

Summary of Submissions Received in Response to the Administrative Justice Project's White Paper, "On Balance: Guiding Principles for Administrative Justice Reform in British Columbia"

December, 2002

Background

The Administrative Justice Project's White Paper "On Balance: Guiding Principles for Administrative Justice Reform in British Columbia" was released in August, 2002. Copies of the White Paper were distributed to the Attorneys General in each Canadian jurisdiction, to each host minister and tribunal chair in British Columbia, to law libraries and to those who requested paper copies. The White Paper and related reports are also available on the Project's website at www.gov.bc.ca/ajp.

Since August, the Administrative Justice Office (AJO) has met with many interested individuals and groups including the Circle of Chairs, the British Columbia Council of Administrative Tribunals (BCCAT), the Law Society and sections of the Canadian Bar Association. Formal presentations have been given to a national meeting of the Canadian Bar Association, to the BCCAT Fall Conference, to a Continuing Legal Education Conference on Administrative Law and to several classes at the University of Victoria, School of Public Administration.

Comments on the White Paper were invited until November 15, 2002. This document provides a brief summary of the submissions received to date. Further information may be obtained by calling the AJO at 250-387-0058.

List of Submissions

Administrative Justice Organizations

British Columbia Council of Administrative Tribunals
Circle of Chairs
Council of Canadian Administrative Tribunals

Administrative Tribunals

Health Care Tribunals (Community Care Facility Appeal Board, Health Care and Care Facility Review Board, Hospital Appeal Board, Medical and Health Care Services Appeal Board)
Labour Relations Board
Mental Health Review Panels
Residential Tenancy Office
Review Board (*Criminal Code*)
Securities Commission

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Ministers and Ministries

Minister of Advanced Education

Ministry of Community, Aboriginal and Women's Services, Building Policy Branch

External Organizations and Individuals

Canadian Bar Association (BC Branch), Poverty Law Section

David A. Coulson, Barrister and Solicitor, Residential Tenancy Arbitrator

S. Ronald Ellis, Q.C.

Chris Shelton

West Coast Leaf Association

Name and Organization	Issues Addressed
Barbara J. Junker, President, British Columbia Council of Administrative Tribunals	<ul style="list-style-type: none">• Independent administrative justice council• Host ministries and authority over tribunal rules• Memorandums of Understanding and their relationship to government's strategic plan• Effect of budget reductions on tribunals• Appointment and renewal of adjudicators• Adjudicative and institutional independence• Statutory powers• Advisors to the Administrative Justice Office• Dispute resolution processes between government and tribunals• Policies and criteria on the issue of standing• Judicial review and Charter jurisdiction
John Steeves, Program Coordinator, Circle of Chairs	<ul style="list-style-type: none">• Independence and accountability• Timing of appointment processes• Supervision of appointment processes• Institutional design and smaller tribunals• Independence and shared management resources• Timing and financial challenges in implementing reforms• Ministerial approval of tribunal practices and procedures• Skills and qualifications for chairs• Processes to renew chairs

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Name and Organization	Issues Addressed
J. Paul Lordon, President, Council of Canadian Administrative Tribunals, Faculty of Law, University of Ottawa	<ul style="list-style-type: none">• Statutory powers and procedures• Financial resources required for administrative justice reform• Approval of tribunal powers and procedures• Tribunal independence
Health Care Tribunals: Kathleen McIsaac, Chair, Community Care Facility Appeal Board; David Gilbert, Chair, Health Care and Care Facility Review Board; Gordon Armour, Chair, Hospital Appeal Board; Frances C. Doyle, Chair, Medical & Health Care Services Appeal Board	<ul style="list-style-type: none">• Operating agreements• Tribunal decision-making independence and public accountability• Annual appointment plans• Timeliness of appointments• The involvement of part-time and full-time chairs with appointments• Independence and the Administrative Justice Office• Ministerial and Cabinet approval of appointments• Ministerial approval of tribunal practices and procedures• Alternative review provisions
Brent Mullin, Chair, Labour Relations Board	<ul style="list-style-type: none">• Financial challenges in implementing administrative justice reforms
Allan Tuokko, Senior Review Panel Chair, Mental Health Review Panels	<ul style="list-style-type: none">• Reducing the number of host ministries that have operational responsibilities for tribunals• Reducing conflict of interest between tribunals and host ministries• Formal operating agreements• Section 7 of the <i>Canadian Charter of Rights and Freedoms</i>• Timing of the appointment processes in model appointment plans• Ministerial approval of tribunal practices and procedures
M. K. Brereton, Acting Director, Residential Tenancy Office (RTO)	<ul style="list-style-type: none">• Representation of residential tenancy arbitrators by the Arbitrators Association• Case management systems• RTO Spring 2003 reappointments• Appointments by ministerial order• Job descriptions• Operating agreements• Ministerial authority over tribunal powers and procedures• RTO resource constraints

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Name and Organization	Issues Addressed
Bernd Walter, Chair, Review Board (<i>Criminal Code</i>)	<ul style="list-style-type: none">• Defining institutional independence and accountability• Cross appointments of chairs• Standing advisory committee for the Administrative Justice Office• Canvassing the views of consumers of tribunal services
Joyce Maykut, Q.C., BC Securities Commission	<ul style="list-style-type: none">• The Commission's regulatory mandate and reporting regimes• Canadian Securities Administrators and provincial legislation• Complexity of new plans proposed for tribunals• Need for flexibility in reforms• Defining the role of the Administrative Justice Office
The Honourable Shirley Bond, Minister of Advanced Education	<ul style="list-style-type: none">• Establishing a new registration structure for Private Post-Secondary institutions
Jeff Vasey, Director Building Policy Branch Ministry of Community, Aboriginal & Women's Services	<ul style="list-style-type: none">• Clarification of roles and responsibilities of partners in the administrative justice system• Legislation addressing scope of tribunal mandates
Patricia MacDonald, Co-Chair, Poverty Law Section – Canadian Bar Association (BC Branch)	<ul style="list-style-type: none">• The Employment Assistance Tribunal appointment process• B.C.'s <i>Human Rights Code</i> and judicial review• Poverty law legal aid
David Coulson, Barrister and Solicitor, Residential Tenancy Office Arbitrator	<ul style="list-style-type: none">• Potential effects of White Paper recommendations upon current efficiencies of the Residential Tenancy Office
S. Ronald Ellis, Q.C.	<ul style="list-style-type: none">• Publishing the White Paper and supporting papers for national distribution• Clarifying process for re-appointments• Operating agreements• Conflict of interest issues between host ministries and tribunals• Selection process for tribunals chairs

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Chris Shelton	<ul style="list-style-type: none">• Provincial legislation and segments of the federal <i>Financial Administration Act</i>
West Coast Women's Legal Education and Action Fund Association	<ul style="list-style-type: none">• Recruitment and selection of tribunal members• Tribunals jurisdiction and Charter issues• Balanced appointment processes that encompass diversity and gender