

May 15, 2020

Via Email

To Ontario contractors,

RE: Ontario One Call Data Collection Efforts

As we look forward to a full reopening of construction in Ontario, the Residential and Civil Construction Alliance of Ontario (“RCCAO”) is working to ensure that newly restarted and ongoing projects are not delayed by the slow response times of locators through the Ontario One Call system. The crush of backlogged work may only exacerbate problems that you have told us have long pre-dated the COVID-19 lockdowns. Polley Faith LLP has been retained to assist in RCCAO’s effort.

We are writing because we need your help, as quickly as possible.

In order to address the problems with the One Call system, we must arm ourselves with first-hand information about the scope of the problem. As contractors who deal with One Call on a regular basis, you are the best source of information about problems with the system. We are therefore asking all of you to pitch-in and provide us with specific information to help us address these issues effectively. This is an essential step towards achieving a utility locate-request system that actually works properly for contractors, and we cannot do it without everyone’s support.

The main problem

As you know, the law requires utility owners to make all reasonable efforts to deliver a complete “locate” within five days of the contractor’s request. If they do not, One Call can prosecute with a fine of up to \$10,000.

Unfortunately for the industry, One Call rarely enforces the law to ensure locates are done on time. To the best of our knowledge, One Call has never exercised its enforcement powers regarding a late utility locate. Since utility owners know that One Call will not punish them, you have reported that they are often weeks or even months late in responding to locate requests. We understand that contractors have lodged hundreds of complaints with One Call about late response times, to no avail.

One Call could exacerbate COVID-19

The issues with One Call pre-date COVID-19. But with construction across the province halted by the pandemic, One Call may stand in the way of a speedy recovery. On Thursday, May 15, the Province announced the good news that construction in all sectors could resume on Tuesday, May 19. This will lead to a rush of new construction activity across the province, and therefore a higher demand for locate requests that will stress One Call’s already burdened system. At a time when the industry should be moving as quickly as possible to get itself back on track, delayed locates could create serious disruption

and economic loss. Now more than ever, it is important that the problems with One Call are fixed so that the industry can assist with economic recovery efforts.

How you can fix it

RCCAO is considering a range of options to address the problem. This includes government lobbying, as well as possible legal actions against late utilities and/or One Call itself.

While we understand the overall problem, we need more specific information and concrete examples from you. Neither the government nor the court will be interested in listening to generalities. In order to combat the problem, we need actual data and actual stories from contractors who have experienced problems with One Call. We have already received some helpful examples, but we need as many of these as possible so that we are armed with the best evidence we can gather.

How you can help

To start, we need to collect each of your most challenging cases dealing with the One Call system. In particular, we need data from each of you about cases (either historic or ongoing) where a utility answered the locate request much later than the required 5-day deadline, or refused to answer at all, and where One Call did nothing about it.

To assist with this, we have prepared the attached **table**. It sets out, in a simple format, the data we are seeking (the name of the utility, the date of the request, the locate ticket number, the date the locate was received, whether you complained to One Call, etc.). You should try to provide us with examples where there was no reasonable basis for the utility's delay (e.g., extreme weather, or a very busy construction period in a particular region, etc.). While this is the main information we are seeking at this stage, feel free to provide us with other information and/or further explanation of the "worst cases" in a separate document, or in an email. If you would prefer, you may contact us at 416.306.8415 and we will collect the information from you by phone.

RCCAO's effort to improve the system will only succeed if all contractors contribute to this process. Therefore we are asking you each to provide us with **at least five (5)** of your "worst cases" by **June 5, 2020**, using the table we have provided. Once filled-in, you can provide the table to the RCCAO, at manahan@rccao.com.

We will work with RCCAO to compile this information and select the absolute worst cases of utility delay and inaction. **We then plan to conduct interviews with the contractors impacted by these cases** in order to gather more information and to determine our next steps.

We are extremely grateful for your assistance with this important effort.

If you have any questions or concerns about the information set out above, you may contact Andy Manahan, the Executive Director of the RCCAO, at manahan@rccao.com.

Sincerely,

POLLEY FAITH LLP

Encl.

