

**ARBITRATION TO DETERMINE
THE 2014 STEWARD OBLIGATION FOR THE BLUE BOX PROGRAM**

B E T W E E N:

ASSOCIATION OF MUNICIPALITIES OF ONTARIO and THE CITY OF TORONTO
Applicants

- and -

STEWARDSHIP ONTARIO
Respondent

AFFIDAVIT OF JAKE WESTERHOF

I, Jake Westerhof, Vice-President of Operations, of the City of Burlington, in the
Province of Ontario, make oath and say:

A. Introduction

1. I am the Vice-President of Operations of Canada Fibers Ltd. ("Canada Fibers"), a private business providing recyclable materials processing and marketing services. Canada Fibers operates on a 'for profit' basis as a commercial enterprise. I have been employed by Canada Fibers for approximately 17 years.
2. I will be a witness at this arbitration because I have been compelled to do so by summons. I have prepared this affidavit because I understand it is the preference of the parties and the Arbitrator that the 'in-chief' evidence of witnesses be presented in this manner whenever possible.

3. Canada Fibers and I are neutral in this matter. I am not retained or paid to give evidence by either the Applicants or the Respondent. Canada Fibers has valued and longstanding commercial relationships with both the Municipalities and the Stewards. Canada Fibers takes no position of the issues in dispute in this arbitration.
4. The recyclable materials processing & marketing business is highly competitive. Canada Fibers has expended, and continues to expend, considerable time and financial resources to make its operations as efficient as possible. Most of the details about how our operations run constitute valuable, confidential business process information. I am therefore reluctant to disclose such details in the context of a public hearing. I will, of course, honour any order of the Arbitrator in this regard, but will present my evidence here with a view to protecting these confidences. If necessary, and with the permission of the Arbitrator, I will seek the advice of counsel before answering questions that might tend to disclose such confidential business information.

B. Canada Fibers: Background and Operations

5. Canada Fibers was incorporated in 1990 and began its history as a paper recycler. Since then, the company's operations have evolved to include the

processing and recovery of a wide variety of recycled materials, and have become a leader in the recycling industry.

6. Our company is one of the largest private sector companies in the Blue Box recyclables processing business in Ontario. Since 1998, Canada Fibers has provided processing for “Blue Box” materials collected in Ontario by municipalities and diverting it from landfill.
7. Canada Fibers provides municipalities with effective, environmentally sustainable, and cost effective Blue Box processing & marketing solutions. We aim to maximize value for our clients by securing the greatest returns from the Blue Box materials we recovery. We stay at the forefront of environmental developments and technological advances in order to provide the highest level of customer service and satisfaction.
8. When contracted to do so, Canada Fibers will process a municipality’s recyclable materials and then market the resulting secondary resources to global markets. We lead our industry in conserving resources, saving landfill capacity, and benefitting everyone at each step of the recycling chain.
9. We act as a single, direct source for managing materials and securing the highest rates of returns. Over the years, we have developed an extensive

global network with influence in both domestic and export markets. This makes it possible for us to guarantee the movement of recovered materials in any market condition, and is one of the reasons for our continued success in the industry. As well, we are engaged in a process of continuous improvement and reinvestment in the latest technology.

10. With years of expertise and experience in materials processing and marketing, Canada Fibers is a leader in the recycling industry, and we continue to look ahead at exciting developments in advancing our industry long into the future.

C. Competing in Ontario

11. In Ontario, there is a very competitive open market for Blue Box waste processing & marketing services. Private companies and public entities provide this service. The industry is very much in the 'public eye'. Canada Fibres competes for municipal materials recycling contracts throughout Ontario.
12. Cost and efficiency are major factors in obtaining and in keeping municipal Blue Box business. No two municipalities are the same in how they approach their Blue Box programs or how they deal with the materials recycling process. Some own and operate their own facilities; some own

the facility but contract through an open and competitive bid process an operator with commercial expertise; still others contract through an open and competitive bid process a commercial operator to receive and recycle their Blue Box materials.

13. In 2012 we provided services to seven municipalities in Ontario. These services were provided using different commercial models, depending on the wishes of the municipality and the terms and conditions of the contract. In some cases we were contracted to operate a plant owned by a municipality, in other cases we received under contract municipally collected recyclables at a plant we owned and operated. Every contract spelled out how our company was to be paid for the service it provided. We received fees from Ontario municipalities only what they were legally obliged to pay us, as per contractual obligations, for these services and that is what we were paid.

14. The commercial materials recycling business is highly competitive. For obvious reasons, I am reluctant to disclose detailed financial information in the context of a public hearing. If our competitors or others were to become aware of the details of how our company operates it could give them an unfair advantage in future competitive bids or otherwise.

D. Our Material Recycling Facility (“MRF”)

15. A MRF is a Material Recycling Facility - essentially a factory set up to separate and sort recyclable materials collected through the Blue Box process. Like most recyclers, Canada Fibers uses a combination of manual sorters and sophisticated mechanical equipment to rapidly and effectively separate varying grades of often similar materials. Accurate material separation is essential to maximize the value of the recovered materials.

16. We currently work with a number Ontario municipalities to provide Blue Box services under contracts negotiated through normal public sector competitive free market processes. I have set out below the main relationships we have with Ontario Municipalities:

Facility and Owned/Operated	Municipalities Served	Capacity in 2012 (tonnes/year)	Year Opened
CFL owned & operated 122 Arrow Road, Toronto	City of Woodstock Various others	125,000 tpy	2010
City owned /CFL operated 35 Vanley Crescent, Toronto	City of Toronto	100,000 tpy	2005
Region owned/CFL operated 7795 Torbram Road, Brampton	Region of Peel	120,000 tpy	2005
City owned/CFL operated 1579 Burlington St East, Hamilton	City of Hamilton	50,000 tpy	2003
City owned/CFL operated 1825 Frobisher St, Sudbury	City of Greater Sudbury	30,000 tpy	2006

17. The facility at 122 Arrow Road has been principally used to process material from the Industrial, Commercial & Institutional (IC&I) sector. It also processes recyclables from the City of Woodstock under contract. In addition it processes 'overflow' materials from other municipal facilities, not limited to facilities operated by Canada Fibers, on an ad hoc basis.
18. On May 1, 2013, we opened a new facility at 124 Arrow Road, directly beside the exiting 122 Arrow Road plant. This new facility was not in operation in 2012. It added approximately 250,000 tpy of single stream processing capacity under Canada Fibers direct ownership and operation. Since opening it processes materials from the City of Toronto and Simcoe County.
19. Our modern, world-class MRFs are equipped to handle Blue Box recyclables of all kinds including paper, cardboard, plastics and metals. Each of our MRFs operates at a high standard and we continuously strive to improve them in every way practical.
20. We are one of Ontario's most experienced Blue Box material recyclers. Since 1998, we have won various competitive contracts with the City of Toronto to process curbside collected, mixed, printed paper and paper

packaging, and to process and market municipal materials. We have operated a Blue Box MRF at 322 Horner Avenue in Toronto since 1992. It closed in 2013. It was a paper processing plant, processing a stream of residential printed paper and paper packaging materials. After 2004 the City of Toronto stopped sending its residential printed paper and paper packaging material in a separate stream. It has always had a significant IC&I component.

21. In 2012, we processed and marketed some or all of the municipal Blue Box recyclable materials for the City of Toronto, Regional Municipality of Peel, City of Hamilton and City of Greater Sudbury, City of Timmins, Region of Durham and City of Woodstock.
22. Based on my understanding of the Ontario recycling market, I believe that in 2012, our MRFs handled approximately 30% of Ontario municipal Blue Box waste by weight and volume.
23. In 2012, we also processed and marketed Blue Box-type recyclable material for the industrial, commercial and institutional sectors, including for numerous Blue Box stewards, under competitive free market contracts.

E. Tonnage, volume and cost

24. Blue Box processing charges are often measured or described in terms of dollars per tonne. Weight is easy to measure and easy to understand but it is not always an accurate proxy for the processing costs of individual Blue Box materials. Sometimes increased processing costs are more influenced by material volume and the number and type of items, and contamination levels, rather than simply by weight.
25. For example, paper is heavy, relatively easy to collect and process, and readily marketed. Paper has been the economic bedrock of Blue Box programs for many years.
26. Since 2005, we have seen a tendency for easily processed and handled materials like Paper to have decreased in relative tonnage to other more difficult to process packaging materials. It is generally more expensive to process and recover light-weight, smaller sized and complex materials such as plastic packaging (including, but not limited to, film and expanded polystyrene) than it is to process a concentrated, homogeneous material like paper.
27. The capital expenditure required in 2005 for a system to recover materials and meet typical contract requirements was \$5,000,000. In 2013 to

recover an expanded list of materials, deal with the changing composition and meet heightened contract specs for material recovery and quality required a \$25,000,000 investment.

- 28.** The overall volume of the Blue Box waste stream, and the cost to manage it, has tended to increase because of new lightweight materials, changing material composition and increased contamination. As well, like virtually every industry, we have been affected by rising energy costs and fluctuations in the prices paid for recycled secondary resources. Increased diversion by adding additional packaging materials, such as but not limited to film and expanded polystyrene, increases both capital & operational costs,.

F. Efficiency

- 29.** We operate our MRFs as efficiently and as effectively as we can for obvious commercial reasons.
- 30.** Waste recycling is a rapidly changing and fast-moving business. Successful competition in this business requires frequent innovation and adaptation.
- 31.** The technology and economics of Ontario Blue Box MRFs have changed dramatically over the years. As described above, there have also been changes in the composition of the waste stream. Because of the pace of

change it will not always be accurate to compare the efficiency or experiences of a municipality from 2005 to what it experienced in 2012.

G. Conclusion

32. I make this affidavit in response to the summons to witness served upon me and for no other or improper purpose.

SWORN BEFORE ME)
at the City of TORONTO)
in the Province of Ontario,)
this 2nd day of April, 2014)


S. WALKER)

Commissioner for taking Affidavits, etc.


JAKE WESTERHOF

**ARBITRATION TO DETERMINE
THE 2014 STEWARD OBLIGATION
FOR THE BLUE BOX PROGRAM**

The Honourable
Robert Armstrong QC, Arbitrator

B E T W E E N:

**ASSOCIATION OF MUNICIPALITIES OF
ONTARIO and THE CITY OF TORONTO**

Applicants
- and -

STEWARDSHIP ONTARIO
Respondent

AFFIDAVIT OF JAKE WESTERHOF

Scott C. Hutchison
HENEIN HUTCHISON LLP
235 King Street East, 3rd Floor
Toronto, Ontario
M5A 1J9

Tel.: (416) 368-5000
Fax: (416) 368-6640
shutchison@hhllp.ca