



# BCCAT NEWS

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## PRESIDENT'S MESSAGE

### Update on Intervenor Application

BCCAT was granted intervenor standing in the Crown's appeal of the Mary McKenzie judgement in April 2007. The hearing is set for September 20 and 21 in Vancouver.

### Law Foundation Grant

BCCAT has received a \$10,000 grant from the Law Foundation to develop an adjudicator's training manual.

### Law Courts Education Society Project

BCCAT and the LCES are partnering to develop an administrative law website. LCES reports that it received a grant in the amount of \$37,500.00 from the Notary Foundation of BC for the website. LCES is still seeking funding for the minority languages aspect of the project.

### The AGM

The AGM is scheduled for noon on October 15, 2007 at the Segal Graduate School of Business. If you are interested in attending please go to the BCCAT website ([www.bccat.net](http://www.bccat.net)) to register. See below for more details.

### CCAT 4<sup>th</sup> International Conference

The International Conference was a huge success. For details see Heather MacNaughton's article on pg 3. BCCAT decided not to hold its annual conference in October 2007 because it was partnering with CCAT on this Conference. However, BCCAT will, once again hold its annual conference in conjunction with the AGM in October 2008.

Norma Edelman  
President, BCCAT

## IMPORTANT NOTICE TO ALL MEMBERS

### **B.C. Council of Administrative Tribunals Annual General Meeting and Luncheon**

#### **“Guest Speaker: Allan Seckel, Deputy Attorney General”**

You are invited to BCCAT's Annual General Meeting on October 15, 2007. This year's event includes a sit-down luncheon with Mr. Allan Seckel, the Deputy Attorney General, who will be speaking on the role of administrative tribunals in assisting to implement the draft initiatives set out in his recent paper “Earlier Solutions, Faster Justice: The Future of Administrative Justice in British Columbia”. His paper can be viewed at: [http://www.gov.bc.ca/ajo/down/ciaj\\_seckel\\_paper\\_may4\\_07.pdf](http://www.gov.bc.ca/ajo/down/ciaj_seckel_paper_may4_07.pdf). This is an important opportunity to hear from the Deputy Attorney General on new initiatives and goals of the government in the area of administrative justice in the Province.

**All BCCAT members are welcome to attend without charge.** This is also an opportunity to meet with other members and the executive of BCCAT and to learn more about the important work of our organization. Your participation is key in continuing to make our organization an important part of the administrative justice community in this Province.

**Date: Monday, October 15, 2007**

**Time: 12:00 p.m. – 1:30 p.m.**

**Location: Segal Graduate School of Business, Rm 1200, 500 Granville Street (at Pender), Vancouver BC**

**RSVP: Immediately to [conference@bccat.net](mailto:conference@bccat.net)**

This event starts promptly at noon, so please allow time for parking (parking information will be provided later). Door prize to be awarded.

In order for to ensure that proper arrangements are made, you must confirm your intention to attend this event by responding by email to [bccat@shaw.ca](mailto:bccat@shaw.ca) IMMEDIATELY (note: we may be unable to arrange for your lunch)

# ADMINISTRATIVE JUSTICE OFFICE

## EARLIER SOLUTIONS. FASTER JUSTICE: WHAT'S IN THE FUTURE FOR ADMINISTRATIVE JUSTICE IN BRITISH COLUMBIA?

The Ministry of Attorney General, along with other justice, health and social service ministries, has embarked on a three-year plan to ensure the justice system meets the needs of individuals, families, businesses and communities in a more cost effective, timely and meaningful way. The three-year plan is built around the concept of early solutions and faster justice. The proposed changes aim to help people find new ways of resolving disputes and doing so earlier in the process.

While much has already been done to reform BC's administrative justice system, the Ministry, through the Administrative Justice Office, will be continuing to look for further opportunities to work with tribunals, other ministries and community partners within the administrative justice system to provide earlier resolution of issues.

The Civil Justice Reform Working Group, created in 2004 to make recommendations for fundamental change necessary for an effective civil justice system, sets the framework for civil court reforms in its November, 2006 Report: "*Effective and Affordable Civil Justice*" (available at: [www.bcjusticereview.org](http://www.bcjusticereview.org)). That Report envisions a civil justice system that provides quick, affordable and just solutions to legal problems for everyone, regardless of their means. The Report's key recommendations are for:

- Centres (or "Hubs") to provide, at one location, easy access to the information and services people need to solve legal problems on their own. The newly established Nanaimo Family Justice Services Centre pilot project is suggested as a model. (Information about the Centre is available at: [www.nanaimo.familyjustice.bc.ca](http://www.nanaimo.familyjustice.bc.ca).)
- Case planning conferences as a mandatory requirement before parties can take the next steps in the court system, after initiating and responding to a claim.
- A rewrite of the Supreme Court Rules, with the explicit overriding objective that all proceedings are to be dealt with justly and pursuant to the principles of proportionality.

A "concept draft" of new civil rules is already available at: [www.bcjusticereview.org](http://www.bcjusticereview.org) and BCCAT members are invited to contribute to the development of the new rules through the on-line forum at: [www.bcjusticereviewforum.ca/civilrules/](http://www.bcjusticereviewforum.ca/civilrules/), by October 31, 2007.

The Report's recommendations provide a strong indication of expectations for the administrative justice system, in order for it to remain an effective alternative to the courts. Administrative tribunals will be looked to, to provide effective opportunities to resolve issues earlier in the process, without adjudication where

possible, and where that is not possible, to provide streamlined, proportionate and timely adjudicative processes that are simpler, faster and less costly than the new court processes.

The Ministry of Attorney General has set five key strategies for justice transformation that will also be applied to the administrative justice sector, in consultation with administrative justice system stakeholders and community partners. Those strategies, and how they will be applied in the context of administrative justice system, are:

**1. Prevention:** To minimize, avoid and resolve issues *before* they become disputes to be considered by a tribunal or another oversight body. For example, the AJO and the Dispute Resolution Office (DRO) are working together to support greater use of dispute resolution, earlier in government's processes and before matters are brought to tribunals.

**2. Integration:** To make the administrative justice system more efficient and effective through enhanced co-ordination and sharing of resources, where possible. For example, the AJO is supporting and exploring additional opportunities to build on existing tribunal co-location of registries, cross-appointments, and also better co-ordination of ministerial support to tribunals with a number of such initiatives currently in process. (Check out the AJO website's "What's New" page periodically for further information on these initiatives as they are implemented.)

**3. Information:** To provide citizens with better and more accessible information, advice and guidance on how the administrative justice system works. The AJO website will continue to be updated to provide easily accessible information on various administrative justice issues (for example, you may want to check out our website's "Self Help" page), and consideration is also being given to the extent to which information about tribunals can be effectively provided at the proposed Justice Centres ("Hubs"). Other opportunities to provide easier access to information across the full range of the administrative justice sector, including federal, provincial, and other sector participants are also being explored.

**4. Simplification:** To make tribunal and other decision-makers' procedures faster, proportional and more user friendly. Best practises for tribunal case management and dispute resolution processes will be considered and tribunals will be encouraged to modify their rules to achieve those that may be identified. The Ministry will also explore opportunities for consideration of the court rules that govern judicial review proceedings, with a view to reducing the complexity and lack of proportionality associated with the current

*see AJO page 4*

## 2007 Conference Synopsis

### “Administrative Justice without Borders”

#### CCAT’s 4th International and 23rd Annual Conference

#### The Westin Bayshore, Vancouver, British Columbia

May 6–8, 2007

This year’s international conference was attended by over 400 persons, of which 345 were conference registrants and the balance invited speakers and moderators. Attendees came from around the world to this event, the largest international gathering of administrative law adjudicators, regulators, and practitioners ever held. Some 70 domestic and international speakers addressed issues that have arisen as a result of globalization, the changing world demographic, and the movement of jobs and people to meet labour market needs. These factors have had an impact on domestic and international economic regulation, human rights, labour and employment regulation, foreign credentials assessment, and workers’ compensation issues.

The first day of the conference, **Sunday, May 6**, began with an interesting and insightful plenary session, “Impact of Demographics: As the World Churns.” Terry Bogyo, Director of Corporate Planning at WorkSafe BC, gave an overview of the scope of the changes that have occurred worldwide.

The day continued with a series of five roundtables where the issues highlighted by Mr. Bogyo were considered with respect to their impact on adjudication in the fields of workers’ compensation, labour and employment, human rights, immigration, and economic regulation.

The formal activities of the first day were rounded out with the president’s reception at Current’s, the hotel’s restaurant overlooking Burrard Inlet.

A plenary session, “Administrative Law in an Era of Globalization,” opened the day on **Monday, May 7**. In a thought provoking presentation, Alfred Aman, the Roscoe C. O’Byrne Professor of Law at Indiana University, talked about the “potential uses of administrative law to improve globalization as a democratic endeavor.”

Delegates then had a choice among four concurrent business sessions in the afternoon.

- The first session dealt with credibility issues and methods of assessing credibility. Judicial and scientific views on credibility assessment were examined as well as the susceptibility of decision-makers to cognitive biases. Delegates then heard about some ways in which they could improve their deception-detection skills.
- The second session, dealt with ensuring consistency among adjudicator decisions.
- The third, presented a number of speakers who

discussed the World Trade Organization dispute settlement process. An overview was given of the foundations of the dispute settlement process under the General Agreement on Tariffs and Trade (GATT). The softwood lumber dispute was discussed, followed by a talk on the development of the procedural rules and practices in the WTO dispute system.

- The fourth choice, entitled “World Report #1,” looked at administrative justice in Australia, Canada, and the United States — the issues, trends, and developments.

After lunch, the concurrent business sessions continued.

- The session on international investment arbitration as the intersection of private rights and public interest looked at various existing investment treaties, their provisions for dispute settlement, the advantages and disadvantages for both investors and government, the track records of various countries, and the state of international investment law.
- The literacy awareness session focused on CCAT’s literacy initiatives to improve delivery of justice to tribunal participants with low-literacy skills.
- The speakers in the third session discussed the problem of foreign trained professionals and the assessment of credentials as well as the impact on domestic regulations.
- “Expert Evidence: It’s Magic” examined what makes an expert and how to unravel complex expert evidence.

An interactive session, “The Lighter Side of Listening and Communicating” concluded the learning part of the day and it was followed by a Burrard Inlet boat cruise (optional) that included dinner and entertainment.

The final day of the conference, **Tuesday, May 8**, began with a third group of concurrent business sessions:

- One session on decision writing offered “astute tips for the astute writer.”
- Another session entitled “Comparative Views of Inquiry Processes” looked at the inquiry process in the context of the Truth and Reconciliation Commission in South Africa.

*see CCAT page 4*

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- The “World Report #2” focused on the issues, trends, and developments of the United Kingdom, New Zealand, and the Ukraine
- The fourth choice examined tribunals in the United Kingdom for diverse users — Appeals Service, the Criminal Injuries Compensation Appeals Panel, and the Special Educational Needs and Disability Tribunal. The study that was the basis for the talk compared the experiences of white, black, and minority ethnic tribunal users: how they perceive, and are treated within, tribunals; and whether black and minority ethnic participants are at any direct or indirect disadvantage when they use tribunals. The second speaker addressed the experience of older users of tribunals.

The closing conference plenary, “The State of Independence in Various Administrative Justice Communities,” was moderated by Professor Robin Creyke, Centre for International and Public Law, Australian National University. Speakers included Frank Falzon, barrister and solicitor in Victoria, British Columbia; Professor Philip Bryden, Dean of Law at the University of New Brunswick; the Honourable Justice Gilles Letourneau, Federal Court of Appeal, Ottawa; and Ann Marshall Young, Administrative Judge, US Nuclear Regulatory Commission. They looked at the relationship between independence and accountability, instruments for defining and safeguarding independence, and tribunal autonomy.

At lunch following the plenary session, Ron Ellis, QC, was presented with the 2007 CCAT Medal. This medal is awarded by CCAT in recognition of the recipient’s ongoing contribution to the improvement and advancement of administrative justice in Canada. The Marie-Paule Scott Commemorative Scholarship for the academic year 2006–2007 was awarded to Jennifer Barrigar.

Closing remarks by the conference co-chairs and the introduction of the co-chairs for the 2008 CCAT annual conference (Brian Goodman and Jean-François Martel) followed.

The Annual General Meeting of CCAT and election

*If you have an announcement or an article to include in our newsletter that would be of interest to all members, please contact us at [registrar@bccat.net](mailto:registrar@bccat.net).*

of members to the Board of Directors took place in mid-afternoon

The post-conference workshop on **Wednesday, May 9**, concentrated on “Advanced Hearing Skills” — how to conduct a hearing and how to respond to the different types of challenges that may arise.

Please visit other pages on the website to read the papers presented at the conference.

On behalf of CCAT’s Executive Committee and the Board of Directors, we would like to thank the many volunteers who assisted us in preparing the program and the many speakers and moderators who graciously volunteered their time and expertise to make this conference so successful and a valuable learning experience.

CCAT looks forward to seeing you all at next year’s conference, the 24th Annual Conference, which will held June 26–27, 2008, at the Hilton Lac Leamy in Gatineau, Quebec (National Capital Region).

Heather MacNaughton and Walter Pylypchuk  
Co-Chairs of CCAT’s 4th International and 23rd  
Annual Conference  
August 30, 2007

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rules. And the *Administrative Tribunals Act* will continue to be used as a comprehensive, consistent framework for the administrative justice system, to provide a timely, proportionate and more user-friendly alternative to the courts, with on-going consideration to identifying opportunities to divert matters from the courts to tribunals.

**5. Resolution:** To actively encourage early resolution through problem solving and mediation, so adjudication is used only where no other option makes sense. Tribunals will be encouraged to initiate or build on their dispute resolution processes, as may be possible. Evaluating existing processes will be supported, and research is being undertaken on appropriate opportunities for mediation when determining statutory rights and entitlements. (See the AJO website’s “What’s New” page.)

In applying these strategies the AJO looks forward to ongoing collaboration with the tribunal community and invites BCCAT members to share their suggestions, ideas, or comments for potential reforms to the administrative justice system by contacting the AJO, either by using the Feedback form on our website ([www.gov.bc.ca/ajo/](http://www.gov.bc.ca/ajo/)), by telephone at 250-387-0058 or by email ([Dianne.Flood@gov.bc.ca](mailto:Dianne.Flood@gov.bc.ca)). Our joint efforts for continual improvements to the administrative justice system will be critical to B.C.’s citizens achieving earlier solutions and faster justice.

## POSTING

### DISPUTE RESOLUTION OFFICERS RESIDENTIAL TENANCY BRANCH

The Residential Tenancy Branch, Office of Housing and Construction Standards, is looking for full-time Dispute Resolution Officers for its Victoria and Burnaby offices. Dispute Resolution Officers work in a fast-paced environment to provide a range of dispute resolution services to landlords and tenants in British Columbia.

More details may be found by clicking here - [http://employment.gov.bc.ca/?view\\_posting=037974](http://employment.gov.bc.ca/?view_posting=037974)

Please call Jill Walker at 250 952-6556 if you have any questions about these jobs.

## ANNOUNCEMENT

### CROSS APPOINTMENTS BETWEEN THE MEDIATION & ARBITRATION BOARD AND THE PROPERTY ASSESSMENT APPEAL BOARD

The Mediation and Arbitration Board is created under the authority of the *Petroleum and Natural Gas Act* / and is an independent, quasi-judicial body resolving conflicts between land owners (holders of surface rights) and companies or individuals (holders of subsurface rights) seeking access to land to explore for, and develop, subsurface resources including oil and natural gas, minerals, coal and geothermal resources.

MAB authority and jurisdiction extends to all areas of the province, although the majority of conflicts occur in the Peace River area in association with oil and gas development.

In January of 2007, the chair of MAB gave notice to the Ministry of Energy, Mines and Petroleum Resources that he would not be seeking reappointment to extend his term with the Mediation and Arbitration Board (MAB) beyond July 21, 2007.

On June 21, 2007, the Chair of the Property Assessment Appeal Board was cross appointed as chair of the MAB effective July 22, 2007, along with two other Board members of the PAAB.

A significant benefit from these cross-appointments to the Mediation and Arbitration Board will be that the chair of MAB, as chair of both Boards, will have access to full time staff and resources at PAAB. These resources will also be available to provide administrative support to MAB's administrator. MAB's office will continue to be located in Fort St John, although the office will be moving locations during August of 2007.

The PAAB office is located in Richmond.

For more information, please go to [www.em.gov.bc.ca/subwebs/M&ABoard/](http://www.em.gov.bc.ca/subwebs/M&ABoard/)



**BCCAT NEWS**

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