

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

**AT THE OPENING OF
THE TORONTO EXTERNAL CONTRACTS INQUIRY
ON MONDAY, OCTOBER 18, 2004**

Good Morning. Welcome to the Toronto External Contracts Inquiry. This is the second of two Judicial Inquiries that Toronto City Council has asked me to conduct. Let me briefly review how these Inquiries came about.

The first, the Toronto Computer Leasing Inquiry, was established in February 2002 by a unanimous vote of City Council. Then eight months later, in October, City Council voted to expand that Inquiry's mandate. It had become apparent that the Terms of Reference of the first Inquiry were not sufficiently broad to allow me to examine other areas over which City Council had concerns. As a result, City Council then established this second Inquiry, the Toronto External Contracts Inquiry.

Both Inquiries had been set up before the last municipal election in November, 2003. Partly as a result of this, after the election, I wrote to the new Mayor and City Council. I indicated that I was fully prepared to discharge my mandate under the second Inquiry, but before doing so I invited them to revisit whether they still wished me to proceed with it. My letter to the Mayor is available on our website at www.torontoinquiry.ca. City Council considered the matter on two occasions and ultimately voted 34 to 4 for me to proceed with the Toronto External Contracts Inquiry, and this is what we are doing today.

Both Inquiries have separate terms of reference and deal with separate transactions. The mandate of the first was to inquire into all aspects of leasing contracts for computers and related software between the City of Toronto and MFP Financial Services, and between the City of Toronto and Oracle Corporation. The hearings of that Inquiry were completed two weeks ago.

While the issues I am to address in the Inquiries are inter-related and many of the witnesses are the same, the mandate of the Toronto External Contracts Inquiry is broader. The first Inquiry focused mainly on leasing contracts; the second will look at three different transactions and will provide an added perspective on the transactions dealt with in the first. Indeed, all the activities we will examine in this second Inquiry arose before the events that lead to the first Inquiry. The combination of both Inquiries constitutes perhaps an unprecedented look at municipal governance.

The Terms of Reference for the Toronto External Contracts Inquiry are posted on our website. Briefly summarized, I am to examine how consultants were hired,

how they were paid, how their contracts were managed and how existing rules were followed. I will explore why and how the tax system of the former City of North York came to be adopted by the City of Toronto following amalgamation. I will look into how Dell Computer Corporation came to win the Request for Proposal regarding desktops and servers which immediately preceded the MFP leasing Request for Quotations, about which we heard so much in the first Inquiry. I will hear evidence concerning the City's transactions with consultants from Saunders & Associates, Beacon Software Inc., Beacon Software Revenue Systems LLC, Remarkable Software, Inc., and Ball Hsu & Associates Inc.

As I have mentioned on other occasions, I will be writing only one report. That report will contain recommendations based on the evidence I heard in both Inquiries.

I have frequently referred to what a public inquiry is and what it is not. As we start a new public inquiry, it bears repeating. A public inquiry is not a trial. No one is charged with a criminal offence and no one is being sued civilly. A public inquiry investigates and reports on matters of substantial public interest. Its role is to educate, to make recommendations on preventing similar problems in the future and to restore confidence in public institutions.

Another important point that bears repeating is that not all the evidence can be presented at once. I would ask everyone to reserve judgment and not to arrive at conclusions until they have heard all the evidence. This caution is particularly important in this Inquiry which is, in a sense, three unrelated inquiries in one, but some witnesses have important evidence to give in more than one segment. Where possible, I prefer to call witnesses only once. They will testify where they have the most evidence to give, and at that time, they will tell us about all the transactions they were involved in.

As in the first Inquiry, I remain committed to open and public hearings and to the accessibility of information about the proceedings. The public can follow the hearings through the media, through our web page where transcripts are available each evening and by attending here. The media have thoroughly covered the first Inquiry. We have seen issues examined here become part of the discussion during last year's municipal election, and some have already contributed to changes at city hall.

Public Inquiries cost money. They are expensive. It takes time to get to the bottom of things. However, as I have mentioned before, I am always mindful of the cost of these Inquiries to the Toronto taxpayer. Sometimes my commitment to controlling costs has placed a lot of pressure on all those involved, and especially on my Commission Counsel and staff.

We have taken several new major steps tailored to this Inquiry that will save time and money. These should enable us to proceed expeditiously without compromising the integrity or thoroughness of the Inquiry.

In a commendable demonstration of co-operation between Commission Counsel and counsel for the parties with standing, we were able to prepare a Statement of Non-Contentious Facts, consisting of 235 paragraphs in over 70 pages. This Statement provides a factual outline of many events and transactions. It will save a considerable amount of time at the Hearings. As well, there are a number of uncontested affidavits. Additionally, in a further display of co-operation, we are able to introduce today one exhibit containing affidavits from most of the witnesses who will be testifying during the first segment of the Inquiry. We hope to be able to do the same for the other segments. Also, I have asked Commission Counsel David Butt to present an Opening Statement to assist us all to follow the evidence by outlining a framework of key events and by identifying issues that the evidence will address. These initiatives combined will help put the evidence into context, will speed up the presentation of evidence, and will result in reduced cost to the Toronto taxpayers.

Finally, I want now to deal with three applications for standing which we have received since I granted standing to six parties on November 6, 2002. On October 6, 2004, we received two more applications for standing: one from Ms. Lana Viinamae and one from Ms. Margo Brunning; on October 14, 2004 we received an application from Mr. Jeffrey Lyons.

Both Ms. Viinamae and Mr. Lyons had standing at the Toronto Computer Leasing Inquiry. Further to Rule 11.1 of our Rules of Procedure, people with standing at the Toronto Computer Leasing Inquiry shall, upon request, be granted standing in the Toronto External Contracts Inquiry to the extent that I determine that evidence at this Inquiry may engage their substantial and direct interest. I am satisfied that both Ms. Viinamae and Mr. Lyons have such an interest in the matters that are before this Inquiry. Accordingly, I grant them full standing at this Inquiry.

Margo Brunning is the former Director of Taxation for the former City of North York, and was later employed as the Manager, Collections/Receivable, Payments and Regional Customer Service in the amalgamated City of Toronto. She was involved in the creation, development and implementation of TMACS, and was actively involved in the evaluation of the tax systems, TMACS and TXM 2000. Based on these roles, Ms. Brunning asserts that she has a direct and substantial interest in the subject matter of the Toronto External Contracts Inquiry. Ms. Brunning's interests may well be directly and substantially engaged. Accordingly, I grant her full standing at the Toronto External Contracts Inquiry. The letters from counsel for these three individuals should be the next exhibits.

I will now call on Commission Counsel, David Butt to give a brief opening statement.