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# Construction Law Update – Manitoba

2012 CBA National Construction Law Conference



Presented by  
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THE WORLD'S LEADING ASSOCIATION  
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# State of the Construction Industry in Manitoba

- Steady Growth in the Industry in Manitoba
- Residential, Hydroelectric Development and Government Projects are driving development
- Despite a relatively steady economy, there is a shortage of skilled trades and experienced labour

# Recent Notable Projects

- MB Hydro – Wuskwatim Generating Station



## Recent Notable Projects (Continued)

- James A. Richardson International Airport



## Recent Notable Projects (Continued)

- IKEA!!!!



## Recent Notable Projects (Continued)

- Investors Group Field (Bomber Stadium)



# Case Update

*Manitoba Eastern Star Chalet Inc. v. Dominion Construction Inc.* 2011  
MBQB 320

- Tender Dispute
- Dominion's bid contained an error which was not apparent on the face.
- Dominion argued that its own bid was not compliant and therefore not capable of acceptance.
- Court found that the bid was substantially compliant (the Court held that the omissions or errors were not material).
- [ConstructionLawCanada.com](http://ConstructionLawCanada.com) – January 29, 2012

# Case Update (Continued)

*NVR Holdings Ltd. v. Action Concrete Ltd.*, 2011 MBQB 103

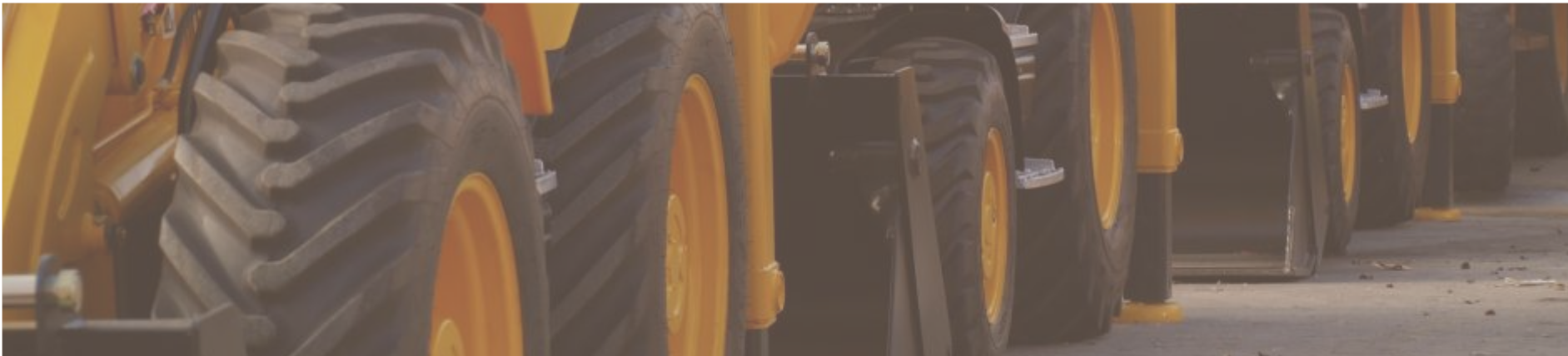
- Lien Case – Money paid into Court
- In Manitoba, a lien claimant has two years from the date of filing a lien to commence an action to enforce that lien.
- Lien filed – February 2009.
- March 23, 2009 – Money paid into Court and Lien was vacated.
- May 2010 - Owner filed a claim for damages arising from the work that was the subject-matter of the lien.
- June 2010 – Lien claimant filed a Statement of Defence and Counterclaim that doesn't mention the lien at all, just states that work was performed.
- Owner brought application for money to be paid out of Court as an “action” was not filed within 2 years after lien was filed.
- MBQB says a counterclaim (even one that doesn't specifically mention the lien) is an action within the meaning of the BLA.



## Case Update (Continued)

*Winnipeg Regional Health Authority Inc. v. Bockstael Construction Ltd.*  
2012 MBQB 116

- Construction Insurance Case
- Summary Judgment – Master’s Decision
- Defendant moved for summary judgment on the basis that the Plaintiff was barred from bringing a claim against it because of a Builder’s Risk policy – rationale from *Medicine Hat College v. Starks*
- Builder’s Risk insurer had denied coverage. The Plaintiff’s property insurer did cover the loss and brought a subrogated action against the Defendant.
- Master held that as the Builder’s Risk insurer denied coverage, the principles of *Medicine Hat College* did not apply. The Plaintiff was not barred from bringing the action.



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