

## WHAT'S NEW

### ISSUE 1 – January 2013

In an effort to keep the Labour Relations Community informed on an ongoing basis of happenings at the Labour Relations Board, the Board produces a monthly newsletter - "What's New." The following is Issue 1 for 2013.

#### NEWS AROUND THE BOARD

##### **New Board Staff!**

The Board is pleased to welcome two new staff members to our ranks.

Chandra Ritz has assumed the position of Correspondence Process Clerk. Her first day with the Board was November 20<sup>th</sup>, 2012. Her career has primarily been in banking where she has held a number of roles. She also has 4 years' experience as a conveyancing legal assistant at both a law firm and a real estate agency.

Don Watson, the Board's newest labour relations officer joined the Board on January 2, 2013. Don has a Masters' Degree in Public Administration and a BA (Honors) from Carleton University. He has over 15 years of directly related experience in human resource management and labour relations, and has worked in a variety of sectors including with the provincial government in B.C., the Alberta government, in health care and most recently in the post-secondary sector.

Please join us in welcoming Chandra and Don to the Board.

##### **New Board Members**

The Board is also looking forward to the appointment of a number of new Board members. The interview process is complete and the Board awaits word from Cabinet as to the names of those individuals selected to serve on the Board.

##### **Labour Code Review and Consultation**

The Government of Alberta has asked Mr. Andrew C.L. Sims, Q.C. to undertake a review and consultation process with respect to construction industry labour relations issues under the *Labour Relations Code*. The review builds upon earlier consultation with stakeholders, and is primarily focused on issues related to major construction projects, the certification process and bargaining unit configurations, and the construction registration system and how it co-exists with bargaining relationships outside of the registration system.

With the assistance of a multi-stakeholder panel, Mr. Sims will engage in consultation and dialogue with stakeholders, with a view to identifying workable options that may generate broad-based industry support.

## **Board Security**

Due to several recent incidents, the Board is currently taking various steps to ensure the safety of staff and others in the Edmonton and Calgary Board offices. A number of changes have currently been identified and approved by the Chair of the Board. These include changes to existing policy as well as physical changes to the Board offices. Some changes will be occurring immediately while others will be occurring as funding becomes available.

## **RECENT CASES**

**United Food and Commercial Workers Canada Union, Local No. 401, United Protection Services Inc. and United First Nation Alberta Corp. - Cite: [2012] Alta. L.R.B.R. 184**

Recently, the United Food and Commercial Workers Canada Union, Local No. 401 (the "Union") applied pursuant to section 46 of the *Code* for a declaration that United Protection Services Inc. ("UPS") is a successor employer to United First Nation Alberta Corp. ("UFNAC") and bound by the obligations of UFNAC pursuant to a Board certificate naming UFNAC and the Union.

In granting the Union's application, the Board found the requirements of a successorship - a sale, lease, transfer or other disposition of a business or part of a business so the control of that business passes to the purchaser – existed on the facts of the case. The termination by UPS of the contract between UPS and UFNAC amounted to a disposition in the successorship context. The termination of the contract forced UFNAC to not only relinquish the work but also its workforce. UPS reclaimed its ability to directly perform the work that had been contracted out using most if not all of UFNAC's workforce. There is no requirement for a formal or voluntary transaction. The Board further concluded the transfer involved UFNAC's business. The transfer of the key elements of the business – the work and the unique workforce – satisfied this element of the test. Finally, the transfer of these elements resulted in a change in control from UFNAC to UPS.

***Communications, Energy and Paperworkers Union, Local 707 v. Suncor Energy Inc.* 2012 ABCA 373**

Although strictly speaking not a labour board case, it may be of interest to many to note the Alberta Court of Appeal recently continued an injunction issued by the Court of Queen's Bench prohibiting Suncor Energy from implementing its random drug and alcohol testing policy at its Athabasca oil sands operation in Fort McMurray, Alberta. The injunctive relief will be in place until the release of an arbitration decision relating to a grievance filed by CEP Local 707 challenging the policy.