

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

**AT THE STANDING HEARINGS OF THE  
TORONTO EXTERNAL CONTRACTS INQUIRY  
ON TUESDAY, NOVEMBER 5, 2002**

Good morning. Welcome to the first public session of the Toronto External Contracts Inquiry. My name is Denise Bellamy. I am a judge of the Superior Court of Justice in Ontario. At the request of Toronto City Council, I have been appointed by Acting Chief Justice Heather Smith to be the Commissioner of this independent Inquiry. Today I am going to be dealing with applications for standing, but first I would like to make a few preliminary remarks.

Toronto now has two separate public Inquiries: The Toronto Computer Leasing Inquiry and this Inquiry, the Toronto External Contracts Inquiry. The first came into being by way of a resolution in February of this year, the second only last month, when it became apparent to City Council that the original terms of reference of the first Inquiry were not sufficiently broad to permit me to examine other areas over which City Council was concerned. That is why we now have two public Inquiries proceeding at the same time.

While these Inquiries have separate terms of reference, they are inter-related in many respects. A number of the witnesses for each Inquiry will be the same and some of the issues are the same. The Rules for both Inquiries are essentially the same. Some of the parties with standing will be the same. I am the Commissioner for both judicial Inquiries. It would be a waste of the taxpayers' money for me to write two separate reports simply because the additions to the terms of reference came in the form of a separate inquiry. Therefore, I will be writing one report and will refer to the evidence heard in both Inquiries in this one report.

Now, let me talk specifically about the Toronto External Contracts Inquiry. City Council has provided me with broad terms of reference which you can find either on the city's website or on our Inquiry website. Briefly, Council has asked me to examine five separate matters:

1. the circumstances relating to the retention of certain consultants to assist in the creation and implementation of the tax system of the former City of North York (TMACS)
2. the circumstances relating to the amalgamated city of Toronto's selection of TMACS,
3. the circumstances relating to the selection of consultants to develop and/or implement TMACS at the amalgamated City of Toronto

4. the circumstances surrounding the selection of Ball Hsu & Associates Inc. to provide consulting services to the City of Toronto; and
5. all aspects of the purchase of computer hardware and software that subsequently formed the basis for the computer leasing Request for Quotations that is currently the subject of the Toronto Computer Leasing Inquiry, the other Inquiry over which I am Commissioner.

In so far as #5 is concerned, through a resolution passed at the meeting of City Council on October 29, 30, and 31, City Council has clarified that this section is to refer only to the supply of Dell desktops and servers which were referred to in the leasing RFQ, but not the other hardware and software listed in the RFQ.

The majority of City Council voted to hold this Inquiry. I take that to mean that City Council and the Mayor want an impartial look at these matters and want answers regarding what happened. City Council has given me the authority to ask any questions I consider necessary and to scrutinize the evidence to determine what the impact of these contracts has been on the taxpayers of Toronto.

I am going to do this by way of public hearings, and after I am finished, I will be preparing a report. In that report, I have been given the explicit authority to make any recommendations that I think are appropriate and in the public interest.

To help me do that, I encourage anyone who has information that they think might be helpful to the Inquiry, whether it involves documents or names of potential witnesses, to provide this information to us as soon as possible. The law offers protection to witnesses to encourage them to come forward in public inquiries.

I want to emphasize what a public inquiry is and what it is not. I have said this at least twice at the Toronto Computer Leasing Inquiry, but I am going to repeat it again because of its importance. A public inquiry investigates and reports on matters of substantial public interest to a community. A public inquiry is not a trial. No one is charged with any criminal offence; no one is being sued. As a Commissioner, I have no right to find anyone guilty of a criminal offence nor can I establish civil responsibility for damages. Inquiries tend to be broader than either criminal or civil trials and, as a rule, while they investigate past events, they tend also to be concerned with providing an explanation of what happened, so as to assist in preventing similar events in the future.

A public inquiry also needs to be both public and available to the public. I am committed to having open and public hearings. I encourage members of the public to come to the hearings and listen to the evidence.

Having said that, I recognize that in our busy worlds not everyone who is interested in the Inquiry will be able to physically attend the hearings. I am pleased, therefore, to see that the media has been active in reporting news about the Inquiry. It is through the media that those who are unable to attend can find out what is happening on a day-to-day basis. To ensure that the media can accurately report what is

happening at the Inquiry in a timely manner, I have directed Inquiry staff to make materials as accessible as possible to them.

In another attempt to make information available to the public, we have created a website to provide an open window into the activities of the Inquiry. For example, any member of the public will be able to access the website at any time and read what a witness has said, word for word, generally by the end of the same day the witness testifies. Our website can be found at [www.torontoinquiry.ca](http://www.torontoinquiry.ca).

We recognize that the public might get confused about the two separate Inquiries that I am conducting at the same time. We are trying to simplify this by having only one website so that people do not have to figure out which Inquiry is doing what at what time. Bear with us, please, as we update our website to include both Inquiries and as we try to make it as user-friendly as possible.

Commission counsel play a critical role in a public inquiry. They are the legal arm of the Commission. Essentially, I am their client, and their only client. The main responsibility I have given to them is to represent the public interest at the Inquiry. They do not represent any particular point of view. They are not prosecutors. Their role is not adversarial nor do they take one side over another. They have a duty to make sure that all issues bearing on the public interest are brought to my attention. Their job is to use their skill and experience to present all the available relevant evidence in as fair and thorough a fashion as possible.

I would like at this point to introduce you to Commission counsel. Ron Manes is lead Commission counsel on both Inquiries. However, he cannot be everywhere at the same time, so while he is proceeding with the Toronto Computer Leasing Inquiry, David Butt will lead the investigation into the Toronto External Contracts Inquiry. Mr. Butt will also be the lawyer who will be handling media inquiries relating to the Toronto External Contracts Inquiry. Julie Dabrusin will be assisting Mr. Butt. Our website contains information about the background of each of these lawyers, and I encourage you to visit it.

Each public inquiry establishes its own rules. We have drafted our Rules of Procedure in a way that makes sure that the process we follow is open and fair to everyone. We have tried to write the rules in plain language and to keep the legal jargon to a minimum. Our rules explain the process that I intend to follow. They too are posted on our website.

Today, we begin the process of identifying those persons or organizations who may have a direct and substantial interest in the proceedings of the Inquiry, or whose participation in the Inquiry may be helpful. I have received applications from seven applicants who have expressed an interest in getting what is known as "standing". People who are granted standing can take an active part in the proceedings of the Inquiry. I should point out that, because of the special circumstances of these two Inquiries with overlapping issues proceeding at the same time, we have created a rule

for each Inquiry that permits those with standing in one Inquiry to obtain standing in the other Inquiry. Three of the seven applicants are ones who already have standing in the Toronto Computer Leasing Inquiry.

I am not yet in a position to announce the date for the hearings for the Toronto External Contracts Inquiry. Before we can start public hearings, we have to be sure that we have gathered all the information, that we have interviewed all those who may be helpful, and that we have organized everything for the hearings so that this information can be presented in an understandable and efficient way. In any event, as the Toronto Computer Leasing Inquiry is scheduled to resume on December 2, 2002, clearly that Inquiry will be in a position to start before this one. I encourage you to check our website regularly for updates.

Thank you for your attention.

I am now ready to hear the oral presentations for standing.