

News Release re: Eric Foster, MLA

January 25, 2013

Statement from Conflict of Interest Commissioner

On June 7, 2012 I sent a letter of opinion to Eric Foster, MLA in response to his request in March, 2012 under Section 18(1) of the *Members' Conflict of Interest Act* ("Act"). Section 18(4) of the Act provides: "The opinion and recommendations of the commissioner are confidential, but may be released by the member or with the consent of the member in writing".

As he was entitled to do, Mr. Foster chose to release a copy of the letter on January 8, 2013 in response to a request from a media outlet in Victoria, that reported on its contents.

While the letter was already in the public domain, on January 24, 2013 Mr. Foster confirmed to me in writing that, pursuant to section 18(4) of the Act, he consented to the posting of the letter on the COI website so that it would be generally available to and accessible by the public.

-30-

June 7, 2012

VIA EMAIL AND MAIL

CONFIDENTIAL

Eric Foster, MLA
Vernon-Monashee
Room 243, Parliament Buildings
Victoria, BC V8V 1X4

Dear Mr. Foster,

Re: Constituency Office Premises

On March 1, 2012, you advised me that the premises you have leased for your constituency office are in a building which is the property of a company owned by the in-laws of your

constituency assistant. You have provided me with the information I requested about your efforts to source office space, as well as the details of the negotiation that ultimately led to the existing lease arrangements. You have also given me a copy of the lease document dated for reference on July 15, 2009.

Pursuant to s. 18 of the *Member's Conflict of Interest Act* ("*Act*") you have requested that I give you an opinion about whether the circumstances surrounding the granting of the lease to a company owned by the family of your constituency assistant's husband was or may have given rise to a conflict of interest and a contravention of the *Act*.

You were elected in the May 14, 2009 general election as the Member for Vernon-Monashee. Shortly thereafter, you began the search for premises for your constituency office in Vernon. Location and access were among your prime concerns. The constituency office used by your predecessor was not satisfactory, because it had no convenient off-street parking and was located on an upper floor of a building.

The condition of the space and cost per square foot were also very important factors that you considered. You surveyed the available rental market in Vernon and inspected six potential locations. Eventually, your first choice was an older building which was being redeveloped. It has off-street access to 5 parking spaces. The space for your prospective office was at street level with good visibility and easy pedestrian access. The building is located in a part of the city that is benefitting from redevelopment. The space you were interested in required interior improvement, which the owner was prepared to do with the cost amortized as part of the rent over a lease term of 4 years.

As a long-time resident in the Vernon area and as a former mayor and councillor of the nearby Village of Lumby, I am satisfied that your knowledge of the commercial rental market was well informed. After comparing all of the other available space options, you decided that this space represented the best value. The active negotiation piece was price per square foot, given that the space had to be improved and finished. The negotiation was robust and ultimately resulted in an agreement that was \$800 a month less than the owner's first offer. While the size of the space is larger than your predecessor's constituency office, the per square foot rental cost is lower. A comprehensive 4-year commercial lease agreement was signed with a commencement date of July 15, 2009.

You have advised me that your constituency assistant played no part in the sourcing of the space or in the negotiating process. The entire process resulted in what appears to have been a full and fair negotiation that was conducted at arm's length, without any special benefit or advantage given or promised.

It is my opinion that neither your private interest nor that of your constituency assistant were furthered by the lease arrangements that you negotiated as part of your official duties or functions as an MLA. Accordingly, no direct conflict of interest arose under s. 2(1) of the *Act*. Further, it is my opinion that after taking into account all of the circumstances, no apparent conflict of interest arose under s. 2(2) of the *Act*. In my view, a reasonably well-informed person

would not properly have the perception that your ability to perform your public duty or function must have been affected by your private interest or that of your constituency assistant.

Thank you for consulting me on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Paul D. K. Fraser', with a long, sweeping horizontal stroke at the end.

Paul D. K. Fraser, Q.C.
Commissioner