

**IN THE MATTER OF THE ELLIOT LAKE COMMISSION OF INQUIRY
established July 19, 2012 ,concerning the collapse on June 23, 2012
of the Algo Centre Mall in Elliot Lake, Ontario**

AND IN THE MATTER OF THE PUBLIC INQUIRIES ACT, 2009

NOTICE OF MOTION

Counsel for the Corporation of the City of Elliot Lake, John C. Walker, Q.C., by this motion hereby respectfully **requests full standing** before this Commission.

THE GROUNDS OF THE MOTION ARE:

1. The *person* is **The Corporation of the City of Elliot Lake.**
2. The Lawyer representing the Corporation of the City of Elliot Lake is

**John C. Walker, Q.C.
506 - 123 March Street
Sault Ste. Marie, ON
P6A 2Z5**

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FAX: 705 759-0457
E: walkerlaw@shaw.ca**

3. The nature of the interest of *the person*, The Corporation of the City of Elliot Lake in the subject matter of the inquiry and reasons for seeking standing include:
 - (a) The Corporation of the City of Elliot Lake is the municipal corporation with municipal jurisdiction where the mall in question was located.
 - (b) The Corporation of the City of Elliot Lake has already been named as a Defendant in legal proceedings which have been commenced to date, and while Corporation of the City of Elliot Lake believes that there was no error, omission or breach of duty on its part which gave rise to the collapse of *the Algo Centre Mall* in Elliot Lake, Ontario, the municipality is vitally interested in the content of the Final Report

of this Commission. There are aspects of the inherent limitations in the organizational structure, financial and professional staff resources, expertise and responsibilities of this municipality, and ultimately in similar size municipalities in the Province of Ontario, which may arise in the course of relevant considerations into the tragic events involving the collapse this Mall, and perhaps with respect to the responsibilities of municipal governments for buildings in general found within all communities; and which may be the subject matter of comment in the Final Report of this Commission.

4. The Corporation of the City of Elliot Lake (*the person*) and its counsel, John C. Walker, Q.C. seek full standing on each of the terms of reference (Mandate) set out in the Order in Council dated July 19, 2012.
5. With respect to the considerations found in Section 11 of *The Revised Rules of Standing and Funding*, The Corporation of the City of Elliot Lake (The person) and its counsel, John C. Walker, Q.C. respectfully submit:
 - (a) The Corporation of the City of Elliot Lake (the person) has a substantial and direct interest in the subject matter of this Commission. The potential findings and recommendations of the Final Report of this Commission could directly effect this municipal corporation financially and its future mandate and obligations to persons within its geopolitical boundaries, and also perhaps effect other communities, particularly smaller communities, within Ontario.
 - (b) The Corporation of the City of Elliot Lake is very directly involved in the commercial and economic fabric of the community which are matters of substantial public interest to the City of Elliot Lake.

- (c) The participation of The Corporation of the City of Elliot Lake (*the person*) and its counsel, John C. Walker, Q.C., in a spirit of openness and fairness in this Public Inquiry, may be able to further the work of this Commission, perhaps to seek ideas potentially for recommendations for legislative, regulatory and political structural changes of municipal governments within the Province of Ontario to seek to prevent such tragedies in the future.
 - (d) The Commission by Order in Council will inquiry into events without expressing any conclusion or recommendations regarding the potential civil or criminal liability of any person or organization.
6. With respect to the considerations Section 21 of *The Revised Rules of Standing*, The Corporation of the City of Elliot Lake (The person) and its counsel, John C. Walker, Q.C. respectfully submit the following:
- (a) The Person is:

The Corporation of the City of Elliot Lake
Municipal Offices
45 Hillside Drive North
Elliot Lake, ON P5A 1X5

PH: 705 848-2287
FAX: 705 461-1277
E: info@city.elliottlake.on.ca
 - (b) The lawyer representing the Person is:

John C. Walker, Q.C.
Barrister - At Law
123 March Street, Suite 506
Sault Ste. Marie, ON P6A 2Z5

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John C. Walker, Q.C. *FACTL*
Barrister - At Law
Called to the Bar 1969
Queen's Counsel 1981
Fellow of the American College of Trial Lawyers 2005

Past Counsel for the Regional Assessment Commissioner
Past Member of the *Rules Committee*
Past member of the Civil Justice Reform Committee

John C. Walker, Q.C.

Counsel for *the Person*, the Corporation of the City of Elliot Lake has been practicing in the field of Municipal Liability law for more than 40 years and has an interest in the effect of statutory liability and liability at common law upon municipalities in variable and complex circumstances, and particularly with progressive changes in statute law and regulation and in the common law by judicial decision and statutory interpretation. Counsel for the Person recognizes a need for cautious and deliberate development of the scope of the obligations of municipalities and municipal social and legal liability in circumstances such as this. There is a need to be vigilant to maintain a sensible balance in decisions and recommendations which may have unexpected, undesirable long term effects. To that extent, it may be of some importance that counsel for the Municipality may indirectly represent the interests of other Ontario municipalities in the issues before this Commission.

- (c) In light of the criteria to Request Funding, no application is made for funding by this counsel for the Corporation of the City of Elliot Lake.
- (d) Oral submissions can be made, as required if necessary, perhaps following a preliminary review of this Request for Standing

All of which is respectfully submitted by Counsel for
the Corporation of the City of Elliot Lake

October 12, 2012

John C. Walker