

ASSOCIATIONS, GOVERNMENT

## Bill 148 reforms panned by CFBA delegates

Don Wall February 1, 2018



DON WALL — Long-time Canadian Farm Builders Association (CFBA) board member Gary van Bolderen (left) was honoured with a plaque at the association's recent conference in recognition of his service to the CFBA as its representative at the Council of Ontario Construction Associations. Making the presentation was CFBA interim president Terry Rothwell, who was later confirmed as the organization's new president.

**O**ntario's new workplace reform legislation enacted in Bill 148 got a rough ride from members of the Canadian Farm Builders Association (CFBA) during its annual convention held in Stratford, Ont. Jan. 26.

Lawyer Patrick Ganley of the firm Sherrard Kuzz offered delegates an overview of the legislation's impact and at times his comments were met with lots of questions. Of particular note, he said, were changes impacting the minimum wage, equal pay for equal work, scheduling of shifts, employee "misclassification," vacation and public holidays, and personal emergency leave.

Ganley said Bill 148, which is being implemented in stages, is a "very large piece of legislation that will have a big impact."



DON WALL — Lawyer Patrick Ganley of Sherrard Kuzz LLP addressed Canadian Farm Builders Association conference delegates on both Bill 148 and the legalization of cannabis.

At one point in his presentation, after a discussion of scheduling in which he pointed out that as of April 1 an employee will have the right to refuse a shift where the request to work is made fewer than 96 hours prior to the start of a shift, Ganley said.

"I am getting some general murmurs that these may be out of touch with the realities of our operations."

Long-time CFBA board member Gary van Bolderen said in an interview the concerns over Bill 148 highlighted by Ganley reflect the hastiness of the legislative process and a lack of adequate consultation by the provincial government. Ganley had told the delegates first reading of Bill 148 came in June 2017 and royal assent was obtained five months later in November.

"The issue is they are creating legislation and regulations and they are not getting input from the stakeholders," said van Bolderen.

"Some they are, some they aren't, but in the case of construction, it's a negative impact on our ability to produce efficiently and build safe buildings by having some of these regulations."

“Maybe we haven’t been speaking loud enough. Maybe we have to be more aggressive, or be more attentive. But we definitely have to have our voice heard before they do this stuff, because after they put it in law, there is almost no chance of changing it,” said van Bolderen.

Most of the changes affect the Employment Standards Act or the Labour Relations Act. Ganley noted the equal pay for equal work reforms will require all employers, including contractors, to document employee transactions carefully because employees will be given the right to request information on what another employee is being paid. Pay differentials are permitted for seniority and other reasons but still the requirement to write reports will be onerous on contractors, Ganley said.

Van Bolderen contrasted the lack of consultation on Bill 148 with the extensive collaboration undertaken by the government on construction lien reform through Bill 142. The Construction Lien Amendment Act, 2017, introducing a prompt payment regime and adjudication of payment disputes, achieved royal assent in December. Lawyer Ted Dreyer of Madorin, Snyder LLP discussed the reforms in a presentation to CFBA delegates.

“We support legislation that is positive for the end user,” said van Bolderen.

“Prompt payment has been an issue, especially for subcontractors, for years and years. Kudos to the government...We had a chance to comment several times, and this is a good example of the industry working together.”

Other items on the conference agenda included farm building code reform; a presentation by Ontario College of Trades chair Don Gosen on new initiatives of the college including a marketing campaign aimed to recruit members to the trades; federal and provincial support programs for farmers and farm builders; a presentation by Malcolm Brown of the Electrical Safety Authority on hazards affecting electrical installations in buildings housing livestock; the legalization of cannabis in Canada and its implications for construction employers; and pointers from insurance specialist Jim Zyta on controlling premiums through barn fire prevention and risk reduction.

Van Bolderen also reported as the CFBA representative and chair of the Council of Ontario Construction Associations (COCA), Bills 148 and 142 were major targets of COCA lobbying efforts as was reform of the Workplace Safety and Insurance Board, he said.

The CFBA is a small organization, he added, and many of its members come from small, family-owned businesses, so it’s difficult for the association to make a major impact on policy issues on its own. That’s why focusing on reforms through its COCA membership is vital, van Bolderen said.

Van Bolderen was honoured with a plaque at the conference in recognition of his service to the CFBA as its COCA rep. He is stepping down from the COCA position with CFBA board member Michael Leach assuming his place.

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