



OCS Reports 1st ICI Permits Up Over 2010

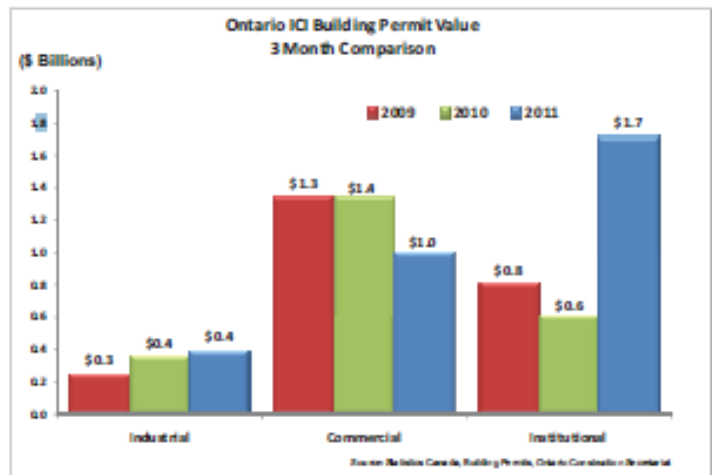


The Ontario Construction Secretariat reported that first quarter ICI permits issued were up 34% from the same period last year, totalling \$3.1 billion dollars. While Commercial permit values declined in the quarter compared to 2010, the Industrial sector showed a slight increase over last years numbers. However, the Institutional sector, jumped an outstanding **181%** on a year-over-year basis, accounting for nearly all of the provincial growth in the quarter at a record \$1.7 billion dollars in permits issued, matching the first six months of 2010. The Greater Toronto area accounted for most of the issued permits, however, Eastern and South Western Ontario also saw increases.

The bulk of the growth in the Institutional sector was lead by government buildings with \$565 million worth of permits issued in the quarter. Permits for hospitals came in at \$527 million, while building permits for schools increased by 36% year-over-year, with the growth concentrated in Toronto. Industrial permits advanced 8.7% to \$395 million, signalling that the market is continuing to heal after the 2009 carnage. Industrial gains were concentrated in the factories and plants segment (up 21%) and in mining and agricultural buildings which were up 79%. Factory and plant permit increases were a result of the strengthening trend in manufacturing where first quarter sales were 26% above their recession lows. Growth in the mining and agricultural sector has benefited from increased mining output (up 8.1% year over year in March).

The Commercial sector faired poorly where permits declined 26% year-over-year in the quarter and sat at \$1 billion. All five major regions in the province reported lower commercial building intentions compared to the first quarter last year. In the case of Northern, Eastern, and Central Ontario, the level of activity remained stable and the declines experienced small moderations from robust activity seen in 2010. In the case of Toronto and South Western Ontario, however, the level of commercial intentions dropped in a more significant way.

On a go forward basis, it is unclear if the softening in commercial building intentions will continue. In an OCS Survey of Ontario's Construction Industry the largest percentage of contractors expected to conduct more work in the commercial sector this year. Additionally, a solid 38,700 jobs were created in Ontario in April and May, indicating economic strength. On the other hand, office vacancy rates in major markets increased slightly versus their level a from a year ago.



The Mathews Dinsdale Minute



Are you up to date on your procedures for access to sites where you are working? Are you compliant with your obligations under the OHSA in the event of accidents? There are a number of recent decisions that may serve to complicate these issues it is important that employers are aware of what these cases say.

In 2009, the Ontario Labour Relations Board ("OLRB") found that a resort operator who failed to report the drowning of a guest (not an employee) in the resort pool was in breach of its obligations under the OHSA. The OLRB concluded that the pool was a "workplace" for individuals employed by the resort. As the fatality was a "critical injury" to a "person", the OLRB concluded that the OHSA required it to be reported to the Ministry of Labour, even though it was not a critical injury to a "worker". This decision was recently upheld by the Ontario Courts on judicial review.

In May of this year, a residential builder was grieved by the Labourers' union for refusing site access to business representatives without the Labourers' union providing a proper Form 1000 Registration for those employees. The builder had received an inspector's order requiring it to secure and keep on file a proper Form 1000 for each employer at the project. When the Labourers' refused to provide a Form 1000, the builder refused access to its representatives and the labourers grieved under the site access provisions of the Collective Agreement.

The OLRB concluded that Form 1000 Registrations were only required for employers coming onto the site to perform construction work or supply construction materials. The Board reasoned that a union business agent (who is an employee of the union) comes to the site to police and/or enforce the Collective Agreement and drew a parallel with municipal inspectors, police officers, firefighters and other such groups that are entitled to access the site without a Form 1000 Registration. Thus, the grievance was allowed.

It is not hard to have some sympathy for the builder in this case, or the resort operator who called the police instead of the Ministry of Labour. In the resort fatality the interpretation of the OHSA provisions requiring notice to the Ministry of Labour were very broadly interpreted. However, in the site access case, the Board appears to have taken a somewhat narrower approach to the provisions requiring Form 1000 Registrations.

Are you clear on what your obligations are? If not, it is a good idea for employers to be reviewing their policies and procedures and, if necessary, reviewing their obligations with Counsel before a Ministry Inspector arrives at your site.



Important Dates & Notes

AAO Conference:

July 14, 2011—July 17, 2011—Niagara-on-the-Lake



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