



The roots of the County and District Law Library system

Introduction

At its meeting on April 28, 2006 the board of directors of LibraryCo discussed the governance review of the organization that is being undertaken by the Law Society of Upper Canada (LSUC), the County and District Law President's Association (CDLPA) and the Toronto Lawyers Association (TLA).

The board concluded that it is uniquely qualified to provide its' shareholders and stakeholders with a summary of key landmarks in the history of the county and district law library system including:

- An overview of the libraries pre-LibraryCo
- The history of the Elliot Working Group's recommendations regarding governance of the corporation.
- The achievements of LibraryCo in its first five (5) years of operation.

An Overview of the County and District Libraries Pre-LibraryCo

To describe the county and district libraries in the period before LibraryCo as a system would be a misnomer. It was a collection of 47 separate libraries under the management of the local county and district law associations receiving financial grants and some guidance from the Law Society. Because the responsibility for the co-ordination of the libraries was only one of many of the Great Library's Chief Librarian's duties, little co-ordination was possible. However, it is interesting that in 1996, it was CDLPA that took the initiative and set up a staff benefits package to which about 20 of the 47 associations subscribed.

By the mid-nineties, not a lot had changed since 1979 when the Lerner Subcommittee of Convocation had reported impoverished collections and inadequate staffing in the local libraries. Staffing in most libraries was part-time clerical and unable to keep up with typical library duties let alone with the reporting the LSUC required. Libraries were funded by a per member levy as part of the membership dues in the Law Society which in turn distributed the funds to the county and district law associations for their libraries. The Lerner Subcommittee recommended increased grants to libraries including an extra incentive to those associations willing to charge membership dues at a higher than median level. Interestingly, the Subcommittee recommended that the LSUC create a position of County Law Library Administrator to carry out annual inspections of the libraries, make recommendations as to development, assess grant requirements and institute standardized record-keeping procedures and possibly to organize workshops for training librarians. This eminently reasonable recommendation was never implemented but was repeated at various times by CDLPA most recently in or about 1998 when it recommended that an organization separate from the LSUC be set up to manage the library system.

By 1990 things began to get more serious. The cost of written material had always been escalating but the pace began to pick up now that publishers had discovered the favourable revenue implications of looseleaf publications. From 1991 to 1994 the cost of subscription services rose 40 per cent. The library system was facing a deficit of \$65,000 in 1994 in addition to an anticipated \$155,000 reduction in Law Foundation funding. At that time, funding for libraries came from various sources with the LSUC and Law Foundation covering about 52 per cent of the total cost of local libraries and the balance covered by the 46 per cent of the profession who happened to be members of county and district law associations. The median membership fee in the counties in 1995 was \$225 but these dues ranged from a low of \$85 to a high of \$400. So at this time the profession as a whole financed about half of the cost of libraries through their LSUC fees and interest from trust accounts and the other half was financed by only half of the profession and in widely disparate proportions.

In 1994, the Law Society turned down CDLPA's request for a levy increase from \$81 to \$84 per member. Rather than create a permanent increase in the levy, the Society financed the deficit out of various library-related funds that had accumulated over the years and launched another study of the system. The new study, released in April, 1995, became known as the *Topp Report* and commented specifically on the unfairness and impracticality of unequal contribution to the financing of libraries and recommended a system of central funding. However, a critical feature of this recommendation was that it be phased in over 5 to 10 years with an initial levy increase of \$35 from the previous \$81 to \$116 per member.

By this time, the anticipated deficit in the system had risen to about \$570,000 but the Law Society recommended that only \$300,000 of the additional \$800,000 flowing from the \$35 levy increase be applied to the deficit, \$100,000 to special projects and \$400,000 to technology. The *Topp Report* mentioned technology specifically as a potential way to blunt the impact of the escalating costs of publication.

The *Topp Report* was released in the midst of a recession. Numbers in the profession were becoming an issue again and, in fact, CDLPA held a symposium on this subject at its plenary in November 1995. Membership in local associations had actually gone down by over 4 per cent from 1992 to 1996 so increased library costs were being shared by fewer members. An increase in the LSUC library levy would potentially worsen membership erosion and this would all be taking place with rising publications costs. This combination of factors could potentially spread the gap between system costs and what the Society was funding centrally making the target of central funding more elusive. This was one of the reasons that the Law Society decided that central funding could not be phased in; it would have to be done in one step estimated to require an increase from \$116 to \$231 in the LSUC library levy.

It is important to remember that this was also the time of the errors and insurance crisis with members having to pay more than \$5,000 annually for their coverage. Hard times were made yet harder. Convocation and members of the profession were intensely sensitive to the costs of being a lawyer. To those involved in the library system at the time, the prospect of central funding seemed more like an impossible dream than a legitimate goal. It was far from a foregone conclusion that the required increase of \$115 in the library levy would be acceptable but CDLPA was helpful in the process. At its November, 1996 plenary which dealt primarily with libraries, it passed four resolutions that:

- (a) LSUC in consultation with CDLPA Library Committee immediately allocate and disperse \$309,500 from the LFO for technology and training;
- (b) Implementation of new technological services through the county and district law libraries be a priority;
- (c) Recognizing that the library component would have to rise from \$116 to \$231 per member, the LSUC act immediately to enact a procedure for central collection of library dues;
- (d) CDLPA endorse joint management of county and district law library resources by CDLPA Library Committee and LSUC.

The History of the Elliot Working Group's Recommendations Regarding Governance

The Professional Development and Competence Committee constituted several working groups in 1997 to address policy issues relating to County and District Libraries. These built on the work done by the 1995 Subcommittee on County Libraries (the *Topp Report*), and other working groups which considered funding issues, the impact of technology on future library services and one which looked at past funding and financial records of the Law Society and the County Libraries. In 1998 a Working Group was put in place to complete the work of the previous groups and produce a report on options for future delivery of library services.

The Working Group met for six full-day meetings at Osgoode Hall over the course of four months. Membership of the Working Group was Susan Elliott (Chair), Peter Bourque (CDLPA), Rich Wilson (Bencher), Anne Matthewman

(MTLA Librarian), Michael Adams (Bencher), Cynthia Simpson (Middlesex Librarian), Holly Harris (CBA-O), Janine Miller (Director of Libraries), Susan Binnie (Policy Secretariat).

The work of this group was published in three phases beginning with the formation of the group in January, 1998 until the final Phase 3 report in May 2000. The result was *Beyond 2000: The Future Delivery of County Library Services to Ontario Lawyers* or the *Elliott Reports* as they have come to be known. This research and study constituted a substantial effort and commitment from the Society and the task force in what was the first major rethinking of the county and district library system since their formation in century and a quarter ago in 1879.

Standards for the governing board and administration were established by the working group. The following were identified as factors for consideration in the selection of the governing board:

- In order to provide informed guidance and support, the members of the governing board would have knowledge of and interest in the operation of county law libraries.
- Its members should also have knowledge of the community being served and of its changing needs.
- They should make themselves aware of the changing delivery methods and sources for legal information.
- Members of the Board would be drawn from the various constituencies of the user group including staff within the system.
- The Board would also include representation from its funding sources and from the different geographical areas of the province.

The constitutional documents of the Board would delineate the number of members, the terms of members, the appointment/selection procedures for Board members and for the perpetuation of the Board. They would also set out the relationship of the Board to the system itself and to the administrative office of the system. In discussing the structure of Library Co., the Working Group examined options for the size of the board, the appointment process and ownership of Library Co. Ultimately, the Working Group agreed upon these issues and determined that it should make a recommendation on these matters, rather than present options. Whether a committee structure or a corporate vehicle was best suited to governance of the Blended System was briefly examined and quickly resolved in favor of a corporation.

The CDLPA representative on the Working Group had initially pressed to have the 25 members of the CDLPA Library Committee act as Board members. The initial recommendation of the rest of the group had been 7. It was recommended that LibraryCo comprise an uneven number of 15 voting directors in order to: provide sufficient breadth to accommodate the interests of various legitimate constituents; facilitate majority voting and provide sufficient people to staff board committees.

It was further recommended that LSUC, CBAO/CDLPA, MTLA and OCLA would each directly appoint 1 director, LSUC Director of Libraries – ex officio, LibraryCo nominating committee comprised of LSUC and CBAO/CDLPA directors would jointly appoint the remaining 10 directors based on recommendations and meeting the standards required.

Further, the Working Group recommended that the office(s) for LibraryCo be located in the Greater Toronto Area to facilitate travel to county towns by road or air but that it not be located in downtown Toronto. It was felt to be important to distinguish the new system from the old and to reflect the fact that it is a county library system. Since the Peel County Law Association library was moving to a new courthouse with significantly more room for its library facility, the Working Group recommended the Transition Board enter into discussion with the Peel Law Association and/or Ontario Realty Corporation to determine whether there was space to house LibraryCo in that courthouse facility. When suitable premises could not be found there, Burlington was selected as the site for the office.

The Achievements of LibraryCo in its First Five (5) Years of Operation

One of the key elements for LibraryCo as set out in the *Elliott Report* was to establish standards for the county and district law libraries. The following is a summary of those accomplishments in LibraryCo's first five years.

Information delivery and access for Ontario's lawyers

- Established toll free numbers for all county and district law libraries in order to assure the lawyers of the province that during business hours, there will always be staff available to assist with their research.
- Through the *Toolkit of Legal Resources* deliver more and better electronic resources to the lawyers of Ontario through their county and district law libraries. Lawyers currently have access to seventeen (17) key commercially published Canadian legal electronic products.
- Established a document delivery protocol in order to share resources among the law libraries in the LibraryCo system.
- Delivered to lawyers whose association's law library is designated as *Local*, the *Desktop Delivery Initiative* which entitles them to access from their own personal desktop to the *Toolkit of Legal Resources*.
- Created the innovative service advoCHAT. This is a real time online reference service which delivers library reference services via the internet. Using software based on *chat technology*, the law librarian can do a live reference interview with a lawyer located anywhere in Ontario. Through a co-browsing facility, law librarian(s) may open web pages, library databases, *PowerPoint* slides, or other software applications (such as a *Word* document or an *Excel* spreadsheet) on the lawyer's computer in real time as the lawyer looks on at their own computer.

Collection development and rationalization

- Developed collection standards for County and District law libraries to ensure "competent lawyers" for Ontario.
- Continual updating of collections standards through the semi-annual production of *Highlights – a Selection of Canadian Legal Titles Published in the Last Six Months*.
- Undertook a series of collection rationalization projects between the five regional law libraries and the Great Library culminating in agreed standards and the publications: *Union List of Canadian Law Reports held in Regional and the Great Law Library* and *Union List of UK Law Reports held in Regional and the Great Law Libraries*.
- Co-operated in a nation-wide *Canadian Law Society and Courthouse Library Directors' National Resource Sharing Agreement* with all Law Society and Courthouse Law libraries from coast to coast to coast.
- Negotiated centralized purchases for standard collections for all law libraries including all Law Society of Upper Canada CLE materials, Special Lecture series, and other resources as they are available.

Staff development and continuous improvement

- Developed province-wide staffing standards including salary bands for all staff, uniform position descriptions and appropriate performance measurements to ensure support for the lawyers of Ontario.
- Assisted county and district law associations with their hiring practices in the law libraries. In the past five years that includes some sixteen different hiring opportunities.
- Supported, through three bursary initiatives continuing education for all law library staff. These bursaries include: the *Canadian Association of Law Libraries Conference Bursary*, *Library Technician and Law Librarians' Continuing Education Bursary* and *Library Assistants Continuing Education Bursary*.

- Organize, sponsor and host an annual two day meeting and conference called *Conference for Ontario Law Associations' Libraries (COLAL)* for all county and district law library staff.

Financial Accountability

- Prepare an annual budget on behalf of the 48 county and district law libraries for approval by the Law Society of Upper Canada.
- Implemented a mandatory quarterly financial reporting mechanism whereby all law libraries report in a timely manner using a uniform accounting software.
- Report on the financial affairs of LibraryCo and all law libraries on a quarterly basis to LibraryCo Shareholders and stakeholders.
- Undertake an annual Audit of LibraryCo and subsequently report to Shareholders and stakeholders.

Communicating the activities of LibraryCo

- After one year of operation devised and implemented *Out of the Box ... and beyond the walls: Business strategies for Library Co Inc. 2002-2005*.
- Created a standardized statistic reporting schedule to record library and resource use in the 48 law libraries.
- Designed the Library Co website at www.libraryco.ca which hosts access to all official documents and acts as an information tool regarding LibraryCo and county and district law library activities.
- Report twice per year to the County and District Law Presidents Association at their semi-annual plenary sessions.
- On an annual basis, the Chair of LibraryCo reports formally to Convocation. As needed throughout the year, the Chair and Executive Director make themselves available to report at Convocation.
- Attend semi-annual meetings of the CDLPA Library Committee.
- Publish an annual review of activities for LibraryCo.
- In 2004, as a mechanism for communicating with Association Executives, Benchers, library staff and other interested parties began the publication *FOCUS ... a quarterly publication of LibraryCo Inc.*

Improved infrastructure and operational support

- Instituted technology standards as a guide for associations when purchasing library computer equipment.
- Made possible, through centralized purchasing and negotiation updated accounting and word processing software for computers in all law libraries.
- Provided consultation services regarding collections, facilities, training and technology for the Associations whose libraries are designated as Local, through the expertise of the Roving Law Librarian.
- Coordinated more "bulk purchase" opportunities for continuing education resources in order to take advantage of discount prices.
- Offered support to law libraries for library moves renovations, equipment replacement and upgrades, furniture and shelving through the *Capital and Special Needs Grants*.

Partnering with others

- Continually exploring opportunities with The Great Library to develop creative options of bringing better service and resources to the lawyers of Ontario.
- Partnering with legal publishers and vendors including BAR-eX and the Law Society to support appropriate, meaningful and timely training and continuing education opportunities for lawyers and law library staff.

Conclusion

The LibraryCo Board invites its shareholders and stakeholders to consider the challenges of transforming a disparate group of individual libraries to a province wide library system. As set out above, in the past five (5) years LibraryCo has introduced and implemented the majority of the key changes mapped out in the *Elliot Report* along with additional enhancements. We think that our shareholders and stakeholders would agree that these changes have resulted in improved and superior information services to the lawyers in the Province.

In effecting these substantive changes have we had the support of every Association? Every stakeholder? Every staff person? The answer to all three (3) questions is no. However, we invite our shareholders and stakeholders to consider whether it is a reasonable goal to expect any other outcome in an environment of rapid, significant change.

On the governance issue the LibraryCo board makes several points based on the experience of the past five (5) years.

1. We are managing a large and complex law library system spread over a vast geography. The expertise provided by our law librarian board members has been a valuable asset to the board on many issues.
2. The working of the board has been conducted on a non partisan basis. Although some members represent organizations, issues have been addressed on a "best interest" basis as opposed to constituent interests.
3. The LibraryCo board should be a high-level policy making body as opposed to an administrative or operational body.
4. The future success of LibraryCo is dependant upon a greater degree of harmony between the two shareholders and their support of the decisions that the governing body makes.



May, 2006