

**THE HONOURABLE MR. JUSTICE PAUL R. BÉLANGER**

**IN THE MATTER OF** an Application under the *Rules of Procedure* of the Elliot Lake Commission of Inquiry and the *Public Inquiries Act, 2009*, S.O. 2009, c. 33, Sched. 6

**BETWEEN:**

**ROBERT WOOD**

**Applicant**

**-and-**

**THE ELLIOT LAKE COMMISSION OF INQUIRY**

**Respondent**

**NOTICE OF RESPONSE TO APPLICATION**

Inquiry Participant, the Ontario Building Officials Association (“OBOA”), hereby makes a response to the Application brought by Robert Wood returnable on June 20, 2014, at 10:00 a.m. in Courtroom Number 9 at the Courthouse, 161 Elgin Street, Ottawa, Ontario.

**RELIEF REQUESTED:**

1. That the Commissioner take all steps as are necessary and warranted to ensure that the Inquiry’s Terms of Reference are amended or clarified to permit the Commissioner to:
  - (i) release the Inquiry’s Final Report to the public on a date, at a location and in a manner chosen by the Commissioner;
  - (ii) pre-release, within a prescribed period and only to those Inquiry Participants requesting, his Final Report in a confidential or “lock-up” manner; and

(iii) convene a public meeting to deliver a statement, issue a press release and conduct a press conference respecting the Final Report's findings and recommendations.

2. Such further and other relief as counsel may advise and the Honourable Mr. Justice Bélanger permit.

**THE GROUNDS FOR THIS RESPONSE TO APPLICATION:**

3. The OBOA takes no position respecting the substantive relief of redaction being requested by Robert Wood.
4. The OBOA wishes to respond to the following portion of Procedural Order No. 12:

“It would appear, at first blush, that I am bound by these terms, which dictate that I produce the report to the Attorney General who, in turn, will make it public. It may be argued that I do not have the authority to publicly disclose the report and that Mr. Wood's request should be directed to the Attorney General. As matters stand, the report remains entirely confidential. **I would welcome submissions on this jurisdictional issue.**” [emphasis added]

Procedural Order No. 12  
May 22, 2014  
p. 3

5. Prior to the Inquiry proceedings commencing, the Commissioner addressed the citizens of Elliot Lake:

“Let me conclude by saying that public commissions of inquiry are an important component of a mature and democratic society such as ours – they play a key role in fact finding, **informing the public** and making recommendations to ensure that the matter that is the subject of the inquiry does not occur again. They may also play a role in restoring public confidence in government institutions.”  
[emphasis added]

Commissioner Bélanger  
August 15, 2012 Address

6. During the Inquiry proceedings, the Commissioner addressed the public nature of the inquiry and his intentions respecting the release of the Inquiry's Final Report:

"Perhaps the most important aspect of our mandate is to ensure that we proceed openly, fairly and transparently. **This, after all, is the public's inquiry.**" [emphasis added]

Day 1 Transcript  
March 4, 2013  
p. 14, lines 4-7

"Of this, however, **you can be certain** of, as I have said in French, **that report will be made public here and nowhere else when my team and I return one final time here to Elliot Lake to release it.** We look very much forward to that day." [emphasis added]

Day 117 Transcript  
October 9, 2013  
pp. 29002-29003, lines 22-2

"I look forward to seeing you one final time in the not too distant future **when I am in a position to deliver the report I've undertaken to the people of Elliot Lake that they would be the first to receive it and I stand by that commitment.**" [emphasis added]

Day 118 Transcript  
November 12, 2013  
p. 74, lines 26-31

7. From a plain reading of the Inquiry's Terms of Reference, it would appear that the Commissioner's task is to have printed and delivered, by October 31, 2014, the Inquiry's Final Report to the Attorney General who is the one responsible for making the Report public.

Inquiry's Terms of Reference O-in-C 1097/2012  
As Revised by O-in-C 1873/2013  
Paras. 12 & 15

8. The public interest would best be served by permitting the Commissioner to release the Inquiry's Final Report to the public on a date, at a location and in a manner chosen by him.
9. The public interest and the Inquiry Participants' interests would best be served by facilitating Inquiry Participants being able to substantively respond to the release of the Inquiry's Final Report in a contemporaneous fashion.
10. The public interest would best be served by permitting the Commissioner to fulfill his stated commitment to the citizens of Elliot Lake.
11. The Commissioner has the right to request that the Inquiry's Terms of Reference be amended or clarified as mentioned in paragraph 1 above.

*Public Inquiries Act, 2009*  
Subsection 27(1)(d)

12. Securing the relief requested in paragraph 1 will permit the Commissioner to fully and effectively discharge the Commission's mandate in a manner similar to previous commissions of inquiry.
13. ELI Procedural Order No. 12
14. Order in Council 1097/2012, as amended by Order in Council 1873/2013 – *Inquiry Terms of Reference*, Sections 12, 14 & 15;
15. *Public Inquiries Act, 2009*, S.O. 2009, c. 33. Sched. 6, ss. 1, 3(3), 20, 21(3)-(4) and 27(1)(d);
16. Such further and other grounds as counsel may advise and the Honourable Mr. Justice Bélanger permit.

**THE FOLLOWING EVIDENCE WILL BE USED AT THE HEARING OF THE APPLICATION:**

17. The Amended Application Record.
18. Such further and other evidence as counsel may advise and the Honourable Mr. Justice Bélanger permit.

RESPECTFULLY SUBMITTED this 13<sup>th</sup> day of June, 2014.

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**THE ELLIOT LAKE  
COMMISSION OF INQUIRY**

**NOTICE OF  
RESPONSE TO APPLICATION**  
**[Ontario Building Officials Association]**

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