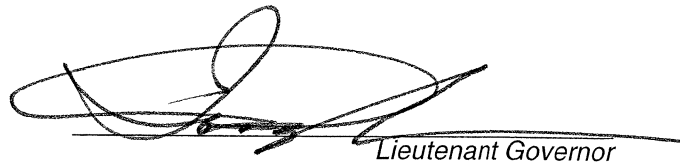


ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. **211**

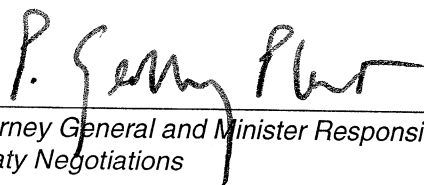
, Approved and Ordered **MAR 17 2005**



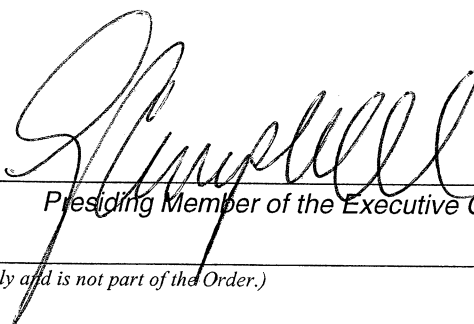
Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that, effective March 18, 2005, the attached Expropriation Compensation Board Transitional Regulation is made.



Attorney General and Minister Responsible for
Treaty Negotiations



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section:- Expropriation Act, R.S.B.C. 1996, c. 125, s. 27 (1)

Expropriation Amendment Act, 2004, S.B.C. 2004, c. 61, s. 21

Other (specify):- oic 2530/87

March 11, 2005

384 /2005/7

EXPROPRIATION COMPENSATION BOARD TRANSITIONAL REGULATION

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- 1 Definitions
- 2 Ongoing jurisdiction of the board
- 3 Transitional – proceedings before the board

Definitions

- 1 In this regulation:

“**Act**” means the *Expropriation Act*;

“**board**” means the Expropriation Compensation Board;

“**board proceeding**” means a proceeding that was brought by filing an application with the board under section 2 of the Expropriation Compensation Board Practice and Procedure Regulation, B.C. Reg. 452/87, before March 18, 2005;

“**compensation decision**” means a determination under section 26 (1) of the Act, and includes a determination of the entitlement to, and the scale of, the costs that are or may be payable in relation to the proceeding in which the determination is made;

“**compensation hearing**” means a hearing for the purpose of arriving at a compensation decision, but does not include

- (a) a pre-hearing conference,
- (b) an interlocutory hearing, or
- (c) a hearing under section 45 or 48 of the Act;

“**in-progress board proceeding**” means a board proceeding if one of the following applies:

- (a) the board held a compensation hearing in the board proceeding after August 1, 2004 and before March 18, 2005 and the board has not yet rendered its compensation decision in that proceeding;
- (b) there has been an appeal to the Court of Appeal in relation to the board proceeding and the appeal has been heard, in whole or in part, before March 18, 2005;
- (c) before March 18, 2005, a hearing in the board proceeding was scheduled to commence after March 17, 2005 and before January 1, 2006.

Ongoing jurisdiction of the board

- 2 (1) Except as provided for in this regulation, the board has no rights, powers or jurisdiction and, without limiting this, must not
 - (a) set or conduct any hearings,
 - (b) accept, hear or consider any motions or applications,
 - (c) make any orders or render any decisions, or
 - (d) accept, hear or consider any referrals or remittances of any matters or issues from any court, tribunal or other body.

- (2) The board may, in an in-progress board proceeding,
 - (a) subject to subsection (3), take any steps it considers may be necessary to conclude the proceeding, including, without limitation, setting or conducting any additional compensation hearings, pre-hearing conferences, interlocutory hearings or hearings under section 48 of the Act,
 - (b) render its decision in respect of the proceeding, and
 - (c) determine entitlement to, and the scale of, costs in respect of the proceeding in accordance with the Tariff of Costs Regulation, B.C. Reg. 189/99, as that regulation applies under section 3 of this regulation.
- (3) The board
 - (a) must not take any action under subsection (2) (a) after December 31, 2005,
 - (b) must not set or conduct a hearing under section 45 of the Act, and
 - (c) must make all reasonable efforts to conclude an in-progress board proceeding as soon as is reasonably practicable.
- (4) If, before January 1, 2006, the board has not completed all of the hearings necessary to allow it to render its compensation decision in an in-progress board proceeding, that proceeding becomes an unset board proceeding within the meaning of the Compensation Action Procedure Rule and that rule applies.
- (5) The board must transfer to the Deputy Attorney General all of the board's files relating to every board proceeding as follows:
 - (a) if the board proceeding is not an in-progress board proceeding, promptly after the coming into force of this regulation;
 - (b) if the board proceeding is an in-progress board proceeding, promptly after December 31, 2005, or, if the board has, before January 1, 2006, heard all of the hearings necessary to make its compensation decision in the board proceeding, promptly after the date on which the board renders that compensation decision.

Transitional – proceedings before the board

- 3 (1) In this section:

“expropriation enactments” means

- (a) the *Expropriation Act*, and the regulations under that Act, as they read immediately before March 18, 2005, and
- (b) the Acts consequentially amended by the *Expropriation Amendment Act, 2004*, and the regulations under those Acts, insofar as those Acts and regulations relate to an expropriation,

but does not include the Tariff;

“Tariff” means the Tariff of Costs Regulation, B.C. Reg. 189/99.

- (2) Despite the *Expropriation Amendment Act, 2004* and despite the repeal of any of the expropriation enactments,
 - (a) the Tariff applies to an in-progress board proceeding, and
 - (b) the expropriation enactments, as they read immediately before March 18, 2005, continue to apply to an in-progress board proceeding, except that a

reference to “the board”, in section 28 (2) of the Act, as that section applies for the purposes of this paragraph, should be read as a reference to “the Supreme Court”.

- (3) The Compensation Action Procedure Rule and the Expropriation Proceeding Costs Regulation apply to any board proceeding that is not an in-progress board proceeding.