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February 27, 2026

VIA EMAIL

Catherine Gilbert, Registrar
Ontario Labour Relations Board
505 University Avenue, 2nd Floor
Toronto, ON M5G 2P1

Dear Ms. Gilbert:

Re: Crane Rental Association of Ontario v International Union of Operating Engineers, Local 793 - Accreditation Application
OLRB File No. 2973-24-R

Introduction:

1. We act on behalf of the Applicant, the Crane Rental Association of Ontario (the "CRAO"), in the above-noted Application for Accreditation brought under section 134 of the Labour Relations Act, 1995, SO 1995, c 1, Sch A ("the Act").

2. Pursuant to the direction of Vice-Chair Slaughter in the Decision issued December 15, 2025, the CRAO provides these submissions in response to the request of the Labourers' International Union of North America, Locals 183, 493, 506, 527, 607, 837, 1036 and 1059 (the "LIUNA Locals") for intervenor status in this accreditation proceeding.

3. In submissions dated January 30, 2026, the LIUNA Locals assert that they should be granted: (a) intervenor status on the basis of an alleged direct legal interest in the Application; or, in the alternative, (b) *amicus curiae* status. It is the CRAO's position that the LIUNA Locals do not meet the established legal criteria for either form of participation.

4. The CRAO further notes that the December 15, 2025, decision was explicit: the purpose of written submissions was confined to addressing the "status of the labourers to intervene." Notwithstanding that clear direction, the LIUNA Locals filed more than thirty pages of submissions, the substantial majority of which address the merits of the accreditation application itself. These are, in substance, merits submissions cloaked as status submissions. They are procedurally improper at this stage and fall outside the scope of the Board's direction.

5. To the extent that the LIUNA Locals' submissions contain arguments relevant to the narrow question of whether they satisfy the legal test for intervenor status, the CRAO responds only to that limited issue. The CRAO expressly reserves it's right to respond to any submissions on the merits should the LIUNA Locals be granted standing to participate, which, for the reasons set out below, they should not be.

The Arguments of the LIUNA Locals related to Intervention Standing

6. Given that the majority of the LIUNA Locals' submissions address the merits of the Application rather than the issue of standing, the CRAO has been required to distill their position to determine how, if at all, their arguments relate to the test for intervention. Properly understood, the LIUNA Locals' position appears to be as follows:

a. The LIUNA Locals assert that they have a direct legal interest in the Application because:

   i. The Application seeks to carve out work already covered by the Provincial Formwork Agreement;

   ii. The proposed bargaining unit would carve out work from the Provincial Formwork Agreement;

   iii. The Application seeks to create bargaining rights;

   iv. The bargaining space the Application seeks to carve out does not exist and is impermissible under sections 55 and 140 of the Labour Relations Act;

   v. The CRAO has no bargaining history with the International Union of Operating Engineers;

   vi. The exclusion of the Provincial Formwork Agreement is insufficient; and

   vii. The Application is, in substance, a scheme of the International Union of Operating Engineers.

7. The CRAO submits that even if each of the foregoing allegations relied upon by the LIUNA Locals were assumed to be true, they would still fail to meet the legal test for intervention. An overview of that analysis follows.

Legal Test for Intervention in an Accreditation Application

8. The test for intervention in an accreditation application was best laid out by Vice-Chair Slaughter in *Electrical Power Systems Construction Association v The IBEW Electrical Power Council of Ontario representing the following affiliated Local Unions 105*, 2019 CanLII 13696 (ON LRB) ("EPSCA"):

> 9. The Board's test for intervenor status as of right is well-known and has been consistently applied for over four decades. It dates back to the Board's decision in *Napev Construction Limited*, [1976] OLRB Rep. March 109. In order to qualify for intervenor status as of right, a party must demonstrate a "direct and legal interest" in the subject matter of this application. An indirect, economic, commercial or incidental interest is not sufficient to merit intervenor status: *Essex County Library Board*, *supra*; *Double Team Finish Carpentry*, 2015 CanLII 65518 (ON LRB) (October 9, 2015); *International Brotherhood of Electrical Workers*, [1996] OLRB Rep. February 70; *All-Pro Construction*, [1982] OLRB Rep. August 1109.
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> 10. In the context of accreditation applications, the Board has been consistent in denying intervenor status to competing unions: *Ontario Formwork, EPSCA, Masonry Contractors, Terrazzo, Tile and Marble Guild, supra*. The reason for this is that accreditation applications only regulate bargaining between the applicant employer organizations and the responding party trade unions. They do not affect the rights of third parties. As the Board succinctly put it in Ontario Formwork,

supra, “a certificate of accreditation neither creates bargaining rights for that trade union or council nor diminishes the bargaining rights of any other trade union”.

9. The LIUNA Locals bear the onus of establishing a “direct and legal interest” in the subject matter of this Application. As the Board has repeatedly held for over four decades, an indirect, economic, strategic, or jurisdictional interest is insufficient. Even if each of the allegations advanced by the LIUNA Locals were accepted at face value, they do not establish the requisite direct and legal interest.

Alleged Impact on the Provincial Formwork Agreement

10. The LIUNA Locals’ position is that many of the employers identified in this Application are already bound to the Provincial Formwork Agreement. In their view, granting accreditation to the CRAO would create a parallel bargaining regime over work already governed by the Provincial Formwork Agreement, thereby undermining the Formwork Council framework and, indirectly, the bargaining rights the LIUNA Locals derive from that agreement.

11. The LIUNA Locals’ asserted interest is contradicted by their own historical position and longstanding industry practice. As the CRAO previously advised the Board in correspondence dated December 11, 2025, when the employer association responsible for negotiating the Provincial Formwork Agreement applied for and obtained accreditation, neither the Labourers nor the International Union of Operating Engineers took the position that crane rental or equipment rental (including concrete pumping) employers performing work pursuant to Schedule “A” of the Operating Engineers’ Provincial Agreement were affected employers in that proceeding. Those employers were not identified as affected

parties, were not provided notice of that accreditation application, and no claim was advanced that their bargaining arrangements created a conflict with, or undermined, the Formwork Agreement. Moreover, neither the Formwork Council, nor the Operating Engineers or the LINA Locals' individually, has ever grieved a crane rental or concrete pumping equipment rental employer for applying Schedule A of the Operating Engineers' Provincial Agreement instead of the accredited formwork agreement.

12. That historical fact is significant. It confirms that the accreditation of an employer association bargaining with a different trade union has not previously been understood to alter or engage the Labourers' bargaining rights under the Provincial Formwork Agreement. The LIUNA Locals' present assertion that this Application directly affects their legal rights represents a departure from decades of consistent industry understanding and practice.

13. The alleged impact identified by the LIUNA Locals is, at most, indirect. The grant of accreditation in this proceeding will not revoke any bargaining rights held by the LIUNA Locals, invalidate the Provincial Formwork Agreement, relieve any employer of obligations owed under that agreement, or redefine the scope of work covered by it. Their concern is instead that accreditation may, through subsequent bargaining conduct, create practical tension between parallel agreements. That speculative and contingent consequence does not constitute a direct alteration of their legal status. The Board's order itself does not change their rights; it merely determines whether the CRAO may bargain with the IUOE for the applied-for unit.

14. An analogous argument was recently rejected in *Residential Hardwood and Carpet Association v. Labourers' International Union of North America*, 2025 CanLII 41080 (ON LRB) ("*Residential Hardwood*"). In that case, Vice-Chair Thompson considered whether two proposed intervenors, the United Brotherhood of Carpenters and Joiners of America, Local 27 (the "Carpenters") and the Resilient Flooring Contractors Association of Ontario ("RFCAO"), an accredited employer bargaining agency, had standing to intervene in an accreditation application.

15. The Carpenters and the RFCAO argued that the proposed bargaining unit overlapped with the RFCAO's existing accreditation certificate and collective agreement, and that granting accreditation would create conflicting obligations for at least one employer. They submitted that such overlap undermined the integrity of the accreditation regime and gave them a direct legal interest in the proceeding.

16. The Board rejected that submission. It held that an accreditation order regulates only the bargaining relationship between the applicant employer association and the responding trade union. Reaffirming long-standing jurisprudence, the Board emphasized at para 28 that "a certificate of accreditation neither creates bargaining rights for that trade union or council nor diminishes the bargaining rights of any other trade union." The possibility that an employer might be bound to multiple collective agreements, or that disputes might arise regarding the scope of bargaining obligations, did not confer a direct legal interest in the accreditation application. In fact, Vice-Chair Thompson indicated at para 30 that it would not be appropriate to address those issues in the accreditation application. Any such disputes were properly addressed in separate proceedings.

17. The same reasoning applies here. Even assuming that certain employers are bound to the Provincial Formwork Agreement, the granting of accreditation to the CRAO would not revoke or diminish any bargaining rights held by the LIUNA Locals. At most, it may give rise to future disputes concerning the application of existing agreements, disputes which, as *Residential Hardwood* makes clear, do not provide a basis for intervenor standing in an accreditation proceeding.

18. It is also significant that the Ontario Formwork Association, the accredited employer bargaining agency directly associated with the Provincial Formwork Agreement, initially sought to intervene in this proceeding and subsequently withdrew its request. The LIUNA Locals are constituent members of the Formwork Council of Ontario. The Board has held that a constituent member of a bargaining agency does not have standing to independently intervene in a proceeding where the bargaining agency itself has not sought standing, absent an express delegation of authority: *Labourers' International Union of North America, Local 1059 v 1412768 Ontario Ltd. o/a Central Construction,* 2020 CanLII 50692 (ON LRB) at para 3. In that case, the Board declined standing to a constituent member on the basis that the employer bargaining agency had not sought to participate and no delegated authority had been established. The same principle applies here to the LIUNA Locals. The Formwork Council of Ontario has not sought to intervene, and neither has the Formwork Council of Ontario delegated authority to the LIUNA Locals to do so on its behalf.

Allegation that Bargaining Space does not Exist and is Impermissible under the Act

19. The LIUNA Locals further assert that the "bargaining space" the CRAO seeks to occupy does not exist because all relevant construction work is already governed by existing

accreditation certificates. They submit that sections 55 and 140 of the Act prohibit overlapping collective agreements and that the applied-for bargaining unit is therefore impermissible.

20. Properly understood, that submission goes to the alleged appropriateness of the proposed bargaining unit. It does not establish that the LIUNA Locals' legal rights will be altered by the Board's determination in this accreditation proceeding. The issue at this stage is not whether the Application ultimately succeeds on the merits, but whether the LIUNA Locals possess a direct and legal interest in its outcome.

21. Even if it were assumed, solely for the purpose of the standing analysis, that the LIUNA Locals are correct in their interpretation of sections 55 and 140, that allegation does not confer intervenor status. The mere assertion that an accreditation application may contravene the Act does not transform a third party into one whose legal status will be changed by the Board's order. The Board's task in this proceeding is to determine whether the CRAO may be accredited as a bargaining agent for employers whose employees are represented by the IUOE. That determination does not bind the LIUNA Locals, amend their certifications, alter the Provincial Formwork Agreement, or relieve any employer of obligations currently owed to them.

22. The LIUNA Locals' submission that the applied-for bargaining unit is impermissible under sections 55 and 140 of the Act is, in substance, an allegation that granting accreditation would formalize or perpetuate an unlawful bargaining structure. An analogous argument was expressly rejected by the Board in *Masonry Contractors' Association of Toronto v Masonry Council of Unions Toronto and Vicinity,* 2018 CanLII 121996 (ON LRB).

23. In that case, the proposed intervenors argued that granting accreditation would formalize a violation of section 162 of the Act and consolidate allegedly unlawful bargaining rights. They submitted that the interconnected nature of the existing bargaining regime meant that accreditation would entrench an unlawful arrangement and interfere with their provincial designation rights.

24. Vice-Chair Shouldice rejected that submission. At paragraph 10, the Board reaffirmed that an accreditation order does not expand the bargaining rights of the responding party. The Board held that even if questions existed concerning the legality of the existing bargaining relationships, those issues were properly addressed in separate proceedings. The potential illegality of the underlying structure did not confer a direct legal interest in the accreditation application itself.

25. Similarly, the Board's recent decision in *Ontario Association of Demolition Contractors Inc. v Labourers' International Union of North America*, 2026 CanLII 8505 (ON LRB) ("Demolition Contractors") further confirms this principle. In that case, the International Union of Operating Engineers, Local 793 sought intervenor status in an accreditation application on the basis that the responding union's Demolition Agreement was "unlawful and in breach of section 162 of the Act." Local 793 argued that accreditation would entrench an unlawful bargaining structure and interfere with its bargaining rights.

26. Vice-Chair Slaughter rejected that submission. At paragraph 6, the Board held that even if the impugned agreement were alleged to be unlawful, that allegation did not confer a "direct and legal interest" in the accreditation application. The Board stated that Local 793 remained "at liberty to bring an unfair labour practice complaint in that regard if it chooses

to do so," but that doing so "would not endow Local 793 with a direct and legal interest to intervene in this accreditation application." The Board emphasized that the outcome of the accreditation application would "neither create bargaining rights for the Labourers that did not previously exist nor diminish any of Local 793's current bargaining rights." In the absence of such an effect, standing was denied.

27. The same reasoning applies here. Even if the LIUNA Locals are correct that the Application raises questions under sections 55 or 140 of the Act, those are merits issues. They do not establish that the granting or denial of accreditation will alter the LIUNA Locals' legal rights.

28. The Board has consistently maintained that accreditation proceedings are not the forum in which third parties litigate the alleged unlawfulness of existing or proposed bargaining structures. The proper question at this stage is whether the Board's order will bind or alter the legal status of the LIUNA Locals. It will not.

Allegation that the CRAO Has No Bargaining History

29. The LIUNA Locals also assert that the CRAO lacks bargaining history in the non-ICI sectors and therefore should not be accredited.

30. Again, such an argument inappropriately pertains to the merits of the Application. It does not, and cannot, even if assumed to be true establish that the LIUNA Locals' legal rights will be altered by the granting or denial of accreditation. Whether the CRAO ultimately satisfies the statutory criteria for accreditation is a matter between the parties properly before the Board. It does not confer standing on a third party.

Allegation that the Application Is a "Scheme"

31. The LIUNA Locals further suggest that the Application is, in substance, a "scheme" of the IUOE designed to undermine the Formwork Council framework.

32. The Board's standing analysis does not turn on the alleged 'strategic objectives' of the parties. It turns on whether the Board's order will alter the legal rights or obligations of the proposed intervenor. As demonstrated above, it will not.

Conclusion on LIUNA Locals' Status

33. When distilled to its essence, the LIUNA Locals' position is that the Application may create practical tension within the broader accreditation regime. Even if that were so, the jurisprudence is clear that indirect, strategic, jurisdictional, or policy concerns do not constitute a direct and legal interest. The granting or denial of accreditation will not bind the LIUNA Locals, revoke their certifications, amend their collective agreements, or relieve employers of obligations owed to them. In these circumstances, the LIUNA Locals do not meet the threshold for intervenor status as of right.

The Arguments of the LIUNA Locals related to *Amicus Curiae* Participation

34. In the alternative, the LIUNA Locals seek standing on an *amicus curiae* basis. They submit that even if they do not meet the threshold for intervenor status as of right, the Board should exercise its discretion to permit their participation because they can provide real and substantial input on issues the Board is unlikely to receive from the direct parties.

35. The LIUNA Locals contend that the CRAO and the IUOE are aligned in interest and therefore will not advance submissions concerning the broader structural and systemic implications of the proposed accreditation. They argue that this Application has far-reaching consequences for the integrity of the accreditation regime in the non-ICI sectors of the construction industry, particularly as it relates to the Formwork Council framework and other existing accreditation orders. In their view, the Board requires the participation of a party not aligned with the direct parties in order to properly address those implications.

36. They assert that they are uniquely positioned to assist the Board because they are constituent members of the Formwork Council and are bound by multiple accreditation orders in the non-ICI sectors. On that basis, they submit that they can provide a perspective concerning the interaction between the proposed bargaining unit and the existing accreditation structure, including issues relating to alleged overlap, the status of Schedule "A," the appropriateness of the bargaining unit description, and whether any residual construction work remains available to be bargained.

Legal Test for *amicus curiae* Status in an Accreditation Application

37. The Board has consistently held that *amicus curiae* standing is exceptional. In *Electrical Power Systems Construction Association v The IBEW Electrical Power Council of Ontario*, 2019 CanLII 13696 (ON LRB), Vice-Chair Slaughter addressed the principles governing *amicus curiae* participation in the context of an accreditation application. At paragraph 13, the Board stated:

> The principles applicable to the granting of *amicus curiae* status are identified in Dieleman, supra, with reference to the Ontario Court of Appeal's decision in

Regional Municipality of Peel and Attorney General of Ontario v Great Atlantic & Pacific Co. of Canada Ltd. (1990), 1990 CanLII 6886 (ON CA), 74 O.R. (2d) 164 where amicus curiae status was granted to a party that had a 'special knowledge and expertise of the subject matter' and was 'in a position to place the issues in a slightly different perspective'. It should be noted that this was a case dealing with an issue that had an impact on all citizens of Ontario, namely the constitutionality of the *Retail Business Holidays Act,* R.S.O. 1980, c. 453."

38. The Board went on to emphasize that *amicus curiae* standing is not appropriate where the proceeding concerns a discrete factual determination between specific parties and does not raise issues of constitutional dimension or important questions of general statutory policy. Absent exceptional circumstances, an institutional party that is otherwise a stranger to the proceeding is not in a position to offer greater assistance than the parties properly before the Board.

39. The reasoning in *EPSCA* applies squarely here. This Application does not raise any issue of constitutional interpretation, nor does it engage an overarching question of general statutory policy affecting the province at large. It concerns a discreet and fact-specific determination under section 134 of the Act: whether the CRAO may be accredited as the bargaining agent for employers whose employees are represented by the IUOE in the applied-for unit. That determination regulates the bargaining relationship between those parties alone. It does not purport to restructure the construction bargaining regime, nor does it determine the legality of any third-party agreement.

40. The LIUNA Locals submit that they are "uniquely positioned" to advance structural concerns regarding the Formwork Council and the integrity of the non-ICI accreditation system. However, that submission mirrors the argument rejected in *EPSCA*, where CUSW asserted that it was uniquely situated to challenge the applicant's status and that the accreditation could cause broader industry disruption. The Board rejected that position, holding that:

> [Para 17] […] The commercial competition between the two unions does not give rise to either one of them having "special knowledge or expertise" or a unique perspective that would justify participation on an *amicus curiae* basis in a representation application before the Board. Rather, it points in the opposite direction.

41. The LIUNA Locals are not strangers with specialized technical knowledge external to the dispute. They are institutional parties with an obvious strategic interest in the outcome. Their perspective is not neutral assistance to the Board; it is adversarial to the relief sought. As Vice-Chair Slaughter observed, in the absence of exceptional circumstances, "it is difficult to see how an institutional party like a trade union or employer (or employer association) that is otherwise a stranger to the proceeding is in a position to offer the Board greater assistance on a legal issue than the institutional parties that are properly before it." No exceptional circumstances exist here.

42. As discussed in the first part of our submissions resisting the LIUNA Local's request to intervene, it is likewise relevant to their alternative request for *amicus curae* status that the Ontario Formwork Association initially sought to intervene in this proceeding and subsequently withdrew its request, and they seek standing as constituent members of the

Formwork Council of Ontario, but without delegation of authority being granted by the council itself. Just as the Board has held that a constituent member of a bargaining agency does not have standing to independently intervene in a proceeding where the bargaining agency itself has not sought standing, absent an express delegation of authority (see, *Labourers' International Union of North America, Local 1059 v 1412768 Ontario Ltd. o/a Central Construction,* 2020 CanLII 50692 (ON LRB) at para 3), so too here it would be inconsistent with the Board's jurisprudence to permit a constituent member to advance the such institutional interests.

43. The two entities most directly connected to the Provincial Formwork Agreement, and whose accreditation certificate is said to be implicated, ultimately chose not to pursue standing. That fact further underscores that this Application does not present the kind of systemic or constitutional issue that requires third-party participation for the Board to discharge its mandate.

44. To the extent the Board considers that any of the issues identified by the LIUNA Locals warrant further scrutiny, including questions concerning the scope of the proposed bargaining unit, the interaction between accreditation certificates, or the application of particular provisions of the Act, the direct parties are fully capable of addressing those matters. The CRAO and the IUOE are properly before the Board, are represented, and can respond to any concerns the Board identifies.

45. The Board is an expert tribunal capable of identifying and adjudicating issues arising from its home statute and policy issues squarely within its expertise. The Board is not dependent

upon the participation of a third-party trade union to ensure that relevant statutory or structural considerations are canvassed.

46. *Amicus curiae* standing is not a mechanism to introduce an additional adversarial participant simply because that party disagrees with the relief sought. It is reserved for circumstances where the Board would otherwise be deprived of necessary expertise or perspective. That is not the case here. The issues are legal and statutory in nature, and the Board retains the authority to request further submissions from the direct parties if it considers that appropriate.

47. In short, the participation of the LIUNA Locals is neither necessary nor exceptional. The Board can, and routinely does, determine accreditation applications on the record and submissions of the applicant and responding trade union. There is no principled basis to expand this proceeding beyond its proper scope by granting *amicus curiae* status to an institutional competitor whose interest is plainly aligned with defeating the Application.

48. In these circumstances, the LIUNA Locals have not demonstrated that they possess the "special knowledge and expertise" contemplated in *EPSCA*, nor that this proceeding engages the type of broad public or constitutional issue that has historically justified amicus participation. Their request for amicus curiae standing should therefore be denied.

Conclusion

49. The jurisprudence is clear and longstanding. An proposed intervenor must demonstrate a direct and legal interest in the subject matter of the accreditation application. The LIUNA Locals have not done so. The granting or denial of accreditation in this proceeding will not

create, extinguish, expand, or diminish any of their bargaining rights, nor will it amend or invalidate the Provincial Formwork Agreement.

50. The LIUNA Locals' concerns, at their highest, relate to alleged overlap, structural tension within the broader accreditation regime, or asserted statutory non-compliance. Those are merits issues. They do not confer standing. Nor do they justify the exceptional remedy of amicus curiae participation.

51. For all of the foregoing reasons, the LIUNA Locals' request for intervenor status, whether as of right or on an amicus curiae basis, should be denied.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

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