

**NOTES FOR A SPEECH
BY THE HONOURABLE MADAM JUSTICE DENISE BELLAMY
COMMISSIONER**

**AT THE CLOSING OF
THE TORONTO EXTERNAL CONTRACTS INQUIRY
AND THE COMPLETION OF THE TORONTO COMPUTER LEASING INQUIRY
AND THE TORONTO EXTERNAL CONTRACTS INQUIRY
ON THURSDAY, JANUARY 27, 2005**

Today we come to the end of a long process. It is almost exactly three years ago that Toronto City Council by a unanimous vote created the Toronto Computer Leasing Inquiry, and over two years ago that they created the Toronto External Contracts Inquiry. Hearings for the first Inquiry ended on September 29, 2004 and today marks the end of the second one.

This is the only instance of which I am aware that has seen a judge conduct two separate inquiries at exactly the same time. Managing the two Inquiries has presented many challenges to me and my staff. It has significantly affected the budget, and it will influence the way in which I write the Report.

Completing the investigation and hearings for the two Inquiries has been a lengthy process. The City initially expected the first Inquiry hearings to take only 40 days, partly on the assumption that it would involve just one file cabinet of documents. And, of course, the City could not have known then that it would be establishing a second Inquiry, which necessarily led to an increase in time and budget.

Part of my Terms of Reference called for recommendations to improve the government of the City of Toronto and I convened a special phase to deal with that. We covered four general categories: conflict of interest, lobbying, procurement and municipal governance. I heard presentations from 41 individuals with expertise in municipal government. By the way, each of them generously participated without charging a fee. I gave the Mayor and each member of City Council the material and testimony from this phase of the Inquiries. This is also available on our website at www.torontoinquiries.ca.

Now, here we are, almost three years later, after thousands of hours of investigation, 214 days of hearings, 124,000 pages of documents, 156 witnesses, some of whom testified in both Inquiries, 22 parties with standing and over 60 lawyers.

The machinery of an inquiry – the investigations, the lawyers, the staff and office space – is an expensive proposition. I have been mindful of the cost to the Toronto ratepayer. In fact, in December 2003, I wrote to Mayor David Miller asking whether the new Council still wished me to proceed with the Toronto External Contracts Inquiry. City Council decided that I should continue and I did so.

My commitment to controlling costs placed great pressure on all those involved, especially on Commission Counsel and staff. This was particularly evident in the second Inquiry, which we completed in less than half the time allotted. Instead of 70 days of hearings, we had 34. Commission Counsel tightened the presentation of evidence by carefully focusing on essential points, culling the witness list and making extensive use of affidavits – a technique we found highly successful in the first Inquiry. Counsel for the witnesses and parties with standing helped the process greatly by their co-operation. Many thousands of pages – almost 54,000 – were gathered for the second Inquiry, but we were able to reduce the number introduced into evidence to just under 6,500.

This provides you with some insight into the enormous effort behind the scenes that resulted in this second Inquiry coming in under the estimated time and budget. I am satisfied that the efficiencies gained did not at all compromise our ability to scrutinize the evidence or to get at the truth.

To date, our cost for both Inquiries is approximately \$9.5 million.

The hearings for both Inquiries have ended, but the work is not over. Written closing submissions for the Toronto External Contracts Inquiry are due on February 28th. Parties wishing to reply to them orally will do so beginning the week of March 14th. Alternatively, parties may reply in writing. Written reply submissions are due by March 21st. The City's materials on Good Government are due by March 29th.

Even after that, my own work will be far from over. I have to write my Report, a Report that is to shed light, to the fullest extent possible, on what happened and to make useful recommendations.

As you can imagine, this will be a mammoth task. I have to consider and pass judgment on each person's evidence. I have to weigh each fact and each statement, using the insight that the more than two years of testimony have given me. I obviously have to decide the credibility of some of the testimony. In short, I have to put a mountain of evidence under a judicial microscope, and carefully dissect it all.

Judges do this all the time, but they usually do it at trials. As I have said many times before, though, a public inquiry is not a trial. Public inquiries assess what went wrong and make recommendations for improvements. They aim to maintain, improve or restore confidence in public institutions. Lawyers who work for an inquiry are different from lawyers at a criminal or civil trial. The role of Commission Counsel is not adversarial. They are not prosecutors. They represent the public interest in a very different way.

As the Commissioner, I am not to find anyone guilty of a criminal offence, nor am I to establish any civil responsibility for damages. Having said that, I fully intend to share my views about what happened. The public rightly expects me to do so. Where I find defects, I will make realistic and practical recommendations to prevent a recurrence.

I have said that these Inquiries required an enormous amount of effort. Ultimately, it will be for others to assess the value of that effort, but I think it can be stated without reservation that our proceedings have raised public awareness of the workings of municipal government.

I know that City officials have been paying close attention to the proceedings. During the good government phase, I heard evidence from the Chief Administrative Officer of Toronto, Ms. Shirley Hoy, about changes the City has made to address the issues examined during the first Inquiry. More recently, the City has embarked on a process of administrative review, guided in part by our proceedings. I am pleased that the City has already implemented some changes and I continue to encourage their efforts. I have asked the City for a complete update on the changes they have made since I heard from Ms. Hoy during the good government phase, and I look forward to reviewing that update. I hope that my findings and recommendations will provide the impetus for positive change to continue.

During both Inquiries, I have been committed to fairness, efficiency, openness and public accessibility. Our Rules of Procedure were written in plain language. We created a website. This gave the public access to rulings, witness lists, transcripts each day and other important information. The Toronto media gave both Inquiries extensive coverage, which helped to focus public attention on the issues. That coverage also served to accentuate in my mind the importance of the media's role in public inquiries. In keeping with our practice, Commission Counsel will continue to be available to provide information and to answer questions, now and in the months to come when I am writing my Report.

In closing, I want to thank a number of people. First, I would like to thank the people of East York who generously made available the community's Civic Centre. Also, a number of citizens have been present for many, many days of the hearings. I want to thank you all for your interest.

Next, I want to thank the many people who have made it possible for me to conduct these Inquiries. In alphabetical order, they are: Zachary Abella, Barrie Attzs, Ronda Bessner, Bill Blake, David Butt, Brian Clarke, Julie Dabrusin, Anne Dancy, Jodie Graham, Daina Groskaufmanis, David Henderson, Heather Hogan, Beverley Kozak, Ron Manes, Julia Milosh, Patrick Moore, Leanne Notenboom, Peter Rehak, Clita Saldanha, Djordje Sredojevic, Christopher Thiesenhausen, and Ljiljana Vuletic; and in the hearing room: Kevin Best, Carol Geehan, Robert Gray, Joyce Ihamaki, Bernie Sandor, Janet Smith and Cam Wheeler.

I also want to acknowledge the important contribution of the many lawyers for the witnesses and the parties with standing. And lastly, I want to thank our spouses, families and friends for their encouragement and sustenance throughout these past three years.

Let me conclude by observing that we in Toronto have good reason to care deeply about our municipal government. In many respects, this level of government has the most immediate impact on our day-to-day lives. Many fine people work for the City. I know their morale has been shaken by the Inquiries' roving searchlight on some of the inner workings of the City. People working hard at their jobs every day have felt the sting of the public's critical gaze. When I deliver my Report, I hope that my recommendations will go some way to improving the public's confidence in municipal government and to improving the functions of our City. I hope, too, that it will provoke vigorous discussion about how best to continue to improve a level of government that matters to us all. I expect to deliver my Report after Labour Day.