



Labour BOARD

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Halifax, Nova Scotia
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novascotia.ca/lae/labourboard

File No. LB-2183

May 8, 2023

Via Email

NS Provincial Housing Agency
c/o Andrew Taillon, Department of Justice
1690 Hollis Street
Halifax, NS B3J 2L6

Via Email

CUPE, Local 4840
c/o Nan McFadgen, CUPE NS President
500 George Street, Ste. 110
Sydney, NS B1P 1K6

Via Email

USW, Local 3172-09-01
c/o Marty Warren, National Director
234 Eglinton Avenue East, 8th Floor
Toronto, ON M4P 1K7

Via Email

NSGEU, Locals 23, 25, 26, 47, 103
c/o David Roberts, Pink Larkin
1463 South Park Street, Suite 201
Halifax, NS B3J 3S9

Via Email

IUOE, Local 721B
c/o Jillian Houlihan, Pink Larkin
1463 South Park Street, Suite 201
Halifax, NS B3J 3S9

Via Email

UFCW, Local 864
c/o Shauna Doyle, Local President
6300 Lady Hammond Road, Ste. 600
Halifax, NS B3K 2R6

Dear Parties:

Re: In a matter under the *Trade Union Act*, involving:

Nova Scotia Provincial Housing Agency ("NSPHA")	- Applicant
-and-	
Nova Scotia Government and General Employees Union ("NSGEU") Locals 23, 25, 26, 47, 103	-1 st Respondent
-and-	
Canadian Union of Public Employees ("CUPE") Local 4840	-2 nd Respondent
-and-	
International Union of Operating Engineers ("IUOE") Local 721B	3 rd Respondent
-and-	
United Steelworkers ("USW") Local 3172-09-01	-4 th Respondent
-and-	
United Food and Commercial Workers ("UFCW") Local 864	-5 th Respondent

This correspondence concerns an **Application For Successor Rights** filed with the Board on **May 5, 2023**, pursuant to **Section 31** of the *Trade Union Act*, in connection with the above noted parties.

The Respondents - if you wish to contest the Application For Successor Rights, you shall file with the Board a reply, no later than **ten (10) business days** following receipt of this letter. Any reply filed must contain a concise statement of material facts upon which you intend to rely, indicating whether or not you request a hearing and specifically admit, deny or explain each of the statements made in the Application For Successor Rights.

The **Nova Scotia Provincial Housing Agency** is required to **immediately** post the enclosed Notice to Employees (Form 12A) in conspicuous places on its premises where they will most likely come to the attention of the employees affected for a period of ten (10) business days. Please note that OIC # 2020-353 dated December 23, 2020, amended the [regulations governing trade union procedure, N.S. Reg. 101/1972](#), to provide for the posting of notices and documents by electronic or other means. The person who posts the Notice(s) must immediately complete and return the enclosed copy of the Return of Posting (Form 4) to this office to confirm that the Notice has been posted.

The Labour Board draws the attention of the parties to the [Procedural Statement on Case Management Conferences](#). It is important for you or your legal counsel to be familiar with the Statement's contents as your early participation in the processing of this application will be valuable to the final disposition of this matter. In an effort to move this case forward, the Board will schedule a Case Management Conference (CMC) with the parties involved. The purpose of the CMC is to bring the parties together with either the Chair or a Vice-Chair of the Board and identify any issues relative to this matter and to determine how the matter will proceed. CMCs are typically held via teleconference and are normally for up to 30 minutes but can be longer in duration. Please let us know of your availability on the following dates:

- **May 25, 2023, between the hours of 12:00 and 2:00**
- **May 26, 2023, between the hours of 10:00 and 1:00**
- **June 1, 2023, between the hours of 2:30 and 4:00**
- **June 2, 2023, between the hours of 9:00 and 3:30**

The Board would appreciate having this information from both parties on or before **May 12, 2023**. **If you do not respond by this date, the Board may set a date for the CMC without your input.**

Please note the officer assigned to this file is **Bradley Au, Senior Labour Board Officer**. All future communication and/or correspondence can be directed to the Officer's attention at labourboard@novascotia.ca.

Sincerely,



Diana Hartley
Chief Administrator
/li

Encls: Copy of Application, Form 12A, Form 4

Andrew D. Taillon
Managing Lawyer/Solicitor

File No.:

May 5, 2023

Via Email: Diana.Hartley@novascotia.ca

Diana Hartley
Nova Scotia Labour Board
Summit Place, 3rd Floor
1601 Lower Water Street, Suite 304
Halifax, Nova Scotia

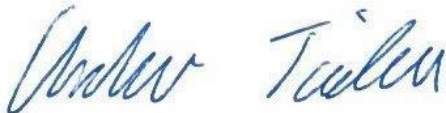
Dear Diana Hartley:

**Re: The Nova Scotia Provincial Housing Agency and NSGEU Locals 23, 25,26,
47, 103, et al.**

Please see enclosed an Application Under Section 31, as well as the Form 12 for filing in the above noted matter. I would ask that you please forward an acknowledged copy of the documents to my attention once they have been filed.

Thank you for your assistance in this matter.

Yours very truly,



Andrew D. Taillon

ADT/kc

cc: Client

FORM 12
The Trade Union Act

**APPLICATION UNDER SECTION 31 OF THE ACT (SUCCESSOR RIGHTS)
BEFORE THE LABOUR BOARD**

Between:

The Nova Scotia Provincial Housing Agency (The "NSPHA")

Applicant

- and -

The Nova Scotia Government and General Employees Union ("NSGEU") Locals 23,
25,26, 47, 103 Canadian Union of Public Employees ("CUPE") local 4840, The
International Union of Operating Engineers ("IUOE") local 721B, The United Steel
Workers ("USW") local 3172-09-01, and The United Food and Commercial Workers
("USCW") local 864

Respondents

The Applicant applies to the Labour Board under Section 31 of the *Act* with respect to
the bargaining rights of

Each of those in respect of NSGEU Local 23,25,26,47,103 CUPE Local 4840 IUOE
Local 721B USW Local 3172-09-01 and USCW Local 864

as a result of an alleged

(a) ~~sale of a business by~~

~~(predecessor employer)~~

~~to~~

~~alleged to have taken place on or about the _____ day of~~
~~_____, 20~~

OR

(b) ~~amalgamation of one or more municipalities into another municipality or an
amalgamation, union or other joining of two or more municipalities
involving~~

(successor municipality)
~~alleged to have taken place on or about the _____ day of _____, 20~~

~~OR~~

~~(c) contracting out of work regularly done by employees of
to (predecessor employer)~~

~~alleged to have taken place on or about the _____ day of _____, 20
allegedly to avoid obligations under the *Trade Union Act*.~~

OR

(d) Statutory Amalgamation having taken place on December 1, 2022

The applicant states:

1. (a) Name of applicant: The Nova Scotia Provincial Housing Agency
(b) Address: c/o Andrew Taillon Nova Scotia Department of Justice,
1690 Hollis Street, 8th Floor, PO Box 7 STN Central, Halifax, NS
B3J 2L6

2. ☐ (check box if trade union is applicant)

- (a) Name of trade union claiming bargaining rights:
(b) Address of trade union claiming bargaining rights:

3. ☐ (check box if successor employer is applicant)

- (a) Full name of successor employer:
(b) Address of successor employer:

4. ☒ (check box if predecessor employer is applicant)

- ~~OR~~

9. An intermingling of employees of one business with employees of another business represented by a trade union has taken place.
10. The applicant makes the following request for relief. That the Board order:
 1. That each of the certifications of the predecessor employers be revoked.
 2. That all former Employees of the five predecessor Employers form one bargaining unit, consisting of all employees of the NSPHA.
 3. That a new bargaining agent be certified for the bargaining unit, to be determined via vote or other means.
 4. That the new bargaining agent engage in bargaining with the representatives of the NSPHA.
11. The applicant submits with this application the following documents:
 1. Statement of Events; and
12. Other relevant statements, including a statement of events which led to this application (attach additional pages if necessary):

See Attached

I, Josh Ewener, Director of Labour Relations for the Province of Nova Scotia, declare that the statements made and information given herein are true in substance and in fact and I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and made by virtue of the Canada Evidence Act.

Declared by the said:



before me at Halifax in the County of Halifax this 4th day of

May, 2023



Andrew Taillon

A Commissioner of the Supreme
Court of Nova Scotia

**APPLICATION UNDER SECTION 31 OF THE ACT (SUCCESSOR RIGHTS)
BEFORE THE LABOUR BOARD**

Between:

The Nova Scotia Provincial Housing Agency

Applicant

- and -

The Nova Scotia Government and General Employees Union ("NSGEU") Locals 23, 25, 26, 47, 103 Canadian Union of Public Employees ("CUPE") local 4840, The International Union of Operating Engineers ("IUOE") local 721B, The United Steel Workers ("USW") local 3172-09-01, and The United Food and Commercial Workers ("UFCW") local 864.

Respondent

STATEMENT OF EVENTS

1. During the fall 2022 sitting, the Nova Scotia Government passed Bill 222, *The Housing Supply and Services Act* ("the Act"). The Act repealed *The Housing Act* and *The Housing Nova Scotia Act* and among other things had the following effects:
 - The five existing regional housing authorities ("the five former agencies") were amalgamated into a new crown corporation called the Nova Scotia Provincial Housing Agency ("the Agency");
 - The five regional housing authorities were dissolved;
 - The public functions of those five regional housing authorities were transferred to the Nova Scotia Provincial Housing Agency;
2. The creation of the Agency was the result of a recommendation by the Nova Scotia Affordable Housing Commission.
3. A June 2022 report of the Auditor General also raised issues that are to be addressed in part by the formation of the Agency.
4. The time of the passing of the Act there were approximately 11,200 public housing units in Nova Scotia and approximately 6,600 applicants which included approximately another 2,400 families on the waitlist for such housing.
5. The number of families on that waitlist has increased significantly (almost 10%) since January of 2022.

6. The function of the former housing Authorities, which has been transferred to the Agency, is to provide housing for Nova Scotians with low incomes. The houses are provided primarily to families and senior citizens. The Agency's primary function is the administration and upkeep of those houses.
7. The five former agencies had a convoluted labour relations structure. Employees of the five agencies were represented via nine different bargaining units (and five different unions) each with their own collective agreement. This structure was needlessly complex and often led to inefficiencies. For example:
 - Although each of the former authorities had similar employees doing similar work, each of the different authorities often had different job titles for these employees which then resulted in uneven pay scales where some employees were being under- or overcompensated in comparison to employees in other regions.
 - In the aftermath of Hurricane Fiona, the authorities were unable to deploy workers from lightly affected regions to more heavily affected regions because the employees were tied to their respective employer authorities.
8. Overall, the breakdown of the predecessor agencies was as follows (all numbers approximate):
 - The Western Regional Housing Authority employed approximately 62 employees of which 48 were NSGEU bargaining unit members. They oversaw 417 buildings and 2162 units;
 - The Cobequid Housing Authority employed approximately 41 employees of which 31 were NSGEU bargaining unit members. They oversaw 173 buildings and 1042 units;
 - The Cape Breton Island Housing Authority employed approximately 167 individuals of which 12 were supervisors represented by the NSGEU, 20 were maintenance, grounds, and janitorial employees represented by the UFCW and 128 were maintenance, grounds, and janitorial employees represented by CUPE. They oversaw 950 buildings and 3211 units;
 - The Eastern Mainland Housing Authority employed approximately 60 individuals of which 19 were supervisors represented by the NSGEU and 31 were maintenance, grounds, and janitorial workers represented by the United Steel Workers. They oversaw 182 buildings and 1061 units;
 - The Metro Regional Housing Authority employed approximately 148 employees of which the NSGEU represented 45 employees in clerical and technical capacities and the IUOE represented approximately 61 employees

in maintenance, grounds, and janitorial roles. They oversaw 452 buildings and 3939 units;

Overall, the NSGEU represents 175 employees, CUPE represents 128, the IUOE represents 61, USW represents 31, and the UFCW represents 20.

9. In addition to the employees above, 12 employees were transferred to the Agency from the Provincial Civil Service, where they were represented by the NSGEU (Locals 6 and 8) and were covered by the Civil Service Collective Agreement. They maintain those representation rights under the *Act* and are not the subject of this application.
10. Any employees noted above who were not represented by one of the above noted unions were non-union or excluded employees of one of those former authorities.
11. With the passing of the *Act* the five former authorities were dissolved and each of their employees became employees of the Agency.
12. The *Act* functioned to maintain the continuation of the terms and conditions of employment of each of the employees.
13. Also pursuant to the *Act*, the Agency was named as the successor to the five former agencies under *The Trade Union Act*. Section 50(3) of the *Act* states as follows:

The creation of the Agency is a transfer of business and the Agency is a transferee for the purpose of s.31 of *The Trade Union Act*.

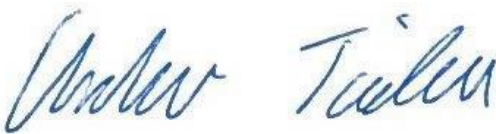
This provision gives the Labour Board authority to grant the relief sought in the application form. That relief is stated here again for convenience:

The applicant makes the following request for relief. That the Board order:

1. That each of the certifications of the predecessor employers be revoked.
2. That all former Employees of the five predecessor Employers form one bargaining unit, consisting of all employees of the NSPHA.
3. That a new bargaining agent be certified for the bargaining unit, to be determined via vote or other means.

4. That the new bargaining agent engage in bargaining with the representatives of the NSPHA.
14. The goal of the Agency in bringing this application is to make sure that all employees retain their right to collective representation and bargaining, while at the same time making sure that the organization of the Agency operates as efficiently as possible to deliver and maintain housing to low-income Nova Scotians. In the Employer's submission, this means making sure that all employees engaging in the same or similar work are in the same bargaining unit.
15. The employer submits that the best means of doing so would be to combine all the employees into one unit and then supervise a representation vote to determine which union the employees wish to have represent them.
16. In respect of individuals who were employed in a supervisory capacity, some were represented by bargaining agents, while others fell under the exclusion in s 2(2) of the Act. The Agency submits that all supervisors should fall under that exclusion. In the Alternative, such supervisors should form a separate bargaining unit. Particularly in respect of NSGEU local 23, which is a "supervisory" unit, the Employer submits that the work done by those employees is more akin to a "lead hand" and was performed by non-supervisors in the other former authorities, and therefore those employees should also be included in the new, single bargaining unit.
17. Finally, the Agency is prepared to make detailed submissions in support of the above at the direction or invitation of the board.

ALL OF WHICH IS RESPECTFULLY SUBMITTED,



Andrew D. Taillon
Nova Scotia Department of Justice
1690 Hollis Street, 8th Floor
PO Box 7, STN Central
Halifax, NS B3J 2L6

FORM 4

The Trade Union Act

**RETURN OF POSTING
BEFORE THE LABOUR BOARD**

BETWEEN

Nova Scotia Provincial Housing Agency	- Applicant
-and-	
NSGEU Locals 23, 25, 26, 47, 103	-1 st Respondent
-and-	
CUPE Local 4840	-2 nd Respondent
-and-	
IUOE Local 721B	3 rd Respondent
-and-	
USW Local 3172-09-01	-4 th Respondent
-and-	
UFCW Local 864	-5 th Respondent

I,, hereby declare that:
(name)

(1) I am the of the Employer.
(office or position)

(2) I did, on theday of, 2023, post upon the premises of the Employer, copies of **Form 12A** in this matter, in conspicuous places where they are most likely to come to the attention of all employees who may be affected by the Application.

DATED this day of, 2023.

.....
Signature

FORM 12A
The Trade Union Act

NOTICE TO EMPLOYEES OF APPLICATION FOR SUCCESSOR RIGHTS
PURSUANT TO SECTION 31 OF THE *TRADE UNION ACT*
BEFORE THE LABOUR BOARD

Between:	Nova Scotia Provincial Housing Agency (“NSPHA”)	- Applicant
	-and-	
	Nova Scotia Government and General Employees Union (“NSGEU”) Locals 23, 25, 26, 47, 103	-1 st Respondent
	-and-	
	Canadian Union of Public Employees (“CUPE”) Local 4840	-2 nd Respondent
	-and-	
	International Union of Operating Engineers (“IUOE”) Local 721B	3 rd Respondent
	-and-	
	United Steelworkers (“USW”) Local 3172-09-01	-4 th Respondent
	-and-	
	United Food and Commercial Workers (“UFCW”) Local 864	-5 th Respondent

TO THE EMPLOYEES OF: NOVA SCOTIA PROVINCIAL HOUSING AUTHORITY

1. TAKE NOTICE that the Applicant on **May 5, 2023**, made an application to the Labour Board pursuant to Section **31** of the *Trade Union Act* requesting that the Board declare:

a) That each of the certifications of the predecessor employers be revoked.
b) That all former Employees of the five predecessor Employers form one bargaining unit, consisting of all employees of the NSPHA.
c) That a new bargaining agent be certified for the bargaining unit, to be determined via vote or other means.
d) That the new bargaining agent engage in bargaining with the representatives of the NSPHA.
2. Any employee or group of employees affected by this application and desiring to make representations to the Board in opposition to this application must send to the Board a Notice of Intervention in the following form, signed by each individual intervener or member of the group:

NOTICE OF INTERVENTION

To the Labour Board, P.O. Box 202, B3J 2M4, Halifax, N.S.

IN THE MATTER OF THE APPLICATION FOR SUCCESSOR RIGHTS PURSUANT TO SECTION 31 OF THE TRADE UNION ACT OF (Name of Applicant) _____

Involving employees of (name of employer) _____

The undersigned is interested in this application for the following reasons: (State nature of interest)

And desires to oppose the application upon the following grounds:

Signature(s) _____

Name(s) _____
(Please print)

Mailing Address(es) _____

Telephone Number _____ Email _____

(Note: Signatures and contact information must be included for each person whose intervention is filed)

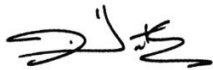
3. The Notice of Intervention must be,

FORM 12A
The Trade Union Act

- (a) received by the Board not later than 10 days after the posting of this notice; or
 - (b) if it is mailed by registered mail addressed to the Labour Board, P.O. Box 202, Halifax, Nova Scotia, B3J 2M4, mailed not later than 10 days after the posting of this notice.
4. Any employee, or group of employees, who has filed a Notice of Intervention in accordance with paragraphs 2 and 3 may attend and be heard at the hearing in person or by a representative. Any employee or representative who appears at the hearing will be required to testify, or produce a witness or witnesses who will be able to testify from his or their personal knowledge and observation, as to (a) the circumstances concerning the origination of the material filed, and (b) the manner in which each of the signatures was obtained.

THE BOARD MAY DISPOSE OF THE APPLICATION WITHOUT FURTHER NOTICE AND WITHOUT CONSIDERING THE INTERVENTION OF ANY PERSON WHO FAILS TO ATTEND.

DATED this 8th day of May, 2023



Diana Hartley
Chief Administrator
Labour Board