



## MEMBER BULLETIN

February 3rd, 2022

# ‘Raiding Period’ is Fast Approaching

As 2022 is a bargaining year for the GTSWCA, members need to be prepared for the possibility of a displacement application, commonly referred to as a "raid", by some unions seeking to represent construction workers. In particular, some unions may attempt to raid existing bargaining units represented by Locals 183, 230 and 793.

In preparation for such raid attempts, all employers represented by the GTSWCA should be aware of the following:

- **When Can Raids Occur?** Raid applications can begin on March 1, 2022. The raiding period takes place over the final 60-days prior to expiry of a collective agreement. During this two-month period, employers need to be aware that a union may "raid" an incumbent union, seeking to displace the incumbent.
- **How Do Raids Occur?** In circumstances in which a union attempts to "raid" an incumbent union, it will have employees of the company sign union cards indicating their desire to be represented by the raiding union.
  - When a raiding union believes it has a sufficient number of union cards signed, it will file an application with the OLRB to displace the incumbent union
  - An application may only be filed between March 1, 2019 and, in most cases, ending on April 30, 2019. For a successful application, the raiding union must obtain signed cards from at least 40% of those people who were at work on the date of application.
- **Representation Vote:** A raiding union will likely be entitled to a representation vote that would give eligible voting employees the right to select between the raiding union and the incumbent union, which in our case is either Local 183 or Local 793. The vote would likely happen five business days after the application is filed. The raiding union would be entitled to a vote if it is able to organize 40% of the employees in the bargaining unit at work on the date that the application is made, and the majority of those employees vote for the union.
- **Which Employees Can Vote?** Only those employees working on the day an application is filed to the OLRB are allowed to vote during a ‘representation vote.’ This means, for example, that even if you normally employ 30 employees, but on a particular day (for instance on a weekend) only three employees are at work, only these employees will be eligible to vote. As a result, “who” is working on a given day could affect the results of a vote because it is likely that only employees at work on the date of application will be eligible to vote.



# GTSWCA

Greater Toronto Sewer & Watermain  
Contractors Association

- **What Percentage is Required in the Vote to Decertify A Union?** The raiding union must obtain support from 50% plus 1 of those people who vote.
- **How Could You Be Notified?** Generally, these applications come in through fax, although they can also be delivered. Beginning March 1<sup>st</sup>, it is critical that you monitor your fax machine and that your office employees know to advise you as soon as an application comes in by fax or otherwise.
- **Contact the GTSWCA As Soon As Possible:** Employers typically have only two business days to respond to a raid application. By way of example, if an application comes in on Friday, the response will normally be due on Tuesday.
- **No Employer Interference:** Employers must respect the wishes of employees to ultimately pick their own union. Employers cannot influence employees. While the right to free speech applies to both employees and employers, as well as to unions, it is important to understand that statements made to employees could be construed as coercive.
- **Limitations on the Right of Other Unions to Organize Employees:** You cannot prevent another union from speaking to your employees. But you should note that it is not permitted for union organizers to speak to your employees during working hours on private property.
- **What Can Be Done to Avoid A Successful Raid?** As soon as your foremen, supervisors or office staff recognize that people who are not usually on site are present speaking to the employees, immediately notify business representatives in the GTSWCA sector at Local 183, Local 793 or Local 230 of the job site activity.
  - **Restrict overtime, night time or weekend work where possible.** These periods are favoured by unions for gathering membership cards.
  - **Do not ignore faxes received.**
  - You are entitled to request a business card or credentials from a person purporting to be from “the union” and if it is not a union that you deal with you are entitled to refuse entrance to the site.
- **What is the GTSWCA’s Position?** The current industry structure is based upon the respective status of LIUNA Local 183 and IUOE Local 793 as bargaining agents for employees active in the sewers and watermains sector in Board Area 8 and Simcoe County. The GTSWCA's accreditation rights, which give it the authority to bargain on your behalf, is based on the continuation of Local 183 and Local 793 as bargaining agents. If another union were able to replace either Local 183 or Local 793, instability in the industry could be the result. Raids by unions against one another are based on individual employer bargaining units. For example, another union could not raid the entire sewer and watermain industry, but instead would have to make applications in respect of each individual employer.

If you have any questions regarding the raiding period, please contact Patrick McManus at [patrick.mcmanus@gtswca.org](mailto:patrick.mcmanus@gtswca.org) or 905-629-7766 ext. 229.