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**Official Report
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Tuesday 20 October 2009

**Journal
des débats
(Hansard)**

Mardi 20 octobre 2009

**Standing Committee on
Government Agencies**

Intended appointments

**Comité permanent des
organismes gouvernementaux**

Nominations prévues

Chair: Ernie Hardeman
Clerk: Douglas Arnott

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES
ORGANISMES GOUVERNEMENTAUX

Tuesday 20 October 2009

Mardi 20 octobre 2009

The committee met at 0902 in committee room 1.

The Chair (Mr. Ernie Hardeman): We are still short of some members of our committee, but the time of the starting of our committee has arrived, so I want to call to order the Standing Committee on Government Agencies for the meeting of October 20. We welcome the committee members and we also welcome the people in the audience.

Our meeting this morning is to interview intended appointees, and we have two to be reviewed. The first one is Michael Gottheil. He is an intended appointee as a member and chair of the Assessment Review Board, Board of Negotiation, Environmental Review Tribunal and the Ontario Municipal Board. Michael is here, so if he would—oh, no. Well, go ahead and take your seat, Michael.

SUBCOMMITTEE REPORTS

The Chair (Mr. Ernie Hardeman): Before we start the interviews, we do have two items of other business. The first order of business this morning is the subcommittee report of business dated Thursday, October 8. Do we have a motion to adopt the subcommittee report?

Mr. Michael A. Brown: I so move.

The Chair (Mr. Ernie Hardeman): Moved by Mr. Brown. Any discussion on the adoption of the report? If not, all those in favour? All those opposed? The motion's carried.

The second item is the subcommittee report of business dated Thursday, October 15, 2009. Any discussion on the report? If not, all those in favour? Opposed? The motion's carried.

INTENDED APPOINTMENTS

MICHAEL GOTTHEIL

Review of intended appointment, selected by official opposition party: Michael Gottheil, intended appointee as member and chair, Assessment Review Board / Board of Board of Negotiation / Environmental Review Tribunal / Ontario Municipal Board.

The Chair (Mr. Ernie Hardeman): With that, Mr. Gottheil, we'll start on your presentation. You have an opportunity to make opening remarks as they relate to your request to the appointment. We then will be turning it over to questioning. Today we will divide the time

equally, 10 minutes to each party. Any time used by the applicant in their presentation will, as is customary, be deducted from the government party's questioning time. With that, we'll turn the floor over to you, Mr. Gottheil, if you'd like to make your presentation.

Mr. Michael Gottheil: Thank you, Mr. Chair, Madam Vice-Chair and members of the committee, for inviting me to appear this morning.

As the committee is aware, the four boards that I have been nominated to chair have been part of the government's agency cluster project. The project, itself part of an agency modernization, governance and accountability initiative, has seen the grouping together of these tribunals, all of which deal with common or overlapping subject areas and stakeholder communities. In that context, this position is very much an executive lead position, with a focus that includes, I think, the following elements: providing vision and strategic direction for the entire cluster and the member tribunals; being accountable for the tribunals' mandate and the successful achievement of that mandate—which is, of course, resolving applications and appeals that are brought before the tribunals fairly expeditiously and in a way that's consistent with legislative objectives; optimizing the use of existing resources, again to ensure the tribunals can best achieve and succeed in their mandates; working to further develop and enhance adjudicator expertise and competencies within each of the tribunals and, as well, across the cluster as a whole; developing consistent best practices and dispute resolution, and the administration of justice; and finally, promoting positive stakeholder engagement—and this is because a critical part of the tribunals' success is that the public must understand the role and statutory mandate of a tribunal, and at the same time the practices and procedures of a tribunal must be responsive to the needs of a stakeholder community.

Now, over the past four and a half years I've served as chair of the Human Rights Tribunal of Ontario. I feel honoured and extremely fortunate to have had the opportunity to play a key leadership role, working with others in government, the Ontario public service and the broader stakeholder community, in building and transforming the Human Rights Tribunal.

While there may be differing views about the appropriate enforcement regime in the area of human rights, I believe that the tribunal user community sees the new tribunal as a modern, well-run and effective adjudicative

agency which embodies the highest principles of integrity and excellence in public service. The experience and knowledge I have gained at the Human Rights Tribunal will serve me well, I believe, in this new role, if I am appointed.

Likewise, my commitment to diversity, accessibility, accommodation and the provision of services throughout the province and in both official languages are things that I will bring with me to this new role.

My relatively recent career in public service came after practising law for close to 20 years in the private sector. In 1991, with two colleagues, I began a law practice in Ottawa which grew to be one of the most respected and successful labour, employment, human rights and administrative law firms in the city. I was also managing partner over the years, and in that capacity was responsible for the overall operational and financial aspects of the business.

Finally, on a more personal note, I've experienced and met the challenges of vision loss. Now, why is that important or relevant here? Because, as many of you around this table will know, amongst the greatest positive qualities people with disabilities develop—out of necessity perhaps—are focused determination, creativity and the ability to work with others to achieve real, meaningful and effective results.

Thank you, and I look forward to your questions.

The Chair (Mr. Ernie Hardeman): Thank you very much. We will begin the questioning with the official opposition this morning.

0910

Ms. Lisa MacLeod: Thank you, Mr. Chair. Welcome back, Mr. Gottheil. I think you just come in here to see us. You must be very excited to be back at committee.

Interjection.

Ms. Lisa MacLeod: Everyone is excited to come to this committee on Tuesday mornings.

Mr. Gottheil, we have several questions in the official opposition. Because this is a new superministry and there wasn't a lot of consultation, particularly among members of the Ontario Legislature, several of the critics within the PC caucus sent me questions. If it would be okay with you, what I'd like to do is have my assistant bring you over a copy—I'll ask them—and I would request, within the next seven days, if we don't have the time, if you would submit to the committee your responses, because there are 29 of them. They're not too, too hard, but I think it will give my caucus colleagues a sense of what to expect with this new superministry. Is that okay?

Mr. Michael Gottheil: My understanding is I'm here today. I'm not quite sure—

Ms. Lisa MacLeod: I'll be requesting a deferral for seven days before I can make my decision, as my caucus colleague Mr. Wilson will be doing. So the vote wouldn't take place for seven more days. I'm just right now, through the Chair, requesting a deferral. Is that possible for you to provide us with the answers?

Mr. Michael Gottheil: I'm not sure what the questions are or—

Ms. Lisa MacLeod: I'll ask them, then. We'd like to know, in the official opposition—

Mr. Michael A. Brown: Just on a point of order, Mr. Chair: Is that appropriate?

The Chair (Mr. Ernie Hardeman): Yes, it is. Standing order 108, I believe, paragraph 8, suggests that any member of the committee may ask for a seven-day deferral on the vote of the concurrence.

Mr. Michael A. Brown: I'm not asking about the deferral—

The Chair (Mr. Ernie Hardeman): Standing order 110(b) allows the gathering of information but only from the applicant who is here. So it is, according to the rules, an appropriate approach to—

Mr. Michael A. Brown: Thank you.

Ms. Lisa MacLeod: So according to the standing orders, I'd like the request. If we have time, then we can begin to answer some.

I'd like to know who interviewed you for this position.

To be the super-chair of all the boards, can you tell us what type of experience you've had with land development, heritage conservation, environmental hearings and/or assessment hearings?

We have a subjective question: If a municipality decides at the council level to refuse to approve a high-rise development next to existing subway lines and major intersections in the city, and if the political decision is clearly supported by the community, what do you believe your role is as chair of the OMB?

If an OMB member decides to ignore the city's refusal and deems a development worthy of approval, how would you respond to a cabinet minister calling you to ask for your intervention to overturn the member's decision?

What is the court's role, in your opinion, in dealing with decisions of the OMB?

How do you believe the assessment review board's determination of an appeal affects the overall tax base for a particular municipality?

What is your view on the city's arbitrary use of section 37 of the Planning Act?

Based upon your lack of experience in any of these fields, why did you take this position? Why did you apply? Are you friends with Deb Roberts and Kevin Whitaker?

How could you possibly assess whether a decision of a particular board warrants a rehearing? What is a decision you, as chair, would make when you have absolutely no experience?

You have never practised as a lawyer in the area of land development, yet you believe you are qualified to be the chair of the OMB. You never sat on a planning board or a committee of a municipality yet believe you should be the chair of the most important tribunal relating to land development in the province of Ontario. My colleagues would like to know why.

You've not practised law in the area of tax assessment and have never been involved as an expert in expropriations. Again, they would like to know why you would like to be tribunal chair.

We'd also like to know your specific experiences in the planning and land development process.

Have you ever participated or worked in the planning process with municipalities, held public office with rate-payers' associations, with non-profit advocacy groups such as Greenpeace, the Sierra Club or Environmental Defence?

Have you been published regarding the Planning Act or the planning and development process in Ontario? If yes, please provide the committee with details.

Have you studied urban planning, regional planning, urban design, urban geography?

The OMB is subject to much provincial policy and must follow it; nonetheless, many grey areas exist. Will you give directives to OMB members about how they should come down within these grey areas?

How will you deal with calls from cabinet ministers about cases before the OMB?

How do you intend to deal with the scheduling of appeals that involve high economic priority such as job creation? Will the process that is used be any different?

As nominated chair of a very important, powerful tribunal, how do you see the chair's relationship with the government and ministers of the crown?

How many OMB hearings have you attended? Which ones? Did you sit in for the entire event?

Which OMB decisions do you think are the most important parts of its jurisprudence?

Do you favour greater use of holding policies and holding provisions to defer land development until certain things happen?

What are TIFF-like policies and are they gaining in their usage since the Planning Act was amended to encourage their usage? How should the OMB approach TIFF-like policies when included in an official plan which seeks to open the door to provincial funding this way?

Have you been on the planning board of any municipality?

Recognizing that those who appear before the OMB have most of the rights of natural justice, what, if anything, will you do to try to and shorten the length of OMB hearings?

Much has been made, particularly in a recent Ottawa case, about the OMB taking into account the wishes of the municipalities. What does this mean to you and how will you see to it, or will you leave this up to your members?

When it came to power, the McGuinty government pledged to give more power to municipalities, yet has launched several OMB challenges and appeals against them, such as in Niagara and York region, and has been very active in promoting its interpretation of the growth plan with Durham region, Halton region, York region and Simcoe county. How do you feel the province should be treated when appearing before the OMB when it wears the three hats of legislator, policy-maker and intervener?

Under what circumstances can the OMB chair appoint members of different tribunals to a single panel, say,

under the Ontario Heritage Act dealing with the matters of demolishing of heritage buildings? Will you appoint Conservation Review Board members to sit with OMB members?

How much time do I have left, Mr. Chair?

The Chair (Mr. Ernie Hardeman): You have about three minutes left.

Ms. Lisa MacLeod: Okay. Those are the questions that I'd like answered. There are a few that I'd like on the record right now. We'd like to know who interviewed you for this position.

Mr. Michael Gottheil: Debra Roberts, Kevin Whitaker and Mark Leach, who's the assistant deputy Attorney General.

Ms. Lisa MacLeod: Based on your lack of experience in any of the fields that we're talking about here today, why did you take this position? Is it because of your friendship or your relationship with these aforementioned deputy ministers and public servants?

Mr. Michael Gottheil: Absolutely not. The reason I applied for the position—I'm interested in the position, and I believe, with the greatest of respect, that I'm qualified for the position. There are a couple of things. As I mentioned, I see this role as an executive lead. First of all, I have experience as a tribunal chair. I have experience in administrative law, of which municipal law and environmental law are a part, and I have experience in modern, effective dispute resolution processes.

Now, it is true I don't have specific practice experience in the municipal law area, but jurisprudence and case law are things that certainly one can learn fairly quickly. The skill, experience and knowledge, however, and the abilities that I do bring to these agencies, to this specific job, are no less specific and no less important to the tribunal's work.

So, first of all, issues of access to justice, and I know some of your caucus members have raised that—

Ms. Lisa MacLeod: But I think the question is, you don't have experience with tax assessment. You're not an expert in expropriations. You don't have a planning background, whether that's urban, regional or urban design, urban geography. These are all serious questions when you're dealing with a cluster for the Assessment Review Board and the Environmental Review Board and the Ontario Municipal Board and conservation—

Mr. Michael Gottheil: Yes. What I was trying to say is that these boards have a long history and have a great amount of subject area expertise. What I bring to the table are the experience and knowledge and the ability to put into place questions of access to justice, questions of expediting proceedings, questions of case management, questions of ensuring that the decisions are—

Ms. Lisa MacLeod: It's sort of like taking a hockey coach and making him general manager of a baseball team.

Mr. Michael Gottheil: No. I think what a tribunal—

Ms. Lisa MacLeod: That's exactly what it is.

Mr. Michael Gottheil: What a tribunal chair brings to a tribunal, one of the things that is needed, I believe, and what I think that governments generally and, quite

frankly, the justice system and the courts are recognizing is that effective, fair, transparent dispute resolutions are an important part of ensuring access to justice.

Ms. Lisa MacLeod: But this isn't just about dispute resolutions, is it now? It's about assessments. It's about negotiations. It's about environmental review. It's about Ontario municipal policy. It's about the planning of the province. It's also about conservation of our heritage institutions. This is not the Human Rights Tribunal of Ontario. This is a supercluster of how the province of Ontario's planning will be executed over the next couple of years. That's why I've got concerns.

I'm looking forward to the answers to my questions and, again, I'll call for a deferral. Thank you, Mr. Chair. Thank you, Mr. Gottheil. It's good to see you again.

0920

The Chair (Mr. Ernie Hardeman): Thank you very much. The third party committee member, you have 10 minutes.

Mr. Howard Hampton: I have a couple of questions. They don't necessarily relate to your expertise, but one of the issues that is raised is that chairs of boards or commissions should exercise clear and primary responsibility for the assignment of panels and adjudicators. There is some similarity between the work of the four boards, but I think you'd also agree that there are some big differences. So I guess my first question would be, if you're the chair of all four, how do you see your job of assigning panel members and adjudicators? How do you see one person staying on top of that given the caseloads, and the diversity of the caseloads, and the potential down the road for some conflicts?

Mr. Michael Gottheil: I guess I would identify two points in answering your questions. The first is, tribunals that have large caseloads, for example, the Landlord and Tenant Board, the Human Rights Tribunal, the Assessment Review Board—the Assessment Review Board currently has over 90,000 cases a year. Mr. Stephenson, who is the chair currently, doesn't personally assign adjudicators to each and every one of those 90,000 cases. What he does, working with the staff and the registrar, is two things. One is to ensure that there are sufficiently competent people on the board that assignments can be made. The other thing that I'm sure he does, and certainly I have done at the Human Rights Tribunal and other effective tribunals, too, is set up mechanisms, triage processes and front-end case processing mechanisms that allow the tribunal and its staff to identify particular types of cases that may need particular types of expertise.

For example, in the assessment field, as you mentioned, there are complex commercial assessment questions. Those may in fact need a particular type of expertise and background. So those kinds of cases are sort of pulled out, and then there's a discussion that's had with the chair and the tribunal staff on who is best suited for that position, who's available and that sort of thing. I guess the answer is that you put into place processes to identify, to triage particular kinds of cases.

The second point—and I made this point a minute ago in answering Ms. MacLeod's question—is that I think

there's an understanding in tribunals, administrative law and in the justice system generally that expertise in the justice field, in the legal field, is in part expertise in the subject area, but it's also expertise in dispute resolution. There may be individuals on the tribunal who have greater skill, for example, in mediation or case management. So if it's a case that cries out, given the nature of the case, for mediation or active case management, you're going to assign that person.

Those are the things that I have done, that I'm aware of. I'm part of the community that studies and then looks at those things. I guess that's how I would answer your question.

Mr. Howard Hampton: I'd accept that some of the boards as they stand now have opportunity for things like mediation, but some of them are just clearly very confrontational. For example, a developer has one view of how things ought to be and a group of ratepayers has a very different view of how things ought to be. I'm wondering, when you have very opposing views, where does mediation fit into that at all?

Mr. Michael Gottheil: It may not, actually, and that's part of the skill set that chairs bring to the job, that I bring to the job. Of course, working with the existing expertise at the tribunal—just for example, at the OMB, the current chair is Marie Hubbard. Mr. Wilson Lee, who's been there for many years, has had a role of—I think the way it's termed is as an operational vice-chair. Certainly the role of a leader and a chair is to call upon the expertise, but you raise a good point—and I think the courts have recognized as well that there's no point in having mandatory mediation in a case that doesn't lend itself to that and, in fact, only will delay.

But this again is some of the expertise and knowledge that individuals like myself, who are experienced in the justice and the administration of justice field, talk about and write about—there are papers and so forth. So you raise a good point, and that's part of what a chair does with his or her staff.

Mr. Howard Hampton: As I listen to your responses, it almost sounds as if you would be considering cross-appointments, in other words, people who are appointed not just to one board or commission, but to perhaps all four or three out of four. Is that in your mind?

Mr. Michael Gottheil: That may be an effective way to enhance expertise. Currently, for example, the various statutes themselves that the four boards deal with contemplate, for example, consolidated hearings, where there are members from the Environmental Review Tribunal and the Ontario Municipal Board hearing a case that has both planning and environmental aspects. But there are people currently on the Environmental Review Tribunal, for example—Mr. DeMarco is a vice-chair who is actually a planner. So there may, in fact, be cases that are before only the municipal board, where the hearing process, the fairness and the outcomes could be enhanced and made more effective by cross-appointments.

That is something that I think is happening in the tribunal community more broadly to actually leverage

and benefit from expertise that one vice-chair or member has in relation to issues that come up at another board.

Mr. Howard Hampton: Since those cross-appointments, as I understand it, happen already, and already there are mechanisms for joint board hearings where obviously the issues raise questions—some might deal with planning, some might deal with environmental issues, some might deal with conservation issues—it seems to me there is a real issue here. You've got four boards, a couple of which are very busy, and even where a decision is made, the decisions are often very controversial and where, if people have deep pockets, the chances are they're going to go on and find some way of overturning the board's decision because all kinds of money turns on the board's decision.

How does having one person in charge of something that is so diverse, so large and has so many different kinds of operations—I don't understand how this is going to lead to some kind of efficiency. In fact, I really wonder how one person can ride herd on something that is this large, this diverse and, in some cases, loaded with so many financial interests. I think Ms. MacLeod asked a fair question here. Political interference in some of these decisions is not an unusual thing. How does one person ride this kind of unruly horse and avoid the kinds of conflicts and the accusations of political interference?

Mr. Michael Gottheil: The common thread, if you will, in your question—which is a fair one—I think comes back to the focus of what I see this role is and where I have the expertise, in terms of both my experience before I came to the public service and over the four and a half years, which is, as I said, to provide vision and clear codes of conduct—that may speak to the political interference—excellence in decision writing and adjudication.

0930

As you improve the quality of administration of justice, the quality of adjudication and the quality of dispute resolution, and the roles that are consistent the cluster, that's where the benefit of clustering—

The Chair (Mr. Ernie Hardeman): If we could wrap it up, that concludes the time for the third party. We now have four minutes left for the government side to ask questions.

Mr. Michael A. Brown: I just want to indicate our very sincere appreciation for your putting your name forward for this particular position. It will be challenging. I'm sure that your experience at the Human Rights Tribunal as the chair has served you well; we believe it to be so. I want to indicate the government will be supporting your nomination.

Mr. Michael Gottheil: Thank you.

The Chair (Mr. Ernie Hardeman): Thank you very much. That concludes the questioning. As was mentioned in the official opposition's request, if you could answer those questions, then hopefully we can deal with it a week from today when we have our committee meeting again, as to the committee's position on the appointment.

Thank you very much for your attendance today.

SUSAN KADIS

Review of intended appointment, selected by official opposition party: Susan Kadis, intended appointee as member, Criminal Injuries Compensation Board.

The Chair (Mr. Ernie Hardeman): The second interview is with Susan Kadis, intended appointee as member, Criminal Injuries Compensation Board. As you come forward and sit down, you may be aware you will have an opportunity, if you choose to do so, to make a few comments. Any comments and time that you take in this half-hour interview will be deducted from the government side when it comes to questioning. Then each of the parties will have an opportunity to use their 10 minutes to question you. Hopefully, at the end of that, they will come to some decision as to whether they concur with the government's wish to appoint you to the Criminal Injuries Compensation Board. Thank you very much for joining us this morning. We will start the questioning with the third party after your presentation.

Ms. Susan Kadis: Good morning, Mr. Chair and members of the committee. Thank you for the opportunity to speak before you today as you review my application to serve as an adjudicator on the Criminal Injuries Compensation Board.

My name is Susan Kadis. I have served in the best interests of our community, province and country in both elected and non-elected capacities. This includes numerous volunteer committees, boards and initiatives and my time as a public school trustee, city councillor and MP.

This, together with my business background, has enabled me to acquire and strengthen my knowledge, skills, experience and professionalism, which I believe qualify me to serve as an adjudicator on the Criminal Injuries Compensation Board.

If selected, I will diligently apply my strong objective, analytical, listening, interpersonal and writing skills as well as empathy to the responsibilities of a member of the CICB.

I participated previously in quasi-judicial roles in matters involving student suspension appeals, personnel and property, where I was required to weigh evidence and render decisions, often involving conflicting and contentious points of view—parents and children etc.

Very importantly, the safety and well-being of the public and the greater community have always been and continue to be of the highest priority to me. This is reflected consistently in multiple safety- and crime-related efforts and initiatives that I've actively engaged in and worked on vigorously through the years and through my life. They include my work developing the York Region District School Board's safe schools policy, which deals with bullying and intimidation, among many other initiatives. I also served as a community member and vice-chair of the city of Vaughan's vandalism committee, now the safe city committee.

In addition, as an MP, I initiated and organized initiatives focused on preventing, fighting and tackling crime, finding solutions and supporting victims of violent crime.

I led a task force across the country to create and provide a funding model for institutions of at-risk communities. In cross-country consultations, I heard at first-hand Canadians' experiences as victims of hate crimes, including firebombing and destruction of community facilities.

I also took a lead role on behalf of the federal government of the day in organizing a GTA symposium, a forum on gun violence and urban crime. We engaged numerous stakeholders in this effort: experts in preventing and tackling crime, including municipal and provincial government and law enforcement; community organizations, including victims of violent crime. In addition, I met with victims and families of victims of the Dawson College shootings tragedy.

These experiences, in total, and others, all enhanced my understanding, sensitivity and empathy toward the profound and often devastating life-changing impact of violent crime on victims and their families, which I believe will assist me greatly if selected in my role of adjudicator on the board.

In conclusion, I have demonstrated my ability to perform tasks, duties and responsibilities in a highly professional, fair-minded, non-partisan and timely manner, and always with a good understanding of how to apply the pertinent statutes, rules and legislation.

I look forward, if approved, to serving the public and helping to support, in a sense, victims of violent crime on this board.

The Chair (Mr. Ernie Hardeman): Thank you very much. With that, we'll ask Mr. Hampton. Questions?

Mr. Howard Hampton: Tell me what you know about the Criminal Injuries Compensation Board.

Ms. Susan Kadis: It was enacted around 1970, if I'm not mistaken, and there have been some amendments along the way. There has been an Ombudsman's report—I believe the Marin report—and the McMurtry report as well. I know the Ombudsman one is at an arms-length nature—definitely.

I know there were recommendations put forward. I can't say necessarily that all have been adopted, because I wouldn't know, having not served on the board at this point in time. But I would agree, in principle, with some of the recommendations that I'm at least aware of and have some knowledge of, in the sense that my own work with victims of violent crime—how important and how imperative it is that claims and applicants are dealt with in a timely fashion, so that the victims who have been deemed so under the act and have shown, in the balance of probabilities, to have been victimized and injured as a result—or death, in the case of dependents—have been given that assistance at the time they actually need it, when they have been traumatized through crime.

Mr. Howard Hampton: You're aware that this board has a fair bit of controversy associated with it?

Ms. Susan Kadis: Again, to the best of my information, and what was sent to me as well, certainly these recommendations have been made; reports have been carried forward.

I can't comment on the full extent of how the board has utilized these recommendations in every sense and

every recommendation, but I can see, from the information that was provided to me at this point, that efforts are being made to reduce the backlog, which was referenced, and to provide that assistance in as user-friendly a way as possible—in a supportive, caring environment—and to ensure that victims of violent crime receive the support that they are seeking as soon as is feasible and still within the context of the act.

Mr. Howard Hampton: One of the issues that's controversial with this board is that, if you look at the awards that have been made, in many cases, awards have been made to police officers and to jail guards, who are also eligible for compensation, for example, under the workers' compensation system, the WSIB system, and/or other forms of insurance. So you could effectively have a situation of double dipping.

At the same time, this board has been criticized over and over again because a lot of victims are forced to wait years to even have their case heard. Then, when they are awarded some kind of compensation, it is obviously and clearly inadequate compared to the harm that has been suffered.

How do you feel about apparent double dipping on one side of the equation while other people who have suffered criminal injuries are forced to wait many months, if not years, and then the award that they receive would be perceived by any reasonable person to be an inadequate award?

0940

Ms. Susan Kadis: I think in terms of whether police or prison guards should be included—and I have followed it somewhat in the news recently, of course. It has been there as an issue raised. Presently the legislation does include these individuals—they are eligible to apply. Again, in any case, whether it's police or non-police or peace officers, I believe, they still need to show eligibility—that they do meet the criteria of the act.

I feel that as an adjudicator, if I am approved on this board, any adjudicator on this particular board takes their direction from the legislation. Therefore, presently it does include them. Then if the legislators, such as yourselves, change or amend that, then also as an adjudicator, I believe it would be my responsibility to follow that direction. I don't think it's the role of the adjudicator in this case, on this particular board, to decide that aspect of it.

But going on to the second issue of whether true victims of violent crime are receiving what they need and adequate resources—and it was somewhat referenced in the various reports—I do feel that you need to continually reassess in cases such as these whether it is meeting the standard of the act, the purpose and the essential goal or principle of the act, which is to help victims of violent crime. I think it needs to be reassessed all the time. That goes for many other boards or mechanisms such as this, because things don't stay static, and to be accountable, you have to ensure that it is meeting the needs that it set out to.

I can assure you that if I am selected as an adjudicator, I will never lose sight of the primary goal of this board,

which is to help victims of violent crime. If you lose sight of that, then the board's purpose is going to be undermined.

I believe that those recommendations—again, some of which I can comment on and others I can't, because I don't have the knowledge that I will have if approved to the board—need to be continually examined to ensure that you are—let's say myself or any one colleague—meeting that mandate.

Mr. Howard Hampton: One of the other areas where concerns have been raised is situations where it's discovered that applicants for compensation were themselves involved in the commission of the crime. So there's been a fair bit of controversy about someone receiving compensation from the board when it's clearly on the record that they were involved at some level in the commission of the crime.

Again, I put this question to you: This is a board that has a sorry history of forcing many people who have been victims of criminal activity and who deserve some kind of compensation to wait many months, if not years, and then those people receive compensation awards that are clearly inadequate by any reasonable standard—clearly inadequate. How do you feel about that scenario, where you have people who obviously deserve timely compensation and deserve compensation that responds to the injury that was done, but are being forced to wait long periods of time? Meanwhile, somebody who was actually involved in the commission of the crime at some level is being compensated.

Ms. Susan Kadis: Again, to the best of my knowledge, information I've received to date and my understanding to date, the behaviour of applicants is one of the aspects that is to be taken under consideration; that is very clear. In other words, it sets out here that it is in principle, essentially, to be an unprovoked, innocent victim. That is an applicant who potentially can receive some funding assistance for the trauma they've experienced. So, yes, I think it's very clear that the behaviour is to be one aspect that is to be taken into consideration. It cannot be completely cast aside or overlooked.

If I may, regarding the previous question, because the second question had some components of the first one, from my understanding, it is clear that you are also, as an adjudicator on this board, to take into consideration if the applicants are receiving any other form of financial support, whether it's employment insurance, workplace support etc. You're not discarding those forms of support or compensation. It all goes into the mix when you assess the fullness of the information objectively and thoughtfully prior to making your final judgment or award decision, whether in fact you're deeming the individual to be a victim as under the act and they have shown so with documenting support evidence and how much that equates to. Again, you have to really examine.

Being one who likes to examine things in their fullness and not rush to judgment either, I'm confident that I will take all those aspects into serious consideration and

try to make the best, most appropriate decision possible, again, in the context of the act.

The Chair (Mr. Ernie Hardeman): Thank you very much. That concludes your time, Mr. Hampton. To the government.

Mr. Michael A. Brown: Thank you, Ms. Kadis, for putting your name forward for this very important board. I note your community involvement, your involvement with volunteer organizations, your involvement in government in general, and understand that your adjudicative skills, which are going to be tested by this, are very good. We appreciate you putting your name forward and wish to indicate that we will be supporting your appointment.

The Chair (Mr. Ernie Hardeman): To the official opposition.

Mr. Jim Wilson: Welcome, Ms. Kadis, to the board. I just have a few short questions. To begin with, how did you become aware of this appointment?

Ms. Susan Kadis: I was, post my last federal election, looking for a different way of serving. As I referenced briefly in my opening remarks, serving the community and trying to make a difference in different capacities is very much a part of me. It's very natural for me to look for another way of serving the community and public, hopefully in a positive way. I was aware, to some degree, of this type of position and these types of boards; I wouldn't say extensively because I was busy for many years working on many things, but I was somewhat aware of it. I went on the website to learn a little bit about the whole process because I didn't have a lot of knowledge previously. I started looking around and seeing what is available, what are the mandates of these various roles and which one I think would fit my skill set, my experience and my desire to serve. There were vacancies for this particular board, CICB, and I applied online directly.

Mr. Jim Wilson: Since finding it on the website, who did you talk to in preparation before coming to the committee today? Did you talk to bureaucrats or politicians?

Ms. Susan Kadis: Not politicians, no. Basically, not very much, because with my background I didn't feel too much need to find out too much in preparation except actually what the work of the board is and an adjudicator per se—and think back on why, again, I feel that I'm well-suited and can be an effective adjudicator on this particular board. I spent most of my time preparing in that sense, thinking back over why I feel I can contribute positively through this process and mechanism to have a positive impact on the lives of victims of violent crime; what I can bring to the table in that sense through my own experience with victims of violent crime and in related areas; and my experience in working with contentious issues, conflict and dispute resolution, things of that nature. So I thought a lot about what I can do and how I can hopefully enhance the process.

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Ultimately, I was asked—I had an interview. I applied around the first week of April, on April 7. I saw it; I applied immediately. I heard from the board directly a

couple of weeks after to arrange an interview and I went, I think, at the beginning of May, around the first week in May. I met with the chair and the vice-chair, which was very useful, actually, because you don't know who you're meeting with exactly and you might think it's the chair and members. It was actually good to meet with both of them. Again, I think it pushed me a little bit further along in my learning process of what this board does and the important work that it does.

I heard then from the clerk and the standing committee sent me a package online and through a courier. The Public Appointments Secretariat sent me some information—possible questions, somewhat similar to that. Then Friday, I got more information from the standing committee—Mr. Johnston—with a bit of an overview, which was very helpful.

Mr. Jim Wilson: Okay, thank you. I have no doubt from looking at your experience and your parliamentary experience that you have the necessary prerequisites to serve. But I just want to make sure, on the political side, because this is quasi-judicial and arm's-length, as you and Mr. Hampton have alluded to, are you still a member of the Liberal Party, either federally or provincially?

Ms. Susan Kadis: I'm not provincially; I am federally. I understand that in this type of role, it's not only that you must be completely politically neutral—not support candidates and everything that entails—but that in particular in adjudicative cases, from what I understand, it is highly restricted. Again, I am a very conscientious individual who takes any responsibilities and tasks or duties before me very seriously. I fully understand what that entails and that it completely precludes any type or any form or fashion of political involvement whatsoever.

Mr. Jim Wilson: And may I suggest, just to make sure you do rip up your membership card in the federal party—

Ms. Susan Kadis: No rejoining. I fully understand.

Mr. Jim Wilson: Not leave any paper trails around.

Ms. Susan Kadis: I fully understand.

Mr. Jim Wilson: Okay. So you have a good understanding of that and that political interference of any type is not to be tolerated.

Ms. Susan Kadis: Of course.

Mr. Jim Wilson: Finally, in terms of the last round of questioning, are you familiar with the Ombudsman's report of 2007 and its recommendations, and do you think the government is implementing it fast enough?

Ms. Susan Kadis: The Marin report, I'm assuming you're—

Mr. Jim Wilson: Yes.

Ms. Susan Kadis: Again, it would be hard for me to comment fully or extensively on it until I would be on the board, if I am selected, and to say I think you're doing it quickly enough or it should be quicker, or it's too slow or whatever. It would be very inappropriate, I think, for me to say that.

I would just say that from the information I've received, which is all I can really go by at this point, they appear to be reducing the backlog, which is one of the

things that was referenced significantly in that report. And it should be timely, and that was referenced; it definitely should be timely. I mean, if you're a victim and you've been traumatized, these are crimes of a very serious nature under the Criminal Code, as we know—murder, sexual assault, assault per se, along those lines.

We can imagine and understand—and having some experience first-hand with victims of violent crime—how it would be very difficult to even have to come up before a board and express why you believe you need this support, just to actually go through it again. That is why it is so pivotal, as referenced in the report as well, that applicants must have the opportunity in a supportive, caring environment, in a comfortable, safe environment as user-friendly as possible, where they do not feel revictimized after already being victimized.

Mr. Jim Wilson: I'm just wondering—and Mr. Hampton alluded to it—about the adequacy of the compensation the board's allowed to award victims. There are limits in each of the categories. Do you have any personal comments on that? If I was a member of the government, I'd want to know if my appointee had any personal comments on that.

Ms. Susan Kadis: Could you just clarify what you mean? If I agree with the math? I'm sorry, if you could just—

Mr. Jim Wilson: Well, one of the things that the Attorney General has had to deal with over the years is obviously the cost of compensation. Victims, in most cases I think, don't feel adequately compensated, yet it's quite a large bill for the government to pay each year. So there's a balance there that adjudicators have to take into account, and there are legislated limits to what you can award. Are you aware of those limits? Do you have any comments about them?

Ms. Susan Kadis: Of course if I am selected, then I will go through extensive training, after which I'll have more knowledge regarding those specifics, but again, I think it suffices to say that there are limits per se to what can be expended in any particular case for service that a government provides, albeit on an independent basis through an adjudicator. You're still accountable to the Legislature, and at the end of the day, of course it is taxpayers' money. It's not infinite, what can be offered, but there has to be a level of adequacy. It has to meet the needs as best it can. In other words, if it's of a medical nature, if it's counselling, whatever fits that. Each case also has to be looked at on its own individual merit. I think that goes into the equation also.

Mr. Jim Wilson: Just for the record, really, but in the foreseeable future or as you see into the future, are you planning on running for any public offices again?

Ms. Susan Kadis: No, I'm not planning to.

Mr. Jim Wilson: Okay, fair ball.

The Chair (Mr. Ernie Hardeman): That concludes the interview, so thank you very much for coming in. We wish you well.

Ms. Susan Kadis: Thank you to the committee and to Mr. Chair.

The Chair (Mr. Ernie Hardeman): That does conclude our interviews this morning.

The first one, as we mentioned earlier, there was discussion under standing order 108(f)8. The vote for concurrence on that will be deferred for seven days.

Mr. Michael A. Brown: Could that be officially requested? Can somebody request that officially?

The Chair (Mr. Ernie Hardeman): She did twice.

Mr. Michael A. Brown: But at this point—

The Chair (Mr. Ernie Hardeman): It was officially in the record in the discussion, that she was requesting it. The standing order does not say it must be written or that it must be at any certain time that it's requested; it just says that it may be requested by a member. I would presume that that has been done because it was done on the record. So with the concurrence of the committee, we will put that vote off until a week from today.

Number 2: Susan Kadis, intended appointee as a member for the Criminal Injuries Compensation Board.

Mr. Michael A. Brown: I move concurrence.

The Chair (Mr. Ernie Hardeman): Mr. Brown moves concurrence. Any discussion? No? All those in favour? Opposed? Seeing none, we'll go with that concurrence.

That concludes the meeting for today. We will adjourn until 9 o'clock on Tuesday, October 27, in committee room 1. Hopefully, we will resume the writing of the report on the Human Rights Tribunal. We also have an intended appointee to interview, so it will be a meeting of the two issues together.

Again, thank you all for your participation this morning. We look forward to seeing you next week, same time, same station with the same problems.

The committee adjourned at 1002.

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