



July 9, 2003

Mr. Paul B. Pudge  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street  
26th floor  
Toronto, ON M4P 1E4

Dear Mr. Pudge:

Re: RP-2002-0146 Consumer Security Deposit Issues

BOMA Toronto appreciates the opportunity to provide our submission as part of the OEB's written hearings into this matter.

By way of background, the Building Owners and Managers Association is an International organization of 18,000 commercial real estate professionals. It is recognized as the leading industry voice for property owners and managers in North America. BOMA Toronto, with a network of over 650 members, represents the association in the Greater Toronto Area. Our members primarily represent large offices, retail and institutional space, and generally have facilities located throughout the province.

This matter is of significant concern to our members. We are generally pleased with the progress of the working group, as we believe it is leading towards more consistent application of security deposit policies based on sound business practices. Our position remains that large consumers who pose no threat of non-payment should not be subject to varying and indiscriminate security deposit policies that can have a material impact of many hundreds of thousands of dollars.

Our main concern relates to having a distinction made between 'consumer' and 'account'. Generally, commercial property owners have a portfolio of buildings. Each of these buildings may be set up under a 'titleholder' company, owned wholly by another company – the beneficial owner. And, in many instances, Property Management companies are contracted to manage all aspects of building management on behalf of the owner. This includes responsibility for payment of utilities and other expenses. Our concern is that LDC's will not recognize the common ownership and/or management of buildings, and instead treat buildings as individual 'consumers', each subject to a security deposit.

If the Owner or Property Manager can confirm responsibility for utility bill payment for any individual account, then the good payment history and/or credit worthiness ascribed to that Owner/Property Manager should be considered in application of any security deposit policy.

In Section 2.4.11. ,we are concerned about the lack of definition regarding what constitutes 'a satisfactory credit check'. Given the LDC's lack of experience in credit review this could lead to inconsistent or undefined requirements. We believe some definition could be established here by referring to standard ratings from established credit rating firms such as Dunn and Bradstreet or Equifax.

In Section 2.4.10, we suggest that the one requirement for good payment history of "no cheque given to the distributor by the consumer has been returned for insufficient funds..." be changed to "no more than one cheque....". This is simply meant to provide some latitude in the event of administrative error on the part of the consumer.

In Section 2.4.25, we suggest that some time period, eg. 60 days, be specified for the return of security deposit upon closure of the consumer's account.

In Section 2.4.21 and Section 2.4.23, we suggest that the LDC's be required to provide some minimum level of detail regarding the interest payment and annual review. E.g. form of deposit, amount of deposit and number of years held, interest calculations. It has generally been our experience that LDC's tend to omit basic information that would allow for review and confirmation.

In Section 2.4.9, for non-residential consumers we believe the time requirements for establishing good payment history are excessive and suggest instead 3 and 5 years ( for less than 50kw and greater than 50kW respectively.)

Thank you for the opportunity to provide comments to this hearing. BOMA would be pleased to elaborate further on these views and to participate in any further working group efforts related to this matter.

Yours truly,

A handwritten signature in black ink, appearing to read 'C.S. Stradling', written in a cursive style.

C.S. (Chuck) Stradling  
Executive Vice President  
BOMA Toronto