

Summons to Witness*(Section 7, Public Inquiries Act, R.S.O. 1990)*

Re: Ipperwash Inquiry

To: [NAME]

You are hereby summoned and required to attend before the Commission of the Ipperwash Inquiry at an inquiry conducted by the said Commission to be held at Forest in the Municipality of Lambton on [DATE] at the hour of 10:30 in the forenoon and so from day to day until the inquiry is concluded or the Commission otherwise orders, to bring with you and produce at such time and place the documents specified in Appendix A herein.

Dated this * day of * 200*

Ipperwash Inquiry

 Commissioner Sidney B. Linden

Note:

You are entitled to be paid the same personal allowances for your attendance at the hearing as are paid for the attendance of a witness summoned to attend before the Ontario Superior Court of Justice. If you fail to attend and give evidence at the inquiry, or to produce the documents or things specified, at the time and place specified, without lawful excuse, you are liable to punishment by the Ontario Superior Court of Justice in the same manner as if for contempt of that Court for disobedience to a summons.

Appendix A

Definitions

“Document” includes any memorandum, analysis, report, minutes, notes, summaries, directives, circulars, surveys, opinions, briefing material, submission, correspondence, record, incident reports, notebooks, or any other note or communication in writing, any electronic communications (both internal and external), electronic calendars, electronic or other day timers and notes, audiotape, videotape, digital reproductions, photographs, maps, graphs, microfiche, CD-ROMs, and any data or information recorded or stored by means of any device, in relation to the matters listed below.

Documents Requested

- 1) *

- 2) *

- 3) *

Procedure to be Followed where Privilege Claimed

In the event privilege is claimed over a document, which is the subject of this summons, the procedure to be followed is as set by Rule 31 of the Rules of Procedure and Practice to the Ipperwash Inquiry, as supplemented herein.

Definitions

“Commissioner” means the Commissioner of the Ipperwash Inquiry and includes Counsel acting on his behalf;

“Document” means any paper or other material on which there is recorded anything that is capable of being read or understood by a person, computer system or other device, consistent with the definition set out in the summons;

“Judge” means the Regional Senior Judge of the Superior Court of Justice for Toronto, or His designate;

“Privilege” means solicitor-client privilege, cabinet privilege or public interest immunity.

Procedure

For greater clarity, where a person elects to seek a ruling by the Regional Senior Justice in Toronto of His designate:

1. The [PERSON] may within 30 days from the day that privilege is claimed apply on two days notice of motion to all other persons entitled to make application to the Judge for an order:

- a) appointing a place and a day not later than 21 days after the date of the order for the determination of the question whether the document is privileged and must produce the document(s) to the Judge at that time and place,
- b) serve a copy of the order on all persons entitled to make application within 6 days of the date on which it was made, and
- c) apply, at the appointed time and place, for an order determining the question.

2. Disposition of Application

On an application under paragraph 1, the Judge

- a) may, if the Judge considers it necessary to determine the question whether the document should be disclosed, inspect document;
- b) shall allow the Commissioner and the OPP to make submissions,
- c) shall determine the question summarily, and,
- d) deliver concise reasons for the determination in which the nature of the document is described without divulging the details thereof.

3. Privilege continues:

Where the Judge determines pursuant to paragraph 2(c) that a privilege exists in respect of a document, notwithstanding that the Commissioner and the

Commission Counsel have inspected the document, the document remains privileged and inadmissible as evidence unless the [PERSON] consents to its admission in evidence or the privilege is otherwise lost.

4. Where the Judge to whom an application has been made under paragraph 1 cannot act or continue to act under this section for any reason, subsequent applications under paragraph 1 may be made to another judge of the Superior Court of Justice.

5. An application under paragraph 1 shall be heard in private.

SUMMONS TO WITNESS

(Issued under Section 7, Public Inquiries Act, R.S.O. 1990, c. P. 41)

TO: [NAME]

You are hereby summoned and required to attend, before the Ipperwash Inquiry at Forest Memorial Community Centre (Kimball Hall) at 6276 Townsend Line, Forest, Ontario, on [DATE], at the hour of 9 o'clock in the forenoon (local time) and so from day to day until the inquiry is concluded or the Commission otherwise orders, to give evidence on oath touching the matters in question in the Inquiry.

Dated this *th day of * 200*

Commissioner Sidney B. Linden

Note:

You are entitled to be paid the same personal allowances for your attendance at the hearing as are paid for the attendance of a witness summoned to attend before the Ontario Superior Court of Justice. If you fail to attend and give evidence at the inquiry, or to produce the documents or things specified, at the time and place specified, without lawful excuse, you are liable to punishment by the Ontario Superior Court of Justice in the same manner as if for contempt of that Court for disobedience to a summons.

R.S.O. 1990, c. P.41, Form 1