

February 25, 2005

The Honourable Michael J. Bryant
Attorney General
Ministry of the Attorney General
720 Bay Street
11th Floor
TORONTO, ON M5G 2K1

Dear Minister Bryant:

Re: Shortage of Justices of the Peace - Urgent Need For New Appointments

As you are aware, many of our membership represent municipalities which have partnered with the Province, through Transfer Agreements including Memoranda of Understanding, to perform court administration, court support functions, and prosecutions. As such, our Association is taking this opportunity to express growing concern with the chronic, and now critical, shortage of Justices of the Peace in Ontario.

The guiding principles of that transfer, articulated in section 2 of the Memorandum of Understanding, reflect the overarching objective of ensuring public confidence in the justice system. The current demand for judicial resources throughout the Province has caused a serious shortage of Justices of the Peace within the Provincial Offences Courts. Without additional appointments, our members continue to encounter difficulty in ensuring trials are scheduled within a reasonable time. Undue delay in scheduling of trials will certainly have the effect of eroding public confidence in the justice system, and may have other undesirable effects. Most notably, the delay is reaching the point where our ability to meet our obligations under section 5.3 of the MOU is being seriously challenged. We are very concerned that the municipal partners will soon be in breach of the Transfer Agreement as a result through no fault of our own.

To use the City of Mississauga as an example, we currently have a backlog of over two years for trial dates on parking tags; twelve months for Part I *Highway Traffic Act* charges; five to nine months for Part III and six months for by-law, Fire Code and Building Code offences. We operate with two Justices of the Peace doing trials and one handling Intake Court and we share these judicial resources with the Crown Attorney's office, Ministry of the Environment, GO Transit, CN and CP Police, University of Toronto (Mississauga Campus) police, and Environment Canada. However, when vacations, training or other situations occur that reduce these resources, there are few replacements. Justices are constantly raising concerns that court

tiers are over-filled as well. Ideally, our case load requires four Trial Justices and one for Intake Court to meet a six month trial objective.

I will also bring to your attention the following points made by Associate Chief Justice Ebbs in his letter to the Regional Municipality of Waterloo making it very clear that POA is not a priority for Justices of the Peace:

“As accurately stated by Mr. Jeremy Griggs, the judicial assignment of Justice of the Peace resources is within my responsibility, it has long been known that such assignments have had to prioritize due to a chronic shortage of Justice of the Peace resources. Unfortunately, such assignments have placed POA assignments at the bottom of our priorities, giving due deference to:

- (i) Bail Court assignments
- (ii) Criminal and Family Initiation responsibilities
- (iii) Mental Health Applications
- (iv) Criminal First Appearance, Remand and Set Date Courts
- (v) S. 810 and s. 117 Criminal Code Hearings
- (vi) Private Criminal Code complaints
- (vii) POA”

Section 13.1 of the MOU recognizes the principle that the parties agree to foster and participate in the cooperative resolution of disputes, dealing with them first in an informal and amicable way at the local level, before proceeding to mediation and the Review Committee. To date the Review Committee has not been struck to the best of my knowledge. In many municipalities both within and beyond the GTA the shortage of Justices of the Peace is reaching the point where the MOU will soon be in breach. Mayors from several of these municipalities have raised this issue. Given the lack of a meaningful response, our member municipalities have few alternatives, short of registering a formal complaint under the Transfer Agreement, to avoid breach of their obligations to perform their duties under it.

Section 1.12 of the MOU provides:

“1.12 The Attorney General and the Municipal Partner shall work together to improve services to the public with the goal of putting in place the most modern, efficient and effective justice system attainable.”

For the time being we would be satisfied with a commitment that would maintain service levels that would allow us to defend s. 11(b) Charter challenges.

We would very much welcome an opportunity to discuss what this means to our membership. The need for additional Justices is very real in large parts of the Province, but some areas have very significant immediate needs.

We trust you will give this important issue the immediate attention it deserves and we would appreciate an opportunity to meet and discuss this with you and your staff.

Yours truly,

MUNICIPAL LAW DEPARTMENTS ASSOCIATION
OF ONTARIO (“MLDAO”)

Per: _____
Mary Ellen Bench, City Solicitor
The Corporation of the City of Mississauga

- c. The Honourable John Gerretson, Minister of Municipal Affairs & Housing
The Honourable Monte Kwinter, Minister of Community Safety & Correctional Services
Municipal Law Departments Association of Ontario (MLDAO) Membership

- bc. Mark Saltmarsh, Crown Attorney's Office, 7755 Hurontario St. Suite 506, Brampton
Janice M. Baker, City Manager, City of Mississauga
Crystal Greer, City Clerk, City of Mississauga
Douglas Meehan, Manager of Prosecutions, City of Mississauga