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Dear Name:

Film Media Access to Board Proceedings

We would like to begin this letter by thanking you for taking the time to consider the material provided in our letter of May 8, 2007. All of the responses, the last of which was received on July 6, 2007, have been quite helpful. The purpose of this letter is to provide you with our conclusions and intent after reviewing all comments.

The issue narrowly centres on requests from media representatives to film the Board's proceedings using video and still photography. To promote understanding and faith in the hearing process it is in everyone's interest to provide as much access as possible. Nevertheless, we must respect the right of those making their case to do so without undue distraction or interruption. While only one response was received from media representatives, it is presumed that they would prefer to move freely through the hearing room at any time. They have acknowledged that to do so would likely be distracting to participants and the Board. Those responding on behalf of parties who appear before the Board have generally expressed a desire to permit the media access provided that their activities or presence are not in any way disruptive to the proceeding. Various suggestions were made as to how best to find a balance.

The general principles for media access have been set out in the Board Rules. For example, Regulatory Rule 26 states:

AUDIO AND VIDEO RECORDING OF HEARINGS

26 (1) Audio and video recording of an oral or electronic hearing which is open to the public may be permitted on conditions the Board considers appropriate.

(2) The Board may refuse to permit the recording of all or any part of an oral or electronic hearing if, in the opinion of the Board, such coverage would inhibit specific witnesses or disrupt the hearing in any way.

(3) Where recording is allowed, the following shall apply unless otherwise directed by the Board:

- (a) only equipment which does not produce distracting sound or light shall be used;
- (b) where possible, existing audio systems present in the hearing room shall be used;
- (c) media personnel shall not move about while the hearing is in progress; and
- (d) equipment shall be positioned unobtrusively before the hearing begins and shall not be relocated while the hearing is in progress.

The Board's current practice is to permit video and still picture photography in the hearing room up to the point in the proceeding where there witness is sworn in or continues testimony after a break in proceeding. This allows filming of the Board beginning the proceeding, the appearances of the parties, and any preliminary matters raised by counsel. In some proceedings the media have requested and, after consultation, been granted permission to film opening statements by counsel or representatives of the parties. The media may also film prior to the commencement of daily sessions, at breaks, or after the sessions. With the limited exceptions of not permitting filming of notes and from the Board dias, the media have enjoyed relatively unrestricted access. As a matter of routine, this will continue to be the practice of the Board. Nevertheless, the Board may be willing to grant, on a case by case basis, additional access where it is satisfied that no undue disruption will occur and there is significant public interest or benefit to provide the additional access. The additional coverage may take two forms: coverage of a specific segment of testimony or of the complete proceeding.

In a case where the media would like to film specific testimony, such as an opening statement by a witness or a summation, the following guidelines will apply:

1. The media must request access through Board staff at least one working day in advance. The Board may discuss the request with the parties and, if it is satisfied there is no harm to the proceeding, it may grant access setting such terms as it sees fit in the circumstances. Those terms could include restricting the locations from within the room where filming could occur, the duration, and the subjects being filmed.
2. Generally speaking the following restrictions will apply in addition to any other terms the Board panel imposes:
 - a. Documents on counsel tables, the recording secretary's desk, the witness table, or the Board members' table, shall not be photographed in any manner that the text can be magnified, read or deciphered.
 - b. The photographer shall not film from the Board dias.
 - c. The equipment used shall be in good working order and shall operate without distracting noise and without spot lights, flood lights or other illumination other than the usual lighting in the hearing room.
 - d. The photographer shall not approach the party speaking or otherwise move about in a manner which will become distracting or disruptive.

Should photographers fail to follow the restrictions imposed by the panel, or the general restrictions noted above, the Board may order the filming cease and the photographer removed.

Should the media request permission to film for a significant part of a session, or the entire proceeding, a request must be made to the Board not less than 2 working days prior to hearing commencement. If the Board is satisfied that such coverage will not unduly effect the proceeding then access may be granted. Any objections from parties will be addressed at the opening of the proceeding. Again, the Board panel may impose such restrictions or grant additional freedoms it sees fit in the circumstances. Unless otherwise specified by the Board panel the following restrictions will apply:

1. Documents on counsel tables, the recording secretary's table, witness table, or Board member area shall not be photographed in such a manner that the text can be magnified, read or deciphered.
2. Not more than one television camera and one still camera shall be used when a hearing is in progress.
3. Any television camera shall remain on a tripod fixed in one position designated by the Board panel. Once the camera is placed it shall remain in place until a break or conclusion of the hearing for the day. Similarly, a still camera photographer will stay in the place designated until a break or session conclusion. All set up work must be completed prior to commencement of the session. The media outlet providing the camera will also be responsible for providing video feeds, or still photos, to other media outlets. If a video distribution amplifier or similar equipment is used it must be situated at the rear of the hearing room in a place designated by the Board or staff.
4. The installation must be, in the opinion of Board staff, safe. Wires must be run and secured as to avoid creating a safety hazard.
5. Recording lights or other indicators or signals shall not be visible so as to distract or draw the eye of those being filmed. Similarly, audible signals should be shut off or muted.
6. All equipment shall be in good working order and shall operate without distracting noise and without spotlights, flood lights or other illumination in addition to the regular lighting of the hearing room.

As in past, media will not be permitted to record proceedings the Board has directed to be confidential. Additionally, the Board Rules relating to the type of proceeding will, in any event, still apply. A hearing panel may grant additional access or freedoms, or impose further restrictions, as it sees necessary in the circumstances.

As stated at the beginning of this letter, we have attempted to balance the desire for additional access with the need to conduct an orderly proceeding. We trust that the additional media access being contemplated will not be disruptive and will provide useful film coverage. Suggestions for improvement are welcomed at any time. Should you have any additional questions or comments please feel free to contact the undersigned.

Yours very truly,

Paul G. Allen, C.A.
Executive Director