



News Release

November 13, 2012

Statement from Paul D.K. Fraser, Q.C. – Conflict of Interest Commissioner

John van Dongen, Member of the Legislative Assembly for Abbotsford South, requested my opinion about the past conduct of the current Premier of British Columbia when, in 2003, she was a Minister in the former government of Premier Campbell. Mr. van Dongen provided initial materials to me on September 21, 2012, and his completed materials on October 19, 2012.

On November 7, 2012, Mr. van Dongen publically released materials related to his request. The following day, concerns were discussed in some media about my suitability to conduct the review necessary to express an opinion that was perceived to be impartial. On Friday, November 9, 2012 Mr. van Dongen called a news conference and announced his concern that there was a "reasonable apprehension of bias" if I continued with his opinion request.

Over the long weekend I have reflected on the concerns that have been expressed. Without being legalistic, I do find it necessary to say that the language of "reasonable apprehension of bias" used by the Member, seeks to import legal language that is not particularly apt in the circumstances here, as the Member is not a party litigant, the process is not a rights-driven process, and the Commissioner is not an adjudicator or "judge". The Commissioner's functions are exercised as part of the privileges of the Legislative Assembly.

At the same time, I have concentrated on the underlying concerns that have been expressed. The work done by my Office is important to the integrity of the legislative process, as well as to the maintenance of the ethical fibre of the Legislative Assembly. The Legislative Assembly needs to be able to rely on me to take reasonable steps to weigh all the circumstances, and to ensure that any opinion offered to the Assembly – whatever that opinion turns out to be – is one in which legislators and the public can have confidence.

My initial public comments emphasized my ability to undertake this matter without any lack of impartiality in fact. I stand by that. However, I have given further and considerable thought to the perception issue. I have concluded that given the very unique circumstances here – circumstances in which there is a familial connection to a part of the history in which a conflict appears to be alleged, combined with the acute political controversy that the "BC Rail" file has occasioned in this Province – it is unfair for me to ask the Members of the Legislative Assembly or the public to bear the uncertain burden of my continued involvement in Mr. van Dongen's request.

The *Members' Conflict of Interest Act* authorizes the Commissioner to retain persons the Commissioner considers necessary and may specify their duties and responsibilities. In my view, this is the means by which I now recuse myself from any further substantive involvement in this matter.

I have now retained Mr. Gerald L. Gerrand, Q.C. of Regina, Saskatchewan to deal with Mr. van Dongen's request. Mr. Gerrand is one of the longest serving Conflict of Interest Commissioners in Canada. From 2000 to 2010 he was Conflict of Interest Commissioner for the Province of Saskatchewan. He is currently the Conflict of Interest Commissioner for the Northwest Territories. He is a distinguished and experienced lawyer who is a past President of the Law Society of Saskatchewan, a fellow of the American College of Trial lawyers, and Counsel at the Regina law firm of Gerrand Roth Johnson.

As of today, the only further involvement I will have in this matter will be (a) to ensure that Mr. Gerrand has the resources and personnel available to assist him in addressing this matter independently, and (b) pursuant to the *Act*, to ultimately transmit to the Speaker Mr. Gerrand's opinion, without any amendment or comment.