

March 9, 2010

PRESENTATION TO:

BC MUNICIPAL SAFETY ASSOCIATION

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“OWNER OBLIGATIONS UNDER THE WORKERS COMPENSATION ACT”

A. Definition of “Owner”

- Broad definition in Section 106:

“owner” includes

(a) a trustee, receiver, mortgagee in possession, tenant, lessee, licensee or occupier of any lands or premises used or to be used as a workplace, and

(b) a person who acts for or on behalf of an owner as an agent or delegate.

- Can have multiple owners of a workplace.

B. Responsibilities as an “Owner” under Part 3 of the Act

1. Section 119

- General duties of every owner of a workplace.
- When determining which of multiple owners should be held responsible for not meeting the statutory duties, the Board will consider who had or should have had the knowledge of, and control over, the particular workplace.

2. Section 118

- Applicable to a multiple-employer workplace – where workers of 2 or more employers are working at the same time.

- Prime Contractor responsibilities
 - default – owner of the workplace.

3. Section 115(1)(a)(ii)

- Extends an Employer's responsibility to ensure the health and safety of workers of another Employer who are present at a workplace at which the 1st Employer's work is being carried out.
- *Petro-Canada* decision of BC Court of Appeal (Sept. 2009)

4. Section 124

- Deals with overlapping obligations when more than one person is responsible for fulfilling the same obligations.

C. City of Surrey Case

- Background
- Review Division decision
- WCAT decision (July 2009)

D. New Guideline (G-D3-119-1) "Owner obligations – Public lands"

1. General

- Guidelines are intended to assist with providing ways of complying with the legislation – not to provide exclusive interpretations.
- Guidelines generally provide information on administrative matters and on technical matters not already addressed by policy.
- Board policy takes precedence over any statement issued in a guideline.

2. Guideline – D3-119-1

- Stated purpose – “to provide some clarification of the owner's obligations with respect to publicly owned land that may be used or accessed by workers”.

E. Where do we go from here?

- Discussion and Questions