



Report to the Minister of Justice and Solicitor General Public Fatality Inquiry

Fatality Inquiries Act

WHEREAS a Public Inquiry was held at the _____ Court House

in the _____ Town _____ of _____ Bonnyville _____, in the Province of Alberta,
(City, Town or Village) (Name of City, Town, Village)

on the _____ 30th _____ day of _____ April _____, _____ 2014 _____, (and by adjournment
year

on the _____ day of _____, _____),
year

before _____ Kathleen D. Williams _____, a Provincial Court Judge,

into the death of _____ Raymond Joseph Belanger _____ 67 _____
(Name in Full) (Age)

of _____ Bonnyville, Alberta _____ and the following findings were made:
(Residence)

Date and Time of Death: _____ Between December 17 and 18, 2010 _____

Place: _____ Bonnyville Hotel, 5002 – 50 Avenue, Bonnyville, AB _____

Medical Cause of Death:

("cause of death" means the medical cause of death according to the International Statistical Classification of Diseases, Injuries and Causes of Death as last revised by the International Conference assembled for that purpose and published by the World Health Organization – *The Fatality Inquiries Act*, Section 1(d)).

Inhalation of toxic products of combustion (i.e.: smoke inhalation)

Manner of Death:

("manner of death" means the mode or method of death whether natural, homicidal, suicidal, accidental, unclassifiable or undeterminable – *The Fatality Inquiries Act*, Section 1(h)).

Accidental

Circumstances under which Death occurred:

FACTS

In December, 2010, the Bonnyville Hotel in Bonnyville, Alberta was a three storey building comprised of a restaurant, bar, hair salon and office on the main floor and rooms for short term and long term rent on the second and third floors. The furnace and boiler were in the basement.

On December 16, 2010 ten rooms in the hotel were occupied by 12 tenants located on both the second and third floors. The room in the northwest corner of the third floor (Room #55) was rented and occupied by the deceased, Raymond Joseph Belanger. The room directly to the east of Mr. Belanger's room (Room #54) was occupied by Todd Melhus.

At approximately 7:30 p.m. on December 16, 2010, Mr. Melhus returned from work and had dinner with Mr. Belanger in Mr. Belanger's room. Mr. Melhus was not drinking alcohol; nor did he see Mr. Belanger consume same. At approximately 8:00 p.m. Mr. Melhus returned to his room and went to bed.

At approximately 9:30 p.m., the tenant from Room #3 on the second floor, Debra Haydock, dropped off her cat with Mr. Belanger to care for overnight. Ms. Haydock recalled no issues or difficulties with Mr. Belanger at that time, but confirmed he was elderly and had some mobility issues and difficulty walking as a result of an issue with his hip.

At approximately 2:00 a.m. on December 17, 2010, Mr. Melhus was asleep when he awoke to see a fire on the floor of his room in the location of a space heater. In an attempt to extinguish the fire, Mr. Melhus threw his bedding and mattress on the flames. He also retrieved a fire extinguisher from the second floor but could not extinguish the fire. He then exited his room and pushed open the door to Mr. Belanger's room. Mr. Belanger was sitting on the edge of his bed. Mr. Melhus exited Room #55 with Mr. Belanger and witnessed Mr. Belanger reach the west emergency fire escape exit. Mr. Belanger was concerned about leaving the cat behind but Mr. Melhus told him not to worry about the cat and to leave the building. Mr. Melhus then turned and exited through the stairwell on the east side of the building. Mr. Melhus did not see Mr. Belanger again.

At approximately 2:00 a.m., the hotel owner, Mohammed Hussain, and his son, Ali Hussain, were in the hotel and had just finished work. Mohammed Hussain was in the bar on the main floor drinking coffee while his son was in his room. On hearing the fire alarm, Mohammed Hussain and his son ran up to the second floor via the stairwell next to the hair salon on the northeast side of the building. They continued up to the third floor and opened the stairwell door to see smoke and flames in the hallway. Mr. Melhus passed them on the stairwell and advised the fire was in his room and that Mr. Belanger was right behind him. Mohammed Hussain did not see Mr. Belanger.

Both Mohammed Hussain and Todd Melhus attempted to put out the fire with portable fire extinguishers from both the second and third floors. Ali Hussain called 911. Mohammed Hussain tried but was unable to reach Mr. Melhus' room due to the flames and thick smoke escaping from it. He then tried to access the third floor northwest corner via the stairwell on the exterior of the building, but was unsuccessful. Once he realized he could not extinguish the fire, Mohammed Hussain went room to room advising people to evacuate the building. Mohammed Hussain was able to access all rental rooms except the rooms in the northwest corner of the third floor; those belonging to Mr. Belanger and Mr. Melhus.

Upon arrival of the fire department, Mohammed Hussain confirmed all tenants had evacuated the building except Mr. Belanger and advised of the location of Mr. Belanger's room.

FIRE RESPONSE

The first 911 call was received by the local volunteer fire station in Bonnyville at 2:22 a.m. on December 17, 2010. A series of calls came into the 911 dispatcher over the next ten minutes. The first fire response vehicle was on scene approximately eight minutes after receipt of the first 911 call. A pumper unit arrived approximately two minutes later. Within the first 10 – 12 minutes, fire personnel on scene were advised that all occupants of the hotel had been evacuated except Mr. Belanger from the third floor. Within 20 minutes, a third fire response vehicle was on scene. In total, nine firefighting apparatus were utilized together with 45 firefighting personnel. RCMP, EMS and Fire all were in attendance.

At 3:23 a.m., firefighters changed from an offensive attack to extinguish the fire, to a defensive one. At that point, firefighters entered the third floor on the northeast corner stairwell and began spraying water into the hallway. They were able to enter and search the room in the very northeast corner of the third floor and the room to its immediate west. As they advanced westward down the hallway, the water streams used to fight the fire disturbed the ceiling tiles in the hallway. As the fire was burning heavily in the roof structure above, once the ceiling tiles were disturbed, the fire dropped down onto the firefighters, preventing them from advancing any further into the hallway. This was considered to be a very dangerous situation for fire personnel and made their progress westward down the hall towards Mr. Belanger's room, untenable. As the fire and smoke were so thick their visibility was limited to only a few feet, they were forced to evacuate the building.

A second team with a larger 65 ml. water hose then attempted to enter the third floor to continue fighting the fire, but was also forced out by the heat and the size of the fire. As a result, firefighters were not able to access or search either Mr. Belanger's room or Mr. Melhus' room in the northwest corner of the third floor. There is no evidence that anyone other than Mr. Melhus saw Mr. Belanger in the hallway or heard him crying out.

Additional fire apparatus from the neighbouring communities of Ardmore and Cold Lake attended and assisted in battling the fire in a defensive mode until approximately 4:00 p.m. on December 17th. At that point, the fire was considered under control and the additional fire equipment was released. It took until approximately 4:00 p.m. on December 18th before Fire Command was able to declare a complete extinguishment of the fire.

On December 18th, Mr. Belanger's body was located in the third floor hallway, half way between the exit on the northwest corner and the exit sign and alarm bell.

INVESTIGATION

The subsequent investigation determined the point of origin of the fire was in Mr. Melhus' room (Room #54) in the northwest corner of the third floor. There, the remains of a space heater covered with fabric and debris were located; as well as the remnants of a fire extinguisher. This was determined to be consistent with Mr. Melhus' explanation of how the fire occurred in his room from fabric igniting from the space heater and his attempt to extinguish same using bedding and a portable fire extinguisher. It was determined that the fire started with the space heater and travelled up the south wall of the room into the concealed spaces in the suspended ceiling, thereby gaining access to the roof structure. The fire then travelled throughout the roof of the building.

Bonnyville Regional Fire Chief, Brian McEvoy, considered the actions taken and the time frame of same to be a very good response to this fire. Specifically, it was Chief McEvoy's opinion that the

911 system operated as it should, notifying the first responding station within one minute of the initial 911 call and thereafter ensuring fire fighters, police and ambulance resources were dispatched promptly to the scene. The investigation confirmed the fire alarm system was working and active in the building, all exits were accessible from within the building, and everyone was able to exit the building. It was Chief McEvoy's opinion that there was nothing that could have been done differently that would have impacted Mr. Belanger's chances of survival. Nor was there anything uncovered in the fire or discovered during the investigation that raised concerns with the fire safety of the hotel or other possible causes of the fire, other than the space heater in Mr. Melhus' room.

Frank Harris, a Fire Safety Officer with the Alberta Fire Commissioner's Office, also attended and investigated the fire. The role of that office is to provide advice, inspectional assistance and investigational assistance to the municipalities that are accredited with providing direct fire services, such as the Bonnyville Regional Fire Authority. Mr. Harris' mandate was to determine the cause, the origin and the circumstances of the fire based upon a gathering of all information obtained from fire services, police and witnesses, as well as upon a physical examination of the building. The information provided to Mr. Harris on arrival at the scene was that prior to the fire, there were no fire safety or fire equipment deficiencies in the hotel known to municipal fire services. There was no information about any fire or safety related issue that may have either contributed to the cause of the fire or to the ability of people to exit the building. Nor was there any information to suggest that the emergency fire escape exit in the northwest corner of the third floor, where Mr. Belanger was last seen, was in anything but good working order. There was no record of any prior fires or prior inspections of the hotel noted in the records of the Fire Commissioner's Office.

As a result of his investigation, Mr. Harris concluded that the Bonnyville Hotel fire was caused by the use of a portable space heater and ordinary combustibles (.i.e.: clothing, bedding, furniture) being placed in close proximity to the heater. There is no evidence as to whether the heater malfunctioned, just that the fire was caused by combustibles being placed too close to it and igniting.

Mohammed Hussain confirmed he was aware that some of his tenants used portable space heaters and in fact, he provided same to some tenants. Ms. Haydock confirmed Mr. Hussain provided her with a space heater but that there were not enough heaters for all the tenants, so she purchased her own and returned the heater to Mr. Hussain so he could redistribute it to another tenant.

FIRE INSPECTIONS

Fire inspections in Alberta are conducted under two pieces of companion legislation: the Alberta Building Code 2006 (8th ed.) and the Alberta Fire Code 2006 (3rd ed.). The Building Code sets out the requirements for safety systems a building must contain such as fire exits, fire extinguishers, etc.. The Fire Code operates to ensure those systems are maintained. Responsibility for ensuring compliance is delegated to the municipalities.

The Municipal District of Bonnyville Bylaw No. 1522 as well a parallel bylaw from the Town of Bonnyville (Bylaw No. 1355-10), jointly form the authority for fire service for the Bonnyville area. In 1999, the Joint Quality Management Plan for fire in this area was revised to state that compliance monitoring inspections will be conducted by the authority responsible only on complaint, request, in an emergency, or at the discretion of the Safety Codes Officer. There is no system of scheduled fire inspection of hotels.

The Bonnyville Regional Fire Authority maintains records for a period of seven years. A review of

those records determined there were no inspections, interventions, complaints, emergency issues or other concerns relating to the Bonnyville Hotel during the seven years prior to the fire. It was Chief McEvoy's recollection that the only issues the Bonnyville Regional Fire Authority has had with the hotel were approximately 12 – 14 years earlier, under a previous owner. While he could recall no details of those concerns, Chief McEvoy did recall the issues had been sufficiently addressed.

A document confirming an inspection by the hotel's insurer, CBL Oxford Insurance, in 2004 under a previous owner was provided in the Inquiry. That inspection uncovered a number of deficiencies with respect to fire safety and equipment. Also provided was a follow-up report which confirmed all deficiencies had been corrected by December 10, 2004.

This Inquiry was not provided with evidence as to any form of inspection of the building for fire or safety codes compliance upon Mr. Hussain assuming ownership and operation of the hotel in 2006. Specifically, there was no evidence of any inspection required, completed or complied with on the application or transfer of the business licence or insurance; although it was confirmed that Mr. Hussain did have valid insurance on the building at the time of the fire.

A copy of a Building Permit issued May 3, 2007 was provided. That Building Permit authorized renovation work for the inside of the hotel and identified eight items relating to fire equipment and safety that were listed as either "unclear" or "compliance was required" as part of the final inspection for the project. No copy of a final inspection or proof of completion or compliance was provided in the Inquiry.

Recommendations for the prevention of similar deaths:

Section 53(1) of the *Fatality Inquiries Act*, RSA 2000, c. F-9 directs a written report be provided to the Minister at the conclusion of the Inquiry. Section 53(3) directs that the report shall not contain any findings of legal responsibility or any conclusions of law. However, section 53(2) provides authority for the report to include recommendations as to the prevention of similar deaths in the future.

As such, the following is recommended:

1. *No portable space heaters should be permitted for use in hotels or motels in Alberta.*

The evidence in this Inquiry is clear that the use of a space heater was the cause of the Bonnyville Hotel fire, and therein, the cause of Mr. Belanger's death. What is unclear is whether or not the heater malfunctioned or simply that ordinary combustibles (i.e.: clothing, furniture, bedding) were placed too close to the heater and ignited.

What is also clear is that portable space heaters were being used as a form of supplemental heating by more than one tenant, in more than one room, in the Bonnyville Hotel in 2010. Some of those heaters were provided to the tenants by the owner of the hotel. Others were purchased by the tenants themselves.

The Bonnyville Hotel fire is now the second hotel fire caused by a space heater in which a life was lost. Part of the evidence in this Inquiry was a copy of a 2007 Fatality Inquiry Report authored by Alberta Provincial Court Judge P. Barley. That inquiry dealt with the deaths of two people in a fire in the Oyen Hotel in 2005.

In both the Oyen and Bonnyville fires, the lives of members of the public were put at risk and ultimately lost as a direct result of the use of space heaters. In both Inquiries it was unclear whether or not the heaters malfunctioned or if the fires were caused simply as a result of combustible items being placed too close to the heaters and igniting.

In the Oyen Hotel Inquiry, Judge Barley declined to recommend a restriction on the use of portable space heaters on the basis that their use is a matter of personal choice and comfort. I disagree. With a second fire and a further loss of life, I am of the view this is not simply a matter of personal choice or comfort. It is a matter of public safety and that safety must take precedence when lives are being lost. The continued use of portable heaters in hotel or motel rooms, as a form of supplemental heating, even on a temporary basis, has put the public at risk. Not only for those whose lives were tragically lost, but also for those tenants, patrons and employees who had to escape the fire as well as those fire, police and ambulance personnel who attended the scene to combat the fire and provide emergency services.

Hotels and motels are in the business of providing accommodations for rent. The public entrusts their safety to the owner/operators of hotels and motels who have an obligation to provide rooms that are habitable. Habitable accommodations must include sufficient heating to provide structurally sound, safe comfort even during the winter months in Alberta. To permit the use of portable heaters enables the owners/operators of such premises, particularly older premises such as the Bonnyville Hotel, to neglect their duty to provide sufficient heating.

Either way, their continued use should not be permitted to put the public's safety at risk and it is my recommendation that the use of the portable space heaters in hotels or motels in Alberta be prohibited.

2. Annual fire inspections for hotels and motels in Alberta.

The Oyen Inquiry involved evidence of fire and safety inspections and deficiencies, issues with the sharing of such information, as well as other concerns that are not issues in the within Inquiry. The evidence in the within Inquiry is that there continues to be no system of scheduled fire or safety inspections for hotels or motels in Alberta; nor have any of the recommendations made by Judge Barley in 2007 been implemented.

In 2007, His Honour Judge Barley made the following recommendations that I consider relevant to the within matter:

[46] Inspections will be conducted yearly, of all hotels and motels for the purpose of ensuring safety from fire and compliance with the *Safety Codes Act*.

[47] Hotels and motels that have been so inspected shall display prominently in their lobby, a certificate that such an inspection was conducted on a particular date.

[48] A report of the results of an inspection conducted on behalf of an accredited entity shall be filed with the Fire Commissioner's Office.

[49] The Fire Commissioner's Office shall have the same right to issue reports or orders in accredited municipalities and accredited regional service commissions as it does in non-accredited municipalities and regions.

In the within Inquiry, it was confirmed that no system of scheduled inspection of hotels or motels in Alberta existed at the time of the Oyen Hotel fire in 2005, the related inquiry in 2007, the Bonnyville Hotel fire in 2010 or as of the date of the within Inquiry in 2014. Inspections remain

delegated to the municipalities on a reactive basis only; on complaint, request or emergency or at the direction of the Safety Codes Officer and are not otherwise mandated, despite Judge Barley's recommendations. I have been provided with no clear explanation as to why those recommendations have not been adopted, although it was speculated to be as a result of a lack of resources and personnel. It was the personal opinion of the Fire Safety Officer for the Alberta Fire Commissioner's Office, as stated in this Inquiry, that annual inspections and the filing of same with the provincial office would be helpful in maintaining public safety.

The clear lack of active supervision of hotels and motels is a concern. These are businesses, the sole purpose of which is to house members of the public for financial gain. Hotels and motels are generally occupied on a temporary basis and as such, those occupants may be less likely to be concerned about the safety of the premises as a whole. While the safety of those members of the public who utilize such facilities falls first to the business owner; this is not just a business owner's responsibility. It is also the responsibility of the town or municipality who authorizes such business licenses, the insurer who accepts payment to insure those premises in matters of fire and safety, and the Province of Alberta which is ultimately responsible for the safety of services offered throughout Alberta.

Although there is no evidence in the within Inquiry that an annual or regularly scheduled fire safety inspection would have identified a concern with the safety of portable space heaters, it may have. At the very least, their use would have been considered in the context of fire safety.

As such, I recommend that annual fire and safety inspections be conducted for all hotels and motels in Alberta.

DATED September 12, 2014,

at Bonnyville, Alberta.

"K.D. Williams"

A Judge of the Provincial Court of Alberta