

**Ministry of the
Attorney General**

Crown Law Office - Civil

720 Bay Street, 8th Floor
Toronto ON M7A 2S9

Tel/Télé: (416) 200-1546
Fax/Télé: (416) 326-4181

**Ministère du
Procureur général**

Bureau des avocats
de la Couronne - Droit civil

720, rue Bay, 8^e étage
Toronto ON M7A 2S9



November 29, 2019

BY EMAIL (rcenta@rhvpi.ca)

The Honourable Justice Herman Wilton-Siegel
Commissioner
The Red Hill Valley Parkway Inquiry
155 Wellington Street West, 35th Floor
Toronto, ON M5V 3H1

Dear Mr. Commissioner:

**RE: Red Hill Valley Parkway Inquiry
Application for Participation**

Her Majesty the Queen in Right of Ontario (“the Province”) hereby applies for full standing and all privileges and rights of participation at the Red Hill Valley Parkway Inquiry (“Inquiry”).

The Applicant

The Province includes the Ministry of Transportation (“MTO”) and any other Ministry or Office of the Government of Ontario that has had involvement in the matters set out in the Inquiry’s Terms of Reference. The Province also includes current and former public servants of the Government of Ontario who may be asked to give information and evidence to the Commissioner regarding their involvement in the matters set out in the Terms of Reference, insofar as that involvement arises from their duties as a public servant.

If granted standing, the Province will be represented by legal counsel. The Province is currently represented by the following lawyers for the purposes of this Inquiry:

Tamara D. Barclay, Counsel
Tel: (416) 200-1546
Email: Tamara.Barcly@ontario.ca

Heather McIvor, Counsel
Tel: (416) 212-6455
Email: Heather.Mcivor@ontario.ca

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Standing to Participate

It is respectfully submitted that the Province has a substantial and direct interest in the subject matter of the Inquiry, and should therefore be granted standing pursuant to the Commissioner's Rules Regarding Applications to Participate and Seek Funding ("Rules").

The Terms of Reference direct the Commissioner to conduct a documentary review and hold a public hearing to answer questions relating to the Red Hill Valley Parkway. Although the Red Hill Valley Parkway is a municipal roadway within the jurisdiction of the City of Hamilton, the Terms of Reference expressly and deliberately bring the actions of the Province, and specifically the conduct of current and former MTO public servants, into question.

The Commissioner is required to answer questions about matters that primarily or exclusively concern the Province at paragraphs 2(a)(xvi)-(xxi) of the Terms of Reference. The Commissioner must draw conclusions about the nature of the "MTO Report", being an MTO test result from 2007 friction testing on a section of the Red Hill Valley Parkway, and must also answer questions about whether MTO requested, directed or conducted any other testing on the municipal roadway. The Province is singularly the best situated entity to provide contextual background and assist the Commissioner in fulfilling this aspect of the Inquiry mandate.

In addition to MTO-specific subject matter, paragraphs 2(a)(xxii)-(xxiii) of the Terms of Reference require the Commissioner to ask questions about friction standards in Ontario generally, which include questions about information available to the public with respect to such standards. The Province can assist the Commissioner in explaining the purpose of friction testing in Ontario, including how friction testing can be a component of a road safety assessment for a provincial roadway.

Further, the Province can provide the Commissioner with context and other information at the investigatory stage of the Inquiry that may assist in achieving efficiencies at the hearing, including by suggesting witnesses who are best suited to give evidence about the events and issues that pertain to the Province. The Province can also provide information about any practical and jurisdictional issues with respect to the Inquiry subject matter and in respect of proposed recommendations.

The Province has commenced its document collection and production efforts for the purposes of the Inquiry, and these efforts remain ongoing. It is respectfully submitted that the anticipated relevance of these documents is further evidence of the Province's direct interest in the Inquiry subject matter, as defined by the Terms of Reference. As such, granting participation rights to the Province would serve to support principles of openness and fairness throughout the Inquiry process.

Type of Participation Sought

The Province is committed to providing ongoing assistance to the Commissioner and Commission Counsel throughout the term of the Inquiry. As such, the Province asks to be granted standing at the Inquiry, with full rights of participation, including the opportunity to receive access to a database of relevant documents, comment on background materials or written evidence prepared by Commission Counsel, suggest individuals to be interviewed or to appear as witnesses at the public hearing, examine witnesses at the public hearing, and to make oral and/ or written submissions to the Commissioner on all matters relevant to the Province's interests.

The Province's interests in the Inquiry subject matter are uniquely positioned and, should full rights of participation be granted, it is not expected that duplication or inefficiencies would result. No common interests between the Province and other individuals or companies that may seek to participate in the Inquiry have been identified.

Funding and Confidentiality

The Province is not requesting funding for its legal representation from the City of Hamilton, and it does not request that any portion of this application for standing be kept confidential.

Oral Submissions

The opportunity to deliver oral submissions pursuant to paragraph 8(f) and Part C of the Rules is not requested on behalf of the Province at this time. However, should the Commissioner wish to hear oral submissions in support of the Province's application, or should the Commissioner have questions about the above, counsel for the Province will be available to provide submissions and/ or provide answers as appropriate.

We trust that this is sufficient to enable the Commissioner to grant standing to the Province at the Inquiry, but should any further information be required, please do not hesitate to contact either me or Ms. McIvor directly.

We look forward to assisting the Commission in fulfilling its important mandate as set out in the Terms of Reference.

Yours truly,



~~pe~~ Tamara D. Barclay
Counsel