

Appendix 'A'

IN THE MATTER of the *Public Inquiries Act*, 2009, S.O. 2009, c.33 Sched. 6

AND IN THE MATTER of the Elliot Lake Commission of Inquiry

RECOMMENDATIONS of GREGORY SAUNDERS

1. There should be established a Committee composed of representatives of the engineering profession, architects, municipal officials and Ministry of Labour. The purpose of the Committee would be to consider the concerns of the various parties and establish a regulatory legislative scheme to permit municipalities and the Ministry of Labour to conduct proactive inspections of structures and / or buildings.

2. The first task of the Committee would be to determine and define what structures and buildings would be subject to the legislation required in proactive inspections on a regular basis in the interest of public safety. Not all buildings should be subject to these recommendations. Consideration should be given as to the nature and size of the structure or building that should be subject to inspection. We would suggest any building that is a public building or considered a public building though privately owned, i.e. shopping centres, office complexes, theatres, arenas, et cetera, should be more closely inspected and, in the event of any deficiencies or remedial work being required, more closely monitored. Buildings or structures that are somewhat unconventional or have any unique features should be more closely monitored for safety than what might be considered to be a traditional form of structure.

3. One might consider a recommendation to the Province of Ontario that it pass legislation or regulation under the Ontario Building Code that would require the Chief Building Official of a municipality and his or her inspectors to conduct an inspection or review of a "defined building or structure" after an occupancy permit has been issued annually or every two years. The frequency of any follow up inspection would be dependent upon what is determined to be a problem, if any, after the inspection is conducted. If there are structural deficiencies that require remediation, then it would be incumbent on the local municipal building official to take such action as may be necessary to confirm that the remediation has occurred and if not, to take enforcement proceedings.

4. It is acknowledged that the Ministry of Labour has inspectors who are authorized to enter premises and conduct inspections. Given the legislative enactments that are present, there are some limitations. There should be consideration given to expanding the areas that inspectors from the Ministry of Labour can become involved in. At present, workplace safety is the underpinning of the current legislation. It may well be that representative of Ministry of Labour or inspectors should be authorized to note any deficiencies which may not be an immediate danger or safety issue but can become a safety issue in the long term. In that situation, inspectors from the Ministry of Labour should be permitted to have authority to require compliance of an owner and meet all aspects of the Ontario Building Code.

5. The owner of a "defined structure or building" shall keep a record of any and all engineering and / or architectural services that have been provided to the owner relating to the "defined structure or building" and advise the municipal building official or the Ministry of Labour inspector conducting an inspection as to the nature and extent of the services provided by that engineer or architect. The owner shall also provide the name and identity of the engineer or architect and any and all contact information relating thereto.

6. The chief building official of a municipality and/or the representative of the Ministry of Labour shall be authorized to require the owner of a defined structure or building subject to the regulation to release any and all information sought by the Chief Building Official and Ministry of Labour representative from the architect or engineer who provided the services to the building owner and make full and complete disclosure of the work or action taken by the architect or engineer for and on behalf of the building owner, his employees, servants, agents, or contractors.

7. That for the purposes of the legislation, a building owner should include a tenant who occupies leased premises of a defined structure or building.

8. Any and all engineers and architects who have provided services to an owner of a building or structure as defined shall make available to the successor engineer or architect requesting such information for and on behalf of a tenant, owner or purchaser any and all information in possession of the said architect or engineer.

9. An owner of a defined structure or building on the sale of such building or structure or on leasing the building or structure shall provide to the tenant and / or purchasers of the building a statutory declaration stating therein the names, addresses and contact information of any and all architects or engineers who have provided services to the owner or tenant for the building or conducted any inspections. If the owner or tenant of the building or structure as defined is in possession of any reports, assessments or letters written by such architect or engineer relating to the building or structure as defined, then the same shall be produced to the purchaser or tenant as the case may be.

10. The engineering and architectural profession be required to establish mandatory minimum guidelines that should be followed by engineers and architects, their employees, servants and agents when conducting building condition assessments. Those guidelines should bear in mind and take into consideration size of the building, location of the building, use of the building, as well as structural concerns.

11. Any and all building condition assessments should include intrusive or destructive testing that is significantly statistically relevant. In addition there should be mandatory minimum guidelines that are significantly statistically relevant, bearing in mind the nature of the defined structure or building.

12. That inspections of defined structures and buildings be conducted on a more proactive basis and not be limited to circumstances or situations where such inspections occur because of complaints from members of the public. While public complaints are important and should be followed up by the Ministry of Labour, Chief Building Official or their respective staffs, the defined structure or building requires a more proactive approach. Those investigations and inspections should not be complaint driven. Those inspections and investigations need not be premised on whether or not there is “reasonable probable grounds” that there has been a breach of the law, regulations or property standards bylaw.

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