FTR Now

Supreme Court of Canada Finds “Owners” of Construction Projects Are Employers under Ontario’s *OHSA*

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On November 10, 2023 the Supreme Court of Canada (SCC) issued its decision in *R. v. Greater Sudbury (City).*

In a split decision, a plurality of the SCC upheld the decision of the Ontario Court of Appeal which had found that an “owner” of a construction project can also be considered an “employer” under the *Occupational Health and Safety Act* (*OHSA*) with obligations to ensure safety on the project, even in circumstances where it does not employ or exercise control over workers performing the construction work on the project. We discussed the Court of Appeal decision in our *FTR Now* “Ontario Court of Appeal Holds “Owner” of a Construction Project Can Be Considered an “Employer” Under *OHSA*”.

Per the reasons of Martin J., the plurality of the SCC held that, while the degree of control an owner may have over those working on a project may impact whether a due diligence defence is available to an owner, no requirement of control is found in the definition of what an employer is under the *OHSA*. The appeal was therefore dismissed.

We will provide a more detailed analysis of the SCC’s decision in the coming days.