

**IN THE MATTER OF THE ELLIOT LAKE COMMISSION OF INQUIRY  
The Honourable Paul R. Bélanger, Commissioner**

**AND IN THE MATTER OF an Application by the City of Toronto  
for Standing in Part II of the Inquiry**

**BETWEEN:**

**THE ELLIOT LAKE COMMISSION OF INQUIRY**

**And**

**CITY OF TORONTO**

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**APPLICATION FOR STANDING**

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**CITY SOLICITOR'S OFFICE**

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**NOTICE OF APPLICATION FOR STANDING OF THE CITY OF TORONTO**

TAKE NOTICE that the Applicant, City of Toronto (the "City"), hereby brings an Application in writing, and orally if required, for an Order allowing the City standing to participate in Part II of the Elliot Lake Commission of Inquiry (the "Inquiry").

**THE GROUNDS FOR THIS APPLICATION ARE:**

1. The City is a municipal corporation with a direct and substantial interest in the subject matter of this Inquiry.
2. The City represents a distinct and ascertainable interest and perspective which is essential to the Commission's mandate.
3. The *Public Inquiries Act*, R.S.O. 1990, Chapter P. 41 and the Inquiry's *Revised Rules of Standing and Funding*.

4. Such further and other grounds as counsel may advise and the Honourable Commissioner may permit.

**THE CITY RELIES ON THE FOLLOWING:**

1. The written submissions for standing in Part II of Inquiry.
2. The oral submissions of counsel for the City, if required by this Honourable Commission.
3. Such further and other material as counsel may advise and this Honourable Commission may permit.

**THE RELIEF SOUGHT IS:**

1. An Order granting the City full standing in Part II of the Inquiry.

**DATED** at Toronto, this 28<sup>th</sup> day of March, 2013.

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**TO: THE ELLIOT LAKE COMMISSION OF INQUIRY**

2380 St Laurent Blvd  
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**APPLICATION FOR STANDING OF THE CITY OF TORONTO**

**INTRODUCTION**

1. Pursuant to the terms of its mandate, the Elliot Lake Commission of Inquiry (the "Commission" or "Inquiry") will inquire into, and report on, the events surrounding the collapse of the Algo Centre Mall in Elliot Lake (the "Mall") on June 23, 2012.

2. The Applicant, City of Toronto (the "City"), seeks standing in Part II of the Inquiry, which involves:

a. an inquiry into the events surrounding the collapse of the Mall, and the emergency management and response thereto; and,

b. Consideration of the policy issues which may arise through this inquiry.

### **APPLICATION FOR STANDING**

3. At paragraph 11 of the *Revised Rules of Standing and Funding*, this Honourable Commission has stated that standing will be granted to a person applying for standing, on consideration of the following factors:

- a. they have a substantial and direct interest in the subject matter of the Inquiry;
  - b. they will likely be notified of a possible finding of misconduct under section 17 of the *Public Inquiries Act*, R.S.O. 1990, Chapter P. 41;
  - c. their participation would further the conduct of the Inquiry; or
  - d. their participation would contribute to the openness and fairness of the Inquiry.
4. It is the City's position that it satisfies the test for standing, and in particular sections a, c, and d of this test.

### **DIRECT AND SUBSTANTIAL INTEREST IN THE INQUIRY**

5. On June 23, 2012 a request was made of the City to send members of its Heavy Urban Search and Rescue ("HUSAR") team to Elliot Lake to assist in the response to the Mall collapse. Thirty-six members of the HUSAR team were deployed to Elliot Lake, and were on site from the early morning of June 24, 2012 to the completion of their response efforts on June 27, 2012.

6. The HUSAR team worked closely with the Elliot Lake Fire Chief, and other agencies involved, in determining and implementing the strategic plans that were used in the response.

7. The City was served with a summons dated August 30, 2012, requiring that it produce certain classes of documents to the Commission. In response to the summons, and further correspondence from Commission Counsel, the City produced numerous documents related to HUSAR's response to the Mall collapse and the HUSAR team in general.

8. As a result of the foregoing, the City respectfully submits that it has a direct and substantial interest in Part II of the Inquiry.

### **PARTICIPATION WOULD FURTHER THE CONDUCT OF THE INQUIRY**

9. The City had substantial involvement in the planning and implementation of the response efforts. The City is able to provide its perspective and information on the response.

10. The City can assist the Inquiry in understanding the response actions which took place, when and where such actions occurred, who was involved in such actions, and why any actions were undertaken.

11. As Ontario's sole heavy urban search and rescue team, the City, through its HUSAR team, has knowledge of the relevant policies, processes, and procedures involved in this type of emergency management response. The City, and in particular its HUSAR members, can provide their perspective as to the existing procedures, and provide insight on policy issues that may arise as part of the Inquiry.

12. As a result of the foregoing, the City submits that its participation in Part II of the Inquiry would further the conduct of the Inquiry.

## **THE OPENNESS AND FAIRNESS OF THE INQUIRY**

13. Given the City's involvement in the response effort, and HUSAR's role in heavy urban search and rescue, as set out above, the City submits that its participation in Part II of the Inquiry would contribute to the openness and fairness of the Inquiry.

## **TIMING OF THE CITY'S APPLICATION FOR STANDING**

14. Section 3 of the Inquiry's *Revised Rules of Standing and Funding* states: "The Commissioner may amend these Rules or dispense with compliance of these Rules as he deems necessary to ensure the Inquiry is thorough, fair and timely."

15. Section 8 of the *Revised Rules of Standing and Funding* states: "Persons may seek standing at the Inquiry by way of motion in writing with support materials, to be filed, in electronic format if possible, with the Commission on or before October 17, 2012, or at the discretion of the Commission on any other date."

16. On October 17, 2012, counsel for the City, Richard Oliver, spoke to Commission Counsel, Mark Wallace, to advise Mr. Wallace that he would not receive instructions to apply for standing on behalf of the City by October 17, 2012.

17. The City has been involved in the process of the Inquiry since being served with a summons dated August 30, 2012. Since this time the City has provided the Commission with documents in response to the summons and subsequent requests from Commission Counsel.

18. Through this process the City determined that its involvement in the response effort was of such a nature that it would be prudent to seek standing in Part II of the Inquiry.

19. Given the City's ongoing involvement in the Inquiry, it is the City's position that there would be no negative effect on the conduct of the Inquiry if this Honourable Commission grants the City standing for Part II of the Inquiry.

**CONCLUSION**

20. Given the foregoing, the City submits that this Honourable Commission grant the City standing for Part II of the Inquiry.

All of which is respectfully submitted this 28<sup>th</sup> day of March, 2013

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