

TORONTO COMPUTER LEASING INQUIRY

The Honourable Denise Bellamy, Commissioner

Ruling on Standing

I have received an application for standing from Ms. Paula Leggieri. On behalf of Ms. Leggieri, Mr. Jim Orr is asking for limited standing to conduct cross-examinations during the segment of the hearing which is being held specifically to deal with the issues raised by Ms. Leggieri. Mr. Orr has indicated that he does not believe that his cross-examinations of the current City employees, including Kathryn Bulko, will substantially add to the length of the Inquiry. Indeed, his letter says that, if given limited standing, he will be getting directly to the issues.

Rule 8 of our Rules of Procedure provide that the Commissioner may grant standing to people who satisfy me that they have a substantial and direct interest in the subject matter of the Inquiry or whose participation may be helpful to the Commission in fulfilling its mandate. The Commissioner also determines on what terms standing may be granted.

This application for standing arises as a result of the investigation into allegations made by Ms. Leggieri. She alleges that she suffered adverse employment consequences because she cooperated with this Inquiry. As I indicated in my Ruling on April 8th this year, I take such allegations very seriously, because they impugn the validity and process of the Inquiry. The Rules of this Inquiry and the provisions of the *Public Inquiries Act* are specifically intended to encourage potential witnesses to come forward and assist in every way. In particular, employee witnesses are protected from any adverse employment action for co-operating with an Inquiry.

I do not agree with Mr. Orr that his client has a substantial and direct interest in the subject matter of the Inquiry. Ms. Leggieri's concern is the harm she alleges occurred as a result of her co-operation with the Inquiry. Ms. Leggieri's allegations relate to the procedural protections provided by our Rules and by the *Public Inquiries Act*. In essence, her allegations touch on the Inquiry's process, not the Inquiry's subject matter, which is specified in our Terms of Reference. See *Commissioner's Ruling on Standing and Funding*, July 3, 2002, TCLI.

Having said that, the absence of a direct and substantial interest does not by itself decide the matter of standing. The real question is whether Ms. Leggieri's participation as a party through counsel with limited standing will be helpful to me in fulfilling my mandate. I have concluded that her participation in a limited way will assist.

Our Rules do not give standing to everyone who is simply a witness. One can readily understand why. Witnesses do not need standing simply to give evidence. Practically speaking, it is not feasible to give every witness standing, nor would many of them

qualify for it under the applicable rules. Indeed, if every witness at an Inquiry received standing, inquiries would be unmanageable, and prohibitively expensive. Inquiries would cease to play their very important role in ensuring public accountability and good government.

Ms. Leggieri's circumstances, however, are unique. She is more than simply a witness. She is a witness who alleges her cooperation with the Inquiry caused her adverse employment consequences. This allegation strikes at the heart of the Inquiry process. To preserve the integrity of our process, we must explore her allegations. In these exceptional circumstances it may be helpful for me to have Ms. Leggieri's perspective as advanced by her counsel. For example, I expect that her lawyer's cross-examination will likely be informed by a perspective different from any other counsel who is going to cross-examine. I am comforted also by her counsel's undertaking to focus directly on the issues.

I am concerned, though, about extending the length of this Inquiry. The issue raised by Ms. Leggieri, while very important, takes us away from the subject matter contained in my Terms of Reference. I remain committed to fulfilling my mandate in a timely and cost-efficient manner. This approach applies equally to process issues and those issues directly within our Terms of Reference.

Therefore, I must set reasonable limits on the time and resources of this Inquiry that will be committed to the issue raised by Ms. Leggieri. These limits will apply to all counsel who intend to cross-examine. In setting these limits I have carefully considered Ms. Leggieri's allegations in her evidence before me, and the material and information in response which were made available to me through Commission Counsel.

Based on all the information available to me, I conclude that one week of Inquiry hearing time will be ample to address Ms. Leggieri's allegations in their entirety. During that week counsel are not to delve into issues related to the City of Toronto's Contract Management Office, the administration of the leases, or conduct or events surrounding changes to the leases. Witnesses, including Ms. Bulko and Ms. Leggieri, will be recalled at a later date to address those issues.

Ms. Leggieri will be granted limited standing to enable her counsel to cross-examine witnesses during the week devoted to Ms. Leggieri's allegations. I understand from Commission Counsel that Ms. Leggieri has already received documentary disclosure, after having executed our standard confidentiality agreement. As a condition of being granted this limited standing, I expect Ms. Leggieri and her counsel to cooperate fully with Commission Counsel, to ensure that nothing important is overlooked with respect to Ms. Leggieri's allegations.

I expect all counsel to cooperatively manage the presentation of relevant witnesses to fit within the one week allocated to this issue. Counsel are reminded that the purpose of direct and cross-examination is to help me make recommendations. I do not want to lose sight of that. There comes a point at which this purpose is not served by protracted or

repetitive cross-examination. The examination and cross-examination in this segment must be kept within reasonable bounds. If counsel are unable to agree I will assign time limits for each witness.

The one week of hearing time devoted to Ms. Leggieri's allegations will begin on Monday, June 16, and end on Thursday, June 19, 2003.

Written application for Standing received on: June 11, 2003
Decision Released on: June 12, 2003