

Ontario Construction Law

Key Legal Developments for Contractors Operating in Ontario

May 12, 2026

Rocco Ruso
Principal & Founder

Alex Fotinos
Associate Lawyer

R A R
LITIGATION

Prepared for:



Agenda

1. Amendments to the *Construction Act*
2. 2025 Updates to the CCDC
3. Importance of Notice
4. The *Buy Ontario Act*



Amendments to the *Construction Act*

R A R
LITIGATION

Five Key Amendments

1. Proper invoicing requirements
2. Annual release of holdback
3. Adjudication
4. Limits on holdback set-off
5. Mandatory notice of termination

Proper Invoices

Are Barhale's invoices compliant?
If not, payment timelines may not be triggered.

Subsection	Pre-Amendment	Post-Amendment
1	The contractor's name and address.	No change.
2	The date of the proper invoice and the period during which the services or materials were supplied.	The date of the invoice and the period, milestone or other contractual payment entitlement to which the invoice relates.
3	Information identifying the authority, whether in the contract or otherwise, under which the services or materials were supplied.	Information identifying the contract or other authorization under which the services or materials were supplied, such as a contract number, contract line-item number or purchase order number.
4	A description, including quantity where appropriate, of the services or materials that were supplied.	No change.
5	The amount payable for the services or materials that were supplied, and the payment terms.	No change.
6	The name, title, telephone number and mailing address of the person to whom payment is to be sent.	The name, title, mailing address and telephone number of the person to whom payment is to be sent or, if payment is to be sent to an office or department, its name, mailing address and telephone number.
6.1	-	Any other information that is necessary for the proper functioning of the owner's accounts payable system that the owner reasonably requests.
7	Any other information prescribed.	No change.

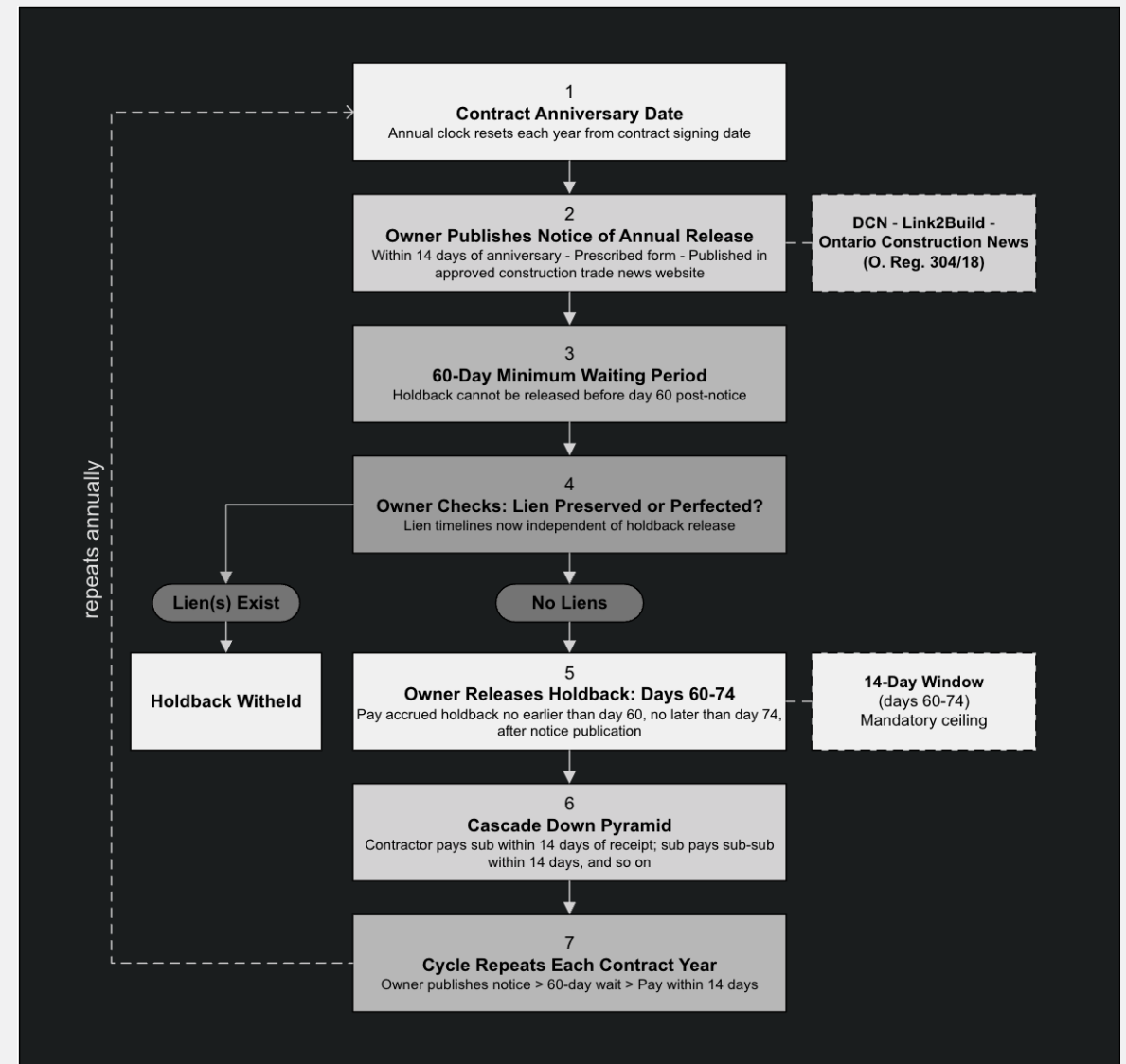
Annual Release of Holdback

Pre-Jan 1, 2026:

- second anniversary triggers release

Post-Jan 1, 2026:

- first anniversary triggers release



Adjudication

What is the purpose of adjudication?

- Provides an immediate, interim decision that is binding on the parties

What can be adjudicated?

- “Any matter” – including payment, delay, contractual interpretation, and change orders

What are tips for a successful adjudication?

- Be prepared – the process moves quickly and so do decisions
- Strong document organization is critical

Set-Off

When can I set-off the holdback?

- When a subcontractor has been terminated or has abandoned the project

Can I set-off holdback for deficient subcontractor work?

- No – improper set-off constitutes as a breach of trust, exposing directors and officers to liability

How do I protect myself from deficient subcontractor work?

- Your contract is your primary protection
- Include mechanisms such as deficiency holdbacks

Terminating Contracts

Mandatory Publication

- Notice of termination *must* be published in the prescribed form within 7 days of termination

Date of Termination

- If multiple notices are published, the first publication determines the effective date of termination

Impact on Lien Rights

- The published date of termination triggers lien timelines
- Parties may still challenge the validity of the termination



2025 Updates to the CCDC Contracts

R A R
LITIGATION

Updated Contracts

- In 2020, the CCDC overhauled the CCDC 2 – Stipulated Price Contract
- In 2025, those concepts were incorporated into:
 - CCDC 5A and 5B – Construction Management
 - CCDC 17 – Trade Contractor Agreements
 - CCDC 30 – Integrated Project Delivery Models
- New Design-Build contracts are expected in 2026

Key Concepts

- “*Ready-for-Takeover*” means the project must be operational – not just substantially complete
- Progressive holdback release is now permitted
- A party’s liability to uninsured losses is capped
- Consequential damages are waived
- Construction management contracts may be terminated early for convenience

Collaborative Contracting

P3's Are Out – Collaborative Contracting Is In

- Integrated Project Delivery (IPD)
- Alliance Contracts
- Collaborative Design-Build

Key Objectives

- Success is contingent on collaboration, not confrontation
- Shared risk and reward structures
- Greater emphasis on early coordination



Providing Notice

It matters.

R A R
LITIGATION

Types of Statutory Notice Requirements

- Notice of non-payment must be delivered within strict timelines
- Notice of adjudication triggers a rapid dispute process
- Notice of holdback release initiates payment timelines
- Notice of termination must be formally published

Takeaway

- Statutory notices are straightforward – follow the timeline and use the prescribed forms provided here:
<https://ontariocourtforms.on.ca/en/construction-lien-act-forms/>



Contractual Notice Requirements

No Notice = No Claim

***Technicore Underground Inc. v. Toronto (City)*, 2012 ONCA 597**

- Technicore was subcontracted by Clearway to perform tunnelling work on a City of Toronto water main project.
- Following a water main burst, Clearway filed an initial but attempted to increase the damages three years later during litigation.
- The City secured partial summary judgment, successfully arguing that Clearway's failure to follow contractual notice requirements barred the increased claim.
- The Courts confirmed "*compliance with a notice provision is a condition precedent to maintaining a claim in the courts.*"

The Buy Ontario Act (Public Sector Procurement), 2025

R A R
LITIGATION

Buy Ontario – What Do I Need to Know?

- Applies broadly to government and public sector infrastructure projects in Ontario
 - Including **Infrastructure Ontario**, **Metrolinx**, the **City of Toronto**, etc.
- Incentivizes sourcing of Ontario and Canadian goods and services
- Restricts the use of foreign materials and services
- Non-compliance may result in funding being withheld

Takeaway

- Procurement is no longer just about price – compliance now matters

Why This Matters To You

- Review your bid documents carefully for procurement restrictions
- Requirements may impact sourcing, partnerships, and bid strategy
- Expect requests for written attestations to support compliance

Takeaway

- Procurement risk starts at the bidding stage
- Be clear in your bid that pricing is subject to availability

We're here to help.

Rocco Ruso

rocco@rarlitigation.com

905-731-8100 x207

rarlitigation.com

Alex Fotinos

afotinos@rarlitigation.com

905-731-8100 x234

Access Slide Deck Here



R A R
LITIGATION