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April 24, 2025

The Honourable David Piccini, MPP
Minister of Labour, Immigration, Training and Skills Development
14th Floor, 400 University Avenue
Toronto, ON M7A 1T7

Dear Minister Piccini,

Re: Clarifying the definition of "employer" in the Occupational Health and Safety Act

The Association of Ontario Road Supervisors (AORS) represents more than 2,000 municipal public-works professionals in every corner of the province. On behalf of our municipal members, we respectfully urge the Government of Ontario to amend the Occupational Health and Safety Act (OHSA) so that an *owner* who has engaged a *constructor* for a project is **not deemed an "employer" for work that the constructor fully controls**.

The *R v. City of Greater Sudbury* precedent

In *R v. City of Greater Sudbury* (2023 SCC 28) the Supreme Court upheld charges laid by your Ministry, finding the City liable as an employer despite having transferred control of the worksite to a constructor. The majority decision highlighted statutory ambiguity and suggested that the Legislature clarify the definition of "employer." Until that clarification arrives, every Ontario municipality is exposed to the same legal uncertainty Sudbury faced.

Consequences for municipal infrastructure

- **Escalating costs and delays —** Early bid data show road- and bridge-project tenders climbing 8–12 per cent as constructors price the added risk.
- **Insurance limitations —** Municipal insurers are tightening coverage or inserting exclusions for constructor-controlled sites.
- **Duplicated oversight —** Municipal staff now feel compelled to monitor safety programs already administered by the constructor and enforced by Ministry inspectors. Furthermore, this duplicated oversight poses the risk of confusion in responsibility, potentially leading to gaps in the overall safety on projects.

These pressures jeopardize timely delivery of the very infrastructure that keeps Ontario's economy moving.

A pragmatic legislative fix

We respectfully propose a targeted amendment to s. 1(1) of the OHSA that would:

1. **Exclude an owner from the definition of "employer"** for work executed under the direction and control of a retained constructor, *provided the owner does not exercise control over that work*; and
2. **Preserve due-diligence obligations** for owners to select competent constructors, verify WSIB compliance, and ensure an adequate health-and-safety program.

Similar language already appears in Alberta's OHS Act and British Columbia's Workers Compensation Act, demonstrating that strong worker protection and clear liability allocation can coexist.

Our commitment to collaboration

AORS stands ready to work with your officials on draft wording that restores certainty while maintaining Ontario's high safety standards. Clarification now will spare municipalities protracted litigation, safeguard workers through unambiguous accountability, and keep critical projects on schedule and on budget.

Thank you for considering this request and for your continued leadership in occupational health and safety. We would welcome an opportunity to meet with you or your staff at your convenience.

Respectfully submitted,

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cc: The Honourable Kinga Surma, Minister of Infrastructure
Robin Jones, President, Association of Municipalities of Ontario
Taylor Crinklaw, P.Eng, President, Municipal Engineers Association