

**SPEAKING NOTES**

**for**

**ATTORNEY GENERAL AND MINISTER OF JUSTICE  
SUZANNE ANTON**

**KEYNOTE ADDRESS**

**to**

**B.C. COUNCIL OF ADMINISTRATIVE TRIBUNALS**

**on:**

**“Access to Justice:  
The Role of the Administrative Justice System”**

**Monday, October 21, 2013**

**9:05 a.m.**

**The Delta Vancouver Airport Hotel  
3500 Cessna Drive, Richmond, BC**

# ABOUT THE AUDIENCE

## Event

Since 1996, BCCAT, working in collaboration with the BC Ministry of Justice, has played a major role in the training and development of tribunal members, staff and other statutory decision makers in BC. BCCAT is pleased to continue this important function through its 18th Annual Education Conference, which is focused on access to justice and administrative justice transformation.

## Attire

Business attire

## Audience

Members of the judiciary and legal community, members of administrative tribunals and associated stakeholders

## Acknowledgements

- Conference Co-Chairs:
  - **Valli Chettiar**, Vice Chair of the Property Assessment Appeal Board and Member of the Surface Rights Board
  - **Jim Collins**, Executive Director of the British Columbia Farm Industry Review Board
- **Judge Vince Hogan**, Provincial Court
- Ministry of Justice staff:
  - **Jay Chalke**, ADM
  - **Richard Rogers**, Director of Strategic Projects, JSB
  - **Mac Campbell**, Manager, Project & Internal Process Support, Information Systems Branch
  - **Sharon Kearney**, legal counsel, Legal Services Branch

## Audience Interests

The audience wants to hear that the Minister cares about them, is committed to the administrative justice sector, and appreciates the valuable services they provide to British Columbians

**Speaking Time**

Keynote address: 20 to 30 minutes.

**Speaking Notes Outline**

- General remarks about the importance of the administrative justice sector
- The role of administrative justice system in providing access to justice
- Affirming commitment to administrative tribunal reform
- Conclusion

## [Introduction]

- Thank you for your kind introduction and for inviting me to speak about the role of the administrative justice system in providing access to justice.
- This is a topic of fundamental importance to British Columbians.
- Chief Justice Beverly McLachlin has stated that access to justice is the single most pressing challenge facing our justice system.<sup>1</sup>
- For decades, in report after report, we have heard calls for change to address this challenge.
- Just this month, the Action Committee on Access to Justice in Civil and Family Matters issued an excellent report which concluded:

*“The current system, which is inaccessible to so many and unable to respond adequately to the problem, is unsustainable.”<sup>2</sup>*

- The report calls for “an overriding culture of reform” and the committee’s chair, Justice Cromwell, challenges all of us in the justice system to “think big together”.<sup>3</sup>
- Let’s do that...together.
- I encourage each of you to pick up the torch of reform and work with us on addressing our access to justice challenges.
- Reform of B.C.’s justice system depends, in part, on our administrative justice system.
- But first, I want to say “thank you”.
- B.C.’s administrative justice community resolves thousands upon thousands of disputes each year.
- Twenty-seven administrative tribunals are currently funded by more than \$80 million of taxpayers’ money.
- And, at a time when Government is doing everything it can to balance budgets, we are

investing new funds.

- Why? ...because we believe the administrative justice system is a key plank in building a sustainable justice system.
- And, thanks to the government's Transformation Fund, we plan to support a shift...
- ...from traditional adversarial services to those that are focused on online information and early resolution.
- Working in collaboration with tribunal Chairs and senior staff of tribunals, the Ministry of Justice is reviewing the technology needs of the tribunal sector and...
- ...over the coming year, and as we said we would do in last February's White Paper, "A Timely, Balanced Justice System," we will also be reviewing opportunities for tribunal clustering across the tribunal system.

- One of the reasons for this new investment in the administrative justice system is....
- We are convinced that most tribunals offer speedy, cost-effective services to thousands of British Columbians every year.
- We need to ensure every tribunal in B.C. delivers services in such a manner.
- It is essential, in a free and democratic society, for people to feel confident that their justice system serves them well.
- In the words of Warren Burger, former Chief Justice of the United States Supreme Court, spoken over 40 years ago, public confidence in the justice system will be destroyed by three beliefs:
  1. that inefficiency and delay can lessen the value of judgments;
  2. that people cannot vindicate their rights when they feel they have been exploited in the smaller transactions of daily life;

3. that the legal system does not protect them and their families in their homes, at their work, and on the public streets.<sup>4</sup>
- Report after report has shown British Columbians face these three problems.
  - Confidence in our justice system is eroding through increasing cost, complexity and delay.
  - For example:
    - The B.C. Provincial Court reports the average length of time to obtain a small claims court trial is well over a year.
    - The average cost of a B.C. Supreme Court case amounts to tens of thousands of dollars.<sup>5</sup>
    - More than a million B.C. condominium residents are faced with no viable method of resolving the daily disputes of strata living.
  - More money will NOT change what Geoffrey Cowper and others describe as a “culture of delay”



in the justice system.<sup>6</sup>

- ...A culture that needs to change in order for us to restore public confidence.
- We are fortunate to have examples of successful service transformations for us to follow.
- For example, 10 years ago, the banking industry made the shift from its famous “10 to 4 bankers’ hours” to 24/7 services....online.
- They did it because it not only made good economic sense to do so, but because it also responded to the needs of their clients...
- ...The same reasoning can be applied to our justice system.
- The administrative justice system stands as an example to the rest of the justice system for the following reasons:
  - **Expertise.** Administrative tribunals are specialist bodies. Greater expertise means greater efficiency.

- **Innovation.** Administrative tribunals are leading the way on cutting edge services such as Online Dispute Resolution.
- And, last but not least, . . .
- **Cost-effectiveness.** Administrative tribunals operate with more flexible and less formal procedures, reducing the cost of service to users and taxpayers.<sup>7</sup>
- We plan to build on the attributes of the administrative justice system and strengthen the justice system by moving more matters into tribunals.
- We see this as a way to greatly increase access to justice and reduce the burdens on an overbooked court system, so the court system can focus on the cases that have to be resolved in a courtroom.
- This is not new. It has been done before.

- In the 1980s, the bulk of the Small Claims Court docket was taken up by landlord-tenant disputes.
- Alternative administrative procedures were put into place through the Residential Tenancy Act, and landlord-tenant disputes were barred from Provincial Court after August 1, 1989.
- Since that point, the Residential Tenancy Branch has handled all of these disputes administratively.
- The logic that applied to landlord-tenant disputes applies to other areas today, such as:
  - strata property disputes and
  - consumer protection matters.
- Those of you who have read our White Papers on justice reform will know... our goal is to move these cases to the new Civil Resolution Tribunal.
- Or what has been traditionally thought of as the criminal side, there are many possibilities for taking matters out of court and into administrative tribunals.

- Regulatory or quasi-criminal offences, such as parking violations and speeding tickets, are prime examples of matters that do not need to be handled in the criminal courts with processes that are criminal in nature.
- In 2012, legislation to create a Driving Notice Review Board was passed...when proclaimed, these changes will take these cases out of the criminal courts and into a more efficient administrative process.
- From successes in other jurisdictions, we know the administrative model leads to:
  - reduced time to disposition;
  - improved fine payment rates;
  - a reduction in the number of ticket disputes;
  - better return on investment for taxpayers; and
  - increased public satisfaction.<sup>8</sup>

- Now that I've said all these nice things about administrative justice, I also want to say...
- We must also increase the cost-effectiveness of B.C.'s administrative justice sector in two ways...
  - First, by shifting the way many tribunals deliver their services with a focus on online information and services available 24/7, improved case management and better performance measurement tools.
  - Second, we can gain efficiencies by sharing resources between tribunals such as bringing tribunals into clusters enabling us to share technology and expertise.
- There is one last issue I would like to address...
- Some have argued that administrative justice is “rough justice”— a lesser quality of justice than British Columbians currently receive in the traditional court system.
- Let me say, over the last number of decades, the administrative justice system has proven it can

address chronic problems facing the justice system.

- For instance, administrative tribunals have found flexible ways to meet the challenges of:
  - users with few financial means
  - one party being represented by a lawyer and the other not
  - and the issues of cost, complexity and delay I mentioned earlier.<sup>8</sup>
- For these reasons and others that I outlined earlier, the administrative justice system provides a cost effective alternative for British Columbians.

## **[Conclusion]**

- As taxpayers, British Columbians want to know that those of us who work in the justice system are spending tax dollars effectively.

- As users of the justice system, British Columbians want to resolve their legal disputes quickly and cost-effectively.
- I am optimistic that B.C.'s administrative tribunals will be the answer to both of those concerns.
- Good luck with the challenges ahead.
- We look forward to a strong collaborative partnership in meeting B.C.'s access to justice challenges.
- Thank you.

## Endnotes

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<sup>1</sup> CBC News, Online, <http://www.cbc.ca/news/canada/saskatoon/canada-s-top-judge-slams-inaccessible-justice-1.1306993>

<sup>2</sup> *Access to Civil and Family Justice: A Roadmap for Change*, October 2013, see <http://www.ciaj-icaj.ca/en/component/content/article/207-important-news/477-final-report-access-to-civil-and-family-justice-a-roadmap-to-change> at p. iii.

<sup>3</sup> Ibid, at pp. iii and v.

<sup>4</sup> Warren Burger, "What's Wrong with the Courts: The Chief Justice Speaks Out", U.S. News & World Report (vol. 69, No. 8, Aug. 24, 1970) 68, 71 (address to ABA meeting, Aug. 10, 1970).

<sup>5</sup> See *Access to Civil and Family Justice: A Roadmap for Change*, at page 4 for national and international data on rising legal costs and lengthening trials.

<sup>6</sup> Geoffrey Cowper, QC, "A Criminal Justice System for the 21<sup>st</sup> Century, Final Report to the Minister of Justice," August 27, 2012.

<sup>7</sup> Hogg, *Constitutional Law of Canada*, Loose-leaf, pp. 7-43 to 7- 51; and Administrative Justice Office, "On Balance: Guiding Principles for Administrative Justice Reform in British Columbia" (2002).

<sup>8</sup> See The Law Commission of Ontario (LCO), Final Report, "Modernizing the Provincial Offences Act", August, 2011 (released November 10, 2011).