

REPORT OF THE CONFLICT OF INTEREST COMMISSIONER TO THE SPEAKER
OF THE LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES
PURSUANT TO SECTION 102 OF *THE LEGISLATIVE ASSEMBLY AND EXECUTIVE
COUNCIL ACT* RESPECTING THE COMPLAINT OF THE BOARD OF
MANAGEMENT DATED AUGUST 14, 2007, WITH REGARD TO THE ALLEGED
BREACH OF PROVISIONS OF *THE LEGISLATIVE ASSEMBLY AND EXECUTIVE
COUNCIL ACT* BY BOBBY VILLENEUVE, MEMBER OF THE LEGISLATIVE
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As Conflict of Interest Commissioner for the Northwest Territories, I am obliged to conduct an investigation of complaints lodged with me pursuant to Section 100 of the *Legislative Assembly and Executive Council Act*, S.N.W.T. 1999, c.22 ("the Act"). My mandate to conduct such an investigation, as set forth in section 101 of the Act, reads as follows:

"101. The Conflict of Interest Commissioner shall, after giving reasonable notice to the member complained of and the complainant, conduct an investigation into the complaint."

The authority for a Member of the Legislative Assembly or other person filing a complaint with me is set out in section 100 of the Act, which provides as follows:

"100.(1) A member or any other person who believes on reasonable grounds that a member has contravened any provision of this Part may file a written complaint setting out those grounds with the Conflict of Interest Commissioner.

(2) Notwithstanding subsection (1), the Conflict of Interest Commissioner may receive the oral complaint of a person who is not a member if the Conflict of Interest Commissioners considers it appropriate to do so."

By letter addressed to me dated August 14, 2007, the Board of Management of the Legislative Assembly of the Northwest Territories formally complained to me regarding the conduct of Mr. Bobby Villeneuve, Member for Tu Nedhe. The letter of complaint is signed by Paul DeLorey in his capacity as Chairperson of the Board of Management and is 13 pages in length. Attached to the letter are a series of documents and reports.

The substance of the complaint is to be found in the first two pages of the letter of complaint of August 14, 2007, and for purposes of this report, I reproduce hereunder this portion of the letter.

“The Board of Management of the Legislative Assembly, by this correspondence, is placing a complaint before you for investigation. The complaint concerns the question of the ordinary residence of Mr. Bobby Villeneuve, Member to Tu Nedhe. The Board has reasonable grounds to believe, as set out in this correspondence, that:

1. Mr. Villeneuve has not arranged his private affairs in such a manner as to maintain public confidence and trust in the integrity of the Member, pursuant to section 75(a) of the *Legislative Assembly and Executive Council Act*;
2. Mr. Villeneuve has accepted remuneration and/or benefits, the acceptance of which might erode public confidence in the integrity of the Member and which should be capable of bearing the closest public scrutiny, pursuant to section 75(b) of the *Legislative Assembly and Executive Council Act*.

In particular, The Board has reasonable grounds to believe that:

1. Mr. Villeneuve may have executed a sworn Statutory Declaration deposing his place of ordinary residence to be Fort Resolution, Northwest Territories, to wit the RC Mission House, which he knew or ought to have known was not accurate and knowing that, this document was tabled in the Legislative Assembly by the Speaker, constituted a representation to the Assembly and to the public at large of the facts and matter deposed to in the sworn Statutory Declaration;
2. Mr. Villeneuve may have executed a sworn Statutory Declarations deposing to his place of ordinary residence that was inaccurate, for the purpose of obtaining payment of allowances and indemnities which would not otherwise have been available to him were his place of ordinary residence other than Fort Resolution, NT.”

Mr. Villeneuve and the complainant were given reasonable notice of my intention to conduct an investigation into the complaint as required by section 101 of the Act.

My investigation into the complaint commenced at Yellowknife on Monday, August 27, 2007. In conducting the investigation, I have attempted to validate or otherwise the

correctness of the assertions contained in the complaint regarding the conduct of Mr. Villeneuve and the accuracy or otherwise of the attachments accompanying the complaint. I have interviewed individuals who have knowledge of the relevant events, including Mr. Villeneuve. Additionally, I have examined the extensive documentation attached to the complaint and spoken to some of the individuals responsible for the preparation of the documentation.

Section 108 of the Act authorizes payment to a member of reasonable costs he or she may incur in responding to a complaint. By letter dated August 14, 2007, the Chairman of the Board of Management advised Mr. Villeneuve that he might be eligible for assistance in the payment of legal fees respecting the complaint pursuant to Board of Management Policy 1.17. Mr. Villeneuve subsequently advised me that he was not retaining counsel and would meet with me alone.

With the prior consent of Mr. Villeneuve, I arranged to audio tape the questions I asked Mr. Villeneuve at our meeting of August 27, 2007, and the answers he provided to me.

My options after completing my investigation are two in number. I may dismiss the complaint or, alternatively, I may direct that an inquiry be held before a Sole Adjudicator respecting the complaint. This procedure is set forth in section 102 of the Act, which provides as follows:

“102. (1) After conducting an investigation into the complaint, the Conflict of Interest Commissioner shall submit to the Speaker, the member complained of and the complainant, a report, with reasons, advising that the Conflict of Interest Commissioner

- (a) is dismissing the complaint, where the Conflict of Interest Commissioner has determine that
 - (i) the complaint is frivolous or vexatious or was not made in good faith,
 - (ii) there are insufficient grounds to warrant an inquiry,
 - (iii) the complaint does not disclose a contravention of this Part,

- (iv) a contravention of this Part was minor or was committed through inadvertence or by reason of an error in judgment made in good faith, or
 - (v) the member took a reasonable measures to prevent a contravention of this Part; or
- (b) is directing that an inquiry be held before a Sole Adjudicator.

(2) The Speaker shall cause the report to be laid before the Legislative Assembly as soon as is reasonably practicable.”

Having regard to the provisions of section 102 of the Act, I am of the view that I should direct that an inquiry be held before a Sole Adjudicator only in the event the following criteria are met:

1. That the complaint is not frivolous or vexatious and was made in good faith;
2. That there are sufficient grounds to warrant an inquiry;
3. That the complaint does disclose a contravention of the Act as it relates to conflict of interest;
4. That the alleged contravention of the Act with respect to conflict of interest was not minor and was not committed through inadvertence or by reason of an error in judgment made in good faith; and
5. That the Member did not take all reasonable measures to prevent a contravention of the conflict of interest provisions of the Act.

With respect to requirement number 3, I must conclude that there is a reasonable possibility that the sections cited in the complaint would be found by a Sole Adjudicator to have been contravened. The sections of the Act, which the complainant asserts have been breached by Mr. Villeneuve, are sections 75(a) and (b), which sections provide 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.”

Having completed my inquiry, I report to you and advise that I am directing that an inquiry be held before a Sole Adjudicator with respect to the matters of complaint filed with me by the Board of Management. The following are the reasons for my decision.

Mr. Villeneuve was elected to the Legislature of the Northwest Territories in the general election of November 2003. He represented the constituency of Tu Nedhe until the Legislature was dissolved August 31, 2007.

Indemnity and Allowance Entitlement

There is legislative authority in the Northwest Territories for persons who are elected as members of the Legislature and who reside more than 18 kilometres from the City of Yellowknife to receive indemnities and allowances by reason of this fact. A description of the indemnities and allowances that are available to members by reason of their residency and the legislative authority for such indemnities and allowances is correctly detailed by the complainant at pages 2 and 3 of its letter of complaint of August 14, 2007. I reproduce hereunder that portion of the complaint:

“Indemnities and Allowances Available to Members Arising from Residency

The *Legislative Assembly and Executive Council Act* provides for a number of indemnities and allowances to Members who reside outside of the capital. In particular, commencing at section 22 of the *Legislative Assembly and Executive Council Act*, these allowances are specified. A Member not residing in Yellowknife is entitled to transportation costs for the purpose of residing in Yellowknife and is entitled to transportation costs for the purpose of attending sessions and meetings of the Legislative Assembly. More significantly, section 24(1) of the *Legislative Assembly and Executive Council Act* provides that Members who do not live within commuting distance of the capital shall receive what is known as the capital allowance. This allowance allows Members

to maintain accommodation in Yellowknife for the purpose of attending Session or other Legislative Assembly business in the capital, while continuing to maintain their place of ordinary residence as their home. It is intended to ensure that Members who do not reside in Yellowknife do not incur additional expenses associated with maintaining temporary accommodation in the capital.

Under section 19 of the *Legislative Assembly and Executive Council Act*, Members are paid a non-taxable allowance and the amount of this allowance, which is set out under Part IV, Schedule C of the Act varies, depending on whether a Member resides in the capital or outside of commuting distance of the capital. This allowance is non-accountable in the sense that no receipts are required and Members automatically receive it. The differential in the amount is designed to compensate Members who reside out of Yellowknife for additional meal, transportation and incidental expenses that they will incur while living away from home.

Finally, Members are entitled to receive a northern allowance pursuant to Part V section 20 of the *Legislative Assembly and Executive Council Act*, which varies according to the place of residence of the Member.

The Speaker of the Assembly is required, pursuant to section 35 of the Act, to table a report outlining the indemnities paid to Members and the capital accommodation paid to Members pursuant to section 24 of the Act.

Section 14(1) of the *Indemnities, Allowance and Expense Regulations* requires that Members submit a Statutory Declaration setting out the full address, including the name of the community, of the place at which the Member lives, in order to be eligible to receive the capital accommodation allowance. If a Member moves from the address set out in his or her Statutory Declaration, a new Declaration is to be provided setting out the new address.”

Shortly following the election of members of the Legislature in November of 2003, a meeting was convened of recently elected members by officers of the Legislative Assembly. Mr. Villeneuve attended the meeting. All members were advised of their entitlements to indemnities and allowances in the event their primary residence was located 18 kilometres or more from the City of Yellowknife. Mr. Villeneuve has confirmed to me that he has understood, since shortly following his election in 2003, that his entitlement to indemnities and allowances is dependent upon his normal and ordinary residence being not in Yellowknife but in Fort Resolution.

Statutory Declarations filed by Mr. Villeneuve

On the 13th of February, 2004, Mr. Villeneuve completed a Statutory Declaration of Residence, in which he declared that he normally resided at Fort Resolution, NWT, when his responsibilities as a member did not require him to be Yellowknife. In the Declaration, Mr. Villeneuve asserted that he had “reviewed the policies respecting residency and the capital accommodation allowance” and that he believed, based on the application of those criteria, that he was properly qualified for payment of the capital accommodation allowance.

Mr. Villeneuve filed a second Statutory Declaration with the Clerk of the Legislative Assembly dated the 13th day of October, 2006, declaring that he normally resided at Fort Resolution, NWT. A copy of a residential rental agreement related to a house in Fort Resolution, signed by Mr. Villeneuve and Michelle Manville and dated December 2, 2006, was subsequently delivered to the Law Clerk of the Legislature in support of the Statutory Declaration sworn October 13, 2006.

Mr. Villeneuve did not file with the Legislature a Statutory Declaration at variance with his first Declaration of the 13th of February, 2004, until the 14th of February, 2007. By Statutory Declaration of Residence dated February 14, 2007, Mr. Villeneuve has declared that his place of ordinary residence has been 5110 48th Street, Yellowknife, NWT, since October 1, 2006. As a result of this assertion, the authorities of the Legislative Assembly have taken steps to recover from Mr. Villeneuve approximately \$15,000.00 of payment of residence allowance made to him from the time that he asserted that his ordinary residence was Yellowknife, namely, October 1, 2006, until the time of the completion of the Declaration of February 14, 2007.

From 2004 to 2007, Mr. Villeneuve was paid on a regular basis allowances and indemnities as detailed at pages 4 through 8 of the complainant’s letter of complaint

dated August 14, 2007. Mr. Villeneuve has confirmed to me that he has examined the detail of those payments and has no dispute with the accuracy of them.

Proof of Accommodation in Fort Resolution

At the time of his election Mr. Villeneuve did not have a place of residence in the constituency to which he had been elected. However, within a few weeks of his being elected, he negotiated the rental of a house in the hamlet of Fort Resolution, a community located in his constituency of Tu Nedhe. The house was leased from the Roman Catholic Diocese of MacKenzie – Fort Smith (“the Diocese”) for a period of six months commencing the 1st of January, 2004, at a monthly rental of \$1,000.00. The lease provided for the landlord providing refrigerator, stove, washer and dryer. Mr. Villeneuve was responsible for the cost of any telephone or cable TV, but chose never to acquire these services in his home at Fort Resolution.

The lease for the Fort Resolution house was extended on a month-to-month basis until 2006, when the Diocese gave notice that the lease was being terminated. In 2005 and after a number of rental payment defaults, Mr. Villeneuve negotiated a reduction of the monthly rental to \$750.00. During the time that he leased the house, a room described as his office was leased by the Diocese to him, as well, at a rental of \$500.00 per month, which rental was paid by the Government of the Northwest Territories.

Mr. Gilles Pacquin is the business manager for the Diocese. He advises me that when arrears of rental payment by Mr. Villeneuve reached \$4,050.00 in the summer of 2006, the Diocese took steps to cancel the lease. The lease was in fact cancelled as of September 1, 2006, and the arrears remain outstanding.

On December 2, 2006, Mr. Villeneuve signed a residential rental agreement with Mr. Michelle Mandiville for the rental of a house at Lot 134, Plan 314 in Fort Resolution. Mr. Villeneuve never did finalize the lease agreement for this house property and never

occupied the house as a residence, although he did store some of his belongings in the house for a period of time after he had vacated the premises earlier in the year of 2006 leased from the Diocese. In discussion with me, Mr. Villeneuve acknowledges that the assertion in the Statutory Declaration of October 13, 2006, that he normally resided at Lot 134, Plan 314, in Fort Resolution when not required to be in Yellowknife to complete his member's responsibilities was untrue. He acknowledged, as well, that the assertion that this residence (Lot 134, Plan 314) is the place where he lives and maintains his normal and usual routine of life was incorrect.

Proof of Accommodation in Yellowknife

For the first number of weeks following his election, he lived in the suite of a friend in Yellowknife. On the 15th day of December, 2003, Mr. Villeneuve entered into a lease agreement for the lease of apartment #203 at 4920-54th Avenue, in Yellowknife. The lease was for a period of 12 months, expiring the 1st of December, 2004, and called for a monthly rental of \$1,500.00. A copy of this lease agreement, together with copies of other lease agreements referred to in this report, are on file with the Clerk of the Legislative Assembly and I have obtained copies of these documents.

Subsequently, Mr. Villeneuve rented a house property located at 5110-48th Street, Yellowknife. The first lease agreement in relation to this property is dated March 1, 2005 and extends for a period of one year to March 1, 2006; the second lease agreement is dated March 1, 2006 and extends for a period of one year to February 28, 2007. This latter lease agreement has obviously been extended by the parties as Mr. Villeneuve continues to live at this residence.

Comparison of Residence in Yellowknife and Fort Resolution

The Audit Bureau of the Government of the Northwest Territories conducted an audit of all MLAs who had filed statutory declarations of residence during the 15th Legislative Assembly. This audit drew conclusions about the physical location of Mr. Villeneuve based on an extensive examination of the Statutory Declarations filed by Mr. Villeneuve in support of his claims for indemnities and allowances, attendance records of Mr. Villeneuve for the 15th Legislative Assembly and associated committees, travel documents and appended receipts of Mr. Villeneuve, his telephone records, and spreadsheets used to track “constituency work expenses, allowances”, “Legislative Assembly Telecommunications” and “accommodation allowances”. A draft report of the Audit Bureau was completed July 26, 2007. The draft report filed with the letter of complaint of the Board of Management of August 14, 2007, comprises part of the factual basis for the complaint. In the course of my investigation I met with Mr. Bob Shahi, Director of the Audit Bureau, and one of his assistants, Tera Bower. They provided to me the final form of the report together with final calendar with respect to MLA expense allowances.

The draft Audit Report dated August 14, 2007 and addressed to Tim Mercer, Clerk of the Legislative Assembly, is the result of comprehensive study respecting the physical whereabouts of all members of the Legislature who did not acknowledge their normal residency to be in Yellowknife, including Mr. Villeneuve. I am advised that eight current Bureau employees devoted over 1000 hours in concluding the study and preparing the report.

The extensive audit examination carried out by the Audit Bureau indicates that Mr. Villeneuve was physically present in the City of Yellowknife for 862 days of the 1316 days that he was a member of the Legislature as of the date of the completion of the examination June 30, 2007. This determination was made by the Audit Bureau by examining the Statutory Declarations filed by Mr. Villeneuve, the attendance records of

Mr. Villeneuve during the 15th Legislative Assembly along with associated committees, travel documents and appended receipts filed by him, telephone records for land line and cell phones utilized by him. The 862 days in Yellowknife out of a total of 1316 days of service as a MLA constitutes 65% of total time being spent in Yellowknife by Mr. Villeneuve. During this same 1316 days, the Audit Bureau identified Mr. Villeneuve as being in his constituency 132 days. This constitutes 10% of his total time being spent in the constituency during the period that he served as a Member of the Legislature (Table 1 of the report). This fact in itself raises grave doubts as to Mr. Villeneuve's assertion that his ordinary residence was in the leased home at Fort Resolution in the Tu Nedhe constituency.

In conversation with me, Mr. Villeneuve acknowledges that he likely did not spend more than 12 weeks a year in his constituency. This would include 12 weeks visiting at the home he rented from the Diocese and time spent visiting other areas in the constituency. He confirmed to me that he would travel on occasion with his children during summer vacation to his rented home in Fort Resolution for holiday purposes. He would also go for a period of time at Christmas. The car trip from Yellowknife to Fort Resolution is approximately eight hours.

This pattern of use of respective accommodations is supported by the recollections of Ms. Edith Mack. Ms. Mack served as constituency assistant to Mr. Villeneuve during the early months following his election as a Member of the Legislature and for a period of one year from approximately August 2006 to July 2007. Ms. Mack has advised me that Mr. Villeneuve would, from time to time, travel to the constituency and to Fort Resolution; however, when leaving he would advise her that he could be reached at the home of his parents either at Fort Resolution or at Buffalo River and it is the impression of Ms. Mack that on his visits to Fort Resolution, he, more often than not, stayed at the accommodation of his parents rather than the Fort Resolution residence rented from the Diocese.

As observed above, Mr. Villeneuve estimates that he spent an average of 12 weeks a year visiting at the Fort Resolution residence. When in Fort Resolution he acknowledges that he sometimes stayed at the home of his parents and not at the rented church residence. Mr. Villeneuve confirms that he kept his more formal clothing at his Yellowknife residence for the purposes of carrying out his legislative responsibilities and that he kept his less formal and outdoor clothing at his Fort Resolution residence. He viewed his Fort Resolution home as a recreational and holiday accommodation for himself and his two children, particularly during the months of July and August and the Christmas season when his children were on vacation from school. Mr. Villeneuve is a keen outdoorsman and used his Fort Resolution residence as a holiday home and a stepping off place for his hunting and fishing ventures in the great outdoors of his constituency. Now that he no longer leases the church house, he advises me that he stores his outdoor gear and clothing at another place at Fort Resolution.

Conclusions

My investigation indicates to me that the place of residence of Mr. Villeneuve is Yellowknife, that this has been his place of residence since he was elected, and the Statutory Declarations completed by Mr. Villeneuve indicating otherwise are not factually correct.

During the period of time that Mr. Villeneuve rented the Fort Resolution house from the Diocese, he was at the house a small percentage of his time. He viewed the house as a vacation get away in summer and at Christmas. His sporting equipment and outdoor clothing were kept there, but his more formal clothing was always at his home in Yellowknife, where he spent the great majority of his time during the life of the 15th Legislature. He was delinquent frequently in rental payments for the Fort Resolution house and eventually lost his tenant's right to the house.

There is a reasonable possibility that a Sole Adjudicator will determine that the available evidence supports the complaint and that Mr. Villeneuve has not performed his duties of office and arranged his private affairs in such a manner as to maintain public confidence and trust in the integrity, objectivity and impartiality of Mr. Villeneuve contrary to Section 75(a) of the Act, and that Mr. Villeneuve did not refrain from accepting indemnities and allowances to which he was not entitled, thereby eroding public confidence and trust in the integrity, objectivity or impartiality of Mr. Villeneuve contrary to Section 75(b) of the Act.

Therefore, I direct an inquiry be held before a Sole Adjudicator with respect to the matters complained of related to the indemnities and allowances claimed by and paid to Mr. Villeneuve.

DATED this 14th day of September, 2007.



G. L. Gerrand, Q.C.

Conflict of Interest Commissioner

GLG/lw