



BC COUNCIL OF  
ADMINISTRATIVE  
TRIBUNALS

Board of Directors  
2010-2011

**President**

Simmi K. Sandhu  
*Property Assessment  
Appeal Board*

**Vice—President**

Helen del Val  
*Health Professions Review  
Board*

**Secretary**

Tonie Beharrell  
*BC Human Rights  
Tribunal*

**Treasurer**

Steve Guthrie  
*Property Assessment  
Appeal Board*

**Directors**

Debbie Cameron  
*Labour Relations Board*

Nora Jackson  
*Worker's Compensation Ap-  
peal Tribunal*

Jim Collins  
*Farm Industry Review Board*

Arlene Doll  
*Mental Health Review Board*

Kurt Neuenfeldt  
*BC Human Rights  
Tribunal*

Sarah McEwen  
*Employment & Assistance  
Appeal Tribunal*

Jeremy Sibley  
*Employment & Assistance  
Appeal Tribunal*

Sandi Ulmi  
*Farm Industry Review Board*

Lisa Wong  
*Mental Health Review Board*

Iain Macdonald (Immediate  
Past President)  
*BC Government & Service  
Employees Union*

# BCCAT News

VOLUME 1, ISSUE 2

MAY 31, 2011

## A Message from the President

### President's Message 2011

Since its inception in 1996, BCCAT has served the public interest by contributing to the development and improvement of the administrative justice system in B.C. Our new Board of Directors and executive will continue to ensure that BCCAT meets our objectives in an ever changing and challenging environment. The main projects we are working on include:

### Website/Database Changes:

The Board is working on updating our website to make it more contemporary, interactive, and user friendly. In addition, a new database is being developed which will allow BCCAT to better communicate with our members and tribunals. A consultant has been retained for this. If anyone has specific expertise in these areas and is interested in assisting the subcommittees for either of these projects, please contact

BCCT via e-mail at [registrar@bccat.net](mailto:registrar@bccat.net)  
**Education:**

The education committee chair, Heather MacNaughton, and the various course coordinators continue to deliver quality programs and training in administrative justice that are second to none. The committee is currently involved in updating our courses, such as "Administrative Justice for Decision-Makers", "Decision-writing", and "Administrative Justice for Decision-Makers in Post Secondary Institutions". In addition, upon request, we tailor courses for specific organizations, as we have done for the Benchers of the Law Society of B.C., U.B.C., and organizations in the N.W.T. and Alberta. For more information on BCCAT's courses, go to <http://www.bccat.net/Courses/Schedule.asp>.

In addition, the education committee is continuing BCCAT's collaboration with the Justice Education Society in providing education and information on administrative justice to British Columbians.

### Annual Conference:

Our Conference Committee is working hard on putting on

another quality educational conference, called "Administrative Justice: From Film to Reality". It will be held **October 3, 2011 at the River Rock Conference Centre, Richmond, B.C.** Mark your calendars now for another excellent event with a faculty of experienced and knowledgeable presenters and speakers.

### Conclusion:

BCCAT would not be able to operate without the volunteers who generously give of their time to serve on the BCCAT Board and the various committees. If you are interested in serving, we would love to have you on board. Please contact me through [registrar@bccat.net](mailto:registrar@bccat.net).

We thank everyone who work with and support us in our efforts to improve and enhance our administrative justice system. To this end, the Board of Directors looks forward to another great year,

Simmi K. Sandhu, President

British Columbia Council of  
Administrative Tribunals

# Does That Cloud Have a Silver Lining?

By Steve Guthrie  
*Registrar, Property Assessment Appeal Board*

A tribunal chair is in strategic retreat. The facilitator asks participants to brainstorm potential new approaches. The chair treats this brainstorming very seriously, transforming her mind to an imaginary monastery up high in British Columbia's mountains:

The chair is sitting along side her Guru at the mountain top gazing at the horizon. The setting has an eerie similarity to the 1970s and her Guru looks awfully like a Shaolin monk.

Chair: "I am developing a strategic plan and I'm worried. Is that dark cloud on our horizon signaling troubled times?"  
Guru: "Fear not my little grasshopper. Yes, it is a cloud, but this Cloud is not an ominous sign of bad things to come. This Cloud has a silver lining. Let me explain....."

In our introduction, the guru is fictitious, but the Chair is certainly not. In fact, it is not one Chair, but a Small Circle of Chairs that is examining:

- What future tribunals will look like;
- How tribunals can secure technology to support transformation, especially as costs rise and budgets tighten.

The "Cloud" is also not an illusion, but is one possible cost-effective technology solution. Before we look at solutions, let's examine what this Small Circle of Chairs has been up to.

In September 2010, Allan Seckel, then Deputy Minister to the Premier, introduced a new government initiative called Transformation & Technology (T&T). The motivation for T&T was to deal with the new reality facing the public service. A number of trends are pressuring us to change:

- Demographics (such as a baby boomer retirements and labour shortages);
  - Development of new technologies;
  - Changes in citizen's expectations; Fiscal pressures.
- The core message is: to respond we must do much more than "tinkering around the edges". The key underpinning is to "transform" the way government does business (rather than just invest in technology to make current processes more efficient).

Last fall, Ministries were invited to prepare initial submissions for T&T funding over the next three fiscal years. A group of tribunal chairs and representatives from the Ministry of Attorney

General prepared a proposal from BC's \$75 million administrative justice sector, which is represented by 26 tribunals. This group included Len Kelsey, Chair, BC Utilities Commission; Brent Mullin, Chair, Labour Relations Board and Chair, Employment Standards Tribunal; Keith Saddlemeyer, Chair, Safety Standards Appeal Board; Cheryl Vickers, Chair, Property Assessment Appeal Board and Chair, Surface Rights Board; and David Merner, Executive Director, Dispute Resolution Office, Ministry of Attorney General.

The group of chairs (called the "Small Circle of Chairs") believe that the tribunal sector could build a strong business case for funding. Tribunals are already the leading edge for change in how justice is delivered to the public. Many tribunals have embraced technology and integrated new ways of doing business. Some have been resolving disputes for over 10 years through alternative dispute resolution (ADR), avoiding lengthy and costly traditional hearings. The Small Circle of Chairs believes there is still much room to transform the way tribunals serve their clients.

Continued on Page 3

"On-line self-service tools can assist clients in evaluating the likely outcomes and whether or not to file a case or dispute."

## Does That Cloud Have a Silver Lining? - Cont'd

The group conducted a survey of all 26 tribunal chairs. Focus group sessions were held with interested chairs on case management and on e-resolution strategies. In addition, workshops were held with six chairs to explore opportunities for transforming how they resolve disputes and desirable technology to support the strategic changes.

Following the workshops, the project team developed a detailed assessment report. The Report found that there were significant opportunities for transformation:

### **Cooperate & share on technology and infrastructure investments:**

In the past tribunals have independently developed their own applications such as Oracle-based Case Management Systems. A cooperative approach can avoid duplication of investments and deliver technology to those that, on their own, could not afford it.

### **Web-based self help tools.**

On-line self-service tools can assist clients in evaluating the likely outcomes and whether or not to file a case or dispute (case reduction). Early resolution guides could reduce the number of hearings. On-line Dispute Resolution tools have been developed by industry to resolve disputes online, from home, avoiding paper and in-person hearings.

### **e-resolution and e-hearing technologies:**

Document-based technologies could allow for the elec-

tronic distribution, display and review of submissions during a hearing (less paper and quicker hearings). Electronic meeting / video conferencing technologies for dispute resolution meetings and hearings would increase access and vastly reduce travel costs for clients and tribunals.

### **Electronic document management and virtual offices.**

Why not extend the paperless strategy to all documents and correspondence, allowing tribunals to operate without paper files? Can we eliminate or reduce the size of physical offices by combining electronic case management systems with collaborative online tools for staff?

### **Prevention: address the source of conflict:**

Is the source of conflict government policy or common faults in administrative decision making that affects the public? Chairs usually consider policy making outside their role, but can bring unique perspectives to the policy table that could assist in resolving the base source of conflict.

### **Central themes for change:**

Resolution efforts should begin much sooner than when a case is filed with the tribunal. Often tribunal adjudicators are faced with cases that have little to no chance of success. Proceeding with these cases is not only a waste of resources but is usually very frustrating to clients, who must ask, after losing their

case: "why did I bother ....this was a complete waste of time and money". Transformation of the administrative justice sector must address these issues.

### **What are the technology priorities?**

Based on the workshops, web-based self help tools appear to have the most immediate and wide-spread benefit. Remote meeting technologies, especially with good coverage in BC communities, are also in high demand.

Case Management Systems would be of significant benefit, but only if a core system could be developed and maintained for multi tribunals.

### **Will Government be receptive?**

Allan Seckel, former Deputy Minister to the Premier Campbell was a key supporter of the Transformation and Technology initiative. With his departure from Government, a new Premier and the potential budget cuts, there are a number of uncertain clouds on the horizon. The pressures and demographics that created the need to change, however, still exist. It is encouraging, that John Dyble, the new Deputy Minister to the Premier in his initial address to the public service, said he was "really enthusiastic" about and saw "huge opportunities in" the Deputies Committee on Technology and Transformation.

Continued on Page 4

*"Cloud computing may be the only cost-effective way for many tribunals to access to and complex applications"*

*“Cloud computing provides internet access to computer resources, offered like a utility on a pay-per-use basis.”*

*“Research has begun to verify that the cortex can trigger the ANS kicking it into action before the executive brain has time to fully register what is happening.”*

## Does That Cloud Have a Silver Lining? - Cont'd

The Chairs believe there is still a strong business case for funding transformation, even if the T&T initiative is no longer the vehicle.

### **What about this “Cloud”?**

The Cloud computing concept is gaining popularity and could open technology doors that have been, to date, firmly closed to BC tribunals.

Cloud computing provides internet access to computer resources, offered like a utility, on a pay-per-use basis. Rather than buying and

building your own systems, you share computer infrastructure such as storage, memory and applications software.

High profile examples are Google Docs and Flickr. Cloud computing may be the only cost-effective way for many tribunals to access expensive and complex applications such as Case Management Systems.

Industry users are now establishing “private” or “hybrid” clouds that fit specialized needs of small groups of organizations. Given the commonality between tribunals, the Small Group of

Chairs believes a BC Tribunal technology Cloud looks very promising indeed.

This brings us back to the beginning in our imaginary monastery up high in British Columbia’s mountains. While Chairs might object to being called “little grasshopper”, the advice of the Guru regarding the Cloud with a silver lining is bang on.

**Note to Readers: Learn more about technology and tribunal transformation at BCCAT’s Annual Conference on October 3, 2011.**

## Connecting Neuroscience to Conflict Management

**By Trevor Sones  
Labour Relations  
Board**

Thanks to significant advances in medical technology, machines like the functional magnetic resonance imager (fMRI) are expanding the field of neuroscience at a rapid rate. There are literally thousands of new studies conducted each year and it may be that some of these studies provide useful insights for conflict resolution professionals by increasing our knowledge of how the brain evaluates information and makes decisions. Various studies in neuro-

science look at how our brains and bodies function in ways that may impact how we perceive and/or think about things in a given situation. Not everyone may conclusively agree on how this new science is fully applied, none-the-less, the discoveries raise some interesting questions worthy of contemplation. Let’s take for example the age old fight or flight response. This mechanism, which has been argued to have assisted in our survival, is controlled by what is often referred to as the autonomic nervous system (ANS). Science is dis-

covering that the ANS defence mechanism is largely controlled by the cortex which is the second level of a three part hierarchy that constitutes brain functioning in our bodies. The third part in our brain hierarchy is called the neo-cortex and is associated with performing complex thought. The neo-cortex is commonly referred to as our “executive brain”. Research has begun to verify that the cortex can trigger the ANS kicking it into action before the

Continued on Page 5

## Connecting Neuroscience to Conflict Management - Cont'd

executive brain has time to fully register what is happening. Research on brain function is also demonstrating that in many ways these defence signals sent out from the cortex can act like a ringing alarm beacon with the potential to distract and thus impact the way the executive brain thinks or functions. It might be like trying to think clearly when car alarm is going off in the parking lot. For example, think of a time that someone has jumped out at you from nowhere! Instantly, before you have a chance to process what is happening, your instinctual brain functions will have already kicked into action. Your heart will be pumping, there will be adrenaline in your bloodstream and before your executive brain has time to process what is happening, your body has already

sent blood to the muscles in your legs (you're ready to run if you need to). It's only after a few seconds that our executive brain is able to fully process what is happening. We realize it is a friend who jumped out at us, there is no real threat to our safety and our heart rate may slow down. However, we may remain slightly agitated for some time afterwards. The field of neuroscience is looking more closely at this post shock state of agitation, frustration, tension, (however you may describe it). Neuroscience research suggests that although the initial spike may be over, the defence mechanism of the ANS may remain active for some time and thus can be interpreted by the executive brain as a continued state of threat.

The potential implications suggest an increased likelihood that we will negatively evaluate the comments, information or actions of the person who initiated the response whether they intended to solicit that response or not. As a conflict resolution professional, it may be note worthy that a heightened conscious awareness of when this ANS defence system is engaged could allow us to more accurately and effectively enhance our analysis of conflict scenarios. Thus, when someone triggers this system, it may be worthwhile to wait for it to fully turn off before making any substantial evaluations.

***“Your heart will be pumping, there will be adrenaline in your bloodstream and before your executive brain has time to process what is happening, your body has already sent blood to your muscles in your legs”***



**BC Council of Administrative  
Tribunals**

PO Box 97196  
Richmond Main Post Office  
Richmond, BC V6X 8H3  
Email: [registrar@bccat.net](mailto:registrar@bccat.net)

**Volunteers needed!!  
BCCAT Executive and  
Committees. We have many positions  
available – let us know your time  
availability and we will find a spot for  
you. Contact  
[registrar@bccat.net](mailto:registrar@bccat.net)**

## Course Schedule 2011

Course Name	Dates	Venue
Practice & Procedure for Decision Makers	April 13 & 14, 2011	Vancouver
	November 2 & 3, 2011	
Practice & Procedure for Staff Members and Auxiliares	TBA	Vancouver Community College
Decision-Writing Workshop	June 23 & 24, 2011	Vancouver
	November 17 & 18, 2011	
Hearing Skills Workshop	TBA	Vancouver

For more information, visit our website: [www.bccat.net](http://www.bccat.net)