

Diocese of Huron

Memorandum to all Wardens copy to all Clergy – May 2019

From the Diocesan Land and Property Committee

Introduction: At a recent meeting of the Land and Property Committee of the Diocese of Huron a presentation was made on the obligations of the Diocese and its parishes to identify hazardous materials within our buildings. At the meeting we were informed that having a report available is a legal requirement before anyone works on our buildings. It does not have to be a major project, as even changing light fixtures can expose a person to a hazardous element (such as mercury). Failure to have a current report can result charges being laid by the Ministry of Labour. However of greater consequence would be legal action if someone came into contact with a designated hazardous element in a building without a report.

The Land and Property Committee has prepared the following memo that outlines the obligations and what constitutes a satisfactory study and report under the regulations.

What: The regulations supporting the Ontario Occupational Health and Safety Act, as they apply to churches.

Why: Churches are not exempt from these regulations and not complying with them can result in charges being laid which can result in penalties. It is the wardens who need to be aware of the regulations as they apply to the buildings for which they have responsibility.

Background: There are a number of issues which concern us, but this memo deals specifically with hazardous materials, and Ontario Regulations 490 which covers the rules around eleven designated hazardous substances, several of which are typically found in church buildings, and Ont. Reg. 278 which deals in more detail with asbestos, which is one of the eleven designated substances.

Of the eleven designated substances, four are frequently found in church buildings. They are:

- **Asbestos:** Asbestos comes in two categories, friable and non-friable. Friable is of greater concern because just by handling it, asbestos fibres can become airborne. Non friable asbestos is of less concern, and includes polymers that form composites including vinyl floor tiles as well as coatings, caulks including drywall joint compound, adhesives, sealants and patching compounds, water and sewage piping, cladding, roofing, spray textured ceilings, fire rated panels, electrical insulation and heatproof surfaces. Friable asbestos includes sprayed

on acoustic or thermal insulation often found in boilers, tanks, ducts, boiler breeching, pipes and process equipment. It is most commonly found in buildings constructed from the late 1800's to the 1970's.

- **Lead:** Found in batteries, solder, acoustic insulation, paint and varnish, radiation shielding. Lead was not banned in paint in Canada until 1978.
- **Mercury:** Found in fluorescent light tubes, thermostats, and equipment with mercury switches.
- **Silica:** Common in many construction products including concrete, mortar and brick.

Duties of the Building Owner or Owner Representatives:

The regulations apply particularly if you are contemplating any construction or maintenance project. You are required by law to inform your contractor of the presence of any and all designated hazardous materials before they even bid on your project. Once you have shown the report to your contractor, the responsibility for complying with the regulations passes to them.

You are also required to inform others who use your building as well as any person employed or volunteering to clean or maintain your buildings of the location of any and all designated hazardous substances. Typically you should show them the report and have them sign a form saying they have seen and read it. Those in your employ who may come into contact with asbestos are required to receive training on its dangers, handling, and personal hygiene.

How do I find out what hazardous materials are in our church?

You hire a competent consultant to provide you with a complete assessment detailing all such substances and their location. The Land and Property Committee can recommend a consultant if needed.

The cost of the report will vary depending on the size and number of buildings, as well as when they were constructed. For a small church the cost may be \$1,500, while for a large complex the cost may be as much as \$5,000.

Will showing the report to bidders cause an increase in the project cost?

Typically there will be no increase in project cost unless the contractor has to deal with friable asbestos, in which case there likely will be extra costs. Regardless, it is more important to comply with the law than to risk prosecution by ignoring it.

What are the consequences of not complying with these Regulations?

1. You are breaking the law.
2. Wardens are exposing themselves and the Diocese to liability for charges and litigation.
3. If a Ministry of Labour inspector determines you do not have a hazardous materials survey and report, and you have started a construction project, they will almost certainly issue a stop work order. This will delay your project, and will likely result in claims for delay from your contractor. If the inspector deems the breach to be serious (such as exposure to friable asbestos) they may lay charges. Penalties are generally a fine. (fines to individuals are a maximum of \$100,000 and to the Diocese \$1,500,000)
4. You are opening yourself and the Diocese to the potential for litigation. If a person is deemed to have been exposed to a hazardous material because we did not comply with the regulations, they may decide to sue and the consequences of that are perhaps more serious than any other. Just the cost of defending a law suit is expensive without the cost of any damages. And any insurance we may have is not valid if we have not complied with the regulations.

Next Steps:

It is recommended that all churches commission a hazardous materials investigation and report. If you are contemplating a construction or maintenance project it is mandatory. If you are not planning any construction or maintenance, it is recommended that you include the cost of such a report in your budget within the next three years, or sooner if your budget permits.

Assistance from the Diocese:

The Land and Property Committee will be happy to provide guidance, and to answer any questions you may have.

Additional Information:

This memo provides a broad summary of the most important aspects of requirements for dealing with designated hazardous substances. For more information you are referred to the Act itself and the pertinent regulations. These can be found at:

<https://www.ontario.ca/laws/statute/90o01#BK115>

Recommendation:

That each parish keep a three ring binder dealing with construction and maintenance issues. The Diocesan Land and Property Committee intend to issue further memos dealing with other issues relating to the Ontario Building Code and the Occupational Health and Safety Act. Complying with the rules does not have to be frightening or onerous, but it is important to be aware of them and to ask for assistance when in doubt. Future memos will deal with:

- Implications of being designated as the “Constructor” on a construction project.
- All about Boilers.
- When do I need a building permit.
- When and how to retain an engineer or architect.
- And more.

New Diocesan Building Guidelines:

Wardens and clergy are also directed to the new Diocesan Building Guidelines, which have been approved by Diocesan Council, and are now posted on the Diocesan website. You may want to print off a copy and put it in that new three ring binder.

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