

Questions and Answers on the Elliot Lake Inquiry and PEO's Involvement

What is the Elliot Lake Inquiry?

The Elliot Lake Inquiry was established on July 19, 2012 by the Ontario government under the Public Inquiries Act, 2009. Its mandate is to inquire into and report on events surrounding the collapse on June 23, 2012, of the Algo Centre Mall in Elliot Lake, the deaths of Lucie Aylwin and Doloris Perizzolo and the injuries to other individuals, as well as the emergency management and response. The Commission is also to review relevant legislation, regulations and bylaws, policies, processes and procedures of provincial and municipal governments and other parties with respect to the structural integrity of the Algo Centre Mall and the emergency management and response. The Commission is to make recommendations to prevent such occurrences in the future. More information is available on the Commission's website at www.elliottlakeinquiry.ca.

What is a public inquiry?

Governments establish public inquiries to investigate and report on matters of substantial public interest. The mandate of each inquiry is set out in its terms of reference, or, in the case of the Elliot Lake Inquiry, in the Order in Council, establishing the Inquiry. An inquiry is not a trial. The Commission performs its duties without expressing conclusions about civil or criminal liability of any person or organization.

When are the public hearings expected to start?

On January 9, 2013, the Commission announced that the Inquiry expects to begin its public hearings the week of March 4, 2013. The start date assumes that construction of the Inquiry's hearing room at the former White Mountain Academy of the Arts in Elliot Lake is completed and that the Commission has received all documents it summonsed that it requires for the hearing.

How is PEO involved?

As the regulator of professional engineering in Ontario, PEO sought and received standing before the Commission. PEO was also requested by the Commission to provide documents relating to particular licence holders.

What does it mean to have standing at the Inquiry Hearing?

The commission's decision on PEO's application for standing was released on November 8, 2012. In making its decisions on standing, the commission considered such factors as whether parties seeking standing have a "substantial and direct interest" in the subject matter of the inquiry and whether their participation would contribute to openness and fairness of the inquiry and further the conduct of the inquiry.

In relation to PEO's request for standing, the commission noted that PEO is the licensing and regulating body for professional engineering in Ontario, has launched its own investigations related to the collapse, and issues guidelines relating to professional engineering services in construction and building. "The PEO clearly has an important interest and expertise in the issues raised by the Order in Council [establishing the commission of inquiry]," the commission said in granting standing to PEO.

As a participant with standing, PEO may have:

- access to documents the commission collects, subject to the commission's *Rules of Procedure*;
- advance notice of documents proposed to be introduced into evidence;
- advance provision of statements of anticipated evidence;
- a seat at counsel table;
- the opportunity to suggest witnesses to be called by the commission counsel, and if those witnesses are not called, the opportunity to apply to Commissioner Paul R. Bélanger to lead the evidence of a particular witness;
- the right to cross-examine relevant witnesses; and
- the opportunity to make closing submissions.

Is PEO cooperating with the Commission?

Yes. PEO is cooperating fully with the Inquiry and has provided documents as requested by the Commission. PEO has also offered to assist Justice Paul R. Bélanger, who is leading the public inquiry into the mall collapse, in reviewing relevant legislation, regulations and bylaws, as well as the policies, processes and procedures of provincial and municipal governments and others with respect to structural integrity and safety, and the emergency management and response to the collapse of the Algo Centre Mall.

Did PEO request that certain documents sent to the Commission not be made public?

PEO did not comment on whether any particular document should or should not be made public. PEO's request was for an order under section 10(4) of the *Public Inquiries Act* that those to whom information in the documents relates be given notice and the opportunity to consent to public disclosure or make submissions to the Commission regarding use of the information.

PEO has an obligation under section 38(1)(c) of the *Professional Engineers Act* to maintain the confidentiality of information that is not otherwise public that it obtains in the course of administering the act. In requesting an order under section 10(4) of the *Public Inquiries Act*, PEO highlighted this obligation and requested that the Commission similarly give notice and an opportunity to consent or make submissions to those named in PEO's documents, prior to any pre-hearing release of the documents.

How did the Commission rule on PEO's request?

The Commission provided media and other parties to the Inquiry the opportunity to make submissions on confidentiality of information, and convened a hearing on the matter on December 17, 2012 in Ottawa.

On January 8, 2013, the Commission ruled that PEO's obligations for handling information it collects under the *Professional Engineers Act* do not apply to the Commission's handling of the same information under the *Public Inquiries Act*. In his ruling denying PEO's request, Commissioner Paul R. Bélanger found that section 38 of the *Professional Engineers Act* has no application to the Commission's release of information.

Are submissions to the Commission available to the public?

Yes. All submissions to the Commission, including PEO's, are available on the Commission's website at www.elliottlakeinquiry.ca.

As the regulator of professional engineering in Ontario, is PEO investigating the circumstances surrounding the Algo Centre Mall collapse?

Under the authority of the *Professional Engineers Act*, PEO governs licence and certificate holders and regulates engineering in Ontario to serve and protect the public. Accordingly, in September 2012, PEO launched its own investigations related to the mall collapse. PEO, through the Registrar, is enabled to initiate the investigative process in the absence of a complaint being filed, on reasonable and probable grounds that a member of the association or a holder of a certificate of authorization, a temporary licence, provisional licence or limited licence has committed an act of professional misconduct or incompetence, or that there is cause to refuse to issue or to suspend or revoke a certificate of authorization. Investigators appointed by the Registrar are provided powers, similar to those provided to law enforcement officials under a search warrant, to enter the business premises of the licence or certificate holder under investigation and examine anything relevant to the subject of the investigation. These investigations could lead to discipline of PEO licence or certificate holders by the association.

Is PEO doing anything else?

Yes. PEO issued a Professional Practice Bulletin in the November/December 2012 issue of *Engineering Dimensions*, its official publication, on "Structural Engineering Assessments of Existing Buildings". This document is also available on PEO's website at www.peo.on.ca/publications/guidelinespracticebulletin2.pdf.