

REPORT OF THE CONFLICT OF INTEREST COMMISSIONER PURSUANT TO SECTION 102 OF THE *LEGISLATIVE ASSEMBLY AND EXECUTIVE COUNCIL ACT* RESPECTING THE ALLEGATION OF JANE GROENEWEGEN THAT PREMIER FLOYD ROLAND RECEIVED AND ACCEPTED ACCOMMODATION ALLOWANCES TO WHICH HE WAS NOT ENTITLED, THEREBY BREACHING THE PROVISIONS OF SECTION 86 OR ALTERNATIVELY, SECTION 75, OF THE *LEGISLATIVE ASSEMBLY AND EXECUTIVE COUNCIL ACT*.

For a number of years Premier Floyd Roland (Premier Roland) resided with his wife and members of his family at 4821 School Draw Road, Yellowknife. This property is owned by T.E. Holdings Ltd. and Premier Roland entered into a formal written lease agreement with the owner on the 1st day of May, 2004, to rent the property for a period of four years. The monthly rental provided for in the initial lease was \$2760. This lease agreement was extended by written addendum dated May 20, 2008, for a further period of four years. The monthly rental payment was increased in the renewal to \$3450.

In 2006, the *Legislative Assembly and Executive Council Act* ("the Act") was amended to provide for the establishment by the Executive Council of policies for the payment of "allowances, reimbursement of expenses and provision of benefits to members of the Executive Council that are in addition to those paid, reimbursed or provided for in Part I." (Section 70.1)

Pursuant to this section, the Executive Council developed a "Ministerial Benefits Policy" shortly following the Territorial election of October 2007. The Policy was amended in February of 2009. Copies of both policies are attached to this Report. It will be noted that the 2009 changes have no relevance to the complaint in question. One change related to the elimination of reimbursement for the purchase of furniture; the other change clarified that removal after one leaves the Executive Council is limited to removal back to the community where the member's principal residence is located.

In accordance with the requirements of the Ministerial Benefits Policy, Premier Roland filed a Statutory Declaration dated the 10th day of December, 2007, asserting that he maintained a principal residence outside of the capital at the community of Inuvik and further asserting he had entered into a tenancy agreement in Yellowknife respecting the property at 4821 School Draw Road. The lease agreement and renewal referred to in the first paragraph of this report is attached to the Statutory Declaration. Premier Roland has been reimbursed for the temporary accommodation he leases in Yellowknife from the commencement of the introduction of the policy to the present time. The amount of the reimbursement paid to Premier Roland has been in accordance with the administrative procedures implemented by the Department of Executive to carry out the Ministerial Benefits Policy.

On November 28, 2008, Premier Roland personally moved from the School Draw Road residence and within a few days commenced living at the residence located at Apt. 201, 97 Niven Drive, Yellowknife. This accommodation is a two-bedroom apartment leased by Patricia Russell, a friend of Premier Roland with whom he had commenced an intimate relationship some months previously.

The wife of Premier Roland and his four sons continue to occupy the School Draw Road accommodation as they have since moving in in August of 2004. The Department of the Executive continues to pay the accommodation expenses related to these premises as it had prior to Premier Roland moving from the premises on November 28, 2008. Premier Roland has not filed a further Statutory Declaration outlining the alternation in his living arrangements, nor has he made any additional claims for accommodation expense at the residence where he presently resides.

By letter dated March 5, 2009, the complainant, Jane Groenewegen, MLA for Hay River South, requested that I investigate the actions or lack of action of the part of Premier

Roland respecting his temporary accommodation benefits. After reciting certain factual background, the complainant articulates her concerns in the following words:

“By virtue of his status as a Cabinet Minister, Mr. Roland is entitled to be reimbursed for his costs associated with having a residence in Yellowknife, however, I question whether it is appropriate for the Government to pay the costs of a residence for Mr. Roland’s estranged spouse and children. It would appear to me that the costs associated with supporting Mr. Roland’s spouse and children are properly Mr. Roland’s personal obligations, for which he should be responsible, and are not the obligation of the taxpayer.

I would ask you to investigate whether this situation constitutes a violation of the conflict of interest provisions of the *Legislative Assembly and Executive Council Act*. In particular, I would query whether this situation would result in Mr. Roland improperly receiving a benefit pursuant to Section 86 of the Act. Alternatively, I would ask you to consider whether Mr. Roland, by having the Government pay the costs of a residence in which he does not personally reside, has violated section 75 of the Act in that the acceptance of this benefit is likely to erode public confidence in Mr. Roland’s integrity.”

After providing reasonable notice to Premier Roland of the complaint, I have proceeded to conduct an investigation into the complaint as required by section 101 of the Act. In conducting the investigation, I have met with and discussed the factual aspects of the complaint with the complainant, Premier Roland, Patricia Russell and Mr. David Ramsden, Secretary to Cabinet.

I have obtained copies of all documentation that I believe is relevant to the issue.

It is asserted by the complainant that two sections of the Act have been breached by Premier Roland in continuing to accept payment of temporary accommodation benefits after having personally moved from the subject property November 28, 2008. Section 86 of the Act reads as follows:

86.(1) A member shall not accept any remuneration, gift or personal benefit, except compensation authorized by law, that is connected directly or indirectly with the performance of his or her duties of office.

(2) Subsection (1) does not apply to a gift or personal benefit that is received as an incident of the protocol or social obligations that normally accompany the responsibilities of office.

(3) Any gift referred to in subsection (2) having a value exceeding \$400 is the property of the Legislative Assembly or the Government of the Northwest Territories, and shall not be retained by the member at the expiry of his or her term of office.

(4) Where a member receives a personal benefit referred to in subsection (2) having a value exceeding \$400, the member shall, within 30 days after receiving the personal benefit, file with the Conflict of Interest Commissioner a disclosure report indicating the nature and source of the benefit and the circumstances under which it was given or accepted.

(5) Where in any year the member receives from one source two or more gifts each having a value less than \$400, the member shall, if the aggregate value of the gifts received in the year exceeds \$400, file with the Conflict of Interest Commissioner within 30 days after the end of the year a disclosure report indicating the nature and source of the gifts and the circumstances under which the gifts were received.”

Section 75 of the Act reads as follows:

“75. Each member shall:

(a) perform his or her duties of office and arrange his or her private affairs in such a manner as to maintain public confidence and trust in the integrity, objectivity and impartiality of the member;

(b) refrain from accepting any remuneration, gift or benefit the acceptance of which might erode public confidence and trust in the integrity, objectivity or impartiality of the member, and in all other respects act in a manner that will bear the closest public scrutiny;

(c) arrange his or her private affairs in conformity with the provisions of this Part and act generally to prevent any conflict of interest from arising; and

(d) make all reasonable efforts to resolve any conflict of interest that may arise in favour of the public interest.”

I have concluded that Premier Roland is not in breach of either of these provisions of Act in continuing to be paid and to accept payment of temporary accommodation allowances. A review of the specific provisions of the Ministerial Benefits Policy satisfies me that each member of Executive Council is entitled to reimbursement to set maximums for lease costs for temporary accommodation while residing in Yellowknife in circumstances where the member of Executive Council owns or leases a principal residence in a Northwest Territory community outside of Yellowknife. Premier Roland's circumstances meet these two criteria.

Premier Roland's obligations under the lease agreement continue unaltered despite the fact he has personally moved from the subject accommodation; his wife and four sons continue to live in the rented accommodation. At the present time there is no settlement between Premier Roland and his wife respecting all marital obligations, including the future occupation of the leased premises.

There is no provision in the Ministerial Benefits Policy that relates to the particular circumstances that are applicable to this issue. Specifically, there is no requirement if the member of Executive Council separates from his spouse and moves from the temporary accommodation in Yellowknife to file an amended Statutory Declaration, nor is there any provision for recalculating the benefits to which the member of Executive Council is entitled during the period of separation.

Following his move from 4821 School Draw Road to 97 Niven Drive, Premier Roland sought the advice of Mr. Ramsden regarding the situation. He was advised by Mr. Ramsden that in the circumstances, payments would continue to Premier Roland as in the past having regard to the specific provisions of the policy as they presently exist. Mr. Ramsden indicated to Mr. Roland the situation should be reviewed at the end of the school year and upon the specific terms of separation and obligations of parties respecting all marital matters, including occupation of 4821 School Draw Road, being

finalized. Mr. Ramsden informs me that this view is held, as well, by Mr. Alan Cash, Deputy Secretary to Cabinet.

I agree with the advice that has been given to Premier Roland by Mr. Ramsden.

In the circumstances I am satisfied that Premier Roland is presently not in breach of any of the provisions of the Ministerial Benefits Policy. Since Premier Roland is not in breach of any of the provisions of the Ministerial Benefits Policy, he is, therefore, not in breach of the two sections of the Act which are the subject of the complaint with respect to the factual issues related to the complaint. I dismiss the complaint pursuant to section 102 of the Act on the basis that there are insufficient grounds to warrant an inquiry and that the complaint does not disclose a contravention of the Conflict of Interest provisions of the Act.

DATED this 27th day of March, 2009.

A handwritten signature in black ink, appearing to read "G. L. Gerrand", is written over a horizontal line.

G. L. Gerrand, Q.C.
Conflict of Interest Commissioner
Government of the Northwest Territories

Statement of Policy

Members who own or lease a principal residence in a Northwest Territories community outside the capital may claim reimbursement, to set maximums, for relocation and removal costs, lease costs for temporary accommodation in the capital, one-time real estate fees, as well as the costs of utilities and furniture.

Principles

Individuals elected to public office to serve and improve the well-being of their fellow citizens should be reimbursed for reasonable expenses related to that service.

Definitions

Capital - means the City of Yellowknife and that area within 80 kilometers commuting distance of Yellowknife.

Eligible Member - is any Member who owns or leases a principal residence in his/her home community outside the capital.

Family - for the purposes of this Policy, individuals normally residing with the Member including spouse, parents, children, wards, grandparents and grandchildren.

Member - for the purposes of this Policy, a Member of the Executive Council, including the Premier, appointed to the Executive Council by the Commissioner on the recommendation of the Legislative Assembly.

Principal Residence - means the residence the Member declares, in a Statutory Declaration form prescribed by the Department of Executive and filed with the Department of Executive, to be that Member's principal residence which the Member and his/her family would normally occupy in a Northwest Territories community outside the capital.

Spouse - a spouse as defined in the *Legislative Assembly and Executive Council Act*.

Guidelines

1. The total amount an eligible Member may be reimbursed for temporary accommodation, including lease costs and the costs of utilities and furniture, shall, as of the date of this Policy, not exceed \$46,000 annually less any revenue the Member receives from rental or sub-lease of the principal residence.
2. When an eligible Member ceases to be a Member of the Executive Council, his or her eligibility for assistance under this Policy may be extended by 90 days



3. Should an eligible Member cease to own or lease a principal residence during his or her term as a Member of the Executive Council, his or her eligibility for assistance under this Policy may be extended by 30 days from the date the property formally changes ownership or the date the lease was terminated.
4. Guideline 1 above notwithstanding, the total maximum amount an eligible Member may be reimbursed for temporary accommodations will be increased or decreased, on a percentage basis, to correspond with percentage increases or decreases to the Capital Accommodations Allowance provided to the Regular Members of the Legislative Assembly.
5. On request, the Department of Executive may advance the cost of a security deposit, to a maximum of \$2400 or 1/12 of the annual rent (whichever is the lesser), which will be recovered from the eligible Member.
6. Eligible Members may claim one-time relocation assistance for themselves and any family member relocating from their principal residence to the capital at the same level of assistance provided to senior managers in the Government of the Northwest Territories.
7. When an eligible Member ceases to be a member of the Executive Council, he or she will be entitled to assistance with the cost of relocation to their home constituency or to another residence in the capital at the same level of assistance provided to senior managers in the Government of the Northwest Territories.

Responsibilities

1. Eligible Members are responsible for making their own arrangements for accommodations, utilities and furniture. As of the date of this Policy, Department of Public Works and Services will no longer arrange for furniture for eligible Members.
2. Eligible Members are responsible for making arrangements and paying for their own relocation and removal.
3. Members making a claim for reimbursement under this Policy must submit receipted invoice for costs to the Department of Executive.
4. The Department of Executive shall establish administrative procedures necessary to the implementation of this Policy.



Statement of Policy

Upon appointment to the Executive Council, Members who own or lease a principal residence in a Northwest Territories community outside the capital may claim reimbursement, to set maximums, for relocation and removal costs, lease costs for temporary accommodation in the capital, one-time real estate fees, as well as the costs of utilities and furniture rentals.

Principles

Individuals elected to public office to serve and improve the well-being of their fellow citizens should be reimbursed for reasonable expenses related to that service.

Definitions

Capital - means the City of Yellowknife and that area within 80 kilometers commuting distance of Yellowknife.

Eligible Member - is any Member who owns or leases a principal residence in his/her home community outside the capital.

Family - for the purposes of this Policy, individuals normally residing with the Member including spouse, parents, children, wards, grandparents and grandchildren.

Home community - for the purposes of this policy, the Northwest Territories community in which the eligible member's principal residence is located.

Member - for the purposes of this Policy, a Member of the Executive Council, including the Premier, appointed to the Executive Council by the Commissioner on the recommendation of the Legislative Assembly.

Ministerial Appointment - an appointment as a Minister of the executive government in accordance with Section 66 of the *Legislative Assembly and Executive Council Act*.

Principal Residence - means the residence the Member declares, in a Statutory Declaration form prescribed by the Department of Executive and filed with the Department of Executive, to be that Member's principal residence which the Member and his/her family would normally occupy in a Northwest Territories community outside the capital.

Spouse - a spouse as defined in the *Legislative Assembly and Executive Council Act*.

Guidelines

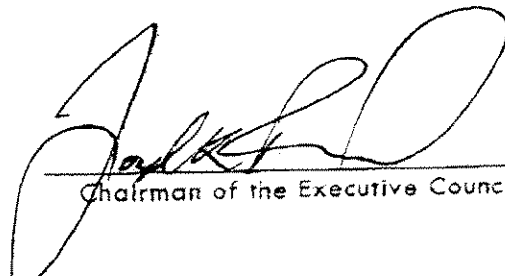
- (1) The total amount an eligible Member may be reimbursed for temporary accommodation, including lease costs and the costs of utilities and furniture rental, shall, as of the date of this Policy, not exceed \$46,000 annually less any revenue the Member receives from rental or sub-lease of the principal residence.
- (2) When an eligible Member ceases to hold a ministerial appointment, his or her eligibility for assistance under this Policy may be extended by 90 days from the effective termination date.

- (3) Should an eligible Member cease to own or lease a principal residence during his or her term as a Member of the Executive Council, his or her eligibility for assistance under this Policy may be extended by 30 days from the date the property formally changes ownership or the date the lease was terminated.
- (4) Guideline (1) above notwithstanding, the total maximum amount an eligible Member may be reimbursed for temporary accommodations will be increased or decreased, on a percentage basis, to correspond with percentage increases or decreases to the Capital Accommodations Allowance provided to the Regular Members of the Legislative Assembly.
- (5) On request, the Department of Executive may advance the cost of a security deposit, to a maximum of \$2,400 or 1/12 of the annual rent (whichever is the lesser), which will be recovered from the eligible Member.
- (6) Eligible Members may claim one-time relocation assistance for themselves and any family member relocating from their principal residence to the capital at the same level of assistance provided to senior managers in the Government of the Northwest Territories.
- (7) When an eligible Member ceases to hold a ministerial appointment, he or she will be entitled to assistance with the costs of relocation to their home community at the same level of assistance provided to senior managers in the Government of the Northwest Territories.

Responsibilities

- (1) Eligible Members are responsible for making their own arrangements for accommodations, utilities and furniture rental. As of the date of this Policy, Department of Public Works and Services will no longer arrange for furniture for eligible Members.
- (2) Eligible Members are responsible for making arrangements and paying for their own relocation and removal.
- (3) Members making a claim for reimbursement under this Policy must submit receipted invoice for costs to the Department of Executive.
- (4) The Department of Executive shall establish administrative procedures necessary to the implementation of this Policy.

Feb-17-09
Date


Chairman of the Executive Council