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WSIB Rate Framework Review Consultation

Greater Toronto Hotel Association

Ontario Restaurant Hotel & Motel Association

Joint Submission – Final Comments

Presented to:
Workplace Safety & Insurance Board

March 31, 2016

A. A reference to the GTHA and ORHMA October 2, 2015 RFR submission

1. The **Greater Toronto Hotel Association** [“GTHA”] and the **Ontario Restaurant Hotel & Motel Association** [“ORHMA”] [collectively the “Associations”] collaboratively responded to the **Workplace Safety & Insurance Board** [“WSIB” or the “Board”] **Rate Framework Review** [“RFR”] in our joint submission of October 2, 2015 (the “October 2, 2015 Submission”).

2. The October 2, 2015 Submission remains relevant. In these final submissions, we highlight some of the more significant over-arching issues but, on the whole, all of our comments advanced on October 2, 2015 are affirmed.

B. Eliminate the Unfunded Liability before implementing RFR

1. In the October 2, 2015 Submission (pp. 2 – 4), we discussed the Board’s case for change (indicating that it was not particularly strong), but concluded with this, which bears repeating:

> At the end of the day, we are concerned that the Board will simply end up trading one set of design imperfections with a new but different set of design imperfections.
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> . . . .
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> We are struck by the stark similarities, and matching inherent risks, between the WSIB RFR initiative and the late-1990s Ontario property tax reform, the so-called “market-value-reassessment” [“MVR”] project. Similar to the RFR project, MVR enjoyed a protracted period of study and consultation,[1] followed by implementation,[2] at which point the proverbial “*stuff hit the fan*”, sparking tax-payer and municipality revolt, all of which triggered another decade or more of post-implementation “reforms.”[3] As likely will be the case with RFR, MVA became a political lightening-rod, with one expert noting that no matter how “*desirable the long-run outcome of any policy may be, its transitional effects may be sufficiently undesirable in political terms to kill it*.”[4] **The RFR project is hindered with another glaring risk – the effect of the ubiquitous unfunded liability.**

2. We hold to these views. Eliminating the UFL *prior to* RFR implementation will reduce if not eliminate the risk inherent in the analogous MVR project of the mid-1990s.

3. This becomes clearer when viewing the recently released **Class and Rate Group Level Projected Premium Rates** document, a relevant portion of which is duplicated below:

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[1] In the case of MVR, literally over a period of decades, starting with the 1967 Ontario *Committee on Taxation*, which led to provincial control over property assessment (1970), followed by the *Blair Commission on the Reform of Property Taxation in Ontario*, leading to the development of “*the alternative system*” in 1978, the *Provincial-Local Government Committee* of 1978, the 1985 report *Taxing Matters: An Assessment of the Practice of Property Taxation in Ontario*, the 1993 *Ontario Fair Tax Commission*, the 1996 *GTA Task Force*, the 1996 “*Who Does What Panel*,” all leading to a new assessment system commencing in 1998. **Reference:** Dr. Enid Slack, “*Property Tax Reform in Ontario: What Have We Learned?*”, (2002) Canadian Tax Journal, Vol. 50, No. 2, 576 - 585, and, Slack, *Presentation to Seminar on Property Rates*, Community Law Centre, University of Western Cape, January 26, 2009.
[2] In 1998
[3] In 1999, 2000, 2001, 2004, 2005, 2006, 2007 and 2008, Slack, *supra.*, note 3.
[4] Slack, *supra.* note 3, at. p. 584.

CLASS I – OTHER SERVICES

RATE GROUP #	RATE GROUP DESCRIPTION	Published Rate ($)		2014 Projected Rate ($)		2016 Projected Rate ($)	
		2014	2016	With UFL	$0 UFL	With UFL	$0 UFL
905	Apartment And Condominium Services	3.04	3.04	2.85	1.75	2.67	1.56
908	Other Real Estate Services	1.31	1.31	1.02	0.68	0.91	0.56
911	Security And Investigative Services	1.74	1.74	1.74	1.10	1.86	1.12
919	Restaurants And Catering	1.72	1.72	1.75	1.11	1.71	1.04
921	Hotels, Motels And Camping	3.10	3.10	3.45	2.09	3.19	1.84
923	Janitorial Services	3.73	3.73	3.65	2.21	3.14	1.81
929	Supply Of Non-Clerical Labour	5.05	5.05	3.88	2.34	3.45	1.98
933	Equipment Rental And Repair Services	3.08	3.08	3.65	2.20	3.15	1.82
937	Recreational Services And Facilities	2.19	2.19	2.13	1.33	2.22	1.32
944	Personal Services	3.26	3.26	2.59	1.59	2.61	1.53
956	Legal And Financial Services	0.21	0.21	0.19	0.13	0.20	0.13
958	Technical And Business Services	0.38	0.38	0.48	0.32	0.39	0.25
962	Advertising And Entertainment	1.09	1.09	0.95	0.63	1.13	0.70
975	Linen And Laundry Services	4.12	4.12	3.98	2.40	3.61	2.07
981	Membership Organizations	0.79	0.79	0.96	0.63	0.87	0.54
983	Communications Industries	0.37	0.37	0.37	0.24	0.36	0.22
	Class Total	**1.31**	**1.34**	**1.29**	**0.81**	**1.23**	**0.74**

4. Commencing RFR implementation from projected rates of $1.04 and $1.84 for RGs 919 (Restaurants) and 921 (Hotels/Motels) respectively, instead of current projected rates (with UFL) of $1.71 and $3.19 simply makes sense. *Why juggle a risk that will soon disappear?*

5. The Board's dexterity on addressing the UFL has been nothing less than remarkable. In the **2016 Ontario Budget** (at p. 42), the Ontario government acknowledges the Board's success and correctly assesses the impacts of eliminating the UFL:

> The WSIB has taken significant steps to reduce costs, and its finances have been improved by growth in investment returns and insurable payrolls. After hitting a high of $14.2 billion in 2011, the unfunded liability was $6.8 billion as of the WSIB's 2015 third quarter that ended September 30, 2015. At the end of its 2015 third quarter, WSIB was close to 78 per cent funded on a sufficiency basis, approaching the 2022 requirement of 80 per cent. The WSIB is now projecting the possibility of reaching full funding by 2022 — five years ahead of the legislated timeline.
>
> A more solid financial footing for the WSIB protects worker benefits and supports employers. Due to progress made to date, employer premiums have not been increased for three years. In its "2015 Economic Statement," the WSIB estimated that when the unfunded liability component is removed from the premium rate, it will be able to deliver $2.4 billion annually in premium reductions. This would represent an average premium rate reduction of about 40 per cent, with the average premium rate declining from $2.46 per $100 of payroll to $1.40 to $1.50 in 2015 dollars. It would also make Ontario one of the most competitive provinces in terms of workplace insurance costs, while it remains the province with the lowest allowed lost-time injury rates.

6. We repeat our conclusion set out (at p. 4) of the October 2, 2015 Submission:

> We respectfully appeal to the Board to continue to focus on *Job 1* – the financial integrity of the system. Once the system has reached and maintained 100% funding for several years, attention can then be re-focused towards a number of other objectives, including RFR.

C. The need for company specific data

1. In the October 2, 2015 Submission, we expressed the need for company specific data (at p. 4), noting that, "*without impact information at the company level, an informed comment is simply impossible*".

2. It is our understanding that the Board generally agrees and has committed to provide company specific impact information.

3. We suggest that at the earliest opportunity (and we understand that this is unlikely before 2017 and perhaps even 2018) that the Board begin to routinely provide company specific RFR "shadow rates" so that our members can not only trace the impacts of their performance but see with precise clarity the variance between net premium rates under the current classification regime and RFR classification.

D. The efficacy of NAICS as the primary organizing tool

1. In the October 2, 2015 Submission we expressed the view that there is no need for strict adherence to NAICS as the default organizing tool (at p. 12). We also noted (at p. 15) that "***Class R is not a homogeneous insurance group and we ask for consideration for NAICS 3rd digit classification, 721 Accommodations Services and 722 Food Services, and that these groups be Class R1 and Class R2***".

2. We repeat our request for this suggestion to at least be considered, and the data run for our review.

E. Multiple Business activities

1. We repeat our concerns (p. 15, October 2, 2015 Submission) that:

   > There is no sound policy reason for incongruent business risks to be assessed at the same premium rate. **O. Reg. 175/98** represents a thoughtful and well considered method to fairly and effectively assess distinct business activities operating within the same enterprise. The Board's proposal creates an artificial premium rate that, except for the largest of employers, will not be mitigated through experience. This will skew otherwise competitive markets and present advantages and disadvantages where currently none exist.

2. We remain of an open mind on this point however need more developed impact data from the Board on the specific impact of this proposal on our members.

F. In Conclusion

1. As we said on October 2, 2015, the close of this phase of the consultation project should simply represent the end of one phase and the commencement of the next consultation phase.

2. We look forward to continuing to work with the Board as the more specific impacts of RFR are investigated.

All of which is respectfully submitted