

THE ELLIOT LAKE COMMISSION OF INQUIRY

ONTARIO ASSOCIATION OF FIRE CHIEFS

AFFIDAVIT OF RICHARD BOYES

I, Richard Boyes, of the Town of Ajax, in the Province of Ontario,
MAKE OATH AND SAY :

1. I am the Chief Operations Officer and Acting Executive Director for the Ontario Association of Fire Chiefs ("O AFC") and as such have personal knowledge of the matters hereinafter deposed to except where stated to be based on information and belief.

2. The O AFC was delayed in filing its motion for funding because the organization was in a state of flux during the relevant time period. The O AFC remains vitally interested in participating in the Elliot Lake Commission of Inquiry (the "Inquiry") and has clear expertise regarding significant issues in this proceeding, but it simply does not have the financial ability to pay for representation at the Inquiry. As a result, the O AFC sincerely hopes that the delay in requesting funding does not impact its ability to obtain funding for legal representation at the Inquiry.

3. On or around October 1, 2012, the former Executive Director for the O AFC tendered his resignation. The former Executive Director's resignation was effective November 30, 2012. I was formally appointed to act as Executive Director effective December 3, 2012. As a result, between October 1, 2012 and December 3, 2012, the organization was undergoing a transitional period in which the former Executive Director was winding down his duties.

4. During this timeframe, on or around October 15, 2012, the O AFC became aware of its ability to apply for standing in the Inquiry. The O AFC sent an e-mail to the Commission in which it advised the Commission of its intention to obtain standing in the Inquiry. The O AFC followed up with a formal letter to the Commission requesting standing within a few days of sending this e-mail.

5. While the organization managed to apply for standing, as a result of the transition in management during this time and a lack of familiarity with the process, the O AFC did not realize that it ought to apply for funding at that point in time. While I concede that the information from the Inquiry clearly outlines this process and timelines, our organization was simply unaware of this information.

6. The O AFC is a volunteer organization. The O AFC's Board of Directors (the "Board") is made up of Fire Chiefs and Deputy Fire Chiefs from across the Province of Ontario. The Board is the O AFC body that considers and makes all major decisions such as the expenditure of significant sums of money and the retaining and funding legal representation for significant legal activity such as the Inquiry.

7. The first O AFC Board meeting since the O AFC was advised it had been granted standing in the Inquiry took place on or around November 20, 2012. At this time, the Board discussed the O AFC's need and financial ability to retain legal counsel for the Inquiry. In this meeting, the O AFC determined that it required legal counsel with respect to the process and I was requested to seek out appropriate counsel.

8. I contacted Mr. John Saunders, a partner at Hicks Morley LLP, shortly thereafter. A meeting was arranged between myself and Mr. Saunders for December 4, 2012.

9. At the December 4, 2012 meeting, Mr. Saunders and I discussed the possible retention of Hicks Morley by the O AFC; the expected duration of the Inquest; the legal costs and disbursement costs; the O AFC's budget and the

O AFC's ability to pay. We also discussed whether the O AFC ought to bring a motion for funding. At this time, I advised Mr. Saunders that I required the Board's approval in this regard.

10. The Board convened a meeting on December 11, 2012 at which time the Board decided to retain Hicks Morley LLP for the Inquiry and to bring a motion for funding.

11. A motion record was filed by Hicks Morley in which the O AFC requested funding to retain legal counsel at the Inquiry. This was provided to the Commission on December 13, 2012.

12. In our motion for funding, the O AFC requests funding to retain one senior and one junior counsel, Mr. Saunders and Ms. Carolyn McKenna, to represent the O AFC at the Inquiry.

13. I understand from Mr. Saunders and Ms. McKenna that the provision of funding for both Mr. Saunders and Ms. McKenna to represent the O AFC at the Inquiry will result in more effective representation of the O AFC's perspective as well as cost-savings in terms of legal costs.

14. Mr. Saunders and Ms. McKenna recently represented the City of Orillia Fire Department in the four and one-half weeks Coroners' Inquest regarding the Muskoka Heights Retirement Home fire which resulted in four fatalities. Ms. McKenna provided assistance to Mr. Saunders throughout the duration of the Inquest in an effort to keep legal costs low and it is their intention to provide similar representation to the O AFC throughout Phase 2 of this Inquiry.

15. Ms. McKenna, who has a lower rate per hour, will engage in the majority of the preparation work for the O AFC's participation in Phase 2. This will entail meetings with the client and other stakeholders in the O AFC organization to determine their position on the issues under consideration. She will conduct the initial interviews and preparation of the witnesses which the O AFC might call in this matter. She will be able to efficiently summarize this information for Mr. Saunders to

reduce the time he needs to spend in preparation. This will require Ms. McKenna to attend at the Inquiry for the majority of the time, and at certain times when Mr. Saunders is also in attendance in order to properly assist Mr. Saunders. Overall, however, this will result in savings in terms of legal costs since Mr. Saunders will not be required to carry out a significant amount of preparation work, at his higher rate per hour, and be present at the Inquiry for the whole of Phase 2.

16. It would be our intention to have Ms. McKenna attend almost all of the aspects of Phase 2 of the Inquiry that are relevant to the OAFIC. Mr. Saunders will attend on a more irregular basis when there are issues which are of particular sensitivity or special interest to the OAFIC. It is not Ms. McKenna's and Mr. Saunders' intention to consistently be in attendance at the same time, although there will certainly be occasions when both are present at the same time.

17. It is also my information and belief that based on the experience of past Coroner's Inquests such as the Muskoka Heights Inquest, government agencies such as the Fire Marshal's Office, always had two lawyers present for the entire proceeding and often had three lawyers present for the contentious portions of the testimony. While I am unaware as to how many lawyers these government agencies intend to have present at this Inquiry, fairness would seem to suggest that organizations such as the OAFIC should not be prejudiced by having limited resources in this area.

18. The OAFIC has a unique perspective regarding important issues that will arise during Phase 2 of the Inquiry. In many respects, the OAFIC's perspective may differ from that of other parties involved in that phase of the process, including the Ontario Fire Marshal's Office, the Ministry of Labour, the Police and Fire Fighters' Professional Associations. The provision of funding for a senior counsel and a junior counsel will ensure that the OAFIC consistently has legal representation in attendance at the Inquiry in order to both put forth the OAFIC's perspective regarding various issues and to respond to those perspectives with which it has a differing opinion.

