

MISSISSAUGA JUDICIAL INQUIRY
City Council Resolution 0271-2009

MOTION BY PETER MCCALLION

Peter McCallion hereby moves for confirmation of the Commissioner's recommendation, made on May 17, 2010, for funding for legal representation consistent with the Commissioner's ruling on standing, dated December 14, 2009, and requests that the Commissioner make a recommendation to the City of Mississauga that it increase the funding limit set out in Resolution 0139-2010 from \$150,000.00 to \$400,000.00. Further, Mr. McCallion asks the Commission to adjourn the Inquiry indefinitely until such time as he can secure funding for legal representation from the City

The grounds for this motion are as follows:

1. On December 9, 2009, Mr. McCallion brought a motion before Commissioner Cunningham wherein he sought standing to participate fully in all aspects of the Inquiry and further requested that the Commissioner make a recommendation to the City of Mississauga (the "City") that it provide Mr. McCallion funding in order to facilitate his preparation for and participation in the Inquiry.
2. In his ruling of December 14, 2009, Commissioner Cunningham granted Mr. McCallion standing to participate in the Inquiry.
3. In his ruling of December 14, 2009, the Commissioner urged the parties seeking funding to attempt to negotiate a reasonable arrangement with the City, thereby avoiding the need for him to make a specific ruling.
4. Following the Commissioner's ruling, on December 21, 2009, Mr. McCallion delivered additional submissions to Commission counsel and counsel for the City, whereby he provided further information with respect to his inability to fund his own legal counsel.

In addition, Mr. McCallion set out a proposal for the use of funds, including proposed hourly rates, and an allocation of funds for preparation and attendance at the Inquiry.

5. By letter dated January 20, 2010, Mr. McCallion was advised that the City would consider his request for funding, following the receipt of advice from its internal and external legal counsel.
6. On or about February 1, 2010, Mr. McCallion received a copy of a Corporate Report (the "Report"), prepared by the City's solicitor wherein she recommended that funding be given to Mr. McCallion in accordance with the proposed criteria set out in the Report.
7. On or about February 10, 2010, the City Council adopted the Resolution 0032-2010 (the "Resolution") regarding funding for parties with standing. The Resolution limited funding for Mr. McCallion's legal representation to preparation for and attendance at the Inquiry when Mr. McCallion is giving evidence; required that as a precondition to any funding, Mr. McCallion provide further evidence of financial need; and deferred any decision of Council for further funding to following the receipt of the Commissioner's report.
8. Pursuant to a Notice of Reconsideration filed by Councillor Parrish, on or about February 24, 2010, the City Council revisited the question of granting even limited funding to Mr. McCallion. Council declined to revisit its decision as set out in the Resolution.
9. On February 26, 2010, Mr. McCallion brought a motion to the Commission, wherein he sought a recommendation that the City Council reconsider its grant of limited funding for his legal representation.
10. In his ruling of March 4, 2010, the Commissioner recognized that Mr. McCallion is entitled to fully participate in the Inquiry and that while the Commissioner's role was to make a recommendation regarding funding for Mr. McCallion's participation, "the City should be mindful of the fact that it put Peter McCallion's dealings at the heart of this Inquiry" and there are "myriad legal and evidentiary issues confronting Mr. McCallion for which he will need counsel."

11. In his ruling of May 17, 2010, the Commissioner made a recommendation to the City Council that it provide Mr. McCallion with full funding to participate in the Inquiry with legal representation. In particular, the Commissioner concluded that in order to assist the Commission, and by extension the City, it was imperative that Mr. McCallion have experienced legal counsel.
12. By Resolution 0139-2010 dated May 26, 2010, City Council approved funding for Mr. McCallion's legal fees in the amount of \$150,000.00. This approval was made subject to future review should the limits prove inadequate.
13. Mr. McCallion submitted to interviews by Commission Counsel on April 23, July 13 and 15, 2010, and testified at the Inquiry on July 27 and 28, 2010.
14. By July 31, 2010, Mr. McCallion exceeded the funding cap of \$150,000.00. Despite this, counsel for Mr. McCallion has continued to participate in the Inquiry. The Inquiry continued on the following days: August 9-11, 16-19, September 13-16, and 20-23, 2010.
15. On September 29, 2010, on motion by Councillor Parrish, City Council voted to take steps to recoup from Mr. McCallion the \$150,000.00 it has paid for his legal expenses to date.
16. It is currently anticipated that the Inquiry will continue the week of December 13, 2010 with additional fact and expert witnesses, and in the new year for closing submissions.
17. Mr. McCallion requires funding for his counsel to continue to participate in the Inquiry, to cross-examine the remaining witnesses as appropriate and to prepare closing submissions on his behalf.

18. Mr. McCallion asks that this motion be heard on December 3, 2010 at 9:30 a.m. or as soon thereafter as can be arranged by this Commission.

Dated at Toronto, Ontario this 26th day of November, 2010.

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