Property Owner Not Liable for Its Contractor's OHS Violations



Is a city liable when a road grader operated by its paving contractor strikes and kills a pedestrian as she tries to cross an intersection within a construction site that should have been fenced off' The prosecutor sure thought so and charged the city as both a constructor and employer. But the Ontario judge found that the city was none of the above and dismissed all OHS charges. And the appeals court said she was right to do so. The paving contractor was the constructor. The contract named it as constructor and the contractor had total control over the work done at the project. The fact that the city reserved the right to inspect the work didn't make it the constructor. 'An owner does not become a constructor [merely because] it has engaged professional or other persons to oversee quality control at a project,' the court explained [*R. v. Greater Sudbury (City),* 2019 ONSC 3285 (CanLII), June 6, 2019].