

Notes for opening comments – 4 March 2013 – Elliot Lake

Ladies and gentlemen – mesdames, messieurs

Good morning - bonjour

Welcome to this the opening session of the public hearings of the Elliot Lake Commission of Inquiry

Je vous souhaite la bienvenue à cette première session des audiences publiques de la Commission d'enquête sur Elliot Lake.

Je répèterai mes commentaires en français lorsque j'aurai terminé en langue anglaise.

As you know, my name is Paul Bélanger and I am a retired judge of the Ontario Court of Justice; on July 19th 2012, I was appointed by the Government of the Province of Ontario to be the Commissioner of this Inquiry. We have been mandated to look into the causes of the collapse of the Algo Centre Mall and the emergency management and response that followed, to examine legislation, regulations and practices in effect at the time of the collapse as well as to make recommendations to the Government with a view to ensuring that this sort of tragedy does not occur again.

The terms of reference of the Inquiry can be found on the Inquiry's web site at www.elliottlakeinquiry.ca as is other important information about our work.

Every Commission of Inquiry has to invent itself from scratch. Administrative and legal staff must be found. Facilities need to be rented and fully equipped, from staplers to large photocopiers, from pencils to computers.

This commission's work is made doubly difficult because of the relative remoteness of Elliot Lake where the closest commercial airport is over 2 hours

away, either in Sudbury or in Sault Ste-Marie and driving distance from large centers such as Ottawa or Toronto are 7-8 hours away in the best of weather conditions. On a number of occasions during the past few months, teams of lawyers dispatched to interview witnesses have had to return, their mission unaccomplished, because of inclement winter weather.

In addition, the Commission has had to navigate carefully in order not to interfere with ongoing police investigations, as well as investigations by the Ministry of Labour, the Professional Engineer's Association and the Coroner's office. In some respects, we can work cooperatively and in parallel with these organizations, but this must be done carefully, considering the differing and often divergent legislative and policy mandates of each.

We set up offices in Ottawa while overseeing at the same time the construction of this impressive hearing facility (the White Mountain Building) here in Elliot Lake with offices and spaces for staff, counsel, interpreters, press, etc., servers for our computing system and the all of the electronic equipment that you see set up in this hearing room.

We've implemented a document retrieval and coding system, as well as a document sorting and evaluating system, all electronic, to ensure that all documents that are relevant to the Commission's mandate are made available to all participants and eventually to the public when the most important ones are made exhibits.

We have set up a Web Site to inform all participants and the public of the work of the Commission and signed a contract for a stenographic/recording/monitoring system so that transcripts of proceedings are available to the participants and to the public who wish follow the proceedings of the Commission. We are striving to ensure that rough transcripts of the day's proceedings are available on our Web site soon after the end of the sitting day.

We continue to experience some difficulty with bandwidth for receiving and transmitting electronic information to and from this facility, but I am hopeful that the situation will be regularized this week when the promised optical cable is

finally hooked up. The video quality of the live broadcasting of proceedings to our web site may be somewhat diminished initially but we have been assured that we will see a marked improvement before week's end. In addition, Eastlink Cable will be providing coverage but with a delay.

And of course, an entire logistical apparatus has had to be developed so that Commission Staff and counsel can be accommodated and transported while they live here in EL and do their work. Much of the credit for doing that work in an efficient and cost effective way goes to Ms. Suzanne Labbé, our Executive Director. We are providing simultaneous translation of all the proceedings to ensure that everyone can follow the Commission's business in both official languages.

There is additional seating in the overflow room located on the ground floor so that persons not able to find a seat in the hearing room or who are unable to get to the second floor of the building can follow proceedings on a large screen T.V. As well, the Commission has set up a large media room to make it easier for journalists to cover the hearings.

I've just described the highlights – the minutiae behind those highlights are mind-boggling.

Some of you will have met Commission Counsel, most of who are here today. Bruce Carr-Harris, Peter Doody and Mark Wallace are senior Commission Counsel. Nadia Authier, Nadia Effendi, Natalia Rodriguez and Duncan Ault are Associate counsel. Ivana Nenadic is our articling student and Nigel Marshman remains in our offices in Ottawa along with Stephen Bindman who among other tasks will coordinate the writing of our eventual report. Their biographical notes are on our website. Also present are Suzanne Labbé, our executive director and Peter Rehak who is our media relations expert. He has occupied that role with distinction in many of Ontario's recent Commissions of Inquiry to ensure that the public, through the press and our website, is kept fully informed of our work and our

progress. Responses to requests for information will be handled by Peter as well as by senior commission counsel and Ms. Nadia Effendi in French.

I would also like to introduce you to two other people you will be seeing a lot of – our clerk-registrar Marc-André Bernard and Kassandra Kuka, our document technician who will ensure the timely and efficient retrieval of all important documents.

Commission counsel have been extremely busy and diligent in the past few months inventorying, classifying and determining the importance and relevance of mountains of documents that we have received as a result of the summonses issued since September. They and their investigators have interviewed hundreds of potential witnesses, have prepared overview statements, witness will-say statements and assembled the document briefs that witnesses receive prior to their testimony. I touch only briefly on the breadth and depth of their work. It continues apace by some, as others participate in the public hearings.

It bears repeating that this commission does not exist to lay the foundation for criminal charges or civil liability. This is not a trial. I do not have the intention nor the authority to make any legal determination. The strict rules of evidence that govern in a court of law do not apply. The Commission makes its own rules, in consultation with the participants. As I have said, we are here to determine why this tragedy happened, how the emergency response and management was carried out and how things might be improved to prevent repetition.

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.

To help us in this process, quite a number of individuals and organizations have been granted standing. Many of them are here today represented by counsel. In addition, I have recommended funding for some of them and so far, the Government has accepted all of my funding recommendations.

There will be two distinct phases to the evidentiary part of the Inquiry. First, we shall attempt to determine the causes of the collapse and study the legislation, regulations, policies and practices that had been in effect until that event. That

requires, of course, that we go back in time to the late '70s and chart the evolution of standards over the four decades of the Algo Mall's existence. The second phase of the Inquiry will look at the facts and the policies underlying the search, rescue and recovery effort that followed the collapse. Finally, once the evidentiary process has concluded, we anticipate seeking the assistance of experts, using round tables as the inquiry model, to obtain the most current information and advice pertaining to subjects that will have arisen through the public hearing process.

As we go forward in this endeavour, I am very conscious of the necessity of the process being cost effective. It must also be highly efficient if we are to remain within the 18 months allocated to us by our Order in Council. Those two requirements are challenging, considering the narrow timelines and distances involved and the complexities of the problem we are asked to resolve.

We welcome input from participants at any time regarding our process and any constructive suggestions on how to make it more streamlined and efficient.

At this time, I would ask all counsel to introduce themselves. I invite your brief opening comments or statements.

Once we have heard from counsel, we will break for remainder of the day to allow for further familiarization with the equipment, to permit interaction between counsel, to iron out potential difficulties, discuss schedules etc.

We will begin hearing evidence tomorrow commencing at 9.30 a.m. After this week, I anticipate we will sit four days a week, from Monday to Thursday next week and from Tuesday to Friday the week following. This will allow for a four-day weekend every two weeks in order that all have an opportunity to attend to other business.

We will have 20-minute health breaks at a convenient time both in the morning and afternoon sessions. Lunch break will be between 12.45 and 2 p.m. Sessions will begin at 9.30 and should end around 4.30 p.m. These times will be flexible, of course.

My hope is that this process will proceed smoothly and cooperatively with the ultimate object always in view.

So, we are ready to begin and I call first upon Commission Counsel, Mr. Peter Doody.