

# PAVING A SMOOTHER ROAD

HELPING SMALL BUSINESSES  
SURVIVE INFRASTRUCTURE WORK

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**CANADIAN FEDERATION  
OF INDEPENDENT BUSINESS**

*In business for your business™*

# Paving a Smoother Road

## Helping small businesses survive infrastructure work

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Since 2012, 41 per cent of Canadian small businesses have been disrupted by local construction projects, with 5 per cent in a major way. This is equivalent to 65,000 businesses that often had to borrow, relocate or close down altogether due to the major negative impact construction projects had on their operations. Huge economic costs of construction are being unfairly offloaded on small businesses. Moreover, only three out of ten disrupted business owners are satisfied with the support they received from their government.

Canadian municipalities, which are in charge of a large part of all public infrastructure projects, should do a better job at mitigating the negative impact on small businesses. The first step is to immediately start compensating businesses that are worst hit by construction. Disruption can also be minimized through better planning, communication and execution of projects. In fact, small business owners overwhelmingly support the adoption of a coherent construction mitigation policy by their municipality. By better executing construction projects, this policy would be in the interests of local businesses, municipalities and citizens alike.

Canadian governments plan to spend more on infrastructure in the foreseeable future, adding to the urgency for municipalities to apply best practices to solve the issues local businesses have with construction. This CFIB report identifies much needed practical solutions, based on results from a survey of thousands of Canadian small business owners and exclusive feedback received from several North American cities.

## Introduction

Federal and provincial governments recently committed to invest hundreds of billions of dollars in thousands of public infrastructure projects all across the country<sup>1,2,3,4</sup>. As well, local governments play a key role not only as funders, but also by being ultimately responsible for many infrastructure projects. Canadian business owners support fixing basic infrastructure. However, the way in which construction is handled by governments, especially by municipalities, is critical as it can be disruptive and, in some cases, be costly enough to shut down local businesses. Several examples exist to remind us of the serious hardships that businesses can face during construction:

- In Vancouver-Richmond, the Canada Line project (2005-2009) resulted in the complete dig up of Cambie Street and years of construction in order to add a tunnelled rail link under the boulevard<sup>5</sup>. In a previous report, CFIB estimated that the sales loss for the average business in the corridor was \$111,928<sup>6</sup>. Several businesses had to relocate or shut down completely.
- In Montreal, the retrofit of St. Laurent Boulevard (2007-2008) lasted for over a year and the street even had to be re-dug because of poor coordination<sup>7</sup>. Many long-standing businesses left, leaving the economic climate on St. Laurent in a poor shape for an extended time.
- In downtown Halifax, streets were closed and parking reduced for the Nova Centre development which was plagued by delays and took twice as long as originally projected to complete<sup>8</sup>. In 2015, CFIB worked with several businesses looking for compensation following a significant drop in revenues, which reached close to 50% in some cases.
- In Kitchener-Waterloo, the light-rail transit—or LRT—project created detours, traffic and lost sales for local businesses<sup>9</sup>. Several of them recently considered taking legal action against the city and region.

This is only a small sample. Regardless of location, too often local businesses are struggling during public infrastructure projects. Huge economic costs of construction are unfairly offloaded on them. Clearly, municipalities should do better at mitigating the negative impacts. It is with this premise in mind that the Canadian Federation of Independent Business (CFIB) decided to measure the extent of the problem and identify practical solutions.

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<sup>1</sup> GOVERNMENT OF CANADA (2018), *2018 Budget Plan: Annex 2, section 4.4 – Update on Allocation of Infrastructure Investments*, [goo.gl/du44dR](https://www150.com/du44dR) (accessed 2018-04-10).

<sup>2</sup> ONTARIO MINISTRY OF INFRASTRUCTURE (2017), *2017 Infrastructure Update*, [goo.gl/VuSsVD](https://www150.com/VuSsVD) (accessed 2018-04-10).

<sup>3</sup> GOVERNMENT OF QUEBEC (2018), *2018-2028 Québec Infrastructure Plan*, [goo.gl/uxZQ4f](https://www150.com/uxZQ4f) (accessed 2018-04-10).

<sup>4</sup> INFRASTRUCTURE CANADA (2018), *Investing in Canada plan: Infrastructure Canada Bilateral Agreements*, [goo.gl/MvwEsA](https://www150.com/MvwEsA) (accessed 2018-04-10).

<sup>5</sup> Laura JONES (2010), "Broadway corridor threatens repeat of Canada Line fiasco", *The Province*, May 6<sup>th</sup>, [goo.gl/4yVyhQ](https://www150.com/4yVyhQ) (accessed 2018-04-10).

<sup>6</sup> Laura JONES and Heather TILLEY (2007), *Construction Destruction – Quantifying the impact of Canada Line Construction on Small Business*, CFIB, October, 8 p.

<sup>7</sup> Josh FREED (2007) "How city hall is killing St. Laurent Blvd. – one construction barrier at a time", *Montreal Gazette*, September 29<sup>th</sup>, [goo.gl/kR2aUS](https://www150.com/kR2aUS) (accessed 2018-04-10).

<sup>8</sup> CBC NEWS (2015), "Nova Centre construction leads to calls for compensation from 8 businesses", [goo.gl/qoSjv6](https://www150.com/qoSjv6) (accessed 2018-04-10).

<sup>9</sup> CTV KITCHENER (2017), "Legal notices filed over business losses during LRT construction", [goo.gl/rq5Uom](https://www150.com/rq5Uom) (accessed 2018-04-10).

## Methodology

Between July 6 and 26, 2017, CFIB surveyed its members on the impact of construction on their business operations. It received answers from 5,573 small businesses from across the country. The results are accurate to  $\pm 1.3$  percentage points, 19 times out of 20.

CFIB also conducted a jurisdictional scan of municipalities across Canada and the world to determine best practices related to construction mitigation. Further, phone interviews were held with municipal employees in seventeen Canadian and American cities<sup>10</sup> to learn specifically about the efforts being put forth to mitigate any negative effects of infrastructure projects in their communities.

The next sections outline our survey feedback, best practices and recommendations to help minimize the costs of public infrastructure projects for local business.

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## Big impact, big costs

### One in five businesses will be majorly disrupted

CFIB asked its members if they had been disrupted by local construction projects during the last five years<sup>11</sup>. A total of 41 per cent said yes, with 5 per cent indicating that the hit was major<sup>12</sup>. There are about 1.3 million private employers in Canada<sup>13</sup>, so it is likely that close to 65,000 businesses (i.e. 5%) have been affected by construction in a major way in the past five years.

A conservative estimate<sup>14</sup> by CFIB derived from this number and likely infrastructure lifespan shows that in the longer run, up to one in five Canadian small businesses will have to cope with major impacts of construction projects in the course of running their operations.

### High costs and lasting consequences

The collateral costs of construction for local businesses can be very high. In a previous CFIB report<sup>15</sup>, 74 per cent of businesses located along the construction corridor of the Canada Line in Vancouver and Richmond reported a decrease in sales. CFIB estimated that the total sales loss for the average business was \$111,928.

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<sup>10</sup> Interviews were held with officials at the following municipalities: Sackville, New Brunswick; Aspen, Colorado; Victoria, British Columbia; Kingston, Ontario; Vancouver, British Columbia; Vail, Colorado; Toronto, Ontario; Peterborough, Ontario; London, Ontario; Regina, Saskatchewan; Seattle, Washington; Calgary, Alberta; Halifax, Nova Scotia; Bridgewater, Nova Scotia; Ottawa, Ontario; St. John's, Newfoundland and Labrador; and Winnipeg, Manitoba.

<sup>11</sup> Source: CFIB, *national survey on municipal issues*, Web, July 6-26, 2017, 5,573 responses,  $\pm 1.3\%$ , 19/20.

<sup>12</sup> Exact question: "Overall, to what extent was your business affected by construction during the last five years? (Select one answer only). Answer choices: "Minor impact", "Moderate impact", "Major impact".

<sup>13</sup> CANSIM (2018), Table 552-0006, *Canadian business counts, June 2017*, [goo.gl/KUcLSn](http://goo.gl/KUcLSn) (accessed 2018-04-10).

<sup>14</sup> According to the Federation of Canadian Municipalities [CANADIAN INFRASTRUCTURE REPORT CARD (2012), [goo.gl/BDs1qX](http://goo.gl/BDs1qX) (accessed 2018-04-10)], any road is likely to be under construction every couple of decades or so. Therefore, if 5% of businesses take a major hit from road work each 5 years, 20% are likely to be impacted in the same way over the average 20-year lifespan of a road.

<sup>15</sup> JONES and TILLEY (2007), *op. cit.*, p.2.

In the CFIB survey, a number of small business owners also gave insight regarding how construction impacted (and still impacts) their bottom line:

*“They said we would be torn up for 4 months. That was nearly 3 years ago. The road is still closed at either end of town and traffic has left. There is not enough business to pay anything at this point. BUT they expect their taxes in full.”*

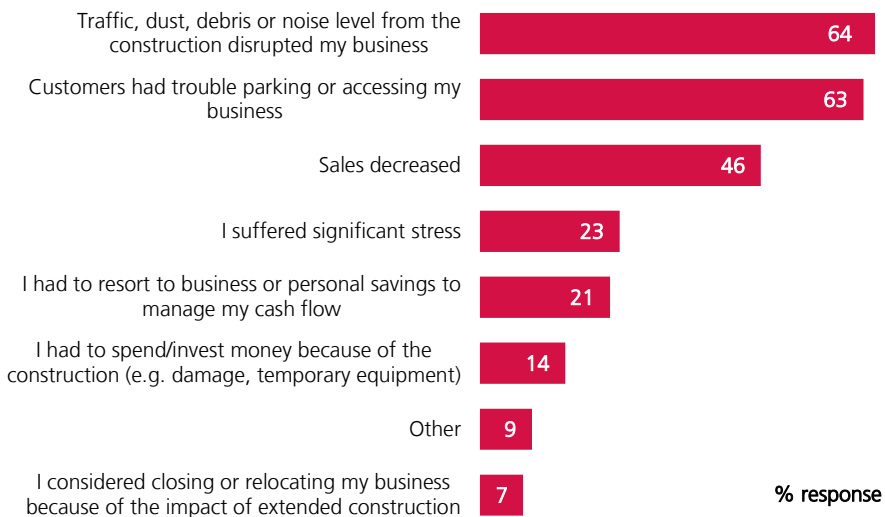
—Hospitality Business Owner, Waterloo, ON

*“Blocked streets, detours discouraging our clients, additional HR and maintenance costs to deal with the dust, parking prohibited at peak times (many complaints sent, but no follow-up or action taken). We have been experiencing this situation for more than three years now and our daytime sales have dropped by 50%.”* —Manufacturing Business Owner, Montreal, QC

As shown in Figure 1, construction affects businesses in various ways. Not surprisingly, almost two thirds reported traffic, dust, debris or noise (64%) or customer parking/access issues (63%). More importantly, close to half (46%) of all businesses disrupted by construction (i.e. minor, moderate or major impact) lost sales. The impact, however, goes far beyond that. Disrupted business owners also expressed having to cope with personal stress (23%) or drawing from business or personal savings (21%), 14 per cent incurred extra expenses and 7 per cent even considered closing or relocating as a direct result of construction projects.

FIGURE 1:

**How were you and/or your business affected during the last five years?**



Source: CFIB, national survey on municipal issues, Web, July 6 - July 26, 2017, 2,135 responses, ±2.1%, 19/20.

Note: respondents were allowed to select as many answers as apply.

The numbers in Figure 1 confirm that construction is a very acute problem for a significant number of local businesses in Canada, sometimes even threatening their very survival. They are unfortunately much in line with many Canadian construction horror stories.

## Municipal action on construction mitigation

### Room for improvement

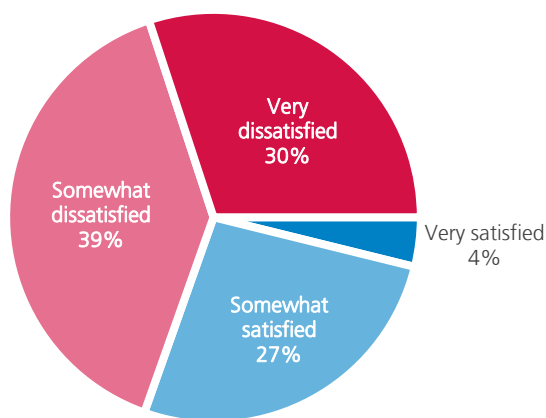
When asked about the impact of construction on small businesses in general or on their business in particular, CFIB members have extensive experience – and valuable business insights – to share. In fact, in the hundreds of comments that CFIB received, many entrepreneurs who have been in business for a long time actually witnessed and survived through more than one construction project. The following comment sums up common issues related to poor planning and project management:

*“Our foot traffic is down 35% compared to 5 years ago. We were promised that the Nova Centre would be completed 2 years ago, and it still isn't completed and has no tenants. Promises to create parking signage, [temporary fencing], positive marketing, etc. never occurred.”* —Retail Business Owner, Halifax, NS

Only about three out of ten business owners are satisfied with how the government dealt with the negative impacts of construction on their business (Figure 2). Clearly, there is a lot of room for improvement on this front.

FIGURE 2:

**Overall, how satisfied were you with how the government dealt with the negative impacts on your business?**



Source: CFIB, national survey on municipal issues, Web, July 6-26, 2017, 2,130 responses, ±2.1%, 19/20.

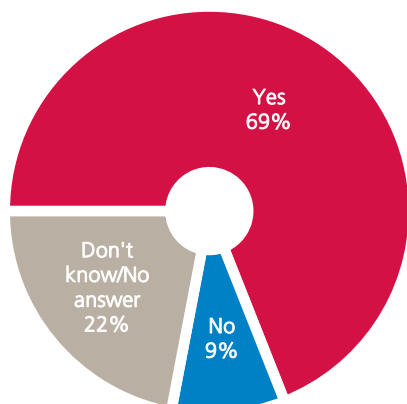
### Wanted: a coherent construction mitigation policy

There is overwhelming support among small business owners for the adoption by their local government of a coherent construction mitigation policy, including compensation for business losses that are moderate or major (Figure 3). Better consultation, planning and engagement with business throughout the process would also minimize the impacts of construction projects and

would be welcomed by local entrepreneurs.

FIGURE 3:

**Should your local government adopt a coherent construction mitigation policy, including compensation for business losses that are moderate or major, to help ease the burden of local construction projects on small business?**



Source: CFIB, national survey on municipal issues, Web, July 6-26, 2017, 2,143 responses, ±2.1%, 19/20.

### Recommendation

**Canadian municipalities should adopt a coherent construction mitigation policy, including compensation for business losses that are moderate or major, to help ease the burden of local construction projects on small business.**

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## Compensation

### Needed now

With no insurance programs for business interruption due to construction work<sup>16</sup>, limited resources and no proper notice or compensation from their municipality, business owners have their backs against the construction fence. Although overall, as many as 41 per cent of businesses are disrupted by construction, municipal mitigation efforts should be immediately aimed at the 5 per cent that will be impacted in a major way over the next five years. This number, equivalent to one in five Canadian businesses in the longer run, is significant. It translates into countless local jobs, thousands of neighbourhood businesses and the “spirit” of many commercial streets that are at risk of being lost in the rubble.

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<sup>16</sup> According to the Insurance Bureau of Canada in an email exchange with CFIB on August 28<sup>th</sup>, 2017.

It is urgent that municipalities start compensating businesses that are worst hit now.

### How it can be done

Local business owners can sometimes claim compensation for losses resulting from public construction based on a principle called injurious affection<sup>17</sup>. It is, however, usually a very challenging, costly and somewhat judicial process: claims must be submitted to the government within a specific time frame, supported by extensive evidence and might require legal, engineering or other expert support. Even in the “best” worst-case scenario, there are no guarantees of a successful outcome.

Other small business-friendly options exist:

- In Brussels, smaller merchants that must remain closed for at least one week because of public construction are entitled to a daily compensation of about \$117. In 2014, 49 businesses received about \$308,000 through this permanent government program<sup>18</sup>. A new and expanded program was announced for 2018<sup>19</sup>.
- In 2011, Minneapolis and St. Paul, along with other local partners, established a US\$4 million forgivable loan program for small businesses impacted by the construction of a light-rail project<sup>20</sup>.
- Seattle has provided over US\$15 million in mitigation funds to businesses affected by the construction of a new light-rail line<sup>21</sup> and, as recently as 2016, announced a new help fund in addition to taxes and fees deferrals for business impacted by a major local road construction project<sup>22</sup>.

### Canadian cities

At its request, the Quebec government recently gave Montreal specific powers to compensate small businesses impacted by municipal work<sup>23</sup>. The mayor of Montreal recently indicated that she intends to use those powers<sup>24</sup>. However, to this date, no Canadian municipality has officially created a compensation program for construction losses. While infrastructure investments increase across the country, municipalities should act quickly to avoid more collateral damage.

### Key Element of the Mitigation Policy

1. Create a municipal **compensation program** for cases where construction has a moderate to major impact, for an extended period, on the operations of local businesses. It should be easy to understand and access, involve significant and timely monetary compensation

<sup>17</sup> NELSON, WATSON LLP (2016), "Can KW businesses get compensation for losses from LRT construction?" [goo.gl/6nMyHY](http://goo.gl/6nMyHY), (accessed 2018-04-10).

<sup>18</sup> BRUXELLES ÉCONOMIE ET EMPLOI (2018), *Indemnité compensatoire de pertes de revenus*, [goo.gl/ijEsrH](http://goo.gl/ijEsrH) (accessed 2018-04-10).

<sup>19</sup> Didier GOSUIN (2018), *Mieux coordonner les chantiers et indemniser les commerçants à Bruxelles*, [goo.gl/nbCbAK](http://goo.gl/nbCbAK) (accessed 2018-04-10).

<sup>20</sup> CENTRAL CORRIDOR FUNDERS COLLABORATIVE (2015), *Prepare, Survive, Thrive: A collaborative approach to small business support and construction mitigation on the Green Line*, December, [goo.gl/WeXF68](http://goo.gl/WeXF68) (accessed 2018-04-10).

<sup>21</sup> RAINIER VALLEY COMMUNITY DEVELOPMENT FUND (2018), *Mission and History*, [goo.gl/mJRH1c](http://goo.gl/mJRH1c) (accessed 2018-04-10).

<sup>22</sup> CITY OF SEATTLE, OFFICE OF ECONOMIC DEVELOPMENT (2018), *23<sup>rd</sup> Avenue Business Stabilization Fund*, [goo.gl/FoK8Cx](http://goo.gl/FoK8Cx) (accessed 2018-04-10).

<sup>23</sup> QUEBEC NATIONAL ASSEMBLY (2017), An Act to increase the autonomy and powers of Ville de Montréal, the metropolis of Québec, [goo.gl/Z9jMS1](http://goo.gl/Z9jMS1) (accessed 2018-04-10).

<sup>24</sup> Jacob SEREBRIN (2018), "Scheme to help merchants hurt by road work ready by September: Plante", *Montreal Gazette*, April 19<sup>th</sup>, [goo.gl/E1Nmog](http://goo.gl/E1Nmog) (accessed 2018-04-19).



(daily amount, tax break or other) and be financed by factoring in its costs in the budget of each project.

## Other elements to include in a construction mitigation policy

In addition to compensation, any comprehensive municipal construction mitigation policy should offer solutions for the common issues faced by local businesses during construction

projects. Among the issues that small business owners shared, three themes emerged as key areas for improvement. CFIB also researched best practices from North American cities on those issues and put together a short list of recommendations that can serve as the foundation of a municipal construction mitigation policy.

### Better planning

*“One of the biggest challenges we see is the reworking of areas that already had been worked on. It is like a make-work project. There doesn't seem to be a head position that can overlook and be intelligent about how each one of the construction projects impacts another.”* —Personal Services Business Owner, High River, AB

*“I have been 16 years in business and have had 4 to 5 years of disruption due to road construction.”* —Transportation Business Owner, Saskatoon, SK

One of the comments most often heard from CFIB members is how poorly planned projects unnecessarily amplify the impact of construction. For example, repeated digging or interventions on the same site are frequent. The timing of projects is also a common issue, with road work often happening during business hours or business' high season.

To fix this issue, CFIB recommends adopting a multi-year planning approach, where construction projects are communicated well in advance to local businesses, so they can better prepare. Businesses should also be consulted in order to minimize the impact on sales. For example, the city of Regina is trying to phase all construction projects, where possible, to minimize disruptions and the city of Vail in Colorado restricts construction in the right-of-way during busy months and holidays.

### Key Elements of the Mitigation Policy

2. **No surprise rule:** Track infrastructure's condition and let local businesses know of construction well in advance. Cities should have a state of the infrastructure report, a 5-year capital investment plan and conduct relevant pre-construction consultation with all impacted businesses.
3. **Comprehensive planning:** Use the “dig once” principle and the phasing/timing of projects

### Better contracting

*“They should have [...] had a penalty to the company for not completing on time and share that money with the businesses affected.”* —Management Business Owner, Winnipeg, MB

Getting the contracting process right can significantly help mitigate the negative impact of construction on businesses. Typical best practices in contracting include provisions for communications (as is the case in Kingston), signage, parking, etc. and bonuses or liquidated damages (London, Montreal) to speed up projects and deter contractors from working past the agreed completion date.

### Key Element of the Mitigation Policy

4. **Improve the contracting process** with integrated mitigation provisions and a bonus/penalty system, especially for early/late completion of the project.

### Better communication

*“When they told us they were fixing the road, they assured us that road would not be closed. And they closed the road.”* —Personal Services Business Owner, Nanton, AB

*“They [...] decided to shut down our street/limit access during peak sales periods over Christmas. I feel that we as business owners had no ability to express our concerns.”* —Hospitality Business Owner, Halifax, NS

Providing business owners with a specific person to contact as issues arise is essential. Face-to-face communication methods should always be a requirement of major public construction projects. Cities that are proactive with their communications, like Kingston, Bridgewater and Aspen (Colorado), employ or require liaison personnel directly on the construction site. By informing and consulting, before and during a project, these point persons encourage a respectful relationship between business owners and the contractors/developers.

### Key Element of the Mitigation Policy

5. Designate a **business liaison officer** with managerial authority for each project.

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## Conclusion

There is overwhelming support among small business owners for the adoption by local governments of a coherent construction mitigation policy, including compensation for business losses. A large portion of the costs of construction can be avoided with better planning, execution and by giving more consideration to the reality of local businesses. By improving how construction projects are handled, this policy would be in the interest of local businesses, municipalities and citizens alike.

Construction is a very real issue for thousands of local businesses in Canada. Municipal leadership is needed to give them the support they deserve and to pave a smoother road during current and future public infrastructure projects.

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## Recommendation

**Canadian municipalities should adopt a coherent construction mitigation policy to help ease the burden of local construction projects on small businesses.**

The policy should include five key elements:

1. A **compensation program** for cases where construction has a moderate to major impact, for an extended period, on the operations of local businesses. It should be easy to understand and access, involve significant and timely monetary compensation (daily amount, tax break or other) and be financed by factoring in its costs in the budget of each project;
2. A **no surprise rule** mandating the municipality to track its infrastructure's condition and let local businesses know of construction well in advance. A good way for cities to do that is to have a state of the infrastructure report, a 5-year capital investment plan and relevant pre-construction consultation with all impacted businesses;
3. A **comprehensive planning approach** involving the “dig once” principle and the phasing/timing of projects;
4. An **improved contracting process** with integrated mitigation provisions and a bonus/penalty system, especially for early/late completion of the project;
5. A **business liaison officer** with managerial authority designated for each project.