

# FREEDOM FLYER

THE OFFICIAL NEWSLETTER OF THE FREEDOM PARTY OF ONTARIO

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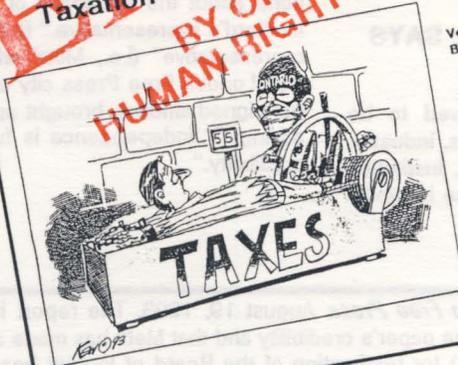
## FREEDOM FLYER

THE OFFICIAL NEWSLETTER OF THE FREEDOM PARTY OF ONTARIO  
JUNE 1993 - Vol. 4 No. 5

Still More Taxes?!?!?

**NO FAIR!**

The Myth of 'Fair Taxation' pg. 2



Inside:

Judge criticizes alternate parties for action against Elections Commission pg. 3

F.P. leader charges abuse of Human Rights Commission by lobbyists pg. 4

Voters oust NDP in Don Mills Byelection pg. 8

Alternate parties protest Bill C-114 pg. 9

Education Delegation awards failing grades to Education Minister pg. 10

.... and more!

**HRC BOARD OF INQUIRY  
PLACES  
PUBLICATION BAN  
ON  
FREEDOM FLYER!**

## Human Rights Commission...

## LONDON FREE PRESS CREDIBILITY CHALLENGED BY BOARD OF INQUIRY

## HEARING

## Free Press criticized for stand on notes

The newspaper had been asked to turn over information in the Elijah Elieff case.

AUG 19 1993

The London Free Press

The refusal of The London Free Press to supply a reporter's notes for the Ontario Human Rights Commission investigation of alleged racism by a London landlord, raises questions about the credibility of the newspaper, says the landlord's representative.

"If anything, the whole credibility of the situation depends on the appearance (of those notes)," Rob Metz said in an interview Wednesday.

This week, Free Press lawyer Renato Gasparotto filed a motion to quash a summons requesting the paper to supply reporter Greg Van Moorsel's notes to the board of inquiry investigating alleged racist comments made by Elijah Elieff, who owns apartments on Cheyenne Avenue.

The board is investigating a complaint made to the Ontario Human Rights Commission that Elieff discriminated against Asians at the apartment buildings in northeast London.

Gasparotto said submitting the notes would hinder the ability of the press to do its job. "If a reporter's forced to take sides, then his neutral position is violated."

He also said the notes cannot be made an exhibit at the hearing because they are only hearsay. Van Moorsel testified before the board last November.

"They can only be used for Van Moorsel to refresh his memory. The evidence is his testimony, not the notes."

But Metz said since Elieff denies making the comments and Van Moorsel is the only witness who has testified he made them, the notes are necessary to add credence to Van Moorsel's statements.

Metz said the motion will be argued Aug. 26, before the board of inquiry resumes the hearing Aug. 31.

LONDON (August 26, 1993) - Board of Inquiry Chairperson Ajit John denied a motion to quash summonses requesting London Free Press city editor Mary Nesbitt and reporter Greg Van Moorsel to appear before the Board on Monday August 30/93.

The subpoenas were initiated by Ontario Human Rights Commission counsel Geraldine Sanson. The board was investigating alleged racist comments made by Cheyenne Ave apartment landlord Elijah Elieff that were published in the *London Free Press* on November 8, 1989, and which became the focal point of the complaint filed against him.

The subpoenas required Nesbitt to produce Van Moorsel's notes relating to Elieff's alleged comments. They were issued at the insistence of Commission counsel after a previous summons (issued by Elieff's agent FP leader Robert Metz) requesting an alleged tape recording containing the alleged comments resulted in an admission by Free Press counsel that "Nesbitt does not have nor has she ever had possession or control over any such taped recording, nor is she aware of its existence. She has consulted with Mr. Van Moorsel and he is now virtually certain that no taped recording of Mr. Elieff's comments was made. In any event, none can be located."

The existence of a tape recording of Elieff's comments was alluded to in previous testimony before the Board by Van Moorsel, who at the time also testified that short-hand notes containing the comments were taken and that "all of that material was turned over to our city editor (Mary Nesbitt) as soon as we realized that the Ontario Human Rights Commission was involved, because I was phoned and asked for that material."

In her signed affidavit accompanying the motion to quash the summonses, Nesbitt argued that the subpoenas were an abuse of process and infringed on press rights entrenched in Section 2(b) of the *Canadian Charter of Rights and Freedoms*.

#### ☛ CREDIBILITY THE ISSUE, SAYS NESBITT

"The press cannot be or be perceived to be agents of government, government agencies, industry, police, the courts or any other organization, institution or group," said Nesbitt. "Such independence is fundamental to the press's credibility."

"Quite the contrary," argued FP leader Robert Metz, who voluntarily acted as Elieff's agent before the Board of Inquiry. "Independence is fundamental to press freedom, not credibility, and no one is threatening press freedom. Credibility depends upon an accurate, contextual reporting of the facts and it is the facts of the case that have been called into question."

"Either the alleged notes confirm what was being reported in the Free Press or they do not," said Metz. "In actual fact, what's in the notes is less significant than the willingness of the *London Free Press* to protect its credibility by appearing before the Board."

"There are too many unanswered questions in this case," said Metz, "and all the evidence regarding Elieff's alleged racist comments originated at the London Free Press. By refusing to appear, Elieff will have been denied the right to face his main accusers."

After hearing arguments made by *London Free Press* counsel Renato M. Gasparotto, HRC counsel Sanson, and Elieff's agent Robert Metz, Chairperson John ruled: (1) that the evidence being subpoenaed (the notes) is relevant, (2) that the issue is one of credibility, and (3) that Mary Nesbitt is compellable to appear.

#### ☛ LONDON FREE PRESS SPREADS FALSE IMPRESSIONS --- FALSE NEWS

In its August 19 and August 28 coverage of the dispute between the Board and the paper, the *London Free Press* knowingly printed false information relating to the summonses and additionally reported inaccurate and misleading comments that it attributed to FP leader Robert Metz.

In its August 19 coverage, whose writer identified herself as "Erin Anderson", but whose name did not appear on the article, it was reported that "The refusal of the London Free Press to supply a reporter's notes for the Ontario Human Rights Commission... raises questions about the credibility of the newspaper, says the landlord's representative." But it was not the "landlord's representative" (i.e., Metz) who made this comment; it was London Free Press city editor Mary Nesbitt who, in her signed affidavit, brought up the issue of credibility by saying: "...independence is fundamental to the press's credibility."

(CREDIBILITY... cont'd next pg)

At Left: reproduced from the *London Free Press*, August 19, 1993. The report incorrectly implies that FP leader Robert Metz has raised the issue of the paper's credibility and that Metz has made an issue of the notes. The paper also printed the wrong date (Aug. 31) for resumption of the Board of Inquiry hearings, which were actually scheduled to begin on Aug. 30. All of this information was made clear to the paper in FP's official media release. For more details, see accompanying coverage.

(...CREDIBILITY from previous pg)

Metz was also quoted as saying: "If anything, the whole credibility of the situation depends on the appearance (of those notes)," with the phrase "of those notes" placed in brackets, meaning that the reporter was conscious of the fact that Metz did not use those words. Metz was not talking about the notes -- which he stressed were of no interest to him; he was referring to Van Moorsel's own testimony.

The article incorrectly reported that "Metz said... the notes are necessary to add credence to Van Moorsel's statements." Metz actually told the reporter that Van Moorsel himself brought up the existence of the notes to defend his own credibility.

On August 28/93, the *London Free Press* printed an article by reporter John Hamilton which contained a totally false paragraph: "Robert Metz, the landlord's representative, had sought the notes at the inquiry investigating alleged racist comments by Elieff..."

Yet, at no time throughout the proceedings had Metz ever expressed any interest in Van Moorsel's notes, nor were they relevant to his arguments. But the notes are relevant to the Commission. In her signed affidavit, city editor Mary Nesbitt fully acknowledged that she was aware that "Robert Metz advised the Board that he... was not interested in the notes made by Mr. Van Moorsel." She further acknowledged "that the present outstanding Subpoenas of

me and Mr. Van Moorsel were issued at the insistence of the Commission counsel and not Mr. Elieff."

Add to this the fact that two separate **Freedom Party** media releases (dated August 18 and 26) to the *London Free Press* emphasized that the subpoenas "were issued at the insistence of Commission counsel", it would have been impossible to conclude that Metz "sought the notes" as reported by the paper.

When Metz later confronted reporter John Hamilton with his glaring misrepresentation of the facts, Hamilton told him that it was an irrelevant issue and refused to set the record straight. He also refused Metz's request to report the fact that a previously alleged tape recording of Elieff's comments (which was reported by the paper) did not, in fact, exist.

The *London Free Press* has apparently tried to deflect public attention from the fact that its credibility is actually being questioned by an official Board of Inquiry, at the initiation of that Board, not of the defence for the respondent. By making it appear that the source of the attack on its credibility is London landlord Elijah Elieff and FP leader Robert Metz, the paper can maintain the illusion that the charges against it might simply be a contrivance as part of Elieff's defence.

*London Free Press* editors have good reason to be uncomfortable, should know-ledge that their paper's credibility is actually being questioned by an independent official body become more public.

<END>

## HUMAN RIGHTS INQUIRY

AUG 2 8 1993

# Free Press reporter must produce notes

It has been ruled that his notes are relevant to the case involving alleged racist remarks by landlord Elijah Elieff.

By John Hamilton  
*The London Free Press*

London Free Press reporter Greg Van Moorsel must take his notes to a provincial inquiry Monday of alleged racism by London landlord Elijah Elieff.

Renato Gasparotto, lawyer for The Free Press, said Friday that Ajit John, chairperson of the Ontario Human Rights Commission board of inquiry, ruled that Van Moorsel's notes are relevant to the case.

Gasparotto had filed a motion to quash a summons for Free Press associate editor Mary Nesbitt and Van Moorsel to attend the hearing Monday with the reporter's notes. He had argued that submitting the notes would hinder the ability of the

press to do an unbiased job. Robert Metz, the landlord's representative, had sought the notes at the inquiry investigating alleged racist comments by Elieff, the controversial owner of apartments on Cheyenne Avenue.

Metz had said Elieff denies making the comments and Van Moorsel is the only witness who has testified the landlord made them.

The board is investigating a complaint that Elieff discriminated against Asians at the apartment buildings in northeast London.

Van Moorsel is expected to testify and be examined on his notes when the hearing resumes Monday. The hearing is set to continue through Wednesday.

**Above:** reproduced from the *London Free Press*, August 28, 1993. Once again, this article incorrectly reports that Robert Metz "sought the notes", notes which were actually being subpoenaed at the insistence of the Human Rights Commission itself. For more details, see accompanying coverage.

## BIASED, INACCURATE LONDON FREE PRESS NEWS COVERAGE CONTINUES DURING BOARD OF INQUIRY HEARINGS

LONDON (August 30 - September 1, 1993) - Still reeling from its failed attempt to avoid having its reporter, **Greg Van Moorsel**, appear before an **Ontario Human Rights' Board of Inquiry**, the *London Free Press* continued an irresponsible and biased coverage of the hearings into **London landlord Elijah Elieff's** alleged racist comments.

The articles were written by reporter **John Hamilton** who was in attendance at each day's hearings, but whose name did not appear on any of them after Metz directly challenged his previous false reports. (See "London Free Press Credibility Challenged by Board of Inquiry".)

### ☛ "KILLER"?

Referring to Elieff's description of Van Moorsel as "an idiot, liar and killer", the paper's (August 31, 1993) out-of-context focus on the comments only served to further illustrate (to those who were witness to the comments) that it was indeed "involved in a plot to discredit

landlord Elijah Elieff", as reported. In his broken English, Elieff referred figuratively to the paper's responsibility in "killing" his business and ruining his reputation, but the paper reported this comment in the literal sense.

The same August 31 article concluded by saying that **Commission counsel "Sanson** has said she intends to produce video evidence to support racism charges against Elieff." What the paper never reported was that when the video tape was later viewed at the hearings -- which was a news item broadcast by CFPL-TV in 1989 -- it only showed Elieff DENYING that he ever made such comments. Even more revealing, the video item reported that (then) **municipal councillor Pat O'Brien** "says Elieff won't get away with his remarks" while **Susan Eagle's** tenant group vowed to "demonstrate outside Elieff's Richmond Street business (a sandwich shop)" in an organized attempt to discredit the landlord's reputation.

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## COLOURED COVERAGE

On September 1, the paper's only mention of the hearings related to an entirely irrelevant -- and dismissed -- issue about a receipt "for a pink bathtub filed with the commission as part of Elieff's losses on his Cheyenne apartments." The receipt, which was clearly addressed to Elieff's home address and not to his business, had nothing whatsoever to do with Elieff's apartments, nor indeed were ANY receipts filed with the Commission for the purpose of illustrating financial "losses."

Selected receipts filed with the Commission were chosen specifically to illustrate the kinds of repairs that were necessary at the buildings -- repairs that were clearly necessitated by the actions of his tenants, which is what Elieff was trying to say from the beginning. For example, on one receipt issued by *Salmon Plumbing*, the plumber made notes about his conversation "with two fellows from Health Dept. Advised them that even a good drain doesn't take these objects..."

The objects referred to included "a rubber glove, plastic wrap, grease chunks, a stone, and sanitary napkin."

On September 2, the *London Free Press* ran a headline which read: "Elieff's rent income illegal, lawyer testifies at hearing".

But no lawyer "testified" at the hearing that day. (In fact, the ONLY lawyer to ever testify before the Board was the *London Free Press*' own lawyer, when the paper was forced to admit it had no taped recording of Elieff's alleged comments -- a "testimony" the paper never reported.) The lawyer referred to in the article was *Human Rights Commission* counsel Geraldine Sanson who was making an accusation against Elieff and who was acting on behalf of the complainant, Chip-pheng Hom.

## HUMAN RIGHTS

### Reporter called 'big liar, idiot' by landlord

Elijah Elieff says he never told Greg Van Moorsel his tenants acted like 'pigs out of the jungle.' AUG 3 1 1993

London Free Press reporter Greg Van Moorsel was described Monday as an idiot, liar and killer involved in a plot to discredit landlord Elijah Elieff.

Elieff made the comments during testy exchanges at a provincial inquiry on allegations of racism against the controversial owner of apartments on Cheyenne Avenue.

**CLOSED MEETING:** After a series of often bitter tirades, Ajit John, chairperson of the Ontario Human Rights Commission hearing, closed the meeting in an attempt to cool heads.

Van Moorsel, who had been ordered to produce his notes, defended his reports in *The Free Press* in November, 1989, that quoted Elieff saying Cambodian and Vietnamese tenants acted like pigs out of the jungle.

In sharp exchanges with Robert Metz, the landlord's representative, Van Moorsel said he wasn't misinterpreting what Elieff said or was biased against him.

**MORON:** "You would have to be a moron," not to link Elieff's comments about pigs and jungle with his tenants, Van Moorsel said.

Van Moorsel said he asked Elieff several times who he meant when he referred to "they" being like pigs. He said the landlord said he was talking about his Asian tenants.

Elieff, who denies making the comments, angrily interrupted Van Moorsel's testimony several times, saying the reporter was an "idiot", "lying through his teeth," a "big liar" and among a group of "killers" who drove him to financial ruin.

Elieff is scheduled to be cross-examined by commission lawyer, Geri Sanson, when the hearing resumes today. Sanson has said she intends to produce video evidence to support the racism charges against Elieff.

**Above & At Right:** Aug. 31-Sept. 2, 1993 *London Free Press* coverage of London landlord Elijah Elieff's Board of Inquiry hearings. See surrounding article for more details.

The article also went on to report the testimony of an official with a property management group who was quoted as saying that "Elieff spent less than four per cent of his rental income on upkeep of (his) buildings while owners of comparable buildings used about 17 per cent of income."

But the important fact the paper didn't report -- and which was raised immediately by Metz in cross-examination -- was that his estimate of four per cent was based on the small sampling of selected invoices (referred to above) provided to the official by the Commission, and not on Elieff's financial statements which were curiously not provided in arriving at that figure (since they reflected a

## RACISM INQUIRY

SEP 1 1993

### Local landlord lathered by bathtub color query

The Cheyenne Avenue apartment owner finally admitted he had one white bathtub and one pink one.

Landlord Elijah Elieff saw red when he was asked the color of his bathtub on Tuesday.

His often heated responses to questions escalated during a provincial inquiry into allegations of racism against Elieff, the owner of two apartment buildings on Cheyenne Avenue in east London.

"That's none of your business. I'm not going to tell," he said to Geri Sanson, the Ontario Human Rights Commission lawyer at the commission hearing in London.

In a series of exchanges, Elieff told Ajit John, hearing chairperson, "she's not going to dig into my privacy. Is that clear?"

It was only after two adjournments, and a warning from John that he would discount all Elieff's testimony unless the landlord an-

swered the question, that Elieff relented. He has one white bathtub and one pink bathtub, Elieff said.

Sanson showed the landlord a \$1,600 receipt for a pink bathtub filed with the commission as part of Elieff's losses on his Cheyenne apartments. There were, she said, no pink bathtubs in the apartments.

**SIMPLE ERROR:** Elieff and his representative, Robert Metz, said it was a simple error to misplace the receipt in attempts to file financial records ordered by John.

London Free Press reporter Greg Van Moorsel quoted Elieff in a series of published articles in November, 1989, as describing his Cambodian and Vietnamese tenants as acting like pigs out of the jungle. Elieff denies making such comments.

Testimony is expected to be completed at the 10th day of the hearing today. Two days of legal arguments are scheduled for late September and a ruling announced within 30 days. Fourteen witnesses have testified.

## HUMAN RIGHTS

SEP 2 1993

### Elieff's rent income illegal, lawyer testifies at hearing

And a property manager says the two buildings on Cheyenne Avenue needed about \$500,000 in repairs.

Landlord Elijah Elieff was charging illegally high rents for rundown apartments in two buildings on Cheyenne Avenue, a lawyer said at a provincial inquiry Wednesday. Geri Sanson, the Ontario Human Rights Commission lawyer at a commission hearing in London, said the controversial landlord's income from the two buildings was "above legal limits" for most of the five years up to 1992.

Jim Daly, an official with a property management group, said Elieff spent an "abnormally low" percentage of his income on repairs to the buildings.

Daly said Elieff spent less than four per cent of his rental income on upkeep of the buildings while owners of comparable buildings used about 17 per cent of income.

Daly said the "very depressed" condition of the buildings was caused by years of little or no maintenance. He said he "didn't see any evidence of any money being spent" on maintenance on a visit last July.

Darlene Clark, property manager for the Carlton Group, said the two buildings needed about \$500,000 in repairs to upgrade them. She said she doubted Elieff would be able to get a loan from a bank because of his poor management.

The inquiry into allegations of racism against Elieff was adjourned to Sept. 27. The allegations stem from a *London Free Press* report quoting Elieff in November, 1989, saying his Cambodian tenants acted like pigs out of a jungle.

much higher figure of expenditures).

More significantly, the official's reported comment that he "didn't see any evidence of any money being spent" on maintenance was based on his July/93 visit to the Cheyenne Ave apartments -- long after Elieff had abandoned them (in 1992), only later to have them taken over by the buildings' mortgagor, the *National Bank of Canada*.

The *London Free Press* concluded its September 2 article by inaccurately referring to its own November 1989 coverage accusing Elieff of "saying his Cambodian tenants acted like pigs out of a jungle." Not only was this

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## PUBLICATION BAN PLACED ON FREEDOM FLYER!

LONDON (September 27, 1993) - Citing a "danger in publicizing negotiations" relating to settlement attempts made by the **Human Rights Commission (HRC)**, **Board of Inquiry chairman Ajit John** placed a publication ban on information that was already published and distributed by the **Freedom Party of Ontario** on page 4 of its June 1993 issue of *Freedom Flyer*. The banned information relates to a deal the HRC offered respondent **Elijah Elieff** in exchange for dropping the complaint filed against him by one of his Asian tenants, **Chippeng Hom**. (See June/93 *Freedom Flyer* for more background information on this issue.)

Referred to as an "investigation" or a "settlement attempt" by HRC officials, the deal-making process is central to the way in which the HRC operates, given the fact that it initiates its settlement actions solely on the grounds of a filed complaint.

### ☞ GUILTY UNTIL PROVEN INNOCENT?

It is also the most sensitive political issue facing the *Human Rights Commission*, since it directly relates to the Commission's systemic assumption that respondents are guilty, thus allowing them little or no opportunity to prove their innocence. In fact, the issue is so sensitive that it is against the law to refer to such "settlement attempts" during a *Board of Inquiry* hearing.

**Freedom Party's** publication of the details of the HRC's attempted settlement with Elieff was brought to Ajit John's attention by **Commission counsel Geraldine Sanson**, who had earlier been handed a copy of the *Freedom Flyer* article when it was reproduced and distributed along with an FP media release.

Elieff's agent, FP leader **Robert Metz**, argued that placing a publication ban on the already-published information was "a little like

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report inaccurate, but there was never any quoted comment made by Elieff in reference to anyone's race at any time. All references to race were always inserted by *London Free Press* reporters and editorial writers.

"Apparently," commented Elieff's representative **Robert Metz**, "the *London Free Press*' interpretation of a 'free press' seems to mean a press 'free' to say whatever it wants without being accountable to the truth."

<END>

closing the barn door after the horses had escaped", but John nevertheless maintained his position that no details of the "settlement negotiations" be made public in any way until all rights of appeal have been exhausted.

### ☞ PUBLICATION BAN NOT ON EVIDENCE

The ban is particularly unusual, given that it does not relate to any (legally allowed) evidence in the case, and thus should have no bearing on the Board's decision. FP's published details of the Commission's "investigation" of Elieff were based on information given to FP directly by Elieff himself, who is the only

individual possibly affected by its publication.

Thus we can only conclude that the "danger" in publicizing details of the deal offered to Elieff represents a threat only to the integrity and legitimacy of the *Human Rights Commission* itself. By knowing details of the offered deal, observers would be able to compare the difference between the HRC's original offer to settle with Elieff and the orders sought by Commission counsel at the end of a Board of Inquiry hearing.

"The injustice of the whole situation would become self-evident," says Metz, "and that's the last thing the *Human Rights Commission* wants us to know."

<END>

## FREEDOM PARTY ACCUSED OF PUBLISHING INACCURATE INFORMATION

LONDON (August 30, 1993) - HRC **Board of Inquiry chairperson Ajit John** accused FP leader **Robert Metz** of publishing inaccurate information in his covering letter of an FP media release (an edited version of the covering letter that went out with the June *Freedom Flyer* mailing) which was officially introduced and read into the Board of Inquiry's transcripts by **Commission counsel Geraldine Sanson**. Metz denied that there were any inaccuracies in the letter and challenged John to be specific about what information he regarded as being inaccurate.

At this point there was a long delay while John re-read the three-page letter to himself and then returned his attention to the first paragraph of the letter which, in his opinion, contained the inaccurate information: "Mr. Elieff (has been forced to appear) before an official Board of Inquiry which, unlike a court of law, is less interested in determining his guilt or innocence than it is with 'seeking a remedy' that will satisfy the complainant."

### ☞ DIFFERENCE OF OPINION

John argued that Metz's comment did "not maintain what I believe to be adequate respect for these Boards of Inquiry, which are to be treated in law as a court."

"With all due respect," responded Metz, "I haven't made any disrespectful statements about (this) Board of Inquiry, just general comments about the *Human Rights Commission* itself, which relate to far more than just this hearing today."

"If you were a lawyer you would be subject to the disciplinary jurisdiction of the Law Society in a proceeding like this," retorted John.

After making it clear to John that he is not a lawyer, Metz asserted: "My opinions of the Ontario government or Bob Rae or the *Human Rights Commission* or any other government body are mine, and I believe I have the right to express them."

"Yes, you do have," responded John, "I'm not denying that," after which he closed debate on the issue by saying "I don't wish to discuss this issue any further."

The issue was not discussed any further.

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## Human Rights Commission...

## FINAL ARGUMENT STRIKES AT HEART OF HUMAN RIGHTS COMMISSION MANDATE

### HOUSING

# Won't pay \$6,000 fine for not making repairs, London landlord says

The owner blames conditions at his buildings on the tenants, mainly Asian immigrants, saying 'they're like little pigs.'

By Greg Van Moorsel  
The London Free Press

A London landlord fined \$6,000 for not completing city-ordered repairs to his Cheyenne Avenue buildings says he won't pay.

Elijah Elieff largely blamed his tenants and their children — mainly Asian immigrants — for conditions at the two buildings at 95 and 105 Cheyenne Ave.

"They're like little pigs," he said Tuesday. "They think they're still living in the jungle."

**CITY'S OPTIONS:** If Elieff refuses to pay, city officials could try to seize or freeze his business assets.

"We don't do it too often, but we would certainly do it in this case," city solicitor Bob Blackwell said. "It makes a mockery of the system if somebody doesn't pay."

On Monday, Justice of the Peace Ron Trachy fined Elieff Investments Ltd. \$3,000 on each of two counts of failing to comply with 1987 orders to bring the buildings in line with London's property standards bylaw. He or-

dered payment within 15 days. The work orders, issued in May, 1987, remain in effect.

Elieff's apartments, home to many Cambodian families, have a history of complaints, ranging from bug infestations to broken plumbing and general disrepair. Last month, health officials ordered the 40-unit complex evacuated to spray for cockroaches.

**CONDITIONS DEPLORED:** "The conditions are deplorable when (tenants) move in there — certainly, it's a mess," said Rev. Susan Eagle, a United Church minister and volunteer worker with the Asian tenants, many of whom speak little or no English.

In 1988, Elieff was fined \$500 on each of two counts stemming from the same work orders.

He paid those fines this year, but said the latest penalty is unfair because he does everything he can afford to maintain decent living standards.

"Why should I pay it? What I mean is, other people are wrecking my property."

Persons fined under the Provincial Offences Act can be arrested and jailed for not paying, but enforcing corporate fines is more difficult. Available options include applying to the Ontario supreme court to order property liens or seizure of business assets.

Assistant city solicitor Patricia Cox said a hearing will be held at city hall Tuesday to determine whether any new work orders should be issued.

LONDON (September 27 - 30, 1993) - A shock-wave was sent to the heart of the Ontario Human Rights Commission with the hearing of final arguments regarding a filed complaint alleging racist comments made by London landlord Elijah Elieff.

The alleged racist comments were printed by the London Free Press on November 8, 1989, and have since led to the loss of Elieff's two apartment buildings, the loss of his submarine sandwich shop, and an end to his plans to purchase two other buildings next to his. He has additionally suffered a public indignity caused by his being forced to appear before an HRC Board of Inquiry and by being subjected to false and inaccurate coverage of his plight by the London Free Press.

The Board is now faced with the task of responding to a defence that has charged that the Board itself systemically discriminates against the very people it pretends to protect, and that it advances racist agendas. Relatively few Boards of Inquiry ever get to the final argument stage, since most respondents soon come to recognize that the cards are stacked against them before a Board of Inquiry, and that they would be better off accepting a "settlement" offered by the Human Rights Commission.

Elieff, who had been defending himself (beginning in November 1992) without counsel before a HRC Board of Inquiry into the alleged comments, was later represented by Freedom Party leader Robert Metz beginning on the fifth day (February, 1993) of what would turn out to be thirteen full days of hearings. Metz's service as Elieff's representative was voluntary and without compensation.

Metz is not a lawyer, nor did he have any previous experience as a paralegal. He is, however, familiar with the workings and motivations of the Human Rights Commission.

### ☛ NINE TO THREE

Whereas Commission counsel Geraldine Sanson based her case against Elieff on an arbitrarily filed complaint that furthered the Commission's own policies and social objectives, Metz's defence of Elieff was based strictly upon evidence showing that the alleged charges of racism against him were contrived for purposes completely unrelated to racism. Specifically, those purposes related to the paid lobby efforts of United Church minister Susan Eagle (whose husband, Joe Matyas, is an editorial writer and

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At Left: The November 8, 1989 London Free Press news article that became the focus of Human Rights Commission actions against London landlord Elijah Elieff. The landlord had been complaining about damage caused to his buildings by tenants (and the inability or unwillingness of local authorities to hold them responsible for the damage) long before the majority of his tenants happened to be Asian.

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reporter with the *London Free Press*) to have Elieff's Cheyenne Ave apartment buildings converted into government-subsidized co-op housing.

Fundamentally, there were three pertinent

witnesses supporting the complainant's case: **Chippeng Hom**, who was herself the complainant; **Susan Eagle**, whose interest in Elieff's Cheyenne Ave apartment buildings included self-admitted plans to have them turned into co-op housing; and **Greg Van Moorsel** of the *London Free Press*, whose

November 8, 1989 article containing Elieff's alleged "racist" comments was the precipitating event leading to the complaint being filed.

Supporting the respondent's case (Elieff), there were nine pertinent witnesses: **Elijah Elieff**, who himself was the respondent; **Sultana Elieff**, **Zoranco Elieff**, and **Katrina Elieff**, who are members of his family and who each had worked in his Cheyenne Ave apartment buildings; and **Mike Sucur**, **Irina Sucur**, **Keith Ackworth**, **John Pipe**, and **Marie Mowat**, all of whom were past or present tenants of the buildings in question, and some of whom were directly involved in the maintenance efforts to keep the buildings and property in proper repair.

"Given the numbers," argued Metz, "it is alarming how many inconsistencies and contradictions appear in the testimonies of the complainant's three witnesses, versus the consistency and credibility of the respondent's nine witnesses. One would assume, given the odds, that more inconsistencies would appear given a greater number of witnesses. But that has not been the case."

Metz began by pointing out overwhelming evidence that there was a planned and coordinated collective effort to take control over his buildings. He made it clear that the official complaint was not initiated by the complainant.

**COMPLAINANT "PUSHED" TO FILE COMPLAINT**

"As per the testimony of Susan Eagle, and as per numerous *London Free Press* newspaper articles," said Metz, "we know that a collective effort was made to seek out a complainant, an effort that did not exist before --- and began on the day following --- the appearance of the November 8, 1989 article

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**HUMAN RIGHTS**

**Discrimination at Cheyenne deserves a 'strong remedy'**

A list of grievances against the owner of the apartments are cited.

By **Eric Bender**  
*The London Free Press*

A "strong remedy" for discrimination against a tenant should be applied to London Cheyenne Avenue apartment owner **Elijah Elieff** because he began reprisals after an Ontario Human Rights Commission board of inquiry began last November, counsel for the commission said Monday.

Elieff, now owner in name only after defaulting on the mortgage on the two buildings at 95 and 105 Cheyenne Ave., embarked on harassment after he found himself before the commission on a complaint by Cambodian immigrant **Chippeng Hom**, **Geraldine Sanson** told hearing adjudicator **Ajit John**.

Sanson, in her summation, said Elieff:

- tried to illegally raise Hom's rent.
  - entered her apartment to take pictures without permission.
  - tried to evict her.
  - questioned her daughter as to who her father is.
  - blamed deteriorating conditions at the buildings on Hom's action against him.
  - refused to do maintenance.
  - refused to pay the utility bills so that the entire Cambodian/Vietnamese faced a heat and hydro cutoff before Christmas.
  - removed garbage bins from the apartment complex leaving no place to store garbage.
- Sanson and her assistant **Kim Inksater** argued

**THE COMPLAINT**

**Chippeng Hom** alleges her right to equal treatment for accommodation and freedom from harassment has been infringed by **Elijah Elieff's** comments so that her living conditions were "poisoned by discrimination."

The Ontario Human Rights Commission launched an investigation into her complaint in April, 1990. The hearing began in November, 1992.

The adjudicator will reserve judgment. If the complaint is upheld a "remedy" will be imposed.

that Hom was a victim of double discrimination because of race and sex. They said Elieff's public remarks sparking the human rights charges that his Asian tenants were like "little pigs" and that they liked the cockroaches that infested his apartments, applied to her race.

She was a subject of gender discrimination, counsel contended, when Hom had requested a move into a bigger apartment and Elieff asked if she was "a good girl or a bad girl." The questioning of her daughter was another instance, **Inksater** said.

**Inksater** said because Elieff's comments were made public the "environment" of the Asian community at the Cheyenne buildings was "poisoned." She said Elieff did not do maintenance at the apartments even when faced by health or building inspection orders and fines because he believes the Asian tenants like living amid cockroaches, garbage and units in disrepair. Thus, he was guilty of unequal treatment of the Asians, treatment he would not have accorded white or Canadian-born people, she said.

**NEGATIVE EFFECTS:** All the labels Elieff assigned to the Cambodians have negative psychological and physical effects on the victims, **Inksater** said as she quoted authorities. The remarks harm the southeast Asian community and the larger community of London, she said.

Sanson suggested Elieff either "directly or indirectly invited" the Cambodian and Vietnamese immigrants to his buildings because they don't know English or the law well, were unlikely to complain to authorities about conditions and he would not have to spend much on upkeep.

Sanson said Elieff was untruthful in his testimony before the board and demonstrated he has no respect for authority by ignoring court orders. Continually, she said, Elieff has blamed the victim for his woes.

Today, at the conclusion of the hearing, **Robert Metz**, leader of the Freedom Party of Ontario, who is voluntarily representing Elieff, is scheduled to present his arguments.

Metz said he will contend Elieff has been "victimized by a well-orchestrated lobby effort to gain control" of the apartments. He said he would argue that the Human Rights Commission and Board of Inquiry are advancing racist agendas and they "harbor a prejudiced view of the minority groups they purport to support."

**At Left:** September 28, 1993 *London Free Press* coverage of Elieff's Board of Inquiry hearings represented a turning point in the paper's coverage of the issue. The paper's coverage of final arguments was unbiased and relatively objective.

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quoting Mr. Elieff's alleged racist comments. It was not Chippeng Hom who sought out the aid of the 'community'. It was the 'community', led by Susan Eagle, that sought out the aid of Chippeng Hom.

"Said Susan Eagle: '...so therefore although it is Chippeng filing the Human Rights complaint, it came out of the process of about 20 families gathering together to discuss what a community solution might be. Certainly, part of my job is to push people...'"

Metz went on to attack the credibility of both the complainant and the complainant, arguing that all three "witnesses" against Elieff (i.e., Hom, Eagle, the London Free Press) actually represented a single interest with the single objective of having Elieff's buildings converted into public housing.

#### ☞ HUMAN RIGHTS COMMISSION ADVANCING A RACIST AGENDA?

But Metz did not stop there. He also directly attacked the credibility of the *Human Rights Commission* itself, arguing that it was a prejudiced organization advancing a racist agenda.

"Using statistics, ratios, financial records, and legal definitions that often have little or no resemblance to their dictionary counterparts, the Commission operates on the prejudiced assumption that this kind of statistical 'evidence' can somehow accurately define the deepest and innermost personal feelings and attitudes that individuals may have about each other, for whatever reasons," argued Metz. "I must argue my case that the

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**At Right:** September 29, 1993 *London Free Press* coverage of final arguments continues the paper's about-face in objective reporting on the issue.

WEDNESDAY, September 29, 1993

## CHEYENNE APARTMENTS DISPUTE

# Proposed landlord sanctions include anti-racism classes

By Eric Bender  
*The London Free Press*

Wide-ranging sanctions and reparations — including mandatory attendance at anti-racism classes — were proposed Tuesday as remedies if Cheyenne Avenue apartment landlord Elijah Elieff is found guilty of discrimination.

**SUGGESTIONS:** Ontario Human Rights commission counsel Geraldine Sanson, wrapping up her arguments at a board of inquiry into charges of harassment and discrimination, outlined 14 suggestions that would help make amends for "harm" done to Elieff's southeast Asian tenants as a result of remarks and actions directed at them over a period of time.

If implemented, the orders could cost Elieff a total of \$455,900 outright plus even more money to comply with other terms. The commission asks that Elieff be required as far as possible to get his apartment mortgage back in good standing.

Elieff, owner of apartments at 95

and 105 Cheyenne Ave., has defaulted on his mortgage and the mortgage holder is currently trying to sell the buildings.

Meanwhile at Tuesday's sitting, Elieff's representative, Robert Metz, leader of the Freedom Party of Ontario, told the board the human rights complaints laid against Elieff were part of a plot by Susan Eagle, a church outreach worker with the Cheyenne tenants, and The London Free Press.

"The purpose of the complaint filed against Mr. Elieff was to create an environment of moral justification for the lobby effort directed against him by Susan Eagle and to deflect his attention from her ultimate objective: control or ownership of Cheyenne apartment building," Metz said.

"The campaign against Elieff is a calculated, fully orchestrated lobby effort which has included personal harassment including picketing his place of business, direct lobbying of the provincial and municipal governments for funds to acquire the buildings and the continuous

stream of work orders all calculated to devalue his property or demoralize him to the point where he would sell or have his buildings taken over," Metz said.

He said editorials and biased reporting of the Cheyenne situation and of the board hearings which began last November were done to establish the justification for turning the apartments into co-op housing — Susan Eagle's "dream."

Metz told board adjudicator Ajit John that the human rights complaints launched by tenant Chippeng Hom and heard by the commission are "unfounded, trivial, frivolous and vexatious."

**SMALLER MINORITY:** He said the discrimination was against Elieff because he is a landlord, an immigrant himself and a member of a smaller minority. He said comments Elieff made to a Free Press reporter were not racial but observations his Asian tenants or some of them were "messy" and responsible for property damage.

### Proposed remedies sought by the Ontario Human Rights Commission in the case of Elijah Elieff:

☐ Compensation for injury to dignity and self respect of tenant Chippeng Hom of \$10,000 each for harassment, a poisoned living environment, denial of equal residential treatment and reprisal for a total of \$40,000.

☐ Payment of \$409,900 to the Cheyenne Community Tenant's Board to carry out repairs to the two apartment buildings.

☐ Elieff to take steps to make his outstanding mortgage payments.

☐ An order be made to set aside any conveyance of Elieff personal or corporate property since the beginning of the human rights hearing last November.

☐ Required attendance by Elieff at a recognized course in anti-racism training. (He would also have to provide anti-racism training for his son and any building superintendents).

☐ Elieff be required to hire a full-time, fully qualified superintendent for his buildings until all capital repairs are complete. Thereafter he must have a part time qualified superintendent living on the premises.

☐ Elieff be required to supply and pay for translation services so that his tenants fully understand in their native languages information on tenancy and their rights and obligations

☐ An order be made that Elieff pay \$6,000 so that the "Cheyenne community" could take out a full page advertisement in The London Free Press for education purposes.

☐ A request that pictures taken by the landlord in Hom's apartment without her consent be handed over to her immediately was not granted by the board adjudicator.

### The rebuttal and claims of Elijah Elieff:

☐ The complaints against him are unfounded, trivial, frivolous and vexatious.

☐ The basis of the complaint was generated in a London Free Press article which "misleadingly implied that Elieff's comment regarding destructive and irresponsible behavior at his Cheyenne Avenue apartments constituted a racial attitude (bias)."

☐ The purpose of the complaint was to deflect attention away from a plot by Susan Eagle and The London Free Press to seize control of his apartment buildings.

☐ The notoriety of the case has been generated by biased and inaccurate coverage in The Free Press and the "poisoned environment" of the tenants was caused by publicity in The Free Press and by Susan Eagle.

☐ Susan Eagle is guilty of personally harassing Elieff.

☐ Biased London Free Press editorials and negative and biased reporting were part of a "conspiracy" to justify to municipal and provincial governments and the public that they should fund conversion of Elieff's buildings into co-op housing.

☐ A "systemic evasion" that did not require authorities to enforce tenant responsibility was prejudicial to Elieff and it brought him before the board, the municipality, health officials and into The Free Press and before the public.

☐ The Human Rights Commission is being used in a frivolous manner as an element of the over all "campaign" against Elieff.

☐ Both the commission and its boards of inquiry "harbor a prejudiced view of the minority groups that they purport to support and that as a consequence they advance racist agendas.

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*Human Rights Commission* and its Boards of Inquiry, by their actions and decisions, harbour a prejudiced view of the very people they purport to support, and that in so doing, they advance racist agendas."

## LEGAL PRECEDENTS A FARCE

Unlike Commission counsel, Metz dismissed HRC legal precedents as being a farce, since these precedents made it clear that the Commission does not have to give weight to evidence brought before it. Instead it assumes racism at every opportunity.

To illustrate his point, Metz examined the "Hubbard Decision" in the matter of another HRC complaint filed by Ashit Kumar Ghosh against *Domglas Inc.* This was one of the authorities cited by Commission counsel Sanson in her arguments against Elieff.

In that decision, Hubbard ruled: "While there is nothing to suggest that Mr. Ghosh was harassed because of his race, in considering damages it is to be remembered that the wrongdoer takes his victim as he finds him. His membership in a visible minority may have had nothing to do with the harassment, but I have no doubt that that fact was a subjective element increasing his vulnerability and anguish."

## WHAT'S THE WHOLE POINT OF A HEARING?

"In other words," argued Metz, "even in the absence of any evidence to suggest racism, this Board still has the power to levy damages as if that were not the case! Further-

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**At Right:** Though a little sensationistically headlined, the relatively accurate September 30, 1993 *London Free Press* coverage surprised everyone involved on Elieff's side of the case. Though referred to by Metz, the sub-heading's reference to "judicial cleansing" was actually the term used by HRC counsel when asking for her orders against Elieff.

## CHEYENNE APARTMENTS

# Eagle, Free Press accused of conspiracy against Elieff

His counsel says anti-racism training would be 'judicial cleansing.'

By Eric Bender  
*The London Free Press*

Proposed penalties for discrimination in landlord Elijah Elieff's human rights case are self-serving, Elieff's counsel said Wednesday at the conclusion of a 13-day hearing that began last November.

"They have little to do with Elijah Elieff but a lot to do with Susan Eagle," Robert Metz, leader of the Freedom Party of Ontario, told the board of inquiry.

Eagle, a minister, is a church-based community worker who has been involved for years with the tenants at Elieff's two apartment buildings at 95 and 105 Cheyenne Ave.

Metz claimed there was a "calculated, fully orchestrated lobby effort" by Eagle and backed by The London Free Press to smear Elieff and devalue his property so it could be taken over by Eagle as co-operative housing. He said the proposals "border on cruel and unusual punishment."

Noting that Ontario's human rights legislation gives a board of inquiry the right to impose "anything" to remedy human rights abuses or prevent it from happening in the future, Metz called the board "an unjustifiable board."

"Unlimited power leads to unlimited abuse of that power," Metz told board adjudicator Ajit John. Metz charged that the board was being used as "an instrument of reprisal against a landlord."

Metz described a proposal that Elieff put \$409,900 into a tenants' trust fund for capital repairs at the Cheyenne buildings as serving Eagle's aim to



Community worker Susan Eagle was accused of smearing landlord Elijah Elieff for her own personal gain.

gain control of the buildings.

He said an order to have Elieff pay for a \$6,000 full-page advertisement by his Asian tenants in The Free Press amounted to an "award" to newspaper for its support in the campaign against Elieff.

Metz said forcing Elieff to undertake anti-racism training would amount to "judicial cleansing."

"Damages being asked have very little to do with the complainant (tenant Chippeng Hom). It has everything to do with the collective. If you want to do something for the complainant, ask Elieff to buy her a house and a vacation. It would be cheaper," Metz said.

**DISMISSAL:** Metz asked for an "absolute dismissal" of the case against Elieff and that he be awarded costs.

He said Elieff had lost control of his apartments, had lost his downtown sandwich shop and was reduced to "driving a school bus for sick kids twice a day" for a living since "the campaign" against him began.

Elieff is the victim in this case, Metz said. He told the board there was a human rights infringement, but it was

on the part of The Free Press in misinterpreting Elieff and continually publishing his alleged remarks.

He said The Free Press was the only source of information about the Cheyenne situation and charged its slanted, biased reports shaped the public view of Elieff and poisoned the environment of the Asian tenants in his buildings.

Metz said Elieff can only claim costs from the board, not damages. Any claim for damages would have to arise through a separate civil suit, Metz said outside the hearing.

Metz contended Elieff's remark to a Free Press reporter that his Asian tenants were "like little pigs living in the jungle" was not racist, but meant to refer to any "messy" tenants who act like pigs.

**VANDALS:** They were also vandalizing his property — the real reason for his apartment problems, Metz said. Elieff's lack of fluency in English also prevented him from expressing himself properly, Metz contended.

Commission counsel Geraldine Sanson replied that Elieff was repeatedly given an opportunity to clarify his remark but he simply repeated it.

Metz spent most of the day citing Free Press reports that made Elieff look bad and noted "alarming" inaccuracies in them. He said The Free Press constantly labelled the Cheyenne situation a housing issue when it was really a landlord-tenant issue.

Sanson told the board housing is a human rights issue and reminded the board the first priority of the community effort involving Eagle was to get repairs done at the apartment buildings. Purchase of the property was a last resort, she said.

A decision in the case was reserved. John said he would attempt to issue a written judgment within 30 days.

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more, it is Hubbard himself who admits that he sees visible minorities as being vulnerable.

"If these are the types of precedents to which I must refer in order to defend Mr. Elieff, I must respectfully suggest to this Board that this whole process of holding hearings is totally unnecessary," Metz sarcastically declared. "If the evidence presented does not have to relate to decisions handed down by the Board, why bother with hearings?" (Of course, this is exactly what the government's Cornish Commission has recommended. See December 1992 *Freedom Flyer*.)

### ➤ ONUS IS ON COMMISSION TO PROVE DISCRIMINATION

Metz attacked the illogical assumptions and non sequitur arguments on which the Human Rights Commission operates: "To prove discrimination on the grounds of race, one must clearly be able to illustrate that the respondent's behaviour towards the particular race in question is measurably different and distinct from his general behaviour towards others of different races under the same circumstances.

"Commission counsel has not only failed to do so," emphasized Metz, "but has not even made any effort to do so, being guided as she is by the mandates and prescriptions of the Human Rights Commission. Indeed, what she is trying to do is to prove that the condition of Mr. Elieff's apartments is not equal to the condition of other apartments which are not owned by Mr. Elieff!"

### ➤ CIRCULAR ARGUMENT

Metz pointed out that there is no way for anyone brought before a Board of Inquiry to win with the "Catch-22" type of reasoning used by the Board.

"Ms. Sanson has argued that she wishes '...to demonstrate Elieff's comments were of a racial nature and conduct which amounts to unequal treatment.' Thus, the argument is a circular one: unequal treatment, based upon a comparison to circumstances not related to Elieff's properties or actions, therefore proves that his comments were of a 'racial nature', which in turn proves that he is guilty of 'unequal treatment'."

Metz also attacked the Commission's assumed argument that because Elieff blamed some of his tenants for the damage at his apartment buildings, he was guilty of carrying "stereotypical assumptions that Cambodian persons seem to thrive in this kind of environment..."

"This again is part of the Commission's circular argument," illustrated Metz. "It denies the respondent the right to argue that certain tenants ARE responsible for the condition of his buildings, which is critical to his defence."

### ➤ CRUEL AND UNUSUAL PUNISHMENT

Unlike a complainant who goes before a Board of Inquiry, a respondent is severely limited in what he can seek in damages, should there be a false or frivolous complaint filed against him. Whereas a complainant's awards can literally be "anything", the respondent can only ask to have the complaint dismissed and claim costs that are pre-fixed by the Board.

As a consequence, Metz was limited at the conclusion of his arguments to asking for the case against Elieff to be dismissed and costs be awarded. On the other hand, Commission counsel Sanson had "quite a detailed request for an order" and reminded Board chairperson Ajit John about the "wide discretionary powers" at his disposal, including his right to order "anything" against the respondent.

Sanson requested that John make the following orders against Elieff:

(1) that Elieff pay Chippeng Hom \$10,000 as compensation to her "dignity" and "self respect";

(2) that Elieff pay Hom an additional \$10,000 for creating a "poisoned environment" (which was the public notoriety surrounding the case);

(3) that another \$10,000 be awarded for "denial of equal treatment" (meaning that Elieff's buildings were not "equal" to other buildings not owned by him);

(4) that \$10,000 be awarded for "reprisal" (in reference to Elieff's attempts to have tenants evicted for non-payment of rent);

(5) that Elieff arrange translation services in the first language of the tenants;

(6) that Elieff identify and provide tenants with a "needs and resource person";

(7) that Elieff advise tenants who is responsible for the property;

(8) that Elieff assure that all his tenants are advised of their rights and obligations in their first language (i.e., Cambodian or Vietnamese);

(9) that Elieff give his employees signing authority to sign cheques;

(10) that Elieff set aside any and all transfers and conveyances of property made

by him since the beginning of the hearings (which have dragged on for almost a year);

(11) that Elieff bring his outstanding mortgage payments up to date;

(12) that Elieff pay \$409,900 into a trust fund to be set up and managed by Susan Eagle's tenants' board;

(13) that Elieff spend \$70,000 to replace all of the single-glazed windows in his buildings with double-glazed windows;

(14) that post-judgement interest be assessed against Elieff;

(15) that Elieff and his son Zoranco enroll and attend a government-approved "anti-racism" training course within one year;

(16) that similar "training" be provided for all future superintendents;

(17) that Elieff be forced to pay \$6,000 to place a full-page ad in the pages of the London Free Press (the key "witness" against him!) which would be written by the tenants' board; and

(18) that the Board of Inquiry "remain seized" (i.e., remain in operation) so that any party to the hearings can ask the Board to re-convene.

Metz called the Commission's requested orders a "cruel and unusual punishment" that rewards all those implicated in the concerted effort to discredit Elieff. Metz made it clear to Board chairperson Ajit John that he also considered the Human Rights Commission to be implicated in the effort against Elieff by its refusal to address the issue of Elieff's guilt or innocence before going about making "settlement negotiations" or awarding judgements.

### ➤ EQUITABLE PRINCIPLES?

But that's something the Board does not want to deal with, particularly when it comes to the specific details of a specific "settlement negotiation". Instead, John instructed counsels to argue the merits of "equitable principles for requiring parties to conciliate."

Metz argued that it was the Board's responsibility under Part IV, Sec 39(1) of the Human Rights Code not only to determine whether a right of the complainant under the Act has been infringed, but also to determine who infringed the right. By requiring parties to conciliate on the basis of a complaint, the determination of who infringed the right has been bypassed, particularly in a case where a respondent believes himself to be innocent.

Metz illustrated by way of an analogy:

"If this were a criminal trial, and Mr. Elieff was charged with a crime, surely evidence

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showing that someone else committed the crime would exonerate Mr. Elieff. Yet, this is not the principle on which this board has proceeded. We have been constantly reminded that Susan Eagle or the *London Free Press* are "not on trial here", and that we should focus our attention on the specifics in Hom's complaint. Yet Mr. Elieff's only response to the complaint is that they (Eagle and the *London Free Press*) are the initiators of the whole process that has brought him before this hearing.

"Equitable principles?" asked Metz. "Not by a long shot!"

**NO DECISION YET**

Though the Board of Inquiry was supposed to render a decision within thirty days of the last day of arguments (which would have been by October 31), as of this writing, no decision has been made.

Meanwhile, Elieff's buildings have been sold under power of sale, while over \$300,000 of renovations have already been made to the buildings by the new owners.

This presents a potential danger to the new owners, who, under HRC legislation, may become the target of the Board of Inquiry's assessed penalties. Under HRC legislation, penalties assessed to an owner of a building, business, or service can get passed on to subsequent owners.

Theoretically, in Elieff's case, this means that the new owners of the buildings could be forced to fund all or part of a \$409,900 tenants' trust fund, should that be awarded. Queries were still being made by the Board as late as December 2, 1993, about the buildings' current status and the potential effect it might have on the Board's decision.

To add insult to injury, the NDP government has just announced financing for Susan Eagle's Cheyenne Co-op housing project! It would seem that her intensive five-year-plus lobby efforts have successfully combined with the editorial and news support of the *London Free Press* to make this project the politically-correct thing to do. However, the government financing may have arrived too late, given that the buildings for which it was lobbied have already been renovated and upgraded by private interests. Nevertheless, the money is still available to Eagle, and she has already hinted that she may have to move to another area to build a new co-op housing project.

**GET THE DETAILS!** Background information on this case, including relevant documentation is available to FP members and supporters on request. Please call or write. See green box on back for details. <END>

**HUMAN RIGHTS COMMISSION**

# Freedom in peril



**RORY LEISHMAN**

National affairs columnist

**THE CASE**

Elijah Elieff, the owner of apartment buildings at 95 and 105 Cheyenne Ave. in London, has been called before a board of inquiry under the Ontario Human Rights Code

Commission counsel Geraldine Sanson has called for more than \$450,000 in penalties

A London slum landlord is being persecuted in an extraordinary and alarming case.

By Rory Leishman

Elijah Elieff is a pariah. He is a slum landlord. Why should anyone care that he has been singled out for persecution by the Ontario Human Rights Commission?

Robert Metz, Ontario president of the Freedom party, knows the right answer: If even the lowliest citizen is oppressed, the liberty of everyone is jeopardized.

That's why Metz has donated his services as an advocate for Elieff before a board of inquiry under the human rights code. It is a most extraordinary and alarming case. During a hearing in London on Sept. 28, Geraldine Sanson, counsel for the commission, asked board adjudicator Ajit John to hit Elieff with more than \$450,000 in penalties for allegedly violating the rights of Chippeng Hom and other Southeast Asian tenants in apartment buildings at 95 and 105 Cheyenne Ave. in London.

Metz concedes the obvious: That Elieff's Cheyenne Avenue buildings "are in a constant state of disrepair" and have been the subject of "numerous board of health complaint filings." These are serious problems for consideration by building inspectors and public health officials. What, though, does the state of Elieff's buildings have to do with the human rights commission?

Sanson contends it's a question of discrimination. In a submission to the inquiry board, she maintained that Hom and other tenants in the Elieff's apartments suffer, "poor living conditions which are justified by Elieff by stereotypical assumptions that Cambodians like to live like pigs and that they like cockroaches . . ."

"The commission will be seeking a high award of damages for Hon," Sanson explained, "to allow her to improve her living conditions, as she is unable to move, and to repair her dignity and her self respect."

On this basis, the commission wants Elieff to pay \$40,000 to Hom in compensation for injury to her dignity and self-respect resulting from harassment, a poisoned living environment, denial of equal residential treatment and reprisal. In addition, Sanson has asked the inquiry board to order him to contribute \$409,900 to the Cheyenne Community Tenant's Board to carry out repairs to his apartment buildings.

That's not all. To make sure Elieff never sins again, the commission has gone so far as to request the inquiry board to compel him, his son and his building superintendents to attend a

recognized course in anti-racism.

This is unprecedented. Before the human rights commission came along, no agent of the government ever suggested that a citizen of Ontario should be legally obligated to take a course in politically correct thinking. Perhaps the Rae government might wish to recruit brain-washing experts from North Korea to make sure the job is done properly.

It's hard to believe that the kind of penalties sought by the commission are legal. Yet Section 41 of the human rights code plainly states that if a board of inquiry finds that some party has discriminated against a complainant contrary to the act, "the board may direct the party to do anything that, in the opinion of the board, the party ought to do to achieve compliance with this act."

Every landlord is vulnerable to this Draconian legislation. With sufficient provocation, the best of them might be tempted some time to blurt out:

"Welfare tenants are making a mess of my buildings." In view of the Elieff precedent, such an intemperate outburst could carry huge penalties inasmuch as discrimination on the basis of "receipt of public assistance" is one of 15 grounds prohibited by the Ontario Human Rights Code.

**DENIAL:** Elieff is in default on his mortgage payments for the Cheyenne buildings and indignantly denies all accusations of discrimination. Nonetheless, suppose he is condemned by the inquiry board and cannot afford the fines levied against him or refuses to pay. What happens then?

In either case, he could be hauled before a divisional court for violating an order of the human rights tribunal and jailed. It has happened before.

People who cannot work up much sympathy for landlords might consider what happened to Daniel Brambilla, producer of the controversial musical *Showboat*. Last month, he was summoned to appear before the Toronto police board and given a dressing down by the board's chairperson, Susan Eng.

In view of angry complaints that the show will poison the environment for blacks, she asked: "If you had it to do all over again, would you do it again?" Brambilla politely suggested this was not a proper matter for police board consideration.

Eng responded tartly: "We don't take kindly to anyone who cavalierly engages in that kind of disruption. If they have unwittingly done that," she warned Brambilla, "I would want to know whether they would do it again."

Freedom under law has never been more gravely imperilled in Ontario. If Elieff is condemned at the instigation of the human rights commission, bells should be tolling, not just for him, but for the freedom of everyone.

-reproduced from the London Free Press, October 14, 1993

Closers...

## RACE TO THE FINISH -Robert Metz

(Robert Metz is president, leader, and a founding member of the Freedom Party of Ontario.)

The *Human Rights Commission* must be abolished.

That such an institution exists in the midst of a free society is alarming, but understandable, disguised as it is by its benign and righteous-sounding name. After all, who could be against "human rights"?

Well, the *Human Rights Commission*, for starters.

The *Ontario Human Rights Commission* is possibly the closest thing Ontario has ever had to its own official Gestapo. With the exception of shooting people on sight, the HRC already has virtually most of the powers that were exercised by the Gestapo, and has been actively seeking the authority to circumvent the court system entirely.

Its Boards of Inquiries give all "rights" to the complainants, and none to the respondents. It is allowed to accept "evidence" that would never see the light of day in a bonafide court room. Its adjudicators have absolute "discretion" in all matters brought before a Board, and its Boards have the power to order literally "anything" to force respondents to comply with the Human Rights Act. Yes, that's right -- "anything".

Remember all the indignant fuss about the report that suggested a change in law so that those brought before a Board would be considered guilty until proven innocent? It seems to me that this was a complete smoke-screen created to divert our attention from the fact that that's essentially how HRC Boards of Inquiry already operate.

But the term currently in use is not "guilty until proven innocent"; that would be political suicide. No, the politically-correct term for the same concept is "equitable principles requir-

ing parties to conciliate." In fact, the latter concept bypasses the necessity of determining guilt or innocence entirely, which probably makes it worse than being considered guilty until proven innocent.

It also explains why the HRC Board of Inquiry placed a publication ban on our last issue of Freedom Flyer.

In a normal court of law, a person is charged with a crime and then it is determined whether he/she is guilty or innocent of the charges. It is only after the determination of guilt that a sentence or fine is imposed upon the guilty party.

However, under an HRC Board of Inquiry, this process is essentially reversed. If the respondent (i.e., the "defendant") does not agree to "conciliate" -- and no innocent person would willingly agree to that -- then he is automatically brought before a Board of Inquiry.

That, in a nutshell, is exactly what happened to London landlord Elijah Elieff. His naive faith that a Board of Inquiry operated like a court (i.e., where its main function was to determine his guilt or innocence based upon some form of objective evidence) was what led him to believe that the case against him would be thrown out. (This is exactly what would have happened in a court of law.)

To this day, after representing Mr. Elieff for nine of thirteen days before a Board of Inquiry, I still find it very difficult to adjust my sense of justice to the idea that the long-overdue decision we are still waiting for is not about Mr. Elieff's guilt or innocence, per se. We are, instead, awaiting for the adjudicator to "make an order" that may or may not include any or all of the 18 listed "orders" requested

by HRC counsel (see page 10).

It is most unusual, at least to my way of thinking, to have a request for orders made before a determination of guilt or innocence.

If there's one glaring lesson that I've learned by all this, it is that white people must exercise great caution when associating with individuals of a different skin colour. This is a distasteful thing to have to admit, but there's simply no avoiding the reality that that's how things are.

The Human Rights Commission is a blatantly racist organization. It regards all members of "visible minorities" as being weak, vulnerable, and intrinsically inferior to whites, and proceeds to enact legislation based on this racist belief.

The HRC is exploiting the racial differences of Canadians and using those differences to justify a host of government policies that are redistributive in nature, and that have very little to do with justice or equality. I cannot tell you how many times I had to be reminded that Boards of Inquiry deal with matters of the "public interest" (i.e., government policy) and not of justice.

It is tragic to realize that had London landlord Elijah Elieff's tenants all been white (which is his colour), he would never have been brought before a Board of Inquiry for referring to his messy tenants as "little pigs." Similarly, had he been Asian, since the majority of his tenants were Asian, he would also have avoided this fate.

Sadly, the reason the HRC forced Elieff to appear before a Board of Inquiry had nothing to do with his comments or the race of his tenants. It's because of his race. <END>

### FREEDOM FLYER

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