

November 18, 2022

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Ministry of Public and Business Service Delivery
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Submitted electronically

RE: 22-MGCS020 – Consultation on an Administrative Penalties Regime for Ontario One Call

The Residential and Civil Construction Alliance of Ontario (RCCAO) is pleased to provide comments regarding the Ministry of Public and Business Service Delivery's (MPBSD) proposed Administrative Penalties Regime under the *Ontario Underground Infrastructure Notification System Act, 2012*.

As a unique labour-management organization derived from the residential and civil construction sectors, RCCAO welcomes the Government of Ontario's commitment to building and expediting critical infrastructure and ensuring the relevant regulations are improved and responsive to the needs on the ground. A primary focus for RCCAO since our inception has been the importance of investing in core public works – from transit and water systems to roads and bridges – and doing so smartly and efficiently for taxpayers and daily users of infrastructure.

RCCAO members include the Greater Toronto Sewer and Watermain Contractors Association; Heavy Construction Association of Toronto; International Union of Operating Engineers, Local 793; Joint Residential Construction Association, LiUNA Local 183; Ontario Formwork Association; and Toronto and Area Road Builders Association.

RCCAO is pleased by the development of administrative penalties, which are an integral component and logical next step following the passing of the *Getting Ontario Connected Act, 2022*. This legislation will address immediate pressure points in the locate delivery system, enhance governance and oversight of Ontario One Call, and improve One Call's compliance tools.

We believe that the proposed administrative monetary penalty amounts are appropriate for each contravention listed in the regulation. RCCAO would like to impress upon MPBSD and the Government of Ontario that it is imperative that Ontario One Call applies monetary penalties in a uniform and consistent manner respecting the spirit and intent of the *Getting Ontario Connected Act*, which is the timely delivery of locate information.

The ability to issue administrative penalties is intended to strengthen One Call's enforcement and compliance framework by providing an additional tool to be used to promote compliance. Ambiguous standards and inconsistent enforcement of monetary penalties will be detrimental to the infrastructure and construction process. It would exacerbate the current significant delays of underground utility locates.

Prior to the passing of the *Getting Ontario Connected Act*, the *Ontario Underground Infrastructure Notification System Act* stipulated that a person or entity may be liable to fines for failure to deliver locates within the legislated timeframe, and Section 17.2 of Ontario Regulation 92/14 allows for an “accessor” to impose an administrative penalty against a member or excavator. However, not a single administrative penalty has been issued to a member of Ontario One Call. This may be because Ontario One Call’s authority to levy fines was not clearly defined and contributed to its reluctance to administer fines, which in turn has fostered an environment of impunity and clear contravention by members of Ontario One Call.

The lack of enforcement and accountability is reflected in the fact that half of call tickets for September 2021 took longer than 15 days across the province, with only 14 percent being completed within the legislated five-day timeline. This means that over 80 percent of all locate requests were delivered late, a trend which has not only continued, but has gotten worse over the 2022 digging season.

The delivery of late locates have a cascading effect on infrastructure and construction projects, resulting in work stoppages, significant delays in project completion and increased project cost. For example, each hour of idle time in the sewer and watermain sector costs \$1,000; in the roads sector, the price tag is \$10,000 a day.

Given the significant financial, workforce and social implications of late delivery locates, it is imperative that Ontario One Call develops and executes firm, consistent and predictable enforcement tools. This will ensure its members are compliant and delivering locates within the legislated timeline. To further strengthen accountability and enhance clarity, Ontario One Call should also provide publicly available information on precisely how administrative monetary penalties will be issued and applied.

It is also important that the Ministry remains engaged and vigilant to ensure that contraventions to the legislation are properly addressed. The policies and procedures that Ontario One Call develops to support the application of the administrative penalty need to be effective and responsive to the spirit of the *Getting Ontario Connected Act*, which is to provide timely locates within the statutory timeframe.

RCCAO is pleased with the continued focus by the Government of Ontario on improving the timely delivery of underground utility locates, a crucial part of building critical infrastructure in Ontario. We will remain involved in the ongoing efforts to improve the locates system and will continue to work collaboratively with industry and government to make that happen.

Sincerely,



Nadia Todorova
Executive Director