

Legal battle shapes up at university

Contractor claims it's owed millions for Trent University science building

Peterborough Examiner - Friday, July 09, 2004 - 08:00

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By LEE BERTHIAUME

Local News - Trent University is mired in a legal battle over its new \$20-million science facility, which was beset by construction delays and is millions of dollars over budget.

Documents obtained by The Examiner show 13 companies have not been paid \$3,008,597 by general contractor Vanbots Construction Corp.

Vanbots, the company that oversaw construction of the Chemical Sciences Building, says the university still owes it \$6,213,008 for its work on the \$19,617,381 project.

All 14 companies have filed liens against the project meaning Trent cannot take ownership until the liens are resolved. The matter could end up in court if an agreement is not reached.

Vanbots general manager Tony Vedlin said his company hasn't been paid since last September, the same month the building was to be occupied.

Construction delays kept the doors closed until Nov. 7.

Vedlin said it was likely the delay was the reason Vanbots wasn't paid, but he said the holdup wasn't the contractor's fault.

"The owner added \$2 million to the project," he said. "That came out to 15 per cent more work."

Vedlin said changes were made to the original design during construction, all of which hurt the schedule.

"It disrupts your normal work flow," he said.

Vanbots chief executive officer Keith Gillam said his company had no choice but to file a lien.

"We wouldn't have done it if we didn't feel it was necessary," Gillam said. "When a contractor does a lien, it is not to be taken lightly."

Gillam said he believes this was the first time Vanbots had ever issued a lien.

Trent finance director Garth Brownscombe said it was no secret Trent was disappointed when it couldn't move into the building in September. The delay had a negative impact on operations and cost the university money.

He said the building still has a number of deficiencies which must be worked out.

"We still have some serious issues," he said.

Vanbots also oversaw Peter Gzowski College construction. The two projects were worth \$50 million but are \$3.2-million over budget. The liens only affect the science building.

Brownscombe blamed the hectic construction market which saw prices increase significantly over the past few years buoyed in part by similar projects at post-secondary institutions around the province to offset the double-cohort's influx of students.

He said part of the reason for the original design changes was to help keep the cost of the projects under control. However, Brownscombe said some changes and extra work Vanbots billed for were never approved.

"There were some that we agreed to and some that appeared at the time of billing," he said.

Brownscombe said there had been talks between the university and Vanbots but once statements of claim were filed lawyers took over.

But both Gillam and Brownscombe were confident the matter would be resolved before getting to the courts.

"There are issues on both sides," Gillam said. "But I have no doubt it will be resolved. We would like to resolve it quickly."

Brownscombe said the university will cover some of the \$3.2 million in next year's budget with the rest being financed over the long term.

The 13 subcontractors, which include local companies Cremers Brothers Electric Ltd. and Trent Glass Ltd., won't be able to collect the money they're owed until the issue is resolved.

"It's just us caught between the owner and the contractor," Rick Cremers said.

His company is still owed \$535,607 for electrical work. The company has already been paid \$1,677,418.

Cremers said while his company has no choice but to file a lien against the building to make sure it is paid.

"You'd like to have your money, but it's not going to kill us," he said of the outstanding payment. "I'm sure they'll come to some agreement."

Other subcontractors, however, were upset that such a situation happened and blamed Trent.

“I think the university is being unreasonable,” said William Deluca, president of Aldershot Landscape Contractors Ltd. “We’ve never had any other problems with Vanbots before.”

Deluca’s company, which is owed \$222,666, hasn’t been paid for any of its work.

He said the company first heard there were problems last fall after putting \$140,000 into the project and had intended on not completing the job until it was paid. However, Deluca agreed to finish the job after Vanbots asked it to do so in good faith.

“We poured another \$80,000 into the project in the hope that cooler heads would prevail,” he said. “Nobody wants to take a job and get involved in something like this.”

Deluca said his company has had to file liens in the past but never with a public entity, especially one with as high a profile as Trent.

“Now we’re going to have to wait for the lawyers to take their pound of flesh before we get paid,” he said in frustration.

Brownscombe was confident students and staff at the science facility wouldn’t be affected by the legal battle.

Canadian Architect magazine selected the building on the Symons Campus, among 11 other winners, for a 2003 Award of Merit for architectural significance.

The building houses Trent’s chemistry department, the Water Quality Centre, 21 offices for staff and faculty, 10 research labs, four chemistry teaching labs, a computational chemistry lab, a problem set lab and a science conference meeting room.

The following companies have filed liens:

- Vanbots Construction Corp. – \$6,213,008
- Mapleridge Mechanical Contracting Ltd. – \$903,724
- Cremers Brothers Electric Inc. – \$535,607
- Semple-Gooder Roofing Ltd. – \$345,118
- Foremont Drywall Inc. – \$263,513
- Aldershot Landscape Contractors Ltd. – \$222,666
- C.J. Duguid Flooring (Ontario) Ltd. – \$205,450
- Trent Glass Ltd. – \$179,815
- Lions Group Inc. – \$98,195
- Ahmeric Group of Companies – \$92,000
- Aquanorth Contracting Ltd. – \$80,571
- O’Connell Construction Ltd. – \$48,770
- Eagle Ornamental Precast Ltd. – \$23,410
- Granolite Company Ltd. – \$4,758

Trent University’s Construction Woes

What: Vanbots Construction says the university owes it \$6,213,008 for work on the new Chemical Sciences Building. It has filed a lien* against Trent, as have 13 other contractors who also claim to be owed money.

WHY: Vanbots said it likely hasn’t been paid because of construction delays. The university says some work that was completed was never approved.

WHAT NEXT: Trent can’t take ownership of the building until all of the liens are resolved. The matter could end up in court.

* A lien is a legal claim on a property that acts as a security for the payment of a debt.

Science wing timeline

Nov. 1999 – Trent applies for \$32 million in funding from the province’s SuperBuild program to accommodate an expected influx of new students from the elimination of OAC. The application involves renovations of the science facility, the addition of a new science wing, a new arts and humanities centre, residences and a conference centre.

Feb. 2000 – Trent learns it has failed to receive SuperBuild funding. The university meets with the government to appeal the decision.

May 2000 – Trent is awarded \$26 million in SuperBuild funding for the new additions and renovations after the provincial budget.

June 2000 – The school begins to update its master plan in preparation for the new additions.

Nov. 2000 – The updated master plan is unveiled. It includes options for campus development over the next 10 to 15 years.

March 2001 – Firms Teeple Architects and Shore Tible Irwin and Partners are signed onto the SuperBuild project and begin work on the actual design.

Aug. 15, 2001 – The ground is broken to begin construction for the new science facility. Construction begins.

Sept. 2002 – A fundraising council is established to raise \$2 million for the science building.

March 28, 2003 – John Wordley, the university’s physical resources director, reports to the school’s board of governors that construction is on schedule to be opened in September. He says it is also on budget.

June 26, 2003 – Acting vice-president of administration Garth Brownscombe tells governors that most of the building will be open for business on Sept. 5. He says the water quality centre will not open until October due to delays during the previous winter. The board makes the name Chemical Sciences Building official but says it can be renamed by a private company for \$2 million.

Sept. 5, 2003 – The Chemical Sciences Building does not open according to schedule. Classes are relocated to other locations.

Nov. 7, 2003 – Trent gets its occupancy licence for the science building two months late. While staff and equipment are moved into the facility, the first classes to occupy the building are in January.

January 2004 – Canadian Architect magazine selects the building as one of 12 winners of the 2003 Award of Merit for architectural significance.

March 2004 – Trent reports it will not take ownership of the building on March 10 as is planned citing technical deficiencies that must be worked out. The first hints of legal troubles between Vanbots and Trent are revealed after an official with the contractor who refuses to be named calls the matter “a huge story.”

March 30, 2004 – The first lien is filed against the building by Mapleridge Mechanical Contracting Ltd. in the amount of \$903,724.

April 2004 – Six more liens and two certificates of action are filed against the building by subcontractors.

April 30, 2004 – Brownscombe reports the university has asked Vanbots to leave the construction site as work on both Peter Gzowski College and the Chemical Sciences Building is all but complete. Tells The Examiner the request did not relate to performance.

June 2004 – Seven more liens are brought against the building, including a \$6,213,008 lien from Vanbots.