

The Liversidge e-Letter

An Executive Briefing on Emerging Workplace Safety and Insurance Issues

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An Electronic Letter for the Clients of L.A. Liversidge, LL.B.

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The Mahoney Legacy: *Honesty; Commitment; Passion; Openness*

WSIB Chair decides not to seek another term Leaves WSIB with clear legacy of renewed openness

In a broadly distributed e-mail March 8, 2012, the **Honourable Steven W. Mahoney, P.C.**, Chair of the Workplace Safety & Insurance Board for the past six years, announced that he would not be seeking a further term:

I have informed the Minister of Labour and the Premier that I will not be seeking a further term. I wish to thank the Premier for the honour of serving the government as Board Chair during a very transformative period. I am very proud of our accomplishments over the past six years. It has been both a pleasure and a passion to lead the WSIB . . .

In this issue, I would like to offer what will be a too brief comment on the legacy of WSIB Chair Mahoney, as he completes what is clearly one of the toughest gigs in the Ontario public service – Chair of the Ontario WSIB.

As long-time readers of **The Liversidge e-Letter** are aware, since the 1st word that Steve Mahoney was being considered for WSIB Chair (see the April 28, 2006 issue of **The Liversidge e-Letter, Government Proposes New WSIB Chair**), I have offered a standing commentary on emerging workplace safety and insurance issues, many of which reflected directly on Steve Mahoney's stewardship of the Board. In that April, 2006 issue, I introduced readers to Steve Mahoney, although of course, he was already well known to most. He brought impressive credentials:

Mr. Mahoney has over 26 years of political experience in all three levels of government. He was first elected to public office in 1978 as a City Councillor in Mississauga and the region of Peel. He was elected to the Ontario Legislature in 1987 where he served as the Chief Liberal Whip. His provincial political career included a strong run for the Leadership of the Liberal Party of Ontario. He was elected an MP, and in April, 2003, Prime Minister Jean Chrétien appointed Mr. Mahoney as Secretary of State for selected Crown Corporations.

Six years ago I explained that Steve Mahoney was in actual fact simply *returning* to a different workers' compensation role:

While Mr. Mahoney has been removed from the provincial scene for several years (after serving as an MPP he was elected

federally as an MP), during the time he was involved in provincial politics, Mr. Mahoney was greatly committed to effective workers' compensation reform. In the early 1990s, as many readers will recall, the Ontario workers' compensation scheme was experiencing one of its most trying times. Far reaching reform was needed. As is his style, Steve Mahoney took the bull by the horns and delved into the controversial arena of workers' compensation reform with an open mind and firm principles.

Back to the Future study unveiled at L.A. Liversidge client meeting

I had the distinct honour of having Mr. Mahoney release the results of his own task force review of the Ontario workers' compensation system, entitled **Back to the Future**, at an L.A. Liversidge client meeting on April 21, 1994. In the April 22, 1994 issue of **The Liversidge FaxLine** (the predecessor publication to **The Liversidge e-Letter**), I reported Mr. Mahoney's overarching sentiments expressed at that meeting: "*Justice Meredith was right when he said that the purpose of workers' compensation was so that "injured workers and their dependents could receive the benefits of speedy justice, humanely administered". Justice Meredith's principles were appropriate then and are even more relevant now*".

Seventeen years ago, reporting on another LAL client meeting attended by Steve Mahoney in which he faced tough questions about his **Back to the Future** report, in the January 25, 1995 issue of **The Liversidge FaxLine**, I noted that Steve "*didn't hedge or evade the issues. You know where he stands*". And, that short phrase captures the Mahoney character – *you know where he stands*.

Many years later, but now six years ago, shortly after he had assumed the reins of the WSIB Chair, Steve attended another LAL Town Hall meeting (see the November 15, 2006 issue of **The Liversidge e-Letter, Mahoney Hits a Home Run!**). He again faced some tough questions, one of which focused on his thoughts on how he wanted people to see the "**Mahoney Era**".

The question: Several WSIB (and WCB) Chairs have presided over what can be described as distinct and definable eras. For example, Robert Elgie transformed the Board in the mid-1980s to one that heightened worker equity and oversaw dramatic structural changes to workers' compensation administration. Glen Wright re-aligned the purposes of the

Board to include a high priority to worker safety, especially young worker safety, while streamlining internal administration and reducing premium rates and the unfunded liability. I asked: ***What do you want to be the Mahoney legacy?***

The answer: Mr. Mahoney expressed his real passion for the organization (the WSIB). He expressed that he had always thought of himself as an “incrementalist” (in other words, pragmatically assessing issues and solutions one step at a time). Now, he views things in a far more visionary way. He wants the Board to be a fiscally responsible organization while at the same time, he wants to oversee a stark and dramatic drop in the number of on-the-job injuries and deaths. Zero is the goal.

I made these final comments at the time:

Every incoming Chair to the WSIB comes in with a sincere and strong desire to improve the system – to have things better upon leaving that they were upon arriving. Since the mid-1980s, the WSIB Chair position has dramatically changed - it is more urgent - and there is more to do. The WSIB of 2006 bears only a passing resemblance to the Board of 1976. The job is bigger. The problems are bigger. And, people’s expectations are bigger. The WSIB and its stakeholders are more sophisticated. And, there is less time to fix or change anything.

Over the last thirty (30) years, I have seen the Board operate under the stewardship of more than six (6) Chairs (permanent) appointed by five (5) distinct governments. Without question, *every* Chair was determined to improve the system for the benefit of all Ontarians, regardless of personal background or political affiliation. And, every Chair was successful in one way or another.

However, only a few were able to reform the way things were done. From my perspective, the difference wasn’t administrative or managerial competency, or technical proficiency in the finer details. ***The difference was vision.***

So, now six years later, and near the end of the Mahoney term, how did he do? A quote often attributed to British Prime Minister Macmillan, in response to a journalist’s question as to what is most likely to blow governments off course, the response allegedly was, “*Events, dear boy, events*”. This pretty much sums up many of the stresses that faced the Mahoney era. Goodness knows there was no shortage of prevailing winds to knock about the WSIB over the past six years. Some of these were, in my considered view, of the Board’s own making, such as the experience rating controversy profiled in a six part series of **The Liversidge e-Letter** in April/May, 2008, and some weren’t, such as the controversial **Budget Reforms** of 2007 which added about a billion \$ to the unfunded liability [“UFL”] (see the March 26, 2007 issue of **The Liversidge e-Letter**). Others still were a bit of both, such as the over-arching funding pressures facing the Board for many years. Readers will recall that the Board was singing a “*don’t worry, be happy*” tune right up until the 2008 market melt-down, even though indicators of an inevitable funding crisis were apparent much earlier. In the **June 18, 2007** issue of **The Liversidge e-Letter**, in response to the Board’s “zero increase” for 2008 premiums, I opined that things were not at all rosy, and in fact, suggested that significant premium

hikes were likely in the cards, noting “*it is not only employer premiums that are at risk – future worker benefits may be placed at risk as well*”, foretelling the almost identical sentiments of the **Auditor General** 2 ½ years later.

So, as we are on the eve of the release of the **Funding Review**, and as the Board is about to enter a new, certainly bold, and likely controversial reform period just at the closure of the Mahoney term, ***how exactly is the Mahoney legacy to be measured?*** The following answer to this question, asked far too early, is gleaned from my association with Steve Mahoney on the workers’ compensation file spanning a now 20 year period. And, my observations are exactly as they were 20 years ago, and as they were summed up in the headline of this issue: ***honesty, commitment, passion, openness.*** The full descriptive list of course is much longer than this, and includes loyalty, integrity and many other attributes, but it is those four words that best capture the essence of the Mahoney era.

While innumerable events, circumstances, situations and the inevitable trials and tribulations contribute to great legacies, I will focus on just a few.

The first is not specific at all, but speaks to overall ***character of leadership***, and that is in Steve’s approach to disagreement. Goodness knows, if one sought a job where everyone agreed, the Chair of the WSIB would be the last place to go. And, readers of **The Liversidge e-Letter** are well aware that in these pages and elsewhere I have expressed significant disagreement with many of the Board’s approaches, and have had many face-to-face discussions with Steve on a host of issues where we simply could not come to terms. While I know our thoughts converge and intersect on *all* of the big picture elements, there have been many a subject for which the gap has been wide. The Board’s approach during the ER controversy is one example. There are a few more but the details are not important. **What is important is this – whenever he disagreed he did so with thoughtfulness and respect, after a full airing and consideration of well put views, and always with grace and style.** He expected and expects the same. He practiced disagreement as an art form, not that he sought discord – just the opposite – he was always cultivating agreement, but he respected disagreement, so long as it was responsibly advanced, thorough and intellectually honest, and designed to advance the interests of the WSI system. Whining was not tolerated nor was the “apple polisher”. (These laudatory comments are only permissible with his leaving, by both of our standards.) Being able to say “no” in a way that was a relationship builder was a personal attribute. And, just as he respected those who properly and respectfully disagreed with him or his Board, he was always quick to be the first in line to challenge, never shying from controversy for the sake of a counterfeit peace.

More significantly though, while impressed with his innate talent to reverently disagree, ***his talent to agree is inspiring.*** I have long been staggered by what I have

described as the WSIB “*culture of no*” – in other words – the knee jerk tendency of many Board officials to reject new ideas or criticism of flawed new WSIB initiatives. There is such benign comfort in the *status quo* that a form of institutional blindness whisks a dark fog over some elements of the Board’s business. While this was not always the case (the Glen Wright period was a refreshing departure), this is the “state of nature” at other than the most senior levels of the Board. Steve strove to change this and made progress.

Steve Mahoney responded to good, new ideas instinctively and immediately. And, he championed their acceptance and implementation. I have a such a long list of examples that I could not possibly canvass here, but I will focus on one of the best examples. On February 27, 2007 I appeared as an independent presenter before the **Standing Committee on Government Agencies**, which was examining the WSIB. I presented what then were several long-standing policy proposals (the details are not important to the point) I had been advancing to the Board for several years – all of them rejected time and time again (see the February 28, 2007 issue of **The Liversidge e-Letter, WSIB Under Review**). Yet, these remained important, and in my view, solid, good ideas for system improvement. As I made my presentation, Steve Mahoney was in the gallery, listening. *Carefully. As soon as I finished, his response was immediate: On issue 1: Agree – we will implement (they did). On issue 2: I agree, and we will look into it (they did and it was implemented). On issue 3: I understand the idea, but I don’t think we can do it (they didn’t). The bottom line was clear though – ideas which had been rejected by senior officials were seen afresh by Steve Mahoney, on their merit alone, championed and implemented. Good ideas mattered throughout his tenure.*

The return to the publication of **WSIB Quarterly Financial Statements**, is another example of Steve taking the bull by the horns, and setting things right. In the February 27, 2009 issue of **The Liversidge e-Letter, “The benefit of quarterly financial statements,”** I repeated my argument (advanced for several years) for more open disclosure of WSIB finances and called for the immediate release of quarterly financial statements, a practice put in place by WCB Chair Di Santo in 1991 and long since abandoned. To his credit, on May 2, 2009 Steve repeated his commitment to “*open and regular communications*” and confirmed the WSIB would again release quarterly financial statements on an ongoing basis, a practice which continues. *Openness.* A hallmark element of the Mahoney Legacy.

But, perhaps the most important and long-lasting elements of the Mahoney Legacy, flowed from his courageous **Chair’s Consultation** launched February, 2009 (see the February 2, 2009 issue of **The Liversidge e-Letter, “WSIB Chair Mahoney to personally lead wide-ranging consultation”**). This was a bold move that easily could have backfired. Remember, this predated by over nine months the later release of the Ontario Auditor General’s 2009 report,

which has proved ever so influential. By early 2009 the Board was under stress, but lacked a clear vision as to how to respond. The problems facing the Board had not been plainly identified and solutions were far from being considered. Yet, he waded into this potential swamp of controversy with eyes and ears open. In his introductory letter, he said this:

I believe, as a major player in the province’s economic health, *the WSIB must begin to immediately assess its programs and services through a new economic lens.* The goal of this evaluation will be to continue building a foundation for a sustainable workplace health and safety insurance system for Ontario; to ensure a WSIB that will serve generations to come as we move forward along the Road to Zero.

To this end, *I am personally undertaking a wide-ranging consultation process on all significant changes to WSIB’s programs and services.* I am committed to achieving a broad consensus among stakeholders on how best to deliver a sustainable future for Ontario’s WSIB. This process will include open and frank communications with all participants about the financial and legislative framework within which the WSIB operates.

He threw the gauntlet down, setting out his expectation of the Board’s stakeholders for “*constructive input and recommendations.*” A year later, his report was released, and aptly summarized in the headline of the February 24, 2010 issue of **The Liversidge e-Letter, “The Mahoney Report: The Primary Recommendation: A never-ending conversation”**. I repeat what I said the year before this in the March 10, 2009 issue of **The Liversidge e-Letter:**

An enduring reform process is needed

The best result of this newest dialogue will be this – *a never-ending conversation.* Some may say we are already there – that endless complaints, grievances, gripes and grumbles, is the one certain and resilient legacy of the modern Ontario WSIB. But, actually what I am seeking is an end to this constant moaning from all quarters. I have long argued that the best way to bring the antagonist in from the cold is for the Board to take the lead and “partner up” with all stakeholders. Welcome all sorts of complaints and protests, by all means, so long as the price of admission includes some thoughtful and viable solutions. *I see the Mahoney Consultation as starting that very process.*

And, start it, it did. One of the key decisions was the establishment of **Advisory Groups**, which started up June, 2010, and continue to this day. While these are still a work in progress and likely always will be, they are a remarkable step to continue the openness to which WSIB Chair Steve Mahoney is so strongly committed, and remain the perfect metaphor for his term as WSIB Chair. The **Advisory Group** process, while not yet ideal, I truly hope will be the lasting mark of his legacy, placing a durable imprint on future Board protocols.

As we await release of the **Funding Review Report**, the need for much improved stakeholder relations by the Board will be ever clear. I predict that while the Mahoney Legacy of committed openness will be a lasting one, his passion and natural ability to build bridges, especially between labour and management, will be missed. Steve Mahoney as Chair of the Ontario WSIB is a class act and will be a hard one to follow. The **Mahoney Legacy** will be strong and enduring.