

SAULT STE. MARIE

THE SAULT STAR



City will continue to defend right for open tender process

Legislation amended in July 2019 deems public bodies, including municipalities, school boards, hospitals, universities and colleges as "non-construction employers."

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Feb 22, 2022 • 13 hours ago • 3 minute read • [Join the conversation](#)



View of east exterior of Civic Centre in Sault Ste. Marie, on Saturday, May 16, 2020.. The Sault Ste. Marie Sports Hall of Fame Committee inducted Rudy Timmerman and Graham Newman into the local hall of fame via virtual conference call on Thursday afternoon. PHOTO BY BRAIN KELLY

The ongoing battle between the City of Sault Ste. Marie and the UBCJA Carpenters Union will continue to be funded by the city – to the Divisional Court and beyond, if necessary.

City council approved a further \$100,000 to continue the constitutional challenge at the Divisional Court level.

A report to council said the City of Sault Ste. Marie was successful in its bid at the Ontario Labour Relations Board, a decision which was rendered on Oct. 22, after eight days of hearing and three additional days of closing arguments.

The success means the city isn't required to just tender projects to the carpenters' union, but, instead, can open up the bidding process to all qualified applicants for city projects.

The ongoing battle between the union and the city has dragged on for years.

In July 2019, the provincial government amended the Ontario Labour Relations Act by passing Bill 66, Restoring Ontario's Competitiveness Act.

The legislation was designed to reduce red tape and regulations so businesses can grow, create and protect jobs, the government said.

It deems public bodies, including municipalities, school boards, hospitals, universities and colleges, as "non-construction employers."

The legislation finally allowed the City of Sault Ste. Marie to be able to open tender construction projects without consideration to union affiliation, a change after 32 years of the city only being able to accept bids from companies associated with the carpenters and labourers union.

That legislation resulted in a grievance by the carpenters' union and the subsequent OLRB hearing.

It's not the first time the designation has been challenged. The city launched appeals to the OLRB in 1998 and 2001, but was unsuccessful.

CAO Malcolm White said the legislation has seen the city attract a few more tenders for various projects, some of which that have come in with more favourable bids. While he admits the pandemic has put a crimp on tender pricing and bidder numbers, the better competitive bids can be seen in some of the city's larger projects.

For instance, council was told that the west-end water treatment plant project attracted more interest from companies, which came in "around budget." That was a much different experience than the completion of the east-end sewage treatment plant project several years ago when the designation was in effect, which resulted in fewer bids and higher costs.

Peter Niro, the city's director of human resources, said research presented during the labour board hearing shows the city can obtain savings of between 19 per cent and 27 per cent with an open tender process, depending on the work climate and materials required.

"The 20 per cent figure is a conservative savings figure," he told council.

Ward 3 Coun. Matthew Shoemaker said he's in favour of ensuring the city has an open and competitive bidding process.

"You have my support up to the Supreme Court if you need it," Shoemaker said. "This is not an anti-union position. It's an anti-monopoly position."

Shoemaker said the city has the responsibility of ensuring taxpayer money is spent wisely and opening the tendering process does that, especially with multi-million-dollar projects on the books.

The city originally found itself with the designation as a result of a 1987 Ontario Labour Relations Board ruling, which states the city can only accept bids for city infrastructure projects from the International Brotherhood of Carpenters and Joiners and Labourers' International Union of North America.

That decision was rendered after the city's legal counsel of the day missed a court appearance.

Mathews-Dinsdale, a Toronto-based law firm, has been sole-sourced to represent the City of Sault Ste. Marie for the case.