

Healthcare Capital Redevelopment, Financing and Procurement

SUMMARY

We are one of the most experienced capital redevelopment and construction law groups in Canada. We have advised on numerous capital development projects for hospitals and long-term care facilities, including the first ever public-private partnership health care project in Ontario. Our advice has included structuring of financial arrangements, selection of delivery methods, preparation of procurement models, and dispute avoidance and resolution. We were involved in structuring an arrangement between a hospital and the Department of National Defence for the procurement of health facilities and services to the Canadian Forces. We acted on the first hospital infrastructure project that served as an example for the AFP model currently used by Infrastructure Ontario (IO) for many hospital capital infrastructure projects, and on many more since.

Before any construction begins, municipal approvals including a variety of land use planning approvals are required. We have experience in leading health care institutions through these approvals processes, from complex campus master plans to zoning amendments and minor variances, including appearing at municipal councils, committees and public meetings.

We regularly advise on procurement, construction, and corporate and financing issues. We have experience drafting, negotiating and executing procurement documents, project agreements, contracts and consulting agreements, as well as supporting process execution. We have also been involved in numerous claims involving prime consultants, contractors and subcontractors on major construction projects at hospitals and other healthcare organizations, and have extensive experience litigating matters including architect errors, omissions, and negligence, tender disputes, lien claims, trust claims, construction delays and impact claims, construction contract defaults, and construction, insurance and surety bond claims. We regularly provide advice to many hospitals on the defence of construction claims and the validity of claims submitted during or after project completion.

PUBLICATIONS

- Shaban & Houston, "Key considerations in the procurement of hospital design services," *Canadian Healthcare Manager*, November 2012.
- Evan Cooke, "Rulings underline municipal discretion," *The Lawyers Weekly*, September 28, 2012.
- Shouldice, Sanders & Woodhead, "P3s and the Canadian Experiences with Risk Management," *Public Sector Digest*, Fall 2012.
- Tolfo & Swanson, "A New Limitation Act for British Columbia," *Journal of Commerce*, August 6, 2012.
- Rossi & Woods, "Big changes are on the horizon: Canadian Environmental Assessment Act set for an overhaul," *The Lawyers Weekly*, June 15, 2012.
- Eagles & Swanson, "Taking a closer look at standard form contracts," *Journal of Commerce*, June 13, 2012.
- Rudi Lof, "Who's the Boss?" *Building* magazine, June/July 2012.
- Shaban & Houston, "Construct consultant contracts carefully," *The Lawyers Weekly*, April 27, 2012.

- Glaholt LLP & Borden Ladner Gervais LLP, eds, *Review of Construction Law: Recent Developments*, Carswell, 2012. Chapters written by BLG lawyers include:
 - Morrison & Berry, "Standard Form Contracts in the Construction Industry"
 - Skene & Cowper, "Risk Allocation in Canadian Public Private Partnerships"
 - Daniel Boan, "Recent Developments in Surety Law"
 - John Murphy, "Développements Récents en Droit de la Construction dans la Province de Québec"
- Pitman Patterson, "Hospital Redevelopment: It takes more than patience," *Canadian Healthcare Facilities*, Winter 2011/12.

REPRESENTATIVE WORK

- Provided project advice to health care facilities, and project lenders in respect of the financing of major capital projects; an example is The Hospital for Sick Kids Research and Learning Tower.
- Act as "shadow counsel" for health care facilities engaged in AFP Projects where Infrastructure Ontario (IO) has appointed other project counsel. Recent examples of such mandates have included Sunnybrook Health Sciences Centre, Toronto Rehabilitation Institute and Credit Valley Hospital.
- Act for health care facilities in respect of all types of conventional projects. Recent mandates of this nature have included York Central Hospital and St. Joseph Health Centre, Toronto.
- Acted for Infrastructure Ontario and the Royal Victoria Hospital of Barrie in the \$258.5 million Royal Victoria Hospital of Barrie Project to build and finance the hospital's Phase I Expansion.
- Acted for a Toronto hospital in obtaining a comprehensive rezoning for an entire campus to permit phased redevelopment of the hospital in accordance with a new master plan.
- Acted for a downtown Toronto hospital in obtaining various municipal and planning approvals to permit redevelopment of its towers.
- Provide general and ongoing advice to health care facilities in relation to procurement issues including regulatory compliance, structuring and administering procurement processes, drafting procurement documents and resolving procurement disputes.
- Acted for the design-build joint venture (Acciona Infrastructures Canada and Stuart Olsen Constructors Inc.) on a \$297.9 million project to build a new regional hospital and residential care facility in Fort St. John, B.C.
- Acted for the McGill University Health Centre in Quebec in the modernization project of its facilities.
- Acted for the following hospitals on their capital redevelopment projects:
 - Sunnybrook Health Sciences Centre
 - Credit Valley Hospital (now part of Trillium Health Partners)
 - Southlake Regional Health Centre
 - Toronto Rehabilitation Institute
 - Mt. Sinai Hospital

- The Ottawa Hospital
- Queensway Carleton Hospital
- Montfort Hospital
- Bruyère Continuing Care Inc.
- Lakeridge Health Corporation
- Windsor Regional Hospital
- Rouge Valley Hospital
- Centre for Addiction and Mental Health
- St. Joseph's Health Centre London/St. Thomas Ambulatory Care
- St. Joseph's Health Centre Hamilton
- Mental Health Centre Penetanguishene
- Represented Sunnybrook Health Sciences Centre and Quinte Healthcare Corporation in major agreements with Honeywell in respect of energy retrofit, guaranteed savings and energy management contracts.
- Represented Credit Valley Hospital in respect of their hydro connection agreement and substation upgrades.
- Acted for public entities, lenders and project proponents in a wide variety of business sectors, including:
 - Negotiating and preparing complex credit agreements and SWAP agreements in excess of \$200 million for the financing of hospital expansions; and
 - Acting for the lenders for numerous hospital redevelopment projects, including the consortia teams who were short-listed for the Kelowna Vernon Hospitals project and the Royal Jubilee Hospital project.

RANKINGS & RECOGNITIONS

- Recognized in the 2018 edition of *Chambers Canada — Canada's Leading Lawyers for Business* for Construction Law (Band 1) and Real Estate.
- Most lawyers recognized for Construction Law in the 2017 edition of the *Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada*.
- Most lawyers recognized for Construction Law in the 2017 edition of *The Best Lawyers in Canada®*. Also recognized for Real Estate Law.
- Recognized in the 2017 edition of *The Canadian Legal Lexpert® Directory* for Construction Law, Property Development and Property Leasing.
- Recognized in the 2016 edition of *Who's Who Legal — The International Who's Who of Construction Lawyers*. A BLG partner was also recognized as the top construction lawyer internationally.
- Recognized in the 2016 edition of *Who's Who Legal — The International Who's Who of Real Estate Lawyers*.
- Recognized in the 2015 edition of *Chambers Global — The World's Leading Lawyers for Business* for Construction Law (Band 1) and Real Estate.

