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A new perspective on project owner health and safety liability (webinar)

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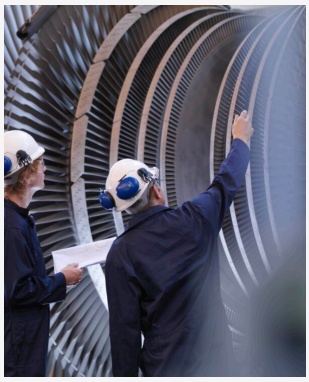

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A recent split decision of the Supreme Court of Canada in *R. v. Greater Sudbury (City)*, 2023 SCC 28, has fundamentally changed the way construction site liability will be viewed under the Ontario *Occupational Health and Safety Act* (OHSA), attendees learned during a project owner webinar. Presenters were Allan Wells, partner and Chair, Employment and Labour, and partners Andrew Wong and Lia Bruschetta.

Traditionally, at the beginning of a project, the owner would engage a general contractor as "constructor" who accepted obligations and responsibilities as both constructor and employer under OHSA. In the city of Sudbury case, a contractor was hired to repair a downtown intersection and, tragically, a pedestrian was killed at the site by a road grader. The Ministry of Labour charged both the project owner and the contractor as constructor and employer under OHSA.

The city challenged being charged as an employer and, following several appeals, the Supreme Court determined that the city was an employer by virtue of having hired a constructor and because it employed quality control inspectors on the project site. A project owner may be an employer despite exerting limited or no oversight or control.

To better manage work site liability, project owners are encouraged to further strengthen their due diligence processes, including ensuring all contractors have an excellent health and safety track record and a full understanding of OHSA requirements.

Watch the full webinar