

**IN THE MATTER OF** Order-In-Council 1097/2012, and the Inquiry into events surrounding the collapse of the Algo Centre Mall in Elliot Lake (the “Elliot Lake Inquiry”)

**NOTICE OF MOTION**

The moving party, the ASSOCIATION OF PROFESSIONAL ENGINEERS OF ONTARIO (“PEO”) will make a motion to the Commissioner of the Elliot Lake Inquiry (the “Commissioner”) in writing, or if so required, by attendance by counsel on Friday, October 26, 2012, at 279 Highway 108 North, in Elliot Lake, at 9:30 a.m., or so soon thereafter as this motion can be heard.

**THE MOTION IS FOR:**

- 1) An order that the PEO be granted standing as a Participant in the Elliot Lake Inquiry with all the rights and privileges of Participants, as set out in Rule 16 of the Revised Rules of Standing and Funding, in connection with professional engineering issues surrounding the structural design and integrity of the Algo Centre Mall, the general regulatory and complaints process for professional engineers, and issues concerning the conduct of the professional engineers involved with the Algo Centre Mall; and
- 2) Such further or other order as may seem just.

**THE GROUNDS FOR THE MOTION ARE:**

- 1) PEO is the licensing and regulatory body for professional engineering in the Province of Ontario.

- 2) Under the *Professional Engineers Act* (“PEA”), PEO is responsible for the licensing and discipline of professional engineers and companies providing professional engineering services.
- 3) The PEA provides that the principal object of the PEO is:  
“to regulate the practice of professional engineering and to govern its members, holders of certificates of authorization, holders of temporary licences, holders of provisional licences and holders of limited licences in accordance with the Act, the regulations and the by-laws in order that the public interest may be served and protected.”
- 4) The PEO has the following additional objects:
  1. To establish, maintain and develop standards of knowledge and skill among its members,
  2. To establish, maintain and develop standards of qualification and standards of practice for the practice of professional engineering.
  3. To establish, maintain and develop standards of professional ethics among its members.
  4. To promote public awareness of the role of the Association.
  5. To perform such other duties and exercise such other powers as are imposed or conferred on the Association by or under any Act. R.S.O. 1990, c. P.28, s. 2(4).
- 5) In accordance with its powers, PEO has issued Guidelines in connection with the practice of professional engineering, including Guidelines relating to professional engineers providing services in construction and building.
- 6) The Complaints Committee of the PEO considers complaints made to the PEO pursuant to its powers as set out in s. 24 of the PEA.
- 7) Pursuant to s. 33 of the PEA, the Registrar of the PEO may by order appoint one or more persons to make an investigation (“Registrar’s Investigation”) where the Registrar

believes on reasonable and probable grounds that a member of the PEO or a holder of a certificate of authorization has committed an act of professional misconduct or incompetence or that there is cause to refuse to issue or to suspend or revoke a certificate of authorization.

- 8) If a matter is referred to discipline by the Complaints Committee (pursuant to s. 24 of the PEA), or by the Council or the Executive Committee (following a Registrar's Investigation), the Discipline Committee of the PEO hears and determines the matter pursuant to ss. 27 and 28 of the PEA.
- 9) The PEO has launched two investigations related to the collapse of the Algo Centre Mall. These investigations are ongoing.
- 10) The PEO has been served with a Summons issued by the Elliot Lake Inquiry which requests production of certain records in the PEO's possession.
- 12) The Terms of Reference of the Elliot Lake Inquiry provide that its Mandate is to:
  - a. Inquire into and report on events surrounding the collapse of the Algo Centre Mall in Elliot Lake, Ontario, the deaths of Lucie Aylwin and Doloris Perizzolo and the injuries to other individuals in attendance at the mall and the emergency management and response by responsible bodies and individuals subsequent to the collapse;
  - b. Review relevant legislation, regulations and by-laws and relevant policies processes and procedures of provincial and municipal governments and other parties with respect to the structural integrity and safety of the Algo Centre Mall in Elliot Lake, Ontario;
  - c. Review relevant legislation, regulations and by-laws and relevant policies, processes and procedures of provincial and municipal governments and other parties with respect to the emergency management and response to the collapse of the Algo Centre Mall in Elliot Lake, Ontario,
- 13) The PEO seeks standing for the following purposes:

- a. to participate in the Inquiry's examination of professional engineering legislation, policies and guidelines as they may relate to the structure of the Algo Centre Mall;
  - b. to provide relevant evidence concerning the professional engineers that had been involved with the Algo Centre Mall prior to its collapse;
  - c. to provide relevant evidence concerning the regulation of professional engineers and professional engineering in Ontario; and
  - d. to make submissions concerning the foregoing, including as to recommendations that may flow from the Elliot Lake Inquiry regarding the regulation of professional engineers and professional engineering in the Province of Ontario.
- 14) The PEO has an interest in the subject matter of the Elliot Lake Inquiry, as detailed above, and wishes to provide its evidence, documents and submissions on matters within its jurisdiction, in the public interest.
- 15) Such further or other grounds as counsel may advise and the Commissioner may permit.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

- a) The Affidavit of Roderick Young sworn the 12<sup>th</sup> day of October, 2012 and exhibits annexed thereto; and
- b) Such further and other evidence as counsel may advise and the Elliot Lake Inquiry may permit.

October 12<sup>th</sup>, 2012

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