



**STAFF REPORT #T2018-06**  
4/30/2018

Amendments: None

**Submitted to:** Council  
**Submitted by:** Fareed Amin, CAO  
Marjory Leonard, Treasurer  
**Subject:** Judicial Inquiry

### **PURPOSE**

This report provides potential cost estimates for the Judicial Inquiry and requests approval for the CAO to take the necessary actions and expend the necessary funds to meet the requirements of the Justice presiding over the Inquiry.

### **RECOMMENDATION**

**THAT** Council receive Staff Report T2018-06 identifying the costs and requirements of the judicial inquiry and delegate authority to the CAO to take and authorize any actions deemed necessary or appropriate including actions as required by the Justice presiding over the Inquiry; and further that a record of all actions shall be maintained.

### **AMENDMENTS**

None

## **1. BACKGROUND**

At the February 26<sup>th</sup>, 2018 regular meeting of Council, resolution 042-2018 calling for a Judicial Inquiry into the 2012 Collus share sale to PowerStream was passed. Staff were directed to forward the resolution to the Chief Justice of the Superior Court of Justice. During the Inquiry, the Inquiry Judge will be referred to as the "Commissioner".

On April 6, 2018 Chief Justice Smith appointed the Honourable Mr. Justice Frank Marrocco, Associate Chief Justice of the Superior Court of Justice to serve as Commissioner to this Inquiry.

### **Purpose of a Municipal Public Inquiry**

The Mississauga Corporate Report regarding their Judicial Inquiry provides the following information related to the purpose of a Municipal Public Inquiry:

“Justice Binnie, in the Supreme Court of Canada Decision *Consortium Developments (Clearwater) Ltd. v. Sarnia (City)* defined the purpose of a municipal judicial inquiry as follows:

“the power of an Ontario municipality to authorize a judicial inquiry into matters touching the good government of the municipality, or “any part of its public business”, and any alleged misconduct in connection therewith, reaches back to Confederation. Apart from a few amendments to harmonize this power with other legislative changes in the Province, [Section 274 of the Municipal Act, 2001] is substantially unchanged from its predecessor section in 1866. This reflects a recognition through the decades that good government depends in part on the availability of good information. A municipality, like senior levels of government, needs from time to time to get to the bottom of matters and events within its baileywick. The power to authorize a judicial inquiry is an important safeguard of the public interest, and should not be diminished by a restrictive or overly technical interpretation of the legislative requirements for its exercise. At the same time, of course, individuals who played a role in the events being investigated are also entitled to have their rights respected.”<sup>1</sup>

Further in her report, Ms. Bench, City Solicitor for Mississauga provided the Council with several points that should be understood. In regard to the Collingwood Inquiry, these points are also relevant. Highlighting of information related to aspects of potential costs have been made by staff and do not form part of the original document.

- “By its requesting resolution, Council has the ability to control the scope of the inquiry. The resolution must be carefully constituted as it will establish the terms of reference and mandate of the Commissioner. If the resolution is too vague, it may be struck out by the Courts for lack of sufficient particularity.
- Potential parties will be notified based on the terms of reference.
- A public inquiry is a public investigation, carried out in the public eye and is not a trial. A public inquiry seeks to explain why something occurred and not to determine guilt or liability. Unlike a court, it is not an adversarial proceeding.

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<sup>1</sup> Mississauga Corporate Report, October 13, 2009, Judicial Inquiry, Mary Ellen Bench, City Solicitor, p. 3.

- The findings of a judicial inquiry are not binding in subsequent court proceedings and there are no legal consequences attached to them.
- At the end of an inquiry, the Commissioner will report his/her factual findings, make observations and issue recommendations that may include legislative, policy or procedural changes to be implemented to address the specific concerns identified through the inquiry.
- The conduct and the rules of procedure to be followed on an inquiry is under the control and direction of the Commissioner.
- The Commissioner will determine which issues are to be reviewed and investigated within the parameters set by the terms of reference. Ancillary issues may come up during the inquiry not originally anticipated. The Commissioner's decisions in this respect will impact on the cost and length of the inquiry.
- The costs of the Commissioner will be paid by the Federal Government as a Justice of the Superior Court, however the Commissioner will likely engage legal counsel and possibly other persons to assist in the investigation or inquiry, and these costs plus any incidental expenses will be paid by the municipality.
- Council should authorize outside legal counsel to be retained to represent the municipality in the conduct of a judicial inquiry to ensure there is no perception of bias and to assure the integrity of the process in the public eye.
- Council must also give consideration to paying for the costs of legal counsel for the parties to the proceedings or for members of Council or staff called upon to provide testimony.
- It is very difficult to estimate the potential costs of an inquiry due to the unknowns that will impact the hearing length, any potential delays in receiving documents and materials, unknown forensic audit and investigative needs, determination of the parties and witnesses, the potential for legal challenges and many other issues that can arise.
- A time limit cannot be established by the municipality for an inquiry. The Act requires the Commissioner to report the results of the inquiry to Council "as soon as practicable".
- Any person who has substantial or direct interest in the subject matter of an inquiry is entitled to apply for standing. Where the Commissioner grants full standing, that person can call evidence and cross-examine witnesses, and also must agree to abide by the Rules of Procedure established by the Commissioner. Standing may be granted for the entire proceeding or only for part of it, and it may have lesser rights attached to it, as determined by the Commissioner.
- Legal counsel acting for parties at a judicial inquiry play a different role than in a courtroom and will be expected to assist the inquiry and ensure that all relevant and helpful evidence is brought forward."<sup>2</sup>

## 2. INPUT FROM OTHER SOURCES

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<sup>2</sup> Ibid, pgs. 4 - 5

The *Mississauga Corporate Report, October 13, 2009, Judicial Inquiry*, prepared by the Mississauga City Solicitor, Mary Ellen Bench provided significant background information into the purpose and potential costs of a judicial inquiry.

### 3. APPLICABLE POLICY OR LEGISLATION

*Municipal Act, 2001, Section 274*  
*Public Inquiries Act, 2009, Section 33*

### 4. ANALYSIS

#### **Terms of Reference (Appendix A)**

The terms of reference for the Inquiry are a key element since they define what is to be inquired into and the scope of the Municipality's interest. The CAO has prepared the terms of reference and discussed them with the Commissioner and Commission Counsel.

#### **Costing Estimates**

As Ms. Bench has stated, the costs of a judicial inquiry are difficult to estimate and rely on the duration of the Inquiry. We have been provided with a list of potential cost types we may incur during the process. CAO Amin has had several meetings with Court staff and Justice Marrocco to discuss the requirements of the Justice.

Our costing assumptions are based on a nine (9) month inquiry however, after the documentary phase is complete we will have a better idea of the costs and timelines.

#### 1. Commission Counsel

The role of Commission Counsel is to investigate and lead evidence in a thorough, impartial and balanced manner. From previous inquiries, the presiding Justices have stated that the duty of the Commission Counsel is to ensure that all issues related to the public interest are brought to the Commissioner's attention. Justice Marrocco has chosen his Commission Counsel.

Billing rates and the length of the Inquiry will determine the actual expenditures. There will be two components to the estimate – time for investigative work and time for the hearing phase. Overall, staff are basing the cost estimate on the results of the Mississauga Inquiry.

Estimated investigative work – 320hrs x \$500/hr **\$160,000.**

Estimated hearing work – 320hrs x \$500/hr **\$160,000.**

#### 2. Investigative Staff/Policy Staff

The Commissioner and the Commission Counsel require a Junior Counsel and a law clerk to assist with summarizing evidence for the Commissioner, pre-interviewing witnesses, summarizing witness statements etc. Staff estimate the cost of a Junior Counsel as

Estimated investigative work – 320hrs x \$200/hr	<b>\$64,000.</b>
Estimated hearing work – 320hrs x \$200/hr	<b>\$64,000.</b>
Estimated cost for a law clerk based on a nine (9) month contract would be 1,560 hrs x \$85/hr	<b>\$132,600.</b>

### 3. Administration Staff

The Commissioner will require administrative support during the Inquiry. Staff estimate that this position would be required for approximately nine (9) months and would cost **\$75,000.**

### 4. Additional Staffing Requirements

- a) Communications staff will be sourced from an outside firm on an as needed basis. The estimated cost for this service is **\$70,000.**
- b) IT staff and assistance will be provided by the Town's IT department. This assistance is estimated to cost **\$25,000.**
- c) Court reporter/transcriptionist to record inquiry proceedings. Staff are estimating the cost of these services on 320 hours hearing time. Rates for this service are estimated at \$85/hr for an estimated cost of: **\$27,200.**

There is also a per page charge in the range of \$6 per page for transcription services. Assuming the hearings generate 500 pages the cost would be **\$3,000.**

- d) Commissioner incidental expenses estimated at **\$25,000.**

### 5. Physical Resource Requirements

- a) Office Space  
Staff have sourced suitable office space in the downtown core. The minimum term on the lease is one year at \$22.50 gross lease rate per sq. ft. The rate includes taxes, insurance and maintenance. Utility costs will be in addition to the lease rate. Minimal redecoration is required. Estimated one year commitment for the space **\$32,000.**
- b) Office Furniture  
Staff estimate the cost to furnish the space at **\$30,000.**
- c) Computer Equipment  
This item includes laptops, printers, servers, cabling, routers, wireless hubs, telephones, conference phone, boardroom TV/HD screen, and other peripherals

including software, document management software and virus protection. The estimated cost is **\$60,000.**

d) Office Supplies  
Staff estimate the cost of office supplies for five (5) workstations at **\$5,000.**

e) Venue(s) for Hearings  
Through discussions with Justice Marrocco, the CAO feels that the Council Chambers will be satisfactory for the public hearing phase.

f) Security Staff  
Security staff may be required to escort witnesses to and from the hearings and provide security at the hearings themselves. Staff estimate this services could be provided by paid duty police officers. The cost estimate is based on Estimated hearing work – 320hrs x \$71/hr **\$22,720.**

## 6. Other Costs

a) Counsel Representing the Town

The role of the Municipality in the Inquiry is to:

- ensure that all information in Town files is made available to the Commissioner;
- ensure that the Commissioner is aware of internal administrative procedures that may be relevant to the Inquiry; and,
- respond to any requests from the Commissioner or the Commission Counsel for assistance.

In previous inquiries the cities all had internal legal departments and staff recommended that outside legal counsel be retained to represent their interests at the public inquiry.

The Town has association with several legal firms that can fulfill this need. The estimate, based on the Mississauga report is 75% of Commission Counsel **\$240,000.**

b) Counsel for Parties, Council Members and Staff

Legal counsel retained to represent the Town cannot represent the interests of individual employees or Members of Council. The Commissioner cannot order the Town to provide funding however, in order to ensure that all parties, staff and Council Members are treated in a fair and unbiased manner, the Town should consider funding these costs. Staff can only guess at the potential costs and are assuming these costs would be similar to the costs for Town counsel **\$240,000.**

## 5. EFFECT ON TOWN FINANCES

This report has been prepared to provide Council and the residents of Collingwood with a background of the purpose of a judicial inquiry and the types of costs and associated estimates that may be encountered.

The total cost of the Judicial Inquiry, based on the information and requirements of the Commissioner, at this time, is estimated at \$1.4-1.6 million. There are sufficient funds in the Working Capital Reserve Fund to cover the items noted in the staff report.

**6. APPENDICES & OTHER RESOURCES**

<i>Appendix A</i>	<i>Terms of Reference</i>
<i>Appendix B</i>	<i>Section 274 of the Municipal Act, 2001</i>
<i>Appendix C</i>	<i>Section 33 of the Public Inquiries Act, 2009</i>

**SIGNATURES**

Prepared by:		Department Head
<i>Marjory Leonard, Treasurer</i>		<i>Fareed Amin, CAO</i>
Town of Collingwood		Town of Collingwood

APPENDIX A  
Commission of Inquiry

Town of Collingwood

Terms of Reference

WHEREAS on February 26, 2018, the Council of the Town of Collingwood passed Resolution 042-18 (the "Resolution") asking the Honourable Heather Smith, Chief Justice of the Superior Court of Justice, to designate a judge of the Superior Court of Justice to conduct an Inquiry in relation to the Town of Collingwood concluding a Share Purchase Agreement for the sale of Collingwood Utility Services Corporation to PowerStream Inc. on March 6, 2012 (the "Transaction"). The Resolution requesting the Inquiry was made pursuant to s. 274 of the *Municipal Act, 2001* and is attached as **Annex 1**.

AND WHEREAS on April 6, 2018, Chief Justice Smith designated the Honourable Frank Marrocco, Associate Chief Justice of the Superior Court of Justice, to serve as Commissioner to this Inquiry.

NOW THEREFORE, the Council of the Town of Collingwood does hereby resolve that:

the Terms of Reference of the Inquiry shall be to inquire into all aspects of the Transaction, including the history, the price at which the shares were sold and the impact on the Ratepayers of the Town of Collingwood, as it relates to the good government of the Municipality, or the conduct of its public business, and to make any recommendations that the Commissioner may deem appropriate and in the public interest as a result of the Inquiry.

AND IT IS FURTHER RESOLVED that pursuant to s. 274 of the *Municipal Act, 2001*, and s. 33 of the *Public Inquiries Act*, the Commissioner, in conducting the Inquiry into the Transaction to which the Town of Collingwood is a party, is empowered to ask any question or cause an investigation into any matter which the Commissioner may consider necessary, incidental or ancillary to a complete understanding of the Transaction. In particular, the Commissioner may inquire into:

- i) Was there adequate Town Council oversight over the Transaction?
- ii) Was Town Council's delegation of authority in relation to the Transaction appropriate?
- iii) Did Town Council receive sufficient independent professional advice prior to delegating its authority to conduct the RFP negotiate or finalize the Transaction?
- iv) Were the criteria developed to assess the proposals received during the RFP process appropriate and did the criteria serve the interests of the Ratepayers of Collingwood?

And, for the purpose of providing fair notice to the Town of Collingwood and those

individuals who may be required to attend and give evidence, and without infringing on the Commissioner's authority in conducting the Inquiry in accordance with the Resolution and the Commissioner's statutory authority, it is anticipated that the Inquiry may include:

1. An investigation and inquiry into all relevant circumstances pertaining to the Transaction referred to in the recitals to the Resolution, including the relevant facts pertaining to the Transaction, the basis of and reasons for making the recommendations for entering into the Transaction, and the basis of the decisions taken in respect of the Transaction;
2. An investigation and inquiry into the relationships, if any, between the existing and former elected and administrative representatives of the Town of Collingwood, Collingwood Utility Services Corporation and PowerStream Inc.; and,
3. A two-stage process consisting of a document review and public hearings as follows:

*Document Review*

- (a) To obtain, bearing in mind cost and the principles of proportionality, all documents necessary to understand the following:
  - i. the sequence of events leading to the Transaction, including the Request for Proposal process commissioned by the Town of Collingwood;
  - ii. the nature and extent of the delegation of authority by Council to those who negotiated on behalf of the Town of Collingwood in relation to the RFP process and Transaction;
  - iii. any subsequent contracts entered between or among the Town of Collingwood and PowerStream, Collus PowerStream and any other Collus company;
  - iv. Any fee or benefit of any kind paid, or conferred, by or on behalf of PowerStream to any person in relation to the Transaction;
  - v. The commercial relationship between PowerStream, Collus PowerStream and any other Collus entity and the Town of Collingwood prior to 2017 and in particular, any agreement entered into between or among any of these parties;

- vi. The salaries, benefits and emoluments of any kind paid in relation to the Transaction to any employee of Collus PowerStream and any other Collus company;
- vii. The allocation of the proceeds of the transaction to the construction of the recreational facility at Central Park and Heritage Park.
- viii. The payment of any fee or benefit of any kind on behalf of any person of the entity involved in the creation or construction of the recreational facility at Central Park and Heritage Park;

*Public Hearings*

- (b) To conduct public hearings into the matters designated in accordance with the principles of fairness, thoroughness, efficiency and accessibility.
4. The Commissioner may engage counsel and other persons to assist in the Inquiry and the costs of engaging those persons and any incidental expenses shall be paid by the Town of Collingwood.

Annex 1

**RES-042-2018**

Moved by Deputy Mayor Saunderson

Seconded by Councillor Madigan

**WHEREAS**, under s. 274 of the *Municipal Act*, 2001 S.O. 2001, c. 25, the Council of a Municipality may, by resolution, request a judge of the Superior Court of Justice to inquire into or concerning any matter connected with the good government of the municipality, or the conduct of any part of its public business;

**AND WHEREAS** any judge so requested shall make inquiry and shall report the results of the investigation or inquiry to the Council as soon as practicable;

**AND WHEREAS** the Town of Collingwood concluded a Share Purchase Agreement on March 6, 2012 in which it sold 50% of Collingwood Utility Services Corporation to PowerStream Inc. (“the Transaction”; “PowerStream”);

**AND WHEREAS** concerns have been raised about the wisdom and reasons for the Transaction;

**NOW THEREFORE** the Council of the Town of Collingwood does hereby resolve that:

1. An inquiry is hereby requested to be conducted pursuant to s. 274 of the *Municipal Act* which authorizes the Commissioner to inquire into, or concerning, any matter related to a supposed malfeasance, breach of trust, or other misconduct on the part of a member of Council, or an officer or employee of the Town or of any person having a contract with it, in regards to the duties or obligations of the member, officer, or other person to the corporation, or to any matter connected with the good government of the municipality, or the conduct of any part of its public business; and
2. The Honourable Chief Justice Smith, Chief Justice of the Superior Court of Ontario, be requested to designate a judge of the Superior Court of Ontario as Commissioner for the inquiry and the judge so designated as Commissioner hereby authorized to conduct the inquiry in two stages:
  - (a) To obtain, bearing in mind cost and the principles of proportionality, all documents necessary to understand the following:
    - (i) the sequence of events leading to the Transaction, including the Request for Proposal process commissioned by the Town of Collingwood;
    - (ii) the nature and extent of the delegation of authority by Council to those who negotiated on behalf of the Town of Collingwood in relation to the RFP process and Transaction;
    - (iii) any subsequent contracts entered between or among the Town of Collingwood and PowerStream, Collus PowerStream and any other Collus company;
    - (iv) Any fee or benefit of any kind paid, or conferred, by or on behalf of PowerStream to any person in relation to the transaction;
    - (v) The commercial relationship between PowerStream, Collus PowerStream and any other Collus entity and the Town of Collingwood prior to 2017 and in particular, any agreement entered into between or among any of these parties;
    - (vi) The salaries, benefits and emoluments of any kind paid to any employee of Collus PowerStream and any other Collus company;

- (vii) The allocation of the proceeds of the transaction to the construction of the recreational facility at Central Park and Heritage Park.
- (viii) The payment of any fee or benefit of any kind on behalf of any person of the entity involved in the creation or construction of the recreational facility.

(b) Having conducted the documentary review to determine what, if any, public hearings ought to be held into the matters designated for the inquiry herein;

**AND IT IS FURTHER RESOLVED THAT** the Terms of Reference of the Inquiry shall be: to inquire into all aspects of the above matters, their history and their impact on the ratepayers of the Town of Collingwood as they relate to the good government of the municipality, or the conduct of its public business, and to make any recommendations which the Commissioner may deem appropriate and in the public interest as a result of the inquiry.

**AND IT IS FURTHER RESOLVED THAT** the Commissioner, in conduct the inquiry into the transactions in question to which the Town of Collingwood is a party, is empowered to ask any questions which he or she may consider as necessarily incidental or ancillary to a complete understanding of these transactions, and for the purpose of providing fair notice to those individuals who may be required to attend and give evidence, without infringing on the Commissioner's discretion in conducting the inquiry in accordance with the Terms of Reference stated herein, it is anticipated that the inquiry may include the following:

- (c) Was there adequate Council oversight of the transactions listed above?
- (d) Was Council's delegation of authority in relation to the transaction appropriate?
- (e) Did council receive sufficient independent professional advice prior to delegating its authority to conduct the RFP negotiate or finalize the Transaction?
- (f) Where the criteria developed to assess the proposals received during the RFP process appropriate and did the criteria serve the interests of the ratepayers of Collingwood?

<u>COUNCIL</u>	<u>Yea</u>	<u>Nay</u>
<i>Cooper</i>		x
<i>Saunderson</i>	x	
<i>Fryer (absent)</i>		
<i>Edwards (absent)</i>		
<i>Ecclestone</i>	x	
<i>Jeffery</i>	x	
<i>Doherty</i>	x	
<i>Madigan</i>	x	
<i>Lloyd (absent)</i>		
<i>TOTAL</i>	5	1

APPENDIX B  
Section 274, Municipal Act, 2001

Judicial Investigation

Investigation by judge

**274** (1) If a municipality so requests by resolution, a judge of the Superior Court of Justice shall,

(a) investigate any supposed breach of trust or other misconduct of a member of council, an employee of the municipality or a person having a contract with the municipality in relation to the duties or obligations of that person to the municipality;

(b) inquire into any matter connected with the good government of the municipality; or

(c) inquire into the conduct of any part of the public business of the municipality, including business conducted by a commission appointed by the council or elected by the electors. 2001, c. 25, s. 274 (1).

Application of *Public Inquiries Act, 2009*

(2) Section 33 of the *Public Inquiries Act, 2009* applies to the investigation or inquiry by the judge. 2009, c. 33, Sched. 6, s. 72 (5).

Report

(3) The judge shall report the results of the investigation or inquiry to the council as soon as practicable. 2001, c. 25, s. 274 (3).

Counsel

(4) The council may hire counsel to represent the municipality and pay fees for witnesses who are summoned to give evidence at the investigation or inquiry. 2001, c. 25, s. 274 (4).

Representation by counsel

(5) Any person whose conduct is called into question in the investigation or inquiry may be represented by counsel. 2001, c. 25, s. 274 (5).

Costs

(6) The judge may engage counsel and other persons to assist in the investigation or inquiry and the costs of engaging those persons and any incidental expenses shall be paid by the municipality. 2001, c. 25, s. 274 (6).

**Section Amendments with date in force (d/m/y)**

[2009, c. 33, Sched. 6, s. 72 \(5\)](#) - 01/06/2011

APPENDIX C  
Section 33, Public Inquiries Act, 2009

Procedures under Other Acts

Former Part II inquiries

Definition

**33 (1)** In this section,

“inquiry” includes a determination, examination, hearing, inquiry, investigation, review or other activity to which this section is applicable. 2009, c. 33, Sched. 6, s. 33 (1).

Standard procedure

(2) This section applies where another Act or a regulation confers on a person or body the power to conduct an inquiry in accordance with this section or certain provisions of this section. 2009, c. 33, Sched. 6, s. 33 (2).

Power to summon witnesses, papers, etc.

(3) The person or body conducting the inquiry may require any person by summons,

(a) to give evidence on oath or affirmation at the inquiry; or

(b) to produce in evidence at the inquiry such documents and things as the person or body conducting the inquiry may specify,

relevant to the subject matter of the inquiry and not inadmissible in evidence under subsection (13). 2009, c. 33, Sched. 6, s. 33 (3).

Form and service of summons

(4) A summons issued under subsection (3) shall be in either the English or French version of the form prescribed by the regulations and shall be served personally on the person summoned and he or she shall be paid at the time of service the like fees and allowances for attendance as a witness before the person or body conducting the inquiry as are paid for the attendance of a witness summoned to attend before the Superior Court of Justice. 2009, c. 33, Sched. 6, s. 33 (4).

Stated case for contempt for failure to attend hearing, etc.

(5) Where any person without lawful excuse,

(a) on being duly summoned under subsection (3) as a witness at an inquiry makes default in attending at the inquiry; or

(b) being in attendance as a witness at an inquiry, refuses to take an oath or to make an affirmation legally required by the person or body conducting the inquiry to be taken or made, or to produce any document or thing in his or her power or control legally required by the person or body conducting the inquiry to be produced, or to answer any question to which the person or body conducting the inquiry may legally require an answer; or

(c) does any other thing that, if the person or body conducting the inquiry had been a court of law having power to commit for contempt, would have been contempt of that court,

the person or body conducting the inquiry may state a case to the Divisional Court setting out the facts and that court may, on the application of the person or body conducting the inquiry or of the Attorney General, inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he or she had been guilty of contempt of the court. 2009, c. 33, Sched. 6, s. 33 (5).

#### Protection of witnesses

(6) A witness at an inquiry shall be deemed to have objected to answer any question asked him or her upon the ground that his or her answer may tend to criminate the witness or may tend to establish his or her liability to civil proceedings at the instance of the Crown or of any person, and no answer given by a witness at an inquiry shall be used or be receivable in evidence against him or her in any trial or other proceedings against him or her thereafter taking place, other than a prosecution for perjury in giving such evidence. 2009, c. 33, Sched. 6, s. 33 (6).

#### Right to object

(7) A witness shall be informed by the person or body conducting the inquiry of his or her right to object to answer any question under section 5 of the *Canada Evidence Act*. 2009, c. 33, Sched. 6, s. 33 (7).

#### No discipline of employees

(8) No adverse employment action shall be taken against any employee of any person because the employee, acting in good faith, has made representations as a party or has disclosed information either in evidence or otherwise to a person or body conducting the inquiry under the applicable Act or to the staff of a person or body conducting the inquiry. 2009, c. 33, Sched. 6, s. 33 (8).

#### Offence

(9) Any person who, contrary to subsection (8), takes adverse employment action against an employee is guilty of an offence and on conviction is liable to a fine of not more than \$5,000. 2009, c. 33, Sched. 6, s. 33 (9).

## Application

(10) This section applies despite any other Act and the oath of office of a public servant within the meaning of the *Public Service of Ontario Act, 2006* is not breached where information is disclosed as described in subsection (8). 2009, c. 33, Sched. 6, s. 33 (10).

## Effective date

(11) This section applies to representations made, and information disclosed, on or after June 12, 2000. 2009, c. 33, Sched. 6, s. 33 (1).

## Unsworn evidence admissible

(12) A person or body conducting the inquiry may admit at an inquiry evidence not given under oath or affirmation. 2009, c. 33, Sched. 6, s. 33 (12).

## Privilege

(13) Nothing is admissible in evidence at an inquiry that would be inadmissible in a court by reason of any privilege under the law of evidence. 2009, c. 33, Sched. 6, s. 33 (13).

## Release of documents

(14) Documents and things produced in evidence at an inquiry shall, upon request of the person who produced them or the person entitled thereto, be released to the person by the person or body conducting the inquiry within a reasonable time. 2009, c. 33, Sched. 6, s. 33 (14).

## Photocopies of documents

(15) Where a document has been produced in evidence before a person or body conducting the inquiry, the person or body conducting the inquiry may or the person producing it may with the leave of the person or body conducting the inquiry, cause the document to be photocopied and the photocopy may be filed in evidence in the place of the document produced, and a copy of a document produced in evidence, certified to be a true copy thereof by the person or body conducting the inquiry, is admissible in evidence in proceedings in which the document produced is admissible, as evidence of the document produced. 2009, c. 33, Sched. 6, s. 33 (15).

## Power to administer oaths and require evidence under oath

(16) A person or body conducting an inquiry has power to administer oaths and affirmations for the purpose of the inquiry and may require evidence to be given under oath or affirmation. 2009, c. 33, Sched. 6, s. 33 (16).

## Powers of multiple appointees

(17) Where two or more persons are appointed to make an inquiry, any one of them may exercise the powers conferred by subsection (3), (4), (14), (15) or (16). 2009, c. 33, Sched. 6, s. 33 (17).