



Acoustical Association Ontario

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Provincial in scope ...

Provincial in outlook

Ontario ICI Outlook



Ontario's economic growth in 2013 came in at a modest 1.3% as a result of a sluggish U.S. economy. This impeded growth in Ontario's manufacturing and export sectors. In addition, as government stimulus spending continued to wind down and fiscal restraint became the order of the day, it had weighed heavily on ICI construction.

However, 2014 is projected to be a better year with economic forecasters expecting growth to, on average, increase to 2.3 %. This improvement will be as a result of an anticipated acceleration in the growth of the U.S. economy which should have a positive effect for Ontario.

Overall the ICI market in Ontario in 2013 continued along the same path as has been the case for the past year and a half. That is, the private sector, meaning industrial and commercial development has trended higher while the public sector, meaning institutional development has been trending significantly lower. For example, ICI investment in Ontario declined by 4% in 2013 as the continued slide in institutional investments offset the increases in the industrial and commercial markets. The table below summarizes how each region of the Province fared in each of the sub-categories of the ICI sector.

2013 Percentage Change in Permit Values				
Region	Industrial	Commercial	Institutional	Total ICI
Northern	▼ -63.80%	▲ 46.90%	▲ 5.00%	▼ -5.60%
Eastern	▼ -16.80%	▶ 0.20%	▼ -38.90%	▼ -11.60%
GTA	▲ 14.80%	▲ 17.30%	▼ -31.50%	▶ 3.30%
Central	▼ -22.30%	▲ 16.90%	▼ -33.30%	▼ -10.40%
Southwestern	▲ 22.90%	▼ -30.40%	▼ -39.50%	▼ -17.30%

Source: Ontario Construction Secretariat

Looking ahead we see that the future is much like the past. Improved manufacturing activity, as a result of the aforementioned improvement in the American economy, will produce positive effects for the industrial sector. Although much of Ontario's manufacturing is driven by the automotive sector it faces stiff competition from other North American jurisdictions. However, 60% of Ontario's exports to the U.S. are comprised of non-automotive goods and any pick-up in the U.S. economy will be broadly spread in Ontario.

The commercial sector had a record year in 2013 and projections for 2014 see continued growth but at a small rate. The GTA has been and will continue to be the driving force for commercial construction. In fact, the GTA is the only major jurisdiction where "the current office vacancy rate is below its long term average" according to CB Richard Ellis. This has resulted in a very tight market thereby creating an environment for future investments.

The negative side of ICI construction has been and will continue to be the institutional sector. This as we very well know was anticipated when government stimulus spending was wound down in 2011. Investment in this sector has continued to drop over the last two years and will continue to drop into the future. This will be further aggravated by the fact that the Provincial government is "strapped" and will be looking at cutting spending to balance its books.

The Mathews Dinsdale Minute



It is a changing world and we wanted to discuss something that may not have come up before, or at least has likely not often come up, in your business. Specifically, what are your obligations with respect to pregnancy and/or parental leave for your trades people?

Pregnancy leave, as provided under the *Employment Standards Act, 2000* (the “ESA”), is available to a pregnant employee whose due date falls at least 13 weeks after the employee commenced employment. Parental leave is available to an employee who becomes a parent of a child (whether by birth or adoption and including the father) so long as the employee has been employed for at least 13 weeks.

The ESA obligates an employer to reinstate an employee who takes a leave under the ESA to the position the employee “most recently held with the employer, if it still exists, or to a comparable position, if it does not.” However, this obligation does not apply if the employment of the employee is ended solely for reasons unrelated to the leave.

The case law interpreting these provisions has found that it is improper for an employer to refuse to reinstate an employee when:

- The employer discovered during the leave that the employee is in fact dispensable;
- The employer discovered that the temporary replacement for the employee performs the job better than the employee on leave; or
- The employer would find it difficult or inconvenient to reinstate the employee on leave.

In the construction industry, where trades employees come and go from the hiring hall on a regular basis you may wonder how these obligations will apply. While there is little or no case law interpreting these provisions in the context of unionized trades people in the construction industry, it is clear that the obligation will vary depending on your volume of business and whether the employee taking the leave is a “steady” long term employee as opposed to one of the interchangeable employees drawn from the hall.

With employees that are not “steady” employees, the reinstatement obligation will likely not apply where the project on which the employee was working before going on leave has ended and staff, other than steady employees, have not been transferred to other jobs and/or where the job is ongoing but only employees that were already employed at the time the employee who took the leave was hired are still working.

If the employee taking the leave is a “steady” employee the circumstances may be more complicated. It is especially important to bear in mind that if the employee was a “steady” but you found a replacement that was especially good, you will likely not be able to refuse to reemploy the steady employee.

In cases where a failure to adhere to the reemployment obligation is alleged it is the employer’s obligation to prove that the decision not to reinstate the employee was unrelated to the leave the employee took. Thus, you are required to prove the negative. In these circumstances an ounce of prevention is worth a pound of cure and we would highly recommend you consult legal counsel in order to ensure that (a) your justification is appropriate and (b) the appropriate evidence has been maintained to prove your case.

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