

October 16, 2025

A Case Comment On: *Caledon (Town) v. 2220742 Ont. Ltd. o/a Bronte Construction, 2024*
ONSC 4555 – What it means for owners, contractors, and subcontractors

Key Takeaway

The Divisional Court confirmed that a single contract can cover multiple distinct improvements, and where those improvements were first procured at different times, they can be governed by different versions of the *Construction Act*, RSO 1990, c. C.30 (the “**Act**”).

Contractors and owners need to structure their contracts and procurement carefully to avoid ambiguity and to ensure clarity about which improvements fall under which regime, as it will impact parties’ statutory rights and remedies, including (as in this case) whether adjudication is available.

Background

The Town of Caledon (“**Caledon**”) procured two contracts for the design, contract administration, and site inspection services of two different stormwater ponds, Pond #7 with WSP on November 1, 2018, and Pond #14 with Matrix on March 24, 2020.

Caledon subsequently contracted with 2220742 Ont. Ltd. o/a Bronte Construction (“**Bronte**”) to perform the clean-up work for Pond #7 and Pond #14.

Bronte completed some work under its contract before Caledon decided to terminate it. Disagreements arose over what Bronte was owed, leading to Bronte submitting a notice of adjudication for about \$145,000. Caledon contested both the adjudicator's jurisdiction and the claim itself. The adjudicator ruled in favour of Bronte, affirming jurisdiction and awarding \$93,445.92 in his final determination.

Caledon applied for judicial review, arguing that the adjudicator lacked jurisdiction for at least part of the claim because the relevant transitional provisions of the *Act* excluded one of the pond improvements from adjudication.

Issue

The primary issue for the court to determine was how to apply the transitional provisions of the *Act* when a contract involves multiple improvements.

The Divisional Court’s Decision

The court began by highlighting how the transitional provisions of s. 87.3 of the *Act* effectively establish three different time periods:

- (1) Where a "procurement process for the improvement" was commenced before July 1, 2018 by the owner of the premises, which are governed by the predecessor *Construction Lien Act*, which does not include the adjudication provisions;
- (2) Where a "procurement process for the improvement" was commenced on or after July 1, 2018 and before October 1, 2019, the *Act* applies, but the prompt payment and adjudication provisions under Parts I.1 and II.2 do not apply; and
- (3) Where a "procurement process for the improvement" was commenced on or after October 1, 2019, the current *Act*, including the adjudication provisions apply.

In short, only improvements falling into category (3) are subject to the *Act's* adjudication provisions.

The court acknowledged the importance of the one-improvement-one-*Act* principle, however, where one contract covers two or more improvements, the question can be more complex. Specifically, the Divisional Court held that it's permissible to apply different statutory regimes to different parts of the same contract, provided those parts correspond to distinct improvements.

In applying the forgoing to the facts, the court analyzed the definition of "improvement" under the *Act*, and considered how improvements are not distinct because the works described in the contracts are distinct, the question is whether the works are in respect to the same improvement on the same lands.

Ultimately, the court concluded that Pond #7 and Pond #14 were separate improvements and that the procurement process for each fell into different transition categories under the *Act*.

As a result, only claims relating to improvements that fell into the post-Oct 2019 category were subject to adjudication. Therefore, Pond #7, having been procured before October 2019, was not subject to adjudication. Accordingly, the adjudicator's award to Bronte, as it related to amounts claimed in respect of Pond #7, was reduced.



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