltd.
Anchor Shoring Limited
A. E. Anderson Ltd.
Apco Consultants Company Limited
Norm Arbuckle Limited
Astro Crane Service

Avenue Excavators Limited
Ball Brothers Limited
Belmont Crane & Equipment Rental
Bennett-Pratt Limited
Ron Bentley Services Ltd.
Berno Excavating & Grading Ltd.
Bianchi Grading
W. T. Borer Construction Limited
Bradco Holdings Limited
John N. Brocklesby Transport Limited
A. Brockton Excavating
Cadillac Development Corporation Limited
Canada Drilling Company Limited
Canada Square Corporation Limited
Canadian Crane Rentals Ltd.
Canadian Longyear Limited
Paul Carruthers Construction Limited
Casey-Hewson Ltd.
The Cementation Company (Canada) Limited
R. Cestra
Cimco Limited
Cioci Construction Limited
Ed Clements Contracting Limited
Climbing Crane Service
Louis Colombo
Conason Construction Limited
Cord Excavating
Custom Concrete Limited
F. Cutrona Haulage & Excavating
Dalton Engineering & Construction Company Limited
Davis Construction Ltd.
Deluca & Mascarin Masonry Contractors Ltd.
V. V. Demarco Prop. Ltd.
Dickie Construction Company Limited
Di Florio Equipment Rentals Limited
Dineen Construction Limited
Direct Forming Ltd.
Dominion Masonry and Stone Contractors Limited
Donway Excavating Company
D'Orazio Excavating Contractors Limited
Droge Construction Limited

Drope Paving & Const. Ltd.
E. and G. Rental Company
E.G.M. Cape & Company Ltd.
Eastern Concrete Forming Co. Limited
Eastern Construction Company Limited
Eichleay Corporation International
Ellis-Don Limited
Etherington Construction Limited
Fairglen Excavating Ltd.
Filipowich Masonry Contractors Ltd.
Finley W. McLachlan Construction Co. Limited
The Foundation Company of Canada Limited
Francavilla Brothers
Franki Canada Limited
Fran-Kiri Forming Ltd.
G. & H. Steel Services of Canada Limited
J. Gallo Ltd.
George & Asmussen Limited
Go-Go Contracting Co. Ltd.
Gradex Contractors Limited
Greco Construction Co.
Jack Greedy Limited
A. P. Green Refractories (Canada) Limited
Hampreys & Glasgow (Canada) Ltd.
G. Hanna Ltd.
Harbridge & Cross Limited
Harguy (1968) Limited
John Heck & Sons Ltd.
Hercules Crane Rentals Limited
Internorth Construction Co. Div. of the
Northsted Group Ltd.
Ivey Dreger Construction Limited
Jack's Excavating and Grading
Janin Building and Civil Works Ltd.
Key Masonry & Stone Construction Limited
Clayton J. Kocher

Laing Construction & Equipment Limited
F. W. Lawrence Excavating Ltd.
Leader Masonry & Forming Limited
Leeds Richardson Co. Ltd.
Leonardi Brothers Construction
Linar Contractors Limited
N. A. Lofranco Limited
M & M Excavating
M & M Grading
A. J. Maddix Construction Limited
S. L. Maddock Limited
U. Maggio and Son
Maio Excavators Limited
Maple Leaf Trenching & Excavating Ltd.
Walter Markiewicz
Armien J. Martin
V. K. Mason Construction Ltd.
Matern Contracting
Manufacturers Life Insurance Company
Maxwell Construction Co., Division of
Lillyman Construction Limited
Robert McAlpine Ltd.
W. A. McDougall Ltd.
McKay Excavating Limited
Mel-Ron Construction Limited
Metro Crane Service
Milne & Nicholls Limited
Mississauga Crane Services Limited
The Mitchell Construction Company (Canada)
Modern Excavators Limited
Mollenhauer Ltd.

Munex Ltd.
C. Murdock Excavating
Nadrofsky Steel Erecting Ltd.
Noren Construction Co. Ltd.
Nor-Scott Construction Limited

Olympia York Ind. Dev. Assoc.
Ontario Bulldozing & Excavating
Orlando Realty Corp. Ltd.
Oshawa Excavating Ltd.
Parkway Sand and Gravel Ltd.
H. D. Payne & Sons Ltd.
Perry Excavating Service
Wm. Petrie & Sons Limited
D. B. Phoenix Contractors Limited
W. C. Pietz Limited
Pigott Construction Company Limited
Power Excavating Limited
Pre-Con Company
Quigley Construction Company Limited
Regina Construction Company Limited
Road Development, Division of Charles N. Wright Ltd.
Robertson-Yates Corp. (1966) Ltd.
Rockwin Const. Ltd.
Roxson Contractors Ltd.
Ruliff Grass Const. Co. Ltd.
Rumble Contracting Limited
St. Lawrence Excavating & Grading Limited
Sierra Construction Company
J. Simpson Trenching Limited
C. W. Smith Crane Rentals
Harry Smith & Sons
Starnino Const. Ltd.
W. A. Stephenson Construction Company Limited
Superior Crane & Hoist Ltd.
Superior Excavating Company Limited
Sutherland Underground Electric
Taylor Woodrow of Canada Ltd.
Tiara Excavating & Grading Limited
Tower Crane Rental (York) Limited
Truck Crane Service Limited
Twin Masonry Limited
Twinbee Construction Co. Ltd.

Valdene Ex.
Valleyfield Construction Limited
Varamae Construction Limited
Vernoy Excavating
Victor Construction Limited
Vic's Crane Service
Michael Wade Construction Co. Ltd.
A. L. Watson Limited, Masonry Contractors
H. C. Weaver Construction
Western Caissons (1969) Limited
Weston Crane Erection Company
Westview Excavating & Grd. Ltd.
John Wheelwright Limited
Wm. T. White Limited
Williams Excavating Limited
Wilson Erectors Ltd.
Wilson Tractor Rentals Ltd.
York Excavating & Grd. Ltd.
Zamparo Brothers Contractors Ltd.
Zanini & Company Limited
Zorro Excavating & Grading Ltd.

FINAL SCHEDULE "F"

Acme Welding Works - North Bay, Ontario
Ally Construction Co. Limited
Alnor Construction Limited
Alps Construction Co.
Anstey & Gray Limited
Anvil Construction Limited
Arc-Way Welding Ltd.
Arlington Crane Service Limited
Aykroyd Const. Ltd.
Beaver Cook & Leitch Limited

Badner Engineering Const. Ltd.
Bankfield Const. Ltd.
Barclay Construction Limited
Bathe & McClelland Const. Limited
Bay Equipment Co. Ltd.
R. B. Bayly Associates
Beco Equipment Ltd.
Begg and Daigle Limited
Belford Crane Service
Bield Construction Limited
Bird Construction Company Limited
George Boc Construction Co. Ltd.
Boon's Crane Service
Boston Excavating & Grading Company
Brad-Jay Investments Ltd.
Bramalea General Contracting (Peel) Limited
Brelson Const. Ltd.
Ed Broders Construction Ltd.
Brooke Const. Co. Ltd.
G. E. Buckingham Contracting Limited
F. Burger Ltd.
C.M.R. Const. & Engineering Ltd.
(Subsidiary of R.B. Bayley Associates)
Cadconex Enterprises Ltd.
Cadet Construction Ltd.
T. Campbell Construction Ltd.
Campbell-Yustin Limited
Canada Construction Limited
Canadian Dredge & Dock Limited
Canadian Lift Slab Co. Ltd.
The Carter Construction Company Limited
Patrick J. Casey Const. Ltd.
Caten Construction Limited
Clope Construction Company Ltd.
Coast to Coast Diamond Drilling & Contracting Co. Ltd.
Codeco Limited
Colt Contracting Company Limited
Concept Structors Ltd.
Fred Conforzi Const. Ltd.

Cooksville Investments Ltd.
Cooper Construction Co. (Eastern) Ltd.
Cooper's Crane Rental Limited
D. R. Crawford Construction Limited
Crenna Const. Ltd.
CresTile Limited
Culham Construction Limited
Cullen Const. Co. Ltd.
Dalmine Scaffolding Limited
Dalton Edward Building Contractor
Daniels Construction Co. Ltd.
Davenport Road Construction Ltd.
Reuben R. Dennis
Sam Di Paola
Orville B. Dodd Const. Ltd.
F. J. Dohan (Housemovers)
Doimar Const. Co.
Louis Donolo Inc.
Doyle Hinton Limited
Dual Hoisting & Erectors Ltd.
L. Dunne Construction
Dynamic Const. Ltd.
Eaglewood Construction Co. Ltd.
Ellwall & Sons Construction Ltd.
Enavant Limited
F.C.P. General Contracting
Purton Construction Co. Limited
Faehrmann Construction Limited
Fairwin Construction Company Limited
David Farn Construction Limited
Fassel Construction Co. Ltd.
Field Construction Limited
Finkle Crane Rental Ltd.
Fischbach and Moore of Canada Limited
Flour Canada Ltd.
Foley Supply & Machine Co. (1970) Limited
Foran's Crane & Equipment Service Ltd.
Forecast Const. Ltd.

Jim Foulds Mobile Crane Service
Frankson Brothers
The Frid Construction Company Limited
W. G. Gallagher Construction Ltd.
Gardiner-Wighton Co. Limited
E. Gaunt Construction
Gillanders Construction Limited
John Goba Ltd.
Gothic Construction Co.
Goulding Bros. Construction Limited
Graham and Sibbett Co. Limited
Sidney Green Construction Company Limited
M. J. Guthrie Construction Ltd.
Jack Hamilton Construction Ltd.
William J. Hartley Construction Limited
Hi-Grade Welding Co. Ltd.
G. C. Hobson Ltd.
Hollingsworth & Sons
Holscot Construction Limited
Jas F. Hope Construction Limited
W. G. How (Toronto) Ltd.
Huron Crane Services
Icanda Limited
Imperial Const. Ltd.
Intermart Limited
Robert D. Ironside & Associates Limited
J.D.S. Investments Ltd.
Jacko & Burtnyk Limited
The Jackson-Lewis Company Limited
A. Jacobelli & Co.
Ralph C. Jones and Associates
Wm. H. Johnston Construction Limited
Ross Johnstone Limited
K. C. Equipment Company
Ken Keast
Kamrus Construction Limited
James Kemp Construction Limited

M & D Kennedy Contractors Limited
John Kerr Const. Ltd.
Kerstone Contractors Ltd.
Kevlin Construction Company Ltd.
R. G. Kirby & Sons Limited
W. R. Kissack
Konvey Construction Company Limited
Kovacs Construction Company Limited
R. Kramer Construction
J. W. Krupowicz Ltd.
Lakeside Contracting Co. Ltd.
Donald Sleep
J. E. Lipton Associates Ltd.
Lisgar Construction Co., Division of United Shelters
The Lunar Company Limited
Lupac Contractors Ltd.
Lynch Richards Construction Ltd.
T. F. Lynch Construction Limited
Lyn-Gale Construction Co. Ltd.
G. A. MacEachern Ltd.
Macke Construction Ltd.
Magil Construction Ltd.
Mancuso Paving Limited
Maple Contracting & Heavy Equipment Rental
Maple Earth Moving Co.
E. S. Martin Construction Limited
F. & W. H. Massey Ltd.
Matthews Concrete Ltd.
Mayers Custom Woodworking Co.
McClintock, G. Stan Ltd.
W. A. McDougall Construction Management Ltd.
McGrath Engineering Limited
McMullen & Warnock Limited
McNamara Construction of Ontario Ltd.
McNamara Corporation Limited
McNamara Highway Const. Ltd.
McRae & Sons Limited
Melia Construction Co. Limited

Mamme Excavating Co. Ltd.
Millmink Developments Limited
Modern Crane Rentals Ltd.
Aubrey Morgan Contracting Ltd.
Morocas General Contractors Limited
A. C. Murphy Construction Ltd.
N & S General Contractors Limited
Nelkin Const. Ltd.
Newman Brothers Co. Ltd.
Normac Const. Ltd.
Northway Equipment Rentals Ltd.
Oakville Custom Swim Pools Ltd.
Ontario Construction Co. Ltd.
Ontario Formwork Ltd.
Ontario Rock Drillers Inc.
Osborne Construction Co.
Osin Const. (Eto) Ltd.
P. & S. Const. Ltd.
Wm. Parker Construction Limited
Franz Patella Inc.
Pearce Construction Co. Ltd.
Peel Earth Boring Ltd.
Peerless Enterprises
Permacon (Ontario) Limited
Permanent Floor Laying Company Limited
Perwin Construction Co. Ltd.
Petersons, A. Ltd., General Contractor
Carmen Petriglia
B. Phillips Co. Ltd.
Pinewood Construction
Pollock-McGibbon Ltd.
Pompilio Construction Co.
K. H. Preston Construction Limited
Bernard Protter Limited
Purton Const. Co. Ltd.
Charles Pushel Construction Limited

John Rae & Sons Ltd.
Raymond International Co. Ltd.
Reusse, R. Const. Co. Ltd.
280 Fevzen & Tomarin
James A. Rice Ltd.
Richard & B. A. Ryan Limited
Roma Grading and Excavating
Ronrica Const. Ltd.
J. H. Ross Construction Co. Ltd.
J. B. Salt Company
Sandrin, F. & Co. Ltd.
Sarnia Hoist Ltd.
M. Sharp & Son
A. N. Shaw & Sons Limited
W. Shaw Ltd.
Shields Snow Limited
Shormont Contracting Limited
Simcoe Construction Services
Maurice Simon General Contractor
D. A. Sinclair Const. Ltd.
Sklar Construction Company
Smith Bros. Builders (Toronto) Limited
C. A. Smith Contracting Limited
Southdown Estates
James D. Stanley Ltd.
Stewart, C. R. Equipment Ltd.
Stewart-Hinan
Stone & Webster Canada Limited
Stowe and Gould
Al Sugar Const. & Excav. Limited
Sundown Construction Ltd.
Theodore-Lucci Const. Co.
W. Timko Const.
The R. Timms Construction & Engineering Ltd.
Topping, W.W.
Torino Excavating (1965) Limited
Toronto Excavating Company
Toronto Steeplejack Co. Ltd.
Tower Construction

Tower Investments Corp. Ltd.
Trent Crane Service Ltd.
Trist Construction Co. Ltd.
Turncrest Construction Limited
Umacs Construction Limited
Lutz Unverdorben, Yonge-Belmont Co.
Uphill Construction Limited
Vanbots Construction Ltd. & Co.
Van Hoof Construction (Whitby) Limited
Viceroy Const. Co. Ltd.
Vyal Construction Limited
J. Watt & Co. (Builders) Limited
Wembly Const. Co. Ltd.
Weren Bros. Company Ltd.
West York Construction Limited
Western Excavators
Windsor Const. Ltd.
Winson Construction Limited
Winton & Winton Leaseholds (Eastern) Ltd.
Wolfond Const. Ltd.
F. Worthylake
Wray-Backus Const. Ltd.
Y. & R. Properties Ltd. (Sheraton Const. Ltd.)
Yonge Steeles Investments Limited
Young and Apperley Limited
Young Brothers Const. & Ent. Ltd.
Zorge Construction Co. Ltd.
Babcock & Wilcox Canada Ltd.
William S. Marshall Contractors Ltd.
Mort's Crane Rentals Ltd.
Lisanti Contracting Co. Ltd.
Adams' Cartage Limited
Murray O. Arlow
Camptom Excavating Company
Capy Steel Services
Crawford Russel Incorp.
Foster Wheeler Ltd.
Kaighin-Hughes Mechanical Limited
Petrifond Foundation Company Limited

R.C.L. General Contractors
Redfern Construction Co. Ltd.
W. Schwartz & Sons Ltd.
Schwenger Construction Limited
R. & W. Sproule Ltd.
Fred Vowel Excavating

8. The Board finds that the number of employers on Final Schedule "E" totalling 184 is the number of employers to be ascertained by the Board under section 115(1)(a) of the Act. On the basis of the evidence the Board finds that on May 31, 1971, the date of the making of the application, the applicant represented 105 employers ascertained as the number of employers under section 115(1)(a) of the Act. The 105 employers so represented is the number of employers to be ascertained by the Board under section 115(1)(b) of the Act. The Board therefore is satisfied that a majority of the employers in the unit of employers are represented by the applicant.

9. The Schedule "H" which accompanied the Form 68, Employer Intervention, filed by the individual employers sets out the number of employees that the employer intervener has at each job site with details of the location and the type of construction involved. By section 115(1)(c) the relevant payroll period is the weekly payroll period immediately preceding the making of the application, in this case the weekly payroll period immediately preceding May 31, 1971. Having regard to the employers who have filed a Form 68 and its accompanying Schedule "H" and the agreement recorded in paragraph 5, the Board is satisfied that such a period is satisfactory for the determination in section 115(1)(c).

10. On the basis of the evidence the Board further finds that there were 469 employees affected by the application. The 469 employees is the number of employees to be ascertained by the Board under section 115(1)(c) of the Act. The Board is satisfied that the 105 employers represented by the applicant employed a majority of the employees as ascertained in accordance with the provisions of section 115(1)(c). The applicant therefore has the "double majority" requirement for accreditation.

11. Accordingly, a Certificate of Accreditation will issue to the applicant for the unit of employers found to be the appropriate unit of employers in paragraph 15 of the Board's decision of March 5, 1973, and in accordance with the provisions of section 115(2) of the Act, for such

other employers for whose employees the respondent may after May 31, 1971, obtain bargaining rights through certification or voluntary recognition in the geographic area and sector set out in the appropriate unit of employers.

August 21, 1973

"J. H. Brown"
for the Board