



The Advocates' Society La Société des plaideurs

August 2, 2022

VIA EMAIL: minister.mto@ontario.ca; CEO@metrolinx.com

The Honourable Caroline Mulroney, M.P.P.
Minister of Transportation
Ministry of Transportation
777 Bay Street, 5th floor
Toronto, Ontario
M7A 1Z8

Phil Verster
President & Chief Executive Officer
Metrolinx
97 Front Street West
Toronto, Ontario
M5J 1E6

Dear Minister, Mr. Verster:

RE: Impact of Ontario Line Construction on Access to Justice in Ontario

The Advocates' Society writes to express our concerns about the impact of construction of the planned new Osgoode Station on access to justice in Ontario.

Established in 1963, The Advocates' Society is a not-for-profit organization representing approximately 5,500 diverse advocates across the country, including approximately 4,500 in Ontario. As the leading national association of litigation counsel in Canada, The Advocates' Society and its members are dedicated to promoting a fair and accessible system of justice, excellence in advocacy, and a strong, independent, and courageous bar. A core part of our mission is to provide policymakers with the views of legal advocates on matters that affect access to justice and the administration of justice.

We understand that as part of the development of the Ontario Line, Metrolinx intends to build a new subway station (Osgoode Station) on the northeast corner of the intersection between Queen Street West and University Avenue. We further understand that this new Osgoode Station is to be located on the southwestern corner of the grounds of Osgoode Hall, and that the construction staging area for this work will run the length of the western side of Osgoode Hall. The final Environmental Impact Assessment Report for the Ontario Line Project indicates Osgoode Hall will be directly and adversely impacted by the project and adjacent construction staging area, including through reduced traffic lanes, noise, vibration, and dust. The Report indicates that construction on Osgoode Station is projected to start in Q4 2022 and extend for five years until Q4 2027. Based on current supply chain issues and the nature of such large-scale construction projects, we presume the estimate of five years to be the minimum period of disruption, which may well extend much longer.

As you know, Osgoode Hall houses the Court of Appeal for Ontario, the highest level of court in Ontario. The Court of Appeal for Ontario generally hears more than 1000 appeals per year in all areas of the law, including criminal law, family law, and civil law. The Divisional Court is also located in Osgoode Hall, and is the primary forum for judicial review of government action in Ontario and one of the busiest appellate courts in Canada. A Superior Court of Justice, one of the busiest trial courts in the world, is located immediately to the north of Osgoode Hall at 361 University Avenue. These Courts are key institutions



The Advocates' Society La Société des plaideurs

within Ontario's justice system and their proper functioning is essential to the timely and fair dispensation of justice to Ontarians.

The expansion of public transit is an important priority for residents of the City of Toronto and the Greater Toronto Area. The Advocates' Society expects that improved public transit in downtown Toronto, once completed, will allow users of our justice system, as well as concerned members of the public and media, to travel to the courthouses located along University Avenue and Queen Street West with greater ease, advancing access to justice.

The Advocates' Society understands that a number of groups are opposed to locating the new Osgoode Station on the grounds of Osgoode Hall because of its negative impact on the limited green space in the downtown core and the historic significance of this public space, among other reasons. We further understand that these groups have proposed alternate locations that they believe would address Metrolinx's goals without compromising these other public priorities. The Advocates' Society's expertise does not lie in these areas, but in the courtrooms. As representatives of the legal profession in Ontario, we will therefore limit our comments to the impact of the proposed project on the functioning of the courts and on access to justice.

The Advocates' Society calls upon all those involved in the planning and execution of the Ontario Line Project to ensure that the construction does not impede access to justice, and in particular, does not impair the proper functioning of the many courtrooms in use at Osgoode Hall and the nearby courthouse at 361 University Avenue. Excessive noise pollution, vibrations, and compromised air quality are not compatible with the solemnity necessary for the administration of justice. Over the past two years of the COVID-19 pandemic, the courts have been forced to adapt their practices to ensure public safety and continued access to justice. These adaptations included court hearings proceeding virtually via Zoom. The Court of Appeal for Ontario, the Divisional Court, and the Superior Court of Justice cannot again be limited to hearing appeals exclusively via Zoom because of external disruptions caused by the construction of the new Osgoode Station. It is important to ensure that the courtrooms and facilities at Osgoode Hall and 361 University Avenue are fully operational throughout the construction period.

The COVID-19 pandemic has already caused unprecedented delays and disruption to our justice system, requiring the courts and the profession to rapidly adapt their practices and be subjected to less than optimal conditions for the hearing of important legal matters. Ontarians should not have to endure additional and ongoing barriers to accessing our highest courts because of the choice of a public agency regarding the location of a new subway stop, with the contemplated duration of the ensuing construction project. These courts cannot be impeded from fulfilling their critical role in our democracy.

The Advocates' Society strongly urges Metrolinx and all those involved in the Ontario Line Project to take the steps necessary to allow the Court of Appeal for Ontario, the Divisional Court, and the Superior Court of Justice to continue to function uninterrupted despite the construction. These steps may include finding an alternate construction staging area, timing construction to be outside of the Courts' working hours, or



The Advocates' Society La Société des plaideurs

other steps. If mitigation measures are insufficient to ensure the uninterrupted functioning of the courts, the location of the Osgoode Station should be reconsidered and an alternative identified that will not impede access to justice and the proper functioning of the courts for such an extended period of time. The Advocates' Society would be pleased to work with Metrolinx, the Ministry, and other stakeholders to consider means of ensuring that the construction of Osgoode Station does not disrupt the operation of Ontario's court system or impede access to justice for Ontarians.

Yours sincerely,

Peter W. Kryworuk
President

CC: The Honourable George R. Strathy, Chief Justice of Ontario and President of the Court of Appeal for Ontario
The Honourable Geoffrey B. Morawetz, Chief Justice of the Ontario Superior Court of Justice
Vicki White, Chief Executive Officer, The Advocates' Society