



Supplementary Ruling on Funding – Ontario Association of Fire Chiefs (O AFC)

1. On November 8, 2012, I granted standing to the O AFC in the following terms:

"This association represents the chief fire officers of the 462 municipal fire departments in Ontario, which employ 30,526 firefighters, career, part-time and volunteer. The Association's mission is leading innovation and excellence in public and life safety. This Association's expertise will clearly be of value to the Inquiry in relation to emergency management and response. Standing in relation to Part 2 of the Inquiry is granted."

2. When the Association of Fire Chiefs submitted its application for standing, it did not make an application for funding. It was not at that time represented by counsel.
3. The Order-in-Council creating the Commission provides that

Funding

11. The Commission may make recommendations to the Attorney General regarding funding to participants in the inquiry, to the extent of that participant's interest where, in the Commissioner's view, the participants would not otherwise be able to participate in the inquiry without such funding. Such funding shall be in accordance with applicable Management Board of Cabinet directives and guidelines.

4. The Commission's Revised Rules on Standing and funding provide that:

19. Further to paragraph 11 of the Terms of Reference, the Commissioner may make recommendations to the Attorney General regarding funding for a party to the extent of the party's interest, where in the Commissioner's view, the party would not otherwise be able to participate in the inquiry without such funding.

20. Persons may seek funding by way of motion in writing with supporting materials to be filed, in electronic format if possible, with the Commission on or before October 17, 2012, or at the discretion of the Commissioner on any other date. Persons will be expected to seek funding at the same time as they seek standing, and motion materials prepared in support of funding may be combined with motion materials prepared in support of standing.

5. The Commission's Procedural Orders 1 and 2 are posted on the Commission's website, at www.elliottlakeinquiry.ca.
6. Procedural Order Number 2 directed that the Association need not make oral submissions at the Standing and Funding hearing.

7. The O AFC subsequently retained counsel.
8. On 13 December 2012, I received a motion for a hearing requesting a funding recommendation to the Attorney General from counsel for the O AFC. That application is posted on the Commission's website.
9. The appendices attached to the motion contained, *inter alia*, financial statements of the O AFC for the years 2009, 2010 and 2011. The motion asked that this information be kept confidential and not posted on the Inquiry website. The Commission has received, on 8 January 2012, a letter indicating that the request for confidentiality is abandoned.
10. On 21 December 2012, I received a further affidavit in support of the O AFC's motion, executed by Mr. Richard Boyes, its Chief Operations Officer and Acting Executive Director. It is posted on the Commission's website.
11. The material provided to me by counsel is sufficiently clear and compendious for me to waive the necessity of a formal hearing.
12. I am satisfied that the circumstances outlined in Mr. Boyes affidavit satisfactorily explain the delay in the making of the O AFC's application.
13. In my Ruling on Standing and Funding approving a funding recommendation for the Ontario Building Officials Association ("OBOA"), I stated:

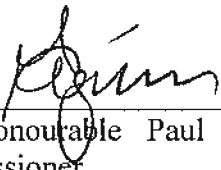
"In considering the OBOA's request for funding, I have considered the decision on Standing and Funding rendered by Commissioner O'Connor in the Walkerton Inquiry. Commissioner O'Connor stated that the expression "the party would not otherwise be able to participate in the Inquiry without such funding" does not require a demonstration of impecuniosity before funding could or should be recommended. In particular, in relation to organizations, Commissioner O'Connor was satisfied that where financial reserves for such organizations were dedicated to financing their core objects, purposes or activities it was appropriate to conclude that, without funding, such organizations would not otherwise be able to participate in the Inquiry. Among others, in the Walkerton Inquiry, Commissioner O'Connor recommended funding to the Association of Municipalities of Ontario and the Professional Engineers and Architects of the Ontario Public Service. The same principle was adopted by Commissioner Glaude in the Cornwall Inquiry where he recommended funding to the Diocese of Alexandria-Cornwall. In my view, the same principles apply in the case of the OBOA."

14. Having reviewed the materials provided by the O AFC, I am satisfied that a finding similar to that relating to OBOA is justified. It clearly does not have sufficient financial resources to participate in the Inquiry without funding and has no access to alternative sources; I have already determined that the O AFC's expertise will be of significant value to the Inquiry in relation to the emergency management and response aspects of the Commission's mandate.
15. On the basis of the materials provided, it is my further view that a case is well made for a recommendation for funding of one senior and one junior counsel. I note that in paragraph 15 of Mr. Boyes' December 20 affidavit, he swears that Ms. McKenna, junior counsel, will attend at Phase 2 of the Inquiry for the majority of the time, and at certain times when Mr. Saunders, senior counsel, is also in attendance in order to properly assist Mr. Saunders. In

paragraph 16, Mr. Boyes swears that it is the Association's intention to have Ms. McKenna attend almost all of the aspects of Phase 2 of the Inquiry that are relevant to the Association, but that it is not their intention to consistently be in attendance at the same time, although there will be occasions when both are present. I am satisfied that these undertakings will be complied with, and that this will ensure appropriate representation for the Association in a cost-effective manner.

16. I therefore recommend to the Attorney General that funding for one senior counsel and one junior counsel be provided in accordance with the *Guidelines for Reimbursement of Legal Fees and Disbursements* for the OAFIC.

ISSUED at Ottawa, Ontario, this 10th day of January, 2013.



The Honourable Paul R. Bélanger,
Commissioner