

Members' Bulletin: 2020-06

April 17, 2020

To All OIRCA Members:

COVID-19 & Roofing in Ontario: Part 2

On April 7, 2020 we released a bulletin titled *COVID-19 & Roofing in Ontario*. The purpose of that communiqué was to provide some direction to the Membership following the provincial government's updated list of essential businesses and services.

While the government has made it perfectly clear that roofing maintenance and repairs is considered an essential service, re-roofing has emerged as a gray area. On April 9, 2020 we sent a letter to several Ontario Ministers asking for some clarification as it relates to the re-roofing of buildings.

The Ministry of Labour, Training and Skills Development (MLTSD) did get back to us and has provided some limited clarity on the subject. The reality is that the government is not prepared to provide definitive advice on specific aspects of maintenance and repairs as noted in their April 3rd List of Essential Workplaces. The government did launch a hotline called *Stop the Spread Business Information Line at 1-888-444-3659*. Unfortunately, those staffing this line are ill equipped to provide specific concrete advice.

Each and every construction trade that performs maintenance and repair work has a myriad of services they provide; roofing is no exception. We have explained to the Ministry that OIRCA considers re-roofing to be maintenance and repair work. We have advised them that leaking roofs present a health and safety risk to the occupants of those buildings.

The MLTSD has made it clear to us that addressing a leaking roof would be considered an essential service. They have also advised that the decision to re-roof versus simply making a repair is up to the building owner, their design authority and the constructor for the project.

They have also told us that building owners and constructors should consult with their legal counsel on a case by case basis to develop a rationale for moving forward with a re-roofing project. This advice mirrors what we stated in our April 7th bulletin where we suggested that the Member obtain letters from the owner, designer and GC if there is one. The change here is that the owner should speak to their lawyers before preparing that letter.

The Ministry further opined that a roof that isn't leaking would not be considered an essential repair. So if a school board, for example, has tendered a re-roof of a specific school where the roof is near the end of its life but is not leaking, that project would not be deemed essential. On the other hand if the roof is leaking and a simple repair is not viable then yes a case could be made to re-roof that building.

The government is clearly practicing risk management here by passing the buck to other parties to make the decision as to whether a re-roof is essential. To sum up, and based on the MLTSD advice, it is OIRCA's position that Members should advise their building owners to seek legal counsel when preparing a case to re-roof their building. On that advice the owner should prepare a letter addressed to your company directing you to proceed with the work.

The Member should then show that letter to their own lawyer to obtain advice as to whether your company should move forward with the project. This process may seem rather convoluted, but it is important that you practice your own risk management so that you can be prepared to defend yourself if a bylaw or MOL officer shows up on your job site.

Finally, as we advised in our previous bulletin, any such work must follow the guidelines released by the MOL utilizing COVID-19 job site procedures. Those best practices may be found here: <https://www.ontario.ca/page/construction-site-health-and-safety-during-covid-19>.
