

Memorandum of Understanding

BETWEEN

THE SOCIETY OF NOTARIES PUBLIC OF BRITISH COLUMBIA

(the "Notaries Society")

AND

THE LAW SOCIETY OF BRITISH COLUMBIA

(the "Law Society")

WHEREAS:

- A. The Notaries Society has sought improvements to its governing legislation in order to modernize and improve the regulation of notaries public in British Columbia and to expand the scope of practice available to notaries public and the Law Society has sought to improve the delivery of legal services to the public.
- B. In June 2012, Minister of Justice and Attorney General Shirley Bond directed the Notaries Society and the Law Society to work together to develop a proposal regarding direction for regulatory reform of legal and notaries services in the province to ensure, and preferably enhance, the protection of the public interest in the provision of legal services; increase both affordability and access to legal services and/or access to justice; and create efficiencies in the regulation of legal services. (see letter of Minister Bond dated July 11, 2012, attached hereto as Appendix 'A')
- C. In August, 2012 the Notaries Society and the Law Society provided a joint response to the Minister's request agreeing with the objectives the Minister set and describing a process and the principles that would guide the development of any proposal. (see joint letter of President Bruce A. LeRose and President John Eastwood, dated August 29, 2012, attached hereto as Appendix "B")
- D. The Notaries Society and the Law Society were both of the view that a single, unified regulatory body that oversees the regulation of all legal service providers in British Columbia including lawyers, notaries and paralegals (but not limited to) is the optimum model.
- E. The Notaries Society acknowledged that this could include the regulatory oversight of notaries being subsumed in the operations of the Law Society.
- F. The Law Society acknowledged that the preservation of the designation of "notary" and the unique distinction of the BC Notary and the considerable goodwill associated with that name would be an important element of any such reform.

- G. The Notaries Society and the Law Society agree that any proposal would involve transitional arrangements unfolding over a period of time, including the possibility of a period of co-regulation leading to a second phase of unified regulation.
- H. The Notaries Society and the Law Society also acknowledged that the best approach is to look at the options from the broad perspective of the provision of all legal services; that is, not to limit our consideration to those respecting just lawyers and notaries but include current and potential future providers of legal services.
- I. The Notaries Society and the Law Society also believed that the best vehicle to encompass this work was the Law Society's Legal Service Provider Task Force.
- J. The Legal Service Provider Task Force, chaired by Bruce LeRose, QC and with John Eastwood representing the Notaries Society, met throughout 2013 to develop a proposal to respond to the direction by Minister Bond.
- K. In December 2013, the Legal Service Provider Task Force delivered its report and recommended that the Law Society seek to merge regulatory operations with the Society of Notaries Public, which recommendation was unanimously approved by the Benchers of the Law Society.
- L. The Notaries Society and the Law Society have met during 2014 to discuss the Law Society assuming responsibility for regulation of notaries public, developing a transition plan, preserving the unique identity and identification of notaries public and providing for discussions regarding an expanded scope of practice for notaries public.

THEREFORE THE PARTIES AGREE:

1. To pursue the possible development of a joint proposal for consideration by the Minister of Justice and Attorney General which would:
 - a. Provide for the assumption of regulatory responsibilities for notaries public by the Law Society over a period of time;
 - b. Provide for the preservation of the identity and identification of notaries public as separate and distinct from lawyers; and
 - c. Provide for an expanded scope of practice for notaries public.
2. The term of this Memorandum of Understanding shall be six months during which the parties jointly agree to use their best efforts to develop the joint proposal.
3. The regulatory responsibilities to be assumed by the Law Society over time will include
 - a. Trust Accounting and Audit
 - b. Practice Inspections

- c. Practice Assistance
 - d. Complaints, Investigation and Discipline
4. The responsibilities that will remain ultimately with the Notaries Society in its representative capacity will include:
 - a. Professional Development/Practice Assistance
 - b. Advocacy and government relations
 - c. Public relations and promotion of notaries public
 - d. International Liaison
 5. The parties agree that regulatory responsibility for insurance, defalcation and misappropriation, and admissions, membership and credentials to be described and defined in the joint proposal shall be the subject of negotiation during the term of this MOU.
 6. The joint proposal will provide for a transition plan which will see the assumption of certain regulatory responsibilities by the Law Society as an initial phase, consequent upon necessary amendments to the Legal Profession Act and the Notaries Act, and will also provide for additional phases involving the assumption of further regulatory responsibilities consequent upon successful completion of previous phases.
 7. The joint proposal will provide for continuing recognition of notaries public as professionals with a unique heritage and a distinct identity, separate and apart from lawyers, and will ensure that the governance processes in place recognize and incorporate the involvement of notaries public to the satisfaction of the Notaries Society.
 8. The parties agree to discuss an expanded scope of practice consistent with the submissions to government made previously by the Notaries Society within the context of a possible joint proposal subject to development of appropriate education standards, qualifications and requirements, and the identification of any benefits for access to justice, to the satisfaction of the Law Society.
 9. The joint proposal will provide for notary participation on any Law Society task force considering the creation, recognition or credentialing of any non-lawyer legal service providers.
 10. The parties jointly agree that if they are unable to reach agreement on any element of a joint proposal to the Minister as set out above, there shall be no agreement on any of the elements.
 11. The parties jointly agree that any communication or record, and any information supplied to, obtained by, or which comes to the knowledge of the other party relating to the subject

matter of this Memorandum of Understanding shall be without prejudice and shall remain confidential, except to the extent necessary to advise their respective boards of the progress of the parties and to obtain approval of any joint proposal.

12. The parties jointly agree that they will keep each other apprised in a timely manner about their government lobbying efforts during the term of this Memorandum of Understanding.
13. Time will be of the essence of this Memorandum of Understanding.
14. This Memorandum of Understanding may be amended only by further written agreement of the parties
15. This Memorandum of Understanding will be governed by and construed and interpreted in accordance with the laws of the Province of British Columbia.

THE SOCIETY OF NOTARIES PUBLIC OF BRITISH COLUMBIA

Per: John Eastwood
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Per:



Wayne Braid
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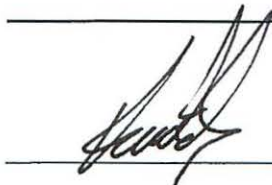
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THE LAW SOCIETY OF BRITISH COLUMBIA

Per:



TIMOTHY E. MCGEE, QC, CEO



Kenneth Walker, QC
President

Rec'd
7/16BRITISH
COLUMBIA

JUL 14 2012

Mr. John Eastwood
President
The Society of Notaries Public
of British Columbia
1220 - 625 Howe Street
PO Box 44
Vancouver BC V6C 2T6

Mr. Bruce A. LeRose, Q.C.
President
The Law Society of British Columbia
845 Cambie Street
Vancouver BC V6B 4Z9

Dear Mr. Eastwood and Mr. LeRose:

Bruce

This is further to my recent meetings with each of you. Thank you for taking the time to meet with me. As you are aware, the ministry has been approached to consider a number of legislative changes that would impact notaries and lawyers in British Columbia. These include a legislative review of the *Notaries Act* with a view to updating the regulatory framework for notaries public in the province; a proposal made by the Society of Notaries Public of British Columbia for an expanded scope of practice for notaries; and changes to the *Legal Profession Act* that would provide the Law Society of British Columbia with extended regulatory power over other practitioners, in particular, paralegals. I know that you have both been involved in previous discussions on these matters.

I am writing to confirm my request to each of you during our respective meetings that the Society of Notaries Public and the Law Society work together to develop a proposal for my consideration regarding direction for regulatory reform of legal and notary services in the province by September 28, 2012. Any recommended proposal must:

- ensure, and preferably enhance, the protection of the public interest in the provision of legal services;
- increase both affordability and access to legal services and/or access to justice; and
- create efficiencies in the regulation of legal services.

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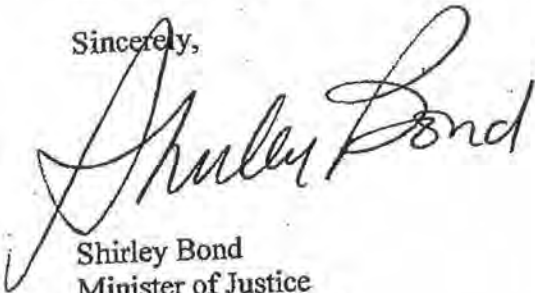
Ministry of
JusticeOffice of the
Minister of Justice
and Attorney GeneralMailing Address:
PO Box 9044 Stn Prov Govt
Victoria BC V8W 9E2
e-mail: JAG.Minister@gov.bc.ca
website: www.gov.bc.ca/justiceTelephone: 250 387-1866
Facsimile: 250 387-6411

Mr. John Eastwood
Mr. Bruce A. LeRose, Q.C.
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I appreciate that the above timeline is short for consideration of a matter of this complexity. Therefore, I am prepared to offer the assistance of Jay Chalke, Assistant Deputy Minister, Justice Services Branch. Mr. Chalke may be reached at 250-356-6582 or Jay.Chalke@gov.bc.ca.

I believe that the public can be well served by innovative regulatory, governance and scope of practice discussions involving the participation of both the Society of Notaries Public and the Law Society. I further believe that this innovation is essential to providing the citizens of British Columbia with accessible and affordable legal services and I thank you, in advance, for your participation.

Sincerely,

A handwritten signature in cursive script that reads "Shirley Bond". The signature is written in black ink and is positioned above the printed name and title.

Shirley Bond
Minister of Justice
and Attorney General

The Law Society
of British Columbia



BC Notaries
A TRUSTED TRADITION



August 29, 2012

Sent via email & mail

Honourable Shirley Bond
Minister of Justice and Attorney General
PO Box 9044 Stn Prov Govt
Victoria BC V8W 9E2

Dear Minister Bond:

We are writing in joint response to your letter addressed to each of us dated July 11, 2012 wherein you request us to work together to develop a proposal for your consideration regarding a future direction for regulatory reform of legal and notarial services in British Columbia.

At the outset, we would like to commend and thank you for your leadership in considering and encouraging legislative change which will advance the public interest in the provision of legal and notarial services.

The backdrop for your invitation includes recent amendments to the Legal Profession Act designed to enhance the Law Society's regulatory efficacy and outstanding proposals from the Society of Notaries Public for legislative changes to update its regulatory framework and for an expansion of the notaries' scope of practice. Included as well are the Law Society's current initiatives to expand the role of paralegals working under lawyer supervision.

We have now met and have discussed your letter and how we might best approach the challenge you have set out for us. We are pleased to report that our initial discussions were open, positive and constructive.

In our discussions we paid particular attention to your request that any recommended proposal must:

- Ensure, and preferably enhance, the protection of the public interest in the provision of legal services;
- Increase both affordability and access to legal services and/or access to justice; and
- Create efficiencies in the regulation of legal services.

In our view these are the right goals and the desired outcomes of any proposed regulatory reforms. We are prepared to work cooperatively and creatively to achieve them over time. We have set out below the general approach and some of the key principles that will guide our deliberations.

First, we are jointly of the view that a single, unified regulatory body that oversees the regulation of all legal service providers in British Columbia including lawyers, notaries and paralegals is the optimum model. In our discussions, the Society of Notaries Public acknowledged that this could include the regulatory oversight of notaries being subsumed in the operations of the Law Society. The Law Society acknowledges that the preservation of the designation of "notary" and the considerable goodwill associated with that name would be an important element of any such reform.

Second, we believe any proposal along these lines will, by necessity, involve transitional arrangements unfolding over a period of time. For example, we are prepared to consider an initial phase of co-regulation leading to a second phase of unified regulation.

Third, we acknowledge that the best approach is to look at the options from the broad perspective of the provision of all legal services; that is, not to limit our consideration to those respecting just lawyers and notaries but include current and potential future providers of legal services, such as (for example) paralegals.

Fourth, we believe that the best vehicle to encompass this work is the Legal Service Provider Task Force (the "Task Force") that has been created by the Law Society and will be empanelled in the fall of this year. The Task Force will be chaired by Bruce LeRose QC and will bring together other key stakeholders in this area, specifically a representative from each of the Society of Notaries Public, the Canadian Bar Association, BC Branch and the B.C. Paralegal Association. It will also include a non-lawyer Benchler and a non-lawyer member of the public at large. We very much appreciate your willingness to offer the assistance of Jay Chalke, QC, Assistant Deputy Minister, Justice Services Branch.

The Task Force is the first of its kind in British Columbia and has the following mandate, which we believe is closely aligned with the proposal for regulatory reform which you are seeking from us:

- Consider previous work at the Law Society on the regulation of non-lawyers;
- Consider and report on legal service regulatory regimes in other jurisdictions where the regulation extends to non-lawyers;
- Consider and report on the implications for Law Society operations on regulating non-lawyers;

- Consider and report on whether it is in the public interest that non-lawyer legal service providers be regulated and if so, whether it is in the public interest that the Law Society should be that regulator;
- Consider and report on whether the recognition and regulation of non-lawyer legal service providers would improve access to law related services for the public; and
- Make recommendations to the Benchers about whether the Law Society should continue to regulate only lawyers in British Columbia or whether it should take steps to implement the regulation of other legal service providers.

The Task Force will aim to complete its work in 2013. However, there will likely be significant progress milestones along the way which could form the basis for interim reports on a confidential and/or public basis.

We believe that the best proposal we could ultimately recommend to you in response to your request will reflect the work we will undertake through this Task Force. We are mindful that you were seeking a proposal from us by September 28, 2012, which we acknowledge this approach will not achieve. Nonetheless, while we will not have a proposal by that date we now have a plan as outlined in this letter to develop such a proposal together with the prospects for meaningful and substantive progress in the interim.

We would be pleased to discuss any aspect of this with you or with your officials in further detail at your convenience.

Yours very truly,



Bruce A. LeRose, QC
 President
 The Law Society of British Columbia
 845 Cambie Street
 Vancouver, BC V6M 4Z9
 T. 604.605.5394
 E. blerose@lsbc.org

John
 Eastwood
 L3FAB4

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 Eastwood L3FAB4
 DN: c=CA, cn=John Eastwood
 L3FAB4, o=Notary, ou=Verify
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John Eastwood
 President
 Society of Notaries Public of BC
 Suite 1220 625 Howe Street
 Box 44
 Vancouver, BC, V6C 2T6
 T. 604.681.4516
 E. john@eastwoods.ca