

FOLA LOBBY DAY 2022

RECAP



FOLA'S LOBBY DAY 2022 RECAP

On February 23, 2022, approximately 40 lawyers from Law Associations across Ontario logged onto Zoom for a full day of meetings as part of FOLA's Virtual Lobby Day. Following some welcoming remarks from FOLA's Chair, Nathan Baker and a review of some logistical information from FOLA's Executive Director, Katie Robinette, participants settled into a marathon array of Open Forums and Roundtables. Below are the highlights (in chronological order).

LEGAL AID ROUNDTABLE

FOLA's Legal Aid Committee Chair, Terry Brandon, led a meeting with Patrick Schertzer, Director of Legal and Legislative Affairs in the Attorney General's office, to reiterate the need for sustainable and reliable funding for Legal Aid. It was pointed out that Legal Aid Ontario's hourly rates have not changed since 2015 which is a main factor in declining interest from younger lawyers for taking on legal aid cases and, similarly, causing senior lawyers to pass on accepting legal aid cases.

Examples were given citing vulnerable people not being able to get their certificates accepted by lawyers – leading to Ontarians having no choice but to have to advocate for themselves as self-representatives.

Terry and the others in the meeting applauded the government on recent efforts to modernize the system but encouraged enhanced corresponding funding to accompany these changes. Participants also called on the AG to reduce red tape and work to make the system more efficient for all users.

ONTARIO LIBERAL PARTY OPEN FORUM WITH THE AG CRITIC

Back in 2020, when FOLA hosted our Inaugural Lobby Day (in-person at Queen's Park), the Ontario Liberal Party was in the midst of their Leadership race. As such, they were unable to provide a representative to meet with us. However, this time we were able to arrange for a session with Lucille Collard, MPP for Ottawa-Vanier and the Liberal's Shadow Critic for the Attorney General.

Lucille was elected two years ago in a bi-election and is currently working with her Party on the election platform. She expressed an interest in learning from, and working with, FOLA and Law Association members about issues and concerns facing our justice system. She also stressed her commitment to consulting with stakeholders in drafting legislation.

She told participants that she would look into delays in Small Claims Courts and with the Landlord Tenant Board, both of which were flagged as being at standstills.

When asked about the possibility of reinstating funding for Legal Aid and making up for the cuts a couple of years ago to Legal Aid Funding, Lucille did not offer any promises but did volunteer that her party is looking into this and acknowledged that if technology is to be required to conduct matters, the system needs to ensure that reliable resources are made available.

One common suggestion raised by participants was that the creation of permanent Zoom rooms at Courthouses are among one of the many infrastructure improvements needed, which Lucille promised to explore.

REAL ESTATE LAW ROUNDTABLE

Real Estate Co-Chairs Mark Giavedoni and Eldon Horner led a session on Real Estate law with Tyler Jensen, Policy and Legal Affairs Advisor from the AG's office and Connor Lund, Policy Advisor for Planning & Development for the Minister of Municipal Affairs & Housing.

Eldon, Mark, and the participants called on the government to direct Land Transfer Tax Revenues to support the Land Titles System, sought some clarification related to the recent Planning Act Amendments, and suggested the government introduce legislation to reverse the common law on positive covenants. They also flagged the need to address delays in Small Claims Courts and Tribunals and discussed some issues related to the multiple forms of jurat for the process vis-à-vis virtual commissioning.

It was noted by all that speed of service is paramount in real estate matters and that delays are hurting clients meet their closing dates.

Connor Lund from MMAH got back to FOLA the following day regarding our question about the Planning Act Amendments (whether they were retroactive). He has confirmed that provisions that govern real estate transactions would generally apply only to transactions undertaken when those provisions were in effect. The Schedule does not contain any provisions providing for retroactive application of the law, nor does it include provisions to forgive historic transactions that violated subdivision control when undertaken.

Regarding Positive Covenants, FOLA requested a point of contact within MAG or MMAH with whom they can follow up. Tyler Jensen with MAG requested additional documentation to explore this issue and FOLA will be following up accordingly.

In the meantime, Connor was able to offer that solicitors' statements remain available in circumstances where it is apparent to the solicitor that there is no previous contravention of subdivision control in relation to the parcel being transacted.

There will also be additional follow up and correspondence to identify possible efficiencies related to virtual commissioning.

FAMILY LAW ROUNDTABLE

Sam Misheal, FOLA's Family Law Committee Chair, led our Family Law Roundtable with Tyler Jensen, Policy and Legal Affairs Advisor, Patrick Schertzer, Director of Legal and Legislative

Affairs from the AG's office and Jayme Allen, Stakeholder Relations, for the Associate Minister for Children and Women's Issues.

Key issues raised included unacceptable issues with CaseLines and ONE-key e-filing. The challenges with CaseLines include files not getting to the right place on time and lack of uniformity region to region were two key problems, and the latter concerned lack of support staff and the need for training and retention programs to address the significant delays in online filing. Other issues included a suggestion that Legal Aid Ontario consider increasing the financial eligibility threshold for Legal Aid certificates.

Participants also called on the government to expand Dispute Resolution Officers throughout the province and to continue the expansion of the Unified Family Court.

Ministers' staff were also called upon to expand and provide additional funding for programs that support families that require therapeutic intervention and that assist the families in having better dialogue/communications with each other. It was pointed out that there are large consequences (negative impacts) as a result of the closure of the youth facilities - especially in the north. While no additional funding is in the works, Jayme Allen from MCWI did say that they are aware that the programs currently available are not sufficient for the needs of men/fathers. This is something they are exploring.

One suggestion raised was to completely reevaluate the role the Courthouse plays in the community. Notably that Courthouses might serve as a hub of sorts where people can learn how to go about resolving family disputes without proceeding to Court.

Tyler Jensen from MAG has been exploring ways to address the backlogs and added that they are exploring the expansion of DROs and are moving forward with the expansion of the Unified Family Courts and are, regarding UFCs, working with the federal government on this issue (as they are responsible for the Judges). He welcomed ideas as to how to reevaluate how the province deals with Family matters and work together to keep matters out of Court.

ONTARIO PC PARTY OPEN FORUM WITH THE ATTORNEY GENERAL

At noon, FOLA was joined by the Honorable Doug Downey, Ontario's Attorney General and MPP for Barrie – Springwater – Oro-Medonte, for some remarks and a Q&A session. The AG kept his remarks short to allow for ample opportunity for questions but did note some changes his office has made to help speed up the appointment of Judges and Justices of the Peace, technology updates, collaboration with his provincial and federal counterparts, and the easing of restrictions around gaming and alcohol sales.

Questions to the AG covered Small Claims Courts (which the AG noted he is in currently working to re-open along with POA Courts), Legal Aid funding (which the AG indicated he was working to get a better understanding of usage), the need to standardize procedures and protocols related to e-filing across the province, and plans to address the cancelled Consolidated Halton Courthouse (the AG told participants that he is in discussions with Chief Justice Morawetz, that an announcement should be made by the Spring, and that the solution would include capital).

There were suggestions that the AG seemed eager to pursue such as adding Judges to the Small Claims Court, building on the pilot program testing out "technology rooms" currently in operation in three Courthouses, and improving e-filing.

In fact, the AG mentioned that a Request for Proposals is in the works for a “one-portal” system that will serve as the backbone of the administration within the justice system, adding that there will likely be an accompanying advisory group that FOLA would likely want to participate in.

The AG also committed to looking into the issue of incompatibilities with JVN in the Ottawa Courthouse.

ONTARIO NDP PARTY OPEN FORUM WITH THE AG CRITIC

Our third Open Forum of the day featured Gurratan Singh, MPP for Brampton East, Deputy Opposition House Leader and the Official Opposition Critic for the Attorney General. Also opting to keep his comments brief to allow for more time for Q&A, Gurratan spoke about the need for our justice system to offer access to resources coupled with the provision of efficient, expedient access to justice. He stressed the importance of the value legal clinics have within the system and recognized that both prosecutors and defendants need the necessary funding and resources to ensure that everyone is treated fairly.

Gurratan reiterated a number of times how his party has consistently been a strong advocate for legal aid funding, pointing out that they fought the government’s funding cuts a couple of years ago and that, even before the cuts, legal aid was under funded.

In addition to legal aid funding, questions revolved around the effective crippling of Small Claims Courts and at the Landlord Tenant Board.

Gurratan told participants that the NDP has yet to release their party’s justice platform heading into June’s election and welcomed this opportunity to hear issues and take comments and suggestions back to his party for consideration.

CRIMINAL LAW ROUNDTABLE

FOLA’s Criminal Law Session, chaired by Nathan Baker, FOLA Chair, was attended by Christine Hogarth, MPP (Etobicoke-Lakeshore) & Parliamentary Assistant to the Solicitor General, Andrew Hartmann, Special Assistant to MPP & PA Hogarth, Peter Copeland, Senior Policy Advisor Corrections for the Solicitor General, and Sidney Hall, Issues Manager & Communications Strategist for the Solicitor General.

Issues discussed included the need to improve “Access Defence”, the provision of tablets/ipads for clients in cells to facilitate counsel contact, spatial audits in institutions and Courthouses to help better equip institutions to allow for private virtual meetings, the continuation of using ankle monitors and bail supervisor programs to reduce remand population, allow for pre-scheduling of meetings with inmates, and to increase legal aid availability to reduce the number of self-represented litigants.

Participants called on the government to improve transparency around revenues from Victim Fine Surcharges and commit to allocating them to justice-related programs.

In response to the possibility of alternatives to JVN between the jail and the Ottawa Courthouse, Peter Copeland from the SolGen’s office got back to FOLA the following day with the contact information for the Ottawa-Carleton Detention centre (OCDC) Superintendent.

Peter also provided information for lawyers on options to access clients through RDA (Remote Defence Access) at OCDC: Once set up through their system, counsel can book a consult via e-mail at VC-OCDC@ontario.ca with the client. The client would be escorted to a video suite to have the video consult at the pre-scheduled time. Booking an in-person visit with clients, this is done through the Professional Visits Liaison Officer at OCDCPVLO@ontario.ca.

It was pointed out that the Southwest Detention Center had a great pilot program prior to COVID that the SolGen should look to replicate province-wide.

Also mentioned was a request to enact s.320.23 (a program for DUIs) and increase use of drug treatment and mental health court to allow up front work to encourage better resolutions.

Christine Hogarth welcomed all suggestions and pointed out that the Ontario government made an investment of \$65 million over five years (announced [here](#) on February 10th) to ensure more courtrooms across the province are equipped with technology to enable people to access hearings through video or audio.

COURTHOUSE ISSUES ROUNDTABLE

FOLA's final Roundtable of the day was with Timothy Abel, Manager of Stakeholder Relations, and Duncan Walsh, Policy Advisor, for the AG and was chaired by Allen Wynperle, FOLA's Central South Regional Representative.

FOLA welcomed the AGs news (shared earlier in the day) about a pending RFP to create a "one-stop" online e-filing portal. However, participants shared concern that, with the election pending, this will be halted or shelved and called on the government to act on this as soon as possible.

FOLA's Roundtable Chair complimented the government on their progress in modernization but added the need to ensure that this work continue and that they need to keep in mind the user experience when implementing all new technologies and systems.

The government was urged to standardize e-filing protocols across all regions and create province-wide courtroom staff roles/responsibilities/procedures and post online to create consistency across jurisdictions within Ontario. Standardized service standards should be implemented within the Court Services Division.

Participants noted that one of the contributing factors to delays was a lack of ability of Courthouse staff to process materials uploaded onto various platforms in a timely manner. While staff training should help to address this, FOLA recommended the government implement a Courthouse staff retention and recruitment program.

Another common request was the addition of technology rooms in Courthouse. This may require spatial audits in Courthouses to determine the best places for these rooms, which would be used by Ontario's vulnerable populations, self-represented litigants, and those without access to reliable internet. The need to continue to expand the installation of high-speed, fiber optic internet throughout Ontario (and especially in all Courthouses) was mentioned.

It was also shared that there is a need to increase size limits for all e-filing and eliminate the need for duplication of e-filing.

Another issue mentioned in almost every session was the urgent need to address the (now 2 year) backlogs in Small Claims Court. It was also suggested that the government should explore ways to reduce the need for Jury trials.

One participant cited research that indicated Ontario lags far behind other jurisdictions in the time it takes from the when a matter is initially filed with the Courts through to the time the matter is deemed closed and drew our attention to a recent guest article in Slaw (which you can find [here](#)). MAG staff were asked if they would consider implementing benchmarks and commit to measuring results. No immediate response was given but staff did add that they regularly work with other jurisdictions to seek and implement best practices.

While this session easily could have lasted another hour, participants also managed to address the long delays in the processing times for certificates for appointing an estate trustee (and recommended that the government hire more staff with monies from the collection of estate fees), the need to address bringing back in-person Landlord Tenant Board proceedings to assist those without access to internet, and the need to upgrade the Milton Courthouse.

FOLA was told that we should expect an announcement regarding the Milton Courthouse in the Spring.

INDIVIDUAL MPP MEETINGS

In addition to the above Forums and Roundtables, eight participants also met with their local MPP during the day (three other meetings may still take place following our event). Issues discussed echoed those noted above but these meetings also covered some specific matters as they relate to Law Association members' local communities.

RECAP

To close out the day, participants rejoined the main room to hear highlights from our Roundtable Chairs and all those who held individual meetings with their MPPs. It should be noted that none of the main parties have released their Party Platforms that they will be using to campaign on during upcoming election. When these are released, FOLA will share them with you and point out their justice-related content. We will also be building out a section on our website with ways you can get involved in the campaign.

MEDIA

FOLA Roundtable Chairs had phone calls and exchanged emails with Queen's Park Briefing, the Law Times Magazine, and Lawyer's Daily and, at the time of printing this, our Lobby Day was featured in QP Briefing (link to the article behind a paywall [here](#) and PDF version attached).

WHAT COMES NEXT

To all those who attended, please be sure to send any relevant follow up materials or questions to Katie at katie.robinette@fola.ca and we will continue to work to get responses to some more in-depth questions.