

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

**BETWEEN:**

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

**Applicants**

**- and -**

**STEWARDSHIP ONTARIO**

**Respondent**

**AFFIDAVIT OF PETER HUME**

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**Introduction**

1. My name is Peter Hume. I am an elected councillor of the City of Ottawa, and a former president of the Association of Municipalities of Ontario (AMO). My CV is attached.
2. I will be a witness at this arbitration because I have been compelled to do so by summons.
3. As a member of the council of a municipality that operates a Blue Box (BB) program which receives funds from stewards, I am not neutral in this arbitration.

## My background and experience

4. I am currently the City Councillor for Alta Vista and the Chair of the City's Planning Committee. From January 2000 to December 2003 I was the Chair of the City's Environmental Services Committee which had responsibility for solid waste and diversion activities. From January 2004 to January 2010 I was Chair of the City's Planning and Environment Committee. In current terms for more than a decade I had political carriage of solid waste and diversion issues for Ottawa City Council.
5. I have been a member of Board of Directors of the Association of Municipalities of Ontario (AMO) since the mid-1990s and I was the President of the Association from August 2008 to August 2011. I am currently the Chair of the Waste Management Task Force which brings together politicians and staff to review and advance policy to make the waste and diversion programs more efficient and effective.
6. Solid waste and diversion programs are viewed by the public as basic municipal services and as such I have been involved in waste diversion activities and policy discussions since 1991 – not only promotion of local service delivery but broad policy discussions such as the National packaging protocol, start of the blue box program, introduction of the 3Rs.
7. In addition to the participating in Council based policy discussions I have actually organized fine paper and cardboard collection depots – before they were part of the blue box program and leaf and yard waste collection programs before the introduction of specialty pick up and green bin programs.
8. Being Chair of a standing Committee of Council requires an understanding of the roles and responsibilities related to the particular service, in this case solid waste and diversion, the cost structure and what can be done to continue to deliver the service in a cost effective manner. This means being a champion for continued change – whether identifying costs for taxpayers so that they can make transparent choices, eliminating subsidization to reveal true costs and promoting change. It also means thinking long term and having long term policy documents like Waste Management Master Plans.
9. Having a long term interest (23 years) in solid waste has allowed me to be front and centre in the evolution of the blue box program and solid waste services. Due to the lack of elasticity in property taxes municipalities are incited to be as efficient as possible which in the Ottawa case over the last 23 years has resulted in a continued evolution of the service – from a fractured service delivery model to single integrated service model.
10. In the early 1990s solid waste and diversion services were provided by local government and regional government provided the disposal site. In looking for

efficiencies the service was uploaded to Regional Government so that the collection and disposal was handled by a single organization and the collection services could be organized in groups that were most efficient from a size perspective crossing municipal boundaries if required. Having a regionalized service also with larger contract service areas zones allowed for a more competitive environment with the ability for new entrants into the market place. This evolution also allowed an easier transition to better contract terms across the entire city. Having a front row involvement in these types of changes has shaped my experience and my knowledge of this important public service.

### Ottawa Blue Box Program

11. The City of Ottawa is group 2. It is primarily urban and we are in the “Urban Regional” cost band (band 2).
12. We operate a BB program as a public service, and because we are required to do so by O. Reg. 101/94. Our BB program must balance several competing objectives, including:
  - Diverting the maximum amount waste from landfill and maintaining landfill capacity
  - Provide superior service to the residents of Ottawa.
  - Operate efficiently within the approved budget
13. Summary of our BB program:
  - a. Split stream; containers in blue box, fibre in black box
  - b. Residential and multi-residential service
  - c. Managed competition (City collects 2 of 5 curbside zones) to foster competition
  - d. Processing and marketing is contracted out
  - e. Weekly recycling collection, bi-weekly garbage collection, organics program
  - f. Co-collection of recyclables and organics
14. Operations:
  - a. Run by Solid Waste Services Branch of Environmental Services Dept. Collections Group looks after the collections portion. Waste Processing and Disposal look after processing and marketing portion.
  - b. Difficult to quantify all the time and effort:
    - i. Municipal collection staff

- ii. Staff to monitor contractors and residential set-outs including Prg. Coordination, waste inspectors
  - iii. Staff to monitor processor, data management etc
  - iv. Staff to promote programs
  - v. Staff to manage processing contract including data management, scale performance, contractor performance, invoice and tonnage reconciliation, researching new technologies/ additional recyclable materials and oversight of marketing aspects.
15. In 2012, our BB program collected 67840 tonnes of dual stream material (fibre and glass/metal/plastic).

### Datacall report accuracy – Issue 2

16. We report to the WDO Datacall every year our tonnage of BB materials, and our net costs as a result.
17. These numbers were accurate for 2012. The City has dedicated staff and systems in place to track all associated bluebox costs and tonnes, including financial staff, GIS staff, Program coordinator; as well as a comprehensive database and corporate accounting systems (SAP). We know the numbers are accurate because the City of Ottawa was audited by Price Waterhouse Cooper on behalf of WDO and Stewardship Ontario. The auditors were impressed by level of effort and detail, with a few very minor adjustments being made.
18. Ottawa puts a great deal of time and effort into tracking its data. All tonnes collected and materials marketed are recorded in the *Solid Waste Database*. This includes all individual transactions, including: date & time, material type, gross/tare and net weights, truck number, hauler, etc.
19. These are verified against hard copies of weigh scale tickets; with GIS technicians and the program coordinator verifying the data for both collected tonnes and marketed materials. This information is also used to verify that invoices and marketed material revenues are correct.
20. City Treasurer signs off.
21. The City of Ottawa 2012 Datacall was audited by Price Waterhouse Cooper on behalf of WDO and Stewardship Ontario. The City hosted two auditors from Price Waterhouse Cooper over a one week period in December 2013. The auditors acknowledged that the City did a commendable job filling out an extremely complicated datacall which involved change of collection contractors, a change of services (bi-weekly collection of garbage and co-collection of recycling and organics) and a change of collection payment (from tonnes to stop based payments). Minor adjustments were made to the allocation IC&I stops which comprise 0.08% of material collected. The change in costs reported was 0.06%. Supporting documentation was found to be thorough.

## Efficiency, effectiveness and cost containment - Issue 1

22. In 2012, our BB program cost the City \$18,969,964 in gross costs. After revenue of \$7,949,331 our net cost for 2012 was \$11,020,633. Of that, we received only \$4,584,964 (41.6%) from the payout model. The remainder, \$6,435,669, was paid for by the rate payers (taxation) of the City of Ottawa.
23. In 2012, Ottawa operated our BB program as efficiently and effectively as we could. To the best of my knowledge, we did not spend any money unnecessarily.
24. It is important to municipalities to contain our BB costs. Municipal governments are very sensitive to issues of cost.
25. It is a common misperception that municipal government has the unfettered ability to raise property taxes. While technically correct it is a very simplistic view of the municipal tax and budgeting system.
26. In fact, municipal taxes are very inelastic and hard to increase. This is a result of several factors – the first of which is structural in nature – property taxes are based on the value of your home as a proxy for your ability to pay – every 4 years property owner receive a new assessed value for their property – which may have bearing a higher burden more taxes than before – layering on top of an assessment change an increase for service cost increases becomes a large political challenge.
27. The second structural issue is that for a large percentage of those who vote in a municipal election taxes are paid in two large installments which leads people to carefully scrutinize every increase as they don't want to pay any more than they absolutely have to – even those who pay taxes via their mortgage receive a tax statement for which comparisons are easily made.
28. Thirdly, unlike other taxes you have no way to reduce your tax burden other than finding a way to reduce the value of your property and since you can't reduce your tax burden you look to the what you are paying for to reduce that amount to the lowest possible. As a result you have always have a downward pressure on property taxes and you must always be able to demonstrate that you are as efficient as possible.
29. Ottawa is committed to continuously improving the efficiency and effectiveness of our waste management systems, including the BB program.
30. To implement this commitment, we have, for example.
  - a. Added more waste Inspection staff to oversee contractors and monitor residents
  - b. Implemented bi-weekly collection of garbage to increase capture more recyclable material

- c. Implemented co-collection of recycling and organic waste streams to improve efficiency, reduce number of vehicles on road
  - d. Added 3-7 materials as a marketable commodity that residence can include in their blue box
  - e. Continually looking for more end markets for residual products from the MRF
31. We have tried to take materials out of our BB program where appropriate to keep costs down. In 2004, mixed plastics, Styrofoam and film plastics were removed from our program. There was a public backlash, which increased the amount of residual in the blue box program. Pressure from plastics industry and public resulted in re-introduction of tubs and lids in 2005. We also re-instated mixed 3-7 plastics in 2011 because residual amounts were excessive.

### Best practices

32. As part of our commitment to efficiency and effectiveness, and to continuous improvement, our city works to operate at best practices whenever possible. This includes our BB program. Examples include:
- a. Competitively tendered contracts including Managed Competition
  - b. Undergoing Managing Ottawa's Waste master plan exercise
  - c. Bag limits in place
  - d. Trained staff
  - e. Provision of recycling containers
  - f. Bi-weekly garbage collection
  - g. Tagging of inappropriate set-outs
  - h. Communications
  - i. Waste set-out audits, characterization studies
33. What does Ottawa do to know what BB best practices are? Monitors them via WDO. Attend CIF workshops and training courses.
34. Do best practices change with time? Yes
35. Not all best practices reduce costs. Any best practice that involves a capital investment, or the provision of material to residents for free, increases cost. (e.g. provision of larger or different recycling containers, construction of new facilities). Best Practices that increase the number of staff or resources required may increase costs as well. (Increased supervision/enforcement, increased processing sorts at the MRF). Increased promotion is guaranteed to increase effective participation.

## Complying with the CCP

36. We work to operate, wherever possible, at best practices to minimize gross and net Blue Box program costs. Co-collection is expected to save \$10,000,000 per year (Green Bin Savings are included in this number).
37. We were always willing to try to show this to stewards. When we agreed in some years to take less than true 50%, we did so because historically municipal governments work in a collaborative manner.
38. We hoped that we shared similar goals with stewards to build a long term relationship, to divert BB from landfill, and getting to 50%. We wanted to earn their respect. We wanted to show that our costs were legitimate and that we weren't padding or offloading costs unfairly.
39. In hindsight, we entered into these discussions with what may have been rose coloured glasses. And we really wanted our BB programs to work as well as possible and to keep BB materials out of garbage.
40. We kept trying to earn the 50%, but it did not get better. There was always a new barrier. There is no longer a collaboration here; it is just about stewards offloading costs onto municipal taxpayers. It appears to us that they cloak that goal in two things. They talk about sustainability and being good stewards, and they talk about efficiency. They drag up issues about regional MRFs. But really they just don't want to pay 50%. It has finally become clear to us that the stewards don't wish to have a real partnership with us. They are doing everything they can so that we never get to 50%. Duped may be too strong a word, but behind all the talk about shared goals, the only real goal is to pay as little as possible.

## WDO / KPMG best practices score

41. In 2012, where was Ottawa in your band? Why? Last. We cannot reasonably take an inter-municipal approach due to our geography/area.
42. We do take our WDO BP score seriously and try to improve it. Examples include
  - a. --hired dedicated staff to oversee MRF processing contract
  - b. --begun a waste master plan for the City

## 50%

43. Ministers have many times restated stewards' obligation to pay half, i.e. an equal share, of municipal Blue Box "cost". The plain meaning of "cost" is the cost actually incurred by municipalities.
44. In 2007 and 2008, verified municipal costs fell squarely within the range of the so-called "best practices" estimates that resulted from the KPMG computer

model. This showed that municipal BB programs were operating efficiently. Since that time, municipal BB programs have become more efficient, not less, although commodity revenues dropped after the financial crisis.

45. Since 2008, the Minister's instructions have been that stewards pay too little, not too much, of Blue Box costs. His letter to WDO of October 16, 2008 sought recommendations on how to move from 50% towards 100% steward funding of Blue Box programs:

9. Stewardship fees:

*Current steward fees for certain Blue Box wastes may be too low to encourage either increased waste diversion or the use of materials in product manufacturing or packaging that can be easily recycled. Recommend how the steward fee structure can be revised ....*

10. EPR funding:

The BBPP does not reflect full Extended Producer Responsibility (EPR) funding since *the WDA requires Blue Box stewards to fund 50% of municipal program costs*, with municipalities funding the rest. Recommend how to move the BBPP towards full EPR funding. [emphasis added]

46. In its April 2009 report, *Blue Box Program Plan Review Report and Recommendations*, WDO recommended that the Blue Box program should transition to 100% steward funding within 5 years. This is one feature of Bill 91, now before the Ontario Legislature.
47. Ever since, Stewardship Ontario has refused to pay the 50% of our actual costs that the WDA already requires, at a significant cost to the public and the municipal taxpayers. My letter of April 28, 2009, addressed to the Chair of Waste Diversion Ontario, accurately sets out the issues.
48. SO wrote back on May 14, 2009, saying:

...Stewardship Ontario has been a strong supporter of continuous improvement through strong program management - which the Blue Box Program Plan and Cost Containment Plan were designed to support in two key ways: one, via the E&E/CIF, which helps finance technical innovations and structural changes within the system to improve performance, and two, via a "pay out" funding model that signals the kinds of behaviour that will send signals to incentivize continuous improvement by rewarding municipalities financially for implementing key management practices, and achieving superior performance....

Stewardship Ontario is seeking to restore the idea of rewarding performance, a concept which has received support from municipal staff during recent "best practice" workshops organized by Stewardship Ontario under the E&E Fund. *This approach would not impact the total amount that Stewards contribute to*



*the operation of Ontario's blue box system in any given year, merely how that funding is allocated among municipalities. [emphasis added]*

49. WDO wrote to me on June 8, 2009 saying:

“WDO has *not* adopted schemes that disallow *actual* municipal costs... The Act requires that payments to municipalities equal 50% of the total net costs but does not stipulate the method for distributing the funding. ...It is the distribution methodology... that is under discussion, *not the amount of funding to be distributed*... The WDO Board looks forward to the recommendation from MIPC on funding distribution methodology for 2010 that is consistent with the requirement in the Cost Containment Plan to fund best practices.”  
[emphasis added]

50. Municipalities want SO and WDO to honour these commitments. In some past years, we have compromised in the hope of building a working partnership with SO. Now that we have been forced into a confrontation, the Act should be followed.


## Conclusion

51. SO should pay a true 50% of municipal actual BB costs every year.

52. I understand that this affidavit is sworn evidence to be offered to a legal tribunal deciding a question of great public importance. I have done my best to make this evidence as accurate and as truthful as I can. I intend to be bound by it.



WITNESS




Sworn or Affirmed before me

*April 8*  
On March   , 2014

at the City of    *Ottawa*

in the Province of Ontario

A Commissioner, etc..



*Martin Dolan*  
LSuc# 50731M