

October 20, 2016

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CCAA Judge Rules Port of Algoma Must Continue to Serve Essar Steel Algoma Without Payment

Inter-monopoly fighting is a disaster for Canadians and their economy

The inter-monopoly fight amongst Social Wealth Controlling Funds (SWCFs) for control of the Algoma Steel mill descended into greater chaos and incoherence following a Toronto judge's ruling on Monday October 17. Justice Frank Newbould acting under the authority of the federal *Companies' Creditors Arrangement Act* (CCAA) declared the Port of Algoma "insolvent" but in the same breath ordered the Port to continue handling Essar Steel Algoma cargo without payment. According to CCAA documents, the Port of Algoma has been in this situation since the steel mill entered bankruptcy protection one year ago.



Essar Global Funds, the pre-bankruptcy SWCF that owned and controlled Essar Steel Algoma currently owns 99 per cent of the Port of Algoma with the City of Sault Ste. Marie owning one per cent. In making his ruling, Justice Newbould claimed that the CCAA Debtors-In-Possession, Chief Restructuring Officer and managers of Essar Steel Algoma presently under bankruptcy protection are directing their own workers to handle cargo at the Port and should be allowed to use the privately-owned property for free. In a written statement the judge says, "There is no

management or direction given by [Port of Algoma] to [Essar Steel Algoma]. The [Port of Algoma] has no operating management at all. It is insolvent."

Contrary to the judge's assertion that the Port of Algoma has no operating management, its Chief Executive Officer Anshumali Dwivedi is visible and active in Sault Ste. Marie. He instructed his lawyers to argue in CCAA court, for the second time, that his company Essar Ports is entitled to be paid under the cargo handling agreement with the steel mill for moving goods through its property. If not, his lawyers argued, then the Port should be allowed to cease operations regarding Essar Steel Algoma and be relieved from its performance obligations. In addition to this court activity, CEO Dwivedi appeared at a reception and announcement at Algoma University on October 14, along with Navdeep Bains, the Liberal government Minister of Innovation, Science and Economic Development.

Concern was expressed in the courtroom by yet another SWCF called GIP Primus that a \$20 million promissory note it owns from money loaned to Essar Ports is due and payable and not subject to the CCAA as the port is not under bankruptcy protection. The lawyers argue that charges incurred before the beginning of CCAA are subject to a stop payment order but not those while under bankruptcy protection. Justice Newbould would have none of it and ordered for the second time that Essar Ports allow Essar Steel Algoma to use its cargo handling services without payment.

"Not a whole lot has changed although the amount of payments not made to [Port of Algoma] is approaching the amount of the unpaid [port] promissory note," the judge writes. "[Essar Ports]

raises the same argument again. It is not open to [the port] to do so. It has been decided against [the port] and there was no appeal from that [previous] decision. In any event, I am not persuaded that anything has changed regarding how the port is operated," he adds.

Some argue that Essar Global Fund pulled a fast one when it created a separate business entity for the Port of Algoma in September 2014 before entering CCAA the following year and should not be allowed to demand payment for services and shut down Algoma Steel for non-payment. Others would say that Essar Global Fund's move is similar to the antics of U.S. Steel in declaring its ownership of Stelco to be one of debt and not equity and jumping to the front of the line for payment upon the CCAA bankruptcy sale of Stelco. In U.S. Steel's case the CCAA judge has allowed the fraud to pass while in the Essar case the judge is siding with those now in control of Algoma Steel. It reveals again that the CCAA is the Wild West where no rules apply just the subjective consent or dissent of the presiding judge according to which SWCF he is siding with at the time.

Justice Newbould made his feelings clear upon writing that he does not favour the pre-CCAA owner of the mill and port, Essar Global Fund, in this bankruptcy proceeding: "Such an order [forcing the mill to pay for cargo handling] would have the effect of giving [the port] complete control of this entire proceeding. That may be the wishes of its Essar parent who has in the past indicated an interest in acquiring all the assets in the *Companies' Creditors Arrangement Act* sales process.... It is not in the interests of the majority of all the shareholders.... As well, [Port of Algoma] has said it has no money and whatever it receives from [Essar Steel Algoma] under the cargo handling agreement has gone straight to its lender GIP Primus. In those circumstances nothing would be achieved for [the port] in being able to stop [Essar Steel Algoma] personnel from operating the [port] facilities.... We are dealing with attempts to have a debtor survive to see another day under a new owner."

CCAA judges have assumed extraordinary powers. The judge in U.S. Steel's Canadian bankruptcy protection has ordered the cessation of benefit payments for Stelco retirees. In both the Stelco and Algoma CCAA, the judges have allowed the companies to stop paying into the pension funds and halt the payment of municipal taxes. Steelworkers point out that CCAA legal fees for lawyers, documents and court use exceed by far the payments that have been halted, and both companies are carrying positive cash balances.

In the U.S. Steel case, through a ruling of the CCAA judge, the equity owner of U.S. Steel Canada, the parent company U.S. Steel, has become the main creditor, and the Canadian subsidiary, the former Stelco, has become the debtor. The survival of the debtor and its many employees and retirees is not the desired end for the judge in the U.S. Steel CCAA, but rather a \$2.2 billion payoff to the main declared creditor U.S. Steel upon sale or liquidation of Stelco.

Justice Newbould feels compelled to sum up the situation regarding Essar Steel Algoma with banality, writing, "There must be choices made as to who gets paid and who does not. As the monitor says, these are often tough choices but a balance must be made between the debtor and its



stakeholders and the party claiming payment."

The "tough choice" for the judge is not one of a new direction for the economy and its steel sector that favours the people. That would entail restricting monopoly right and having a public authority seize control of the steel sector in the broad interest of the people. The "balance" of the judge does not include the steelworkers and other Canadians and their economy on which all depend for their survival. Workers and their allies should not allow these inter-monopoly conflicts to cause problems in their lives and economy. Workers must lead in putting a stop to this incoherence and chaos in the economy.

All Out to Organize and Fight for a New Direction for the Economy!

(With files from Soo Today)



Bedrock Industries Group Proposal to Restructure U.S. Steel Canada



On September 21 it was announced that Bedrock Industries has signed a Memorandum of Understanding (MOU) with the Ontario government to take over productive assets of the former Stelco from current owner U.S. Steel.[1] According to reports, Bedrock intends to buy remaining assets of U.S. Steel in Canada minus what it considers encumbrances, and then sell those assets in a few years for more than it paid. The pro-social encumbrances are the pension plans, the Other Post-Employment Benefits, Cost-of-Living Allowances in steelworkers' collective agreements, environmental remediation for polluted land, unsecured creditors owed money by U.S. Steel, unpaid taxes, and any previous or current promises of certain employment and production levels. The provincial government and Bedrock would accomplish the removal of pro-social encumbrances using the federal authority of the *Companies' Creditors Arrangement Act* and by extorting employees and retirees with threats of a complete shutdown of steel production and loss of jobs, pensions and benefits, and a campaign in the mass media to wreck the independent thinking, opinion, actions with analysis and practical politics of steelworkers and their allies.

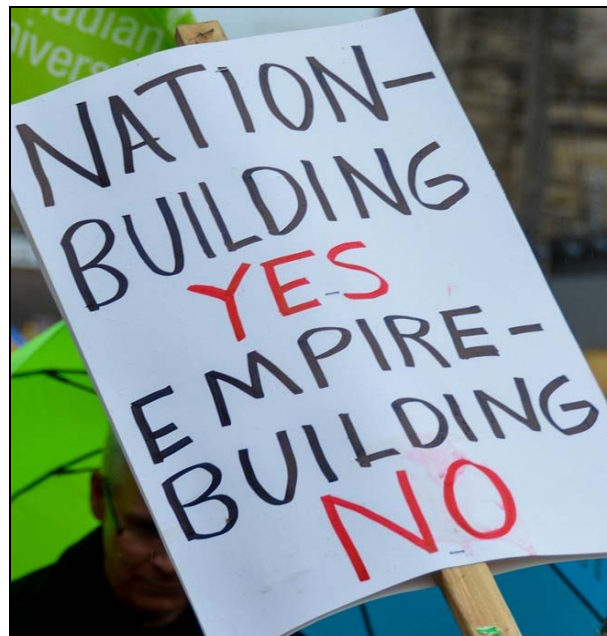


In removing the pro-social encumbrances, Bedrock and the government want to separate the production of Stelco steel from any lingering social obligations that were built up over time through the class struggle for rights of the actual producers of steel value and their communities. Certain of those pro-social encumbrances have been integrated into Canadian society through a national and provincial government of laws including labour law, commercial law, environmental law, tax law and pension law -- all of which the monopoly front of the financial oligarchy now considers fair game.

The encumbrances are in large measure features of nation-building that the working people have demanded over time to defend their rights at the place of work and in their relations over a lifetime with their employers and the state. The rights of the working class deal largely with the exchange of its capacity to work with those who own and control the forces of production. In exchange for their work-time, workers claim some of the new value they produce in wages, benefits, pensions and social programs.

The rights of the working class are directly connected with the management of the economy both in its parts and overall, and the recognition that the actual producers who produce the social wealth must have a say and control over the basic sectors of the economy, its parts and the social value they produce. These rights include assurances of lifelong guarantees for their security and well-being in sickness and in health, in childhood and retirement. Other pro-social encumbrances such as those dealing with environmental remediation and the need to respect the sovereignty of the peoples of world and settle international issues peacefully without war have arisen from the people's recognition of the necessity to humanize the social and natural environment and defend the general interests of society and all humanity.

Those who own and control the social wealth the working class produces, such as U.S. Steel and Bedrock Industries, have developed methods to negate the pro-social encumbrances that the working class and society have put on the economy and country. They have formed a monopoly front of the financial oligarchy to serve their narrow private interests. Through their control of the mass media and official politics, they wage constant ideological warfare to poison the people's social consciousness. They have flooded the world with free trade agreements and their militaries to impose supranational arrangements that negate nation-building and facilitate empire-building and interference in people's affairs up to and including predatory wars.

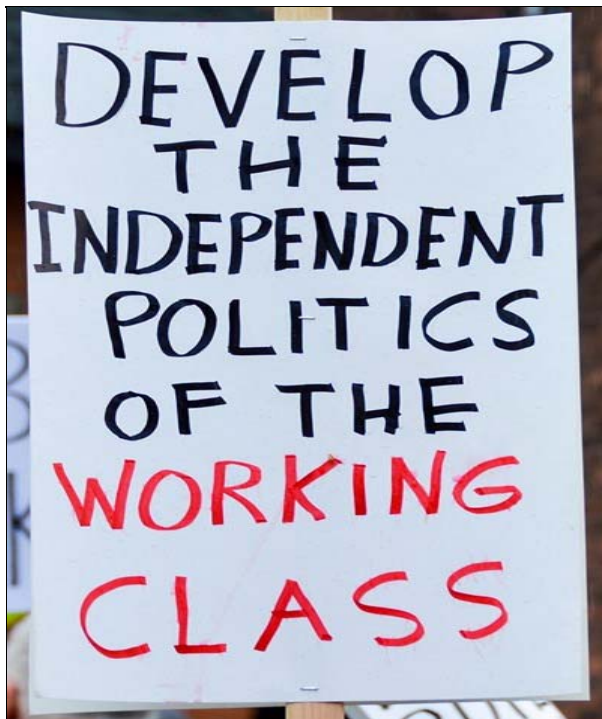


The monopoly front comprised of global holding companies or Social Wealth Controlling Funds (SWCFs) and armed to the teeth with the U.S. imperialist military and its aggressive coalitions such

as NATO strives to free the world of all pro-social encumbrances that developed during nation-building. These encumbrances are seen as a hindrance to monopoly right to grow their private global empires and seize an ever greater portion of the social wealth the international working class produces. The monopoly front of the financial oligarchy and its SWCFs reject any encumbrances or rules of a traditional company bound by national corporate, commercial or labour law. It operates mainly through global SWCFs unlike traditional corporations and in opposition to any governments of laws that may insist on controlling their sovereign economy and politics, which the monopoly front denounces as red tape, a cost to taxpayers and a hindrance to development.

Those with knowledge of Bedrock's MOU reveal that a subsidiary will be formed in Ontario that will act to shield Bedrock from any claims arising from existing pro-social encumbrances or any new ones that may develop.

U.S. Steel (USS), which itself is a SWCF largely owned and controlled by institutional shareholders such as JPMorgan, after their takeover of Stelco in 2007, created a separate entity in Canada called U.S. Steel Canada (USSC) to shield their global assets from any claims from existing Canadian encumbrances such as the pension plans and the necessity for environmental remediation. USS used USSC to concoct a story that any investment in Canada was to be considered a USS loan to a separate business entity called USSC. This loan amounting to \$2.2 billion would be repayable to USS before any of the encumbrances would receive their claims upon the sale or liquidation of USSC. The pro-social encumbrances would have no right to claim U.S. Steel assets outside of Canada whereas in contrast the monopoly front, which includes Bedrock, USS and all other entities of the financial oligarchy, which both contend and compete for global wealth and power, has the monopoly right to satisfy its claims globally without restriction.



For the working class and Canadian society in general, the question arises as to what to do in the face of the monopoly front, their SWCFs and the wrecking of all the previous arrangements and government of laws created over the period of nation-building. The new situation demands new methods of organizing and practical politics. The old arrangements based on a national government of laws and its political institutions have proven to be incapable of defending the rights of the working class, the economy and general interests of society in the face of the supranational arrangements of the monopoly front. The case of Stelco during the last two decades proves this conclusively.

The monopoly front represented by U.S. Steel, Bedrock and the political institutions of the financial oligarchy and its supranational arrangements have gone behind the backs of the people affected to concoct an MOU that dismisses the rights of workers and general interests of society as unwanted and restrictive encumbrances. The problem confronting the working class and all those concerned with their society is how to deprive the monopoly front and its supranational arrangements of the vast economic and political power it has amassed, which it uses to deprive the people of their rights, block the actual producers from solving problems in the economy to secure its continuous reproduction and their well-being, and deprive society of its right to humanize the

social and natural environment.

The working class and its allies can develop an organized conscious people's front to wage a determined battle to deprive U.S. Steel, Bedrock, other SWCFs and the entire monopoly front and its supranational arrangements of their power to negate the rights of Canadians and wreck their economy, social programs, society and national government of laws.

Note

1. "The Bedrock Proposal Is Not a Solution," *Workers' Forum*, September 29, 2016.

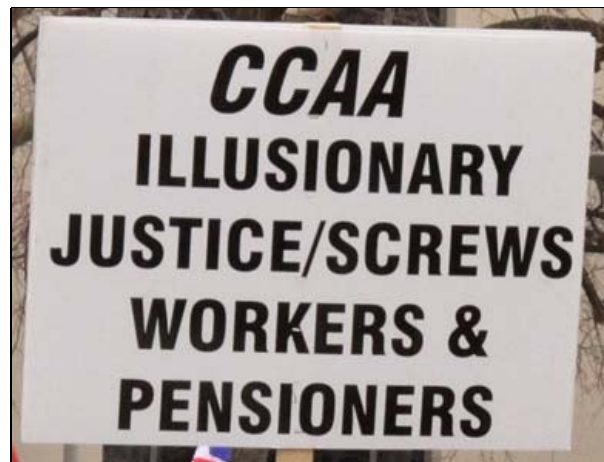


Inter-Monopoly Battles Rage within Canada's Steel Sector

*U.S. and other imperialists interfere in Canada's affairs.
In opposition, steelworkers organize themselves and mobilize their peers
and fellow Canadians to take control of their work and lives.*

An extended battle between Essar Global Fund and Cliffs Natural Resources Inc. over the exploitation of iron ore in Minnesota and other matters concerning their private interests has reached across the border to Canada. One year ago, Essar Steel Algoma, an Essar Global subsidiary steel mill in Canada, cited its inter-monopoly fight with Cliffs as one of the reasons for entering bankruptcy protection under the *Companies' Creditors Arrangement Act* (CCAA). Essar said Cliffs was refusing to honour its agreement to supply iron ore to Essar Steel Algoma without which the mill would have to shut down. The steel mill in Sault Ste. Marie in Northern Ontario sought protection under CCAA in part to force Cliffs to live up to the agreement to deliver iron ore as contracted. Essar Global has also been targeted within the CCAA involving U.S. Steel in Hamilton and Nanticoke.

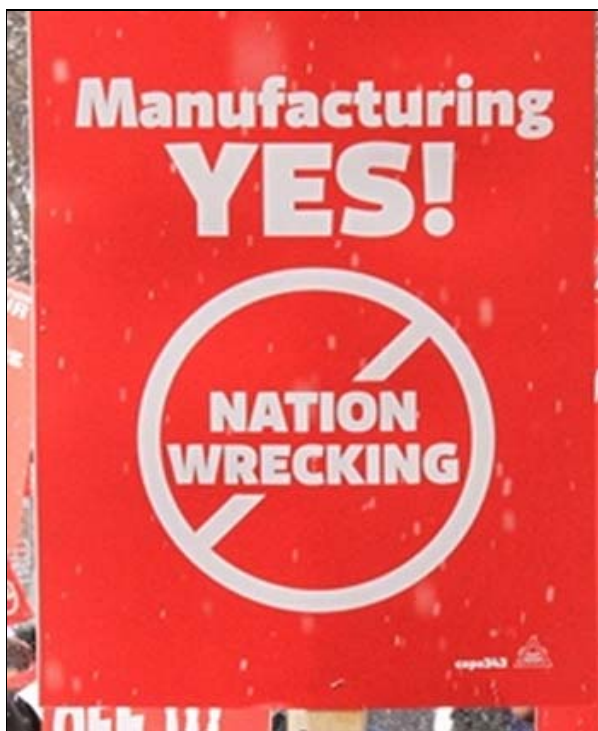
In the U.S., Essar Global's subsidiary Essar Minnesota entered bankruptcy protection under Chapter 11 of the U.S. Bankruptcy Code this past summer to rescue the long-delayed and over-budget iron ore mining and refining project it is struggling to complete. When operational, the project will be a direct competitor with the Minnesota and Michigan mining assets owned and controlled by Cliffs. Essar Minnesota controls lucrative state leases, which are required to mine iron ore on state-owned property. The company also received state grants to build the project. Cliffs covets the leases as well as Essar's mining project under construction and has enlisted various state and federal political representatives in a fight to seize them and eliminate Essar as a competitor. Its allies in government have already forced Essar to pay back its state grants, which was another reason Essar Minnesota sought Chapter 11 protection.



This inter-monopoly fight is one more disruptive element wrecking Canada's steel sector, which exposes the necessity for a new direction for the economy. The narrow private interests of the monopolies to defend and expand their own empires in contradiction with other empires and the good of the economy as a whole, and in opposition to the rights of the working class and the Canadian people are tearing the economy apart.

The U.S. accounting monopoly Ernst & Young is the court appointed monitor overseeing the Essar Steel Algoma CCAA bankruptcy. The monitor released its 19th report on October 3. This report contains news of an intensification of the battle between Cliffs Natural and Essar Global. It appears that Cliffs is using allies within the CCAA process in Canada to pursue its battle with Essar Global and weaken its position in both Canada and the United States in hopes of wiping out Essar Minnesota and seizing the iron ore mine under construction and the state iron ore leases.

The CCAA judge has apparently agreed to Cliffs' request to exclude Essar Global from participating in Algoma Steel's restructuring. Essar Global has also been denied participation in the bidding for U.S. Steel's Canadian assets currently under CCAA protection. The agreement for Cliffs to continue supplying iron ore to Algoma Steel under CCAA contains provisions that directly attack Essar Global. The monitor says Cliffs inserted a clause giving it the right to stop supplying Essar Steel Algoma with iron ore if the Canadian steel mill develops any sort of relations with Essar Global.



According to the monitor, the agreement for Cliffs to supply iron ore pellets during the fourth quarter and into January 2017 contains direct reference to Essar Global prohibiting its participation in the CCAA restructuring in any fashion even though Essar Global is the owner of the assets under bankruptcy protection. The monitor also reports that Cliffs' supply agreement is contingent upon conditions that include an amendment to the CCAA Debtor-In-Possession and stay provisions. To receive iron ore, Essar Steel Algoma had to agree that it would not sell or transfer the iron ore to any Essar Global subsidiary or the supply agreement for additional volume would be annulled.

Cliffs, knowing that other iron ore from farther away and at short notice would be prohibitively expensive made additional demands that an impartial observer would say unduly interferes in the restructuring process and borders on extortion. The monitor writes, "Cliffs' obligation to supply the additional volume is further conditional upon there being no agreement to sell all or a material part of the business or assets of Algoma to an Essar Global Entity having been approved by the Ontario Court and no CCAA plan having been sanctioned by the Ontario Court under which, upon implementation, an Essar Global Entity would retain or obtain a material equity interest in Algoma."

With these conditions attached to the supply of iron ore, Cliffs directly interferes in a bankruptcy process in Canada, in which the U.S. monopoly is not directly involved as a bidder or major creditor. The monitor does not denounce this interference in the restructuring process and the open

extortion and attack on Essar Global nor the possibility that the ugly affair is a plot connected with an attempt to weaken Essar Global and take control of the competitor's iron ore mine in Minnesota, which is under construction.

The continuing fight between these two monopolies has spread into Canada and is one more reason that Canadians must organize themselves and mobilize their fellow Canadians for a new direction for the economy away from and in opposition to monopoly right, control and disruption. Canadians need control over their economic affairs so that they can solve problems and move forward.

The men and women Canadian steelworkers and salaried employees active in the industry are organizing themselves and mobilizing their peers and fellow Canadians to put an end to the inter-monopoly fighting and wrecking of their steel sector. They demand control over the work they do and the value they produce for the good of themselves, the economy and society. They demand the control necessary to open a new direction for the economy to solve its problems free from the inter-monopoly feuding, empire-building and intrigue of the big companies. Workers and their allies uphold a broad vision of nation-building to serve the well-being of the producers, their communities, the economy and general interests of society in opposition to the narrow vision of the monopoly empire builders based on their private interests.



Opposition to Anti-Social Offensive

Mass Mobilizations Defend Public Seniors' Care on BC's Sunshine Coast



Sunshine Coast townhall meeting, September 12, 2016.

Workers, seniors and community members are loudly voicing their opposition to the privatization of seniors' care on the Sunshine Coast, British Columbia. Seniors' residential care on the Sunshine Coast has for more than 30 years been provided at two public homes in Sechelt, Shorncliffe and Totem Lodge. On June 1, the Vancouver Coastal Health Authority (VCHA) announced that the two homes would be replaced in 2018 by a private, for-profit residence operated by Trellis Group. Trellis Group was awarded the contract for three of six proposed new or expanded seniors' care

facilities in the region. This would double the number of seniors' care homes in BC under the private control of Trellis.

Mass community meetings continue to be held, the first organized by Powell River-Sunshine Coast MLA Nicholas Simons on June 29. At that meeting more than 100 people were turned away from the 250-person capacity hall. Representatives of Trellis and the Vancouver Island Health Authority refused to attend and answer the concerns of seniors, their families and health care workers. Prior to that meeting the Hospital Employees' Union (HEU) which represents many of the Shorncliffe and Totem workers, conducted a phone survey in which 74 per cent of the 767 respondents said that seniors' care should remain public. A petition initiated by Simons calling on the government to stop the privatization plan and the attacks on the workers had more than 8,000 signatures by September.



Under intense community pressure, the Health Authority held a townhall meeting on September 12 which more than 500 people tried to attend despite the room reaching capacity. Trellis also held an "open house" on September 19 to speak "one on one" with community members about their plans. This event was closely managed, with only 50 people permitted into the Legion at a time which forced dozens of people to stand outside and wait their turn. Despite this, workers and the community used the occasion to make their stand clear once again. Workers, seniors and their families continue to speak out against this attack on the quality of care for seniors and on the rights of the workers that would result from the privatization of seniors' care.



Townhall meeting in Sechelt, September 19, 2016.

At the end of September, Protect Public Health Care-Sunshine Coast was formed by organizations in action such as the Council of Senior Citizens' Organizations of BC (COSCO), the Sunshine Coast Labour Council, Alliance 4 Democracy Sunshine Coast, the BC Nurses' Union and the Hospital Employees' Union. Workers, seniors and community members are going everywhere, talking to everyone and not giving the Health Authority a moment's peace.

The closing of public seniors' residences and their replacement with private residences has become common in British Columbia. In a number of communities, public pressure has reversed some privatization schemes while in others the problem continues and is increasing overall. The VCHA in trying to justify handing over seniors' care to private interests says there is no alternative and meeting the increasing need for seniors' care with a public system cannot be done. This has also been rejected by residents who point out that in Powell River, another community on the Sunshine Coast, a new public seniors' home was recently built to replace an older facility.

Although it is on the mainland, the towns and villages on the Sunshine Coast are accessible only by ferry from North Vancouver or by air. Seniors' care for the community consists of the two residences in Sechelt, the largest of the two communities in the area, with a population of about 8,500. The population of the regional district that is served by the seniors' residences is about 26,000, most of whom live outside of Sechelt and the next-largest town, Gibsons, which has a population of just over 4,000. More than 200 workers will lose their jobs if Shorncliffe and Totem Lodge are closed. As is usually the case when a private operator opens a seniors' residence, some of the fired workers will be invited to reapply for their jobs with lower wages, fewer benefits and without their union.



Privatization and attendant job losses will have serious detrimental effects on the Sunshine Coast and its economy as many of those who lose their jobs as a result of privatization will also lose their homes and have to move elsewhere due to the lack of other employment in the area and its remoteness.

The arrogance of the VCHA has also aroused residents' anger. Many people have objected to the surprise manner of the June 1 announcement of privatizing seniors' care, the refusal to attend meetings and what were described as lies told by Health Authority at the September 12 townhall. At that meeting VCHA CEO Mary Ackenhusen claimed that there was broad consultation with community officials before the decision was made. Several local elected representatives including Simons, the Mayor of Sechelt and the Chair of the Regional Hospital Board all clarified that no one had so much as spoken to them, and they learned of the plans from local media. There has also been broad condemnation of the way decisions were made without seniors, families, workers and communities having any say.

The VCHA has dismissed the serious concerns about the inferior quality of care in private seniors' residences, including from cuts to wages and staff in order to maximize profits and the disruption entailed in the privatizing process. Lauren Tindall, Sunshine Coast Director for the VCHA told CBC's *On the Coast* that she hoped fired workers would "allow that continuing relationship with the seniors they are currently providing care for and will continue to provide care for" by applying for jobs with the private owner. This is not the first time that Health Authority spokespersons have implied that if the workers truly care for the residents they will not harm them by turning down lower wages and benefits or making waves now. Such disrespect for the workers and the seniors serves only to increase the determination of the workers and the community to put an end to the VCHA plan.

For updates, visit the [Facebook](#) page for Protect Public Health Care-Sunshine Coast. To sign the Hospital Employees' Union petition against seniors' care privatization in BC, click [here](#).



Montreal Demonstration Calls for Higher Minimum Wage and Changes to Labour Laws



More than 1,000 people demonstrated in Montreal on October 15 to demand a higher minimum wage and changes to labour laws that benefit workers. More than 30 organizations sponsored the event including unions and community groups. Demonstrators said that a minimum wage of at least \$15 per hour is required to meet the needs of workers and their families.

It is estimated that one million workers in Quebec earn less than \$15 per hour at this time. This includes the hundreds of thousands of workers with difficult conditions and irregular hours, on short-term and temporary contracts, and without unions, but also increasing numbers of unionized workers, particularly those working in private home care. Many women and national minority workers are forced into these positions.



A spokesperson for the Organization of Filipino Women in Quebec, PINAY, Jasmin de la Calzada told *Workers' Forum* about the situation they are facing on the job. Calzada noted that the large number of Filipino women in domestic jobs and working as live-in caregivers face very difficult conditions. This is particularly true in the case of migrant workers, many of whom must send part of their already-insufficient wages to the Philippines to support their families.

In addition to demands for increased wages, demonstrators called for changes to labour laws that would guarantee paid sick leave to all workers along with other benefits. The event received messages of support from workers' organizations in British Columbia and Alberta who are fighting for similar demands.

