

MISSISSAUGA JUDICIAL INQUIRY
City Council Resolution 0271-2009

MOTION BY THE *MISSISSAUGA NEWS*

Blake, Cassels & Graydon LLP
Box 25, Commerce Court West
Toronto, Ontario M5L 1A9

Ryder Gilliland (LSUC # 45662C)
Tel: (416) 863-5849
Fax: (416) 863-2653

Lawyers for the *Mississauga News*

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The *Mississauga News* hereby moves for an order that (a) the affidavit of Peter McCallion with respect to his financial circumstances, sworn in support of Mr. McCallion's motion for public funding (the "McCallion Affidavit") form part of the Commission's record; and (b) the cross-examination of Mr. McCallion with respect to the McCallion affidavit form part of the Inquiry's record.

The grounds for the motion are:

1. On February 26, 2010, Mr. McCallion moved before the Inquiry for public funding, and requested that the Commissioner make a recommendation to the City of Mississauga that it reconsider its decision with respect to funding for Mr. McCallion;
2. On March 4, 2010, the Commissioner gave oral reasons including directions for the process by which this motion would be considered. The Commissioner held that "[t]he financial information presently put forward by Mr. McCallion is of little assistance" and proposed that Mr. McCallion swear an affidavit with respect to his financial circumstances in order to establish his entitlement to funding. Mr McCallion would then be cross-examined on this affidavit;
3. Those reasons stipulated that the McCallion Affidavit would "not form part of the record";

4. The freedom of expression guarantees in s. 2(b) of the *Canadian Charter of Rights and Freedoms* require that all discretionary actions in judicial proceedings which have the effect of limiting freedom of expression satisfy the test set out in *Dagenais v. Canadian Broadcasting Corp.*, [1994] 3 S.C.R. 835, *R. v. Mentuck*, [2001] 3 S.C.R. 442, 2001 SCC 76, and *Sierra Club of Canada v. Canada (Minister of Finance)*, [2002] 2 S.C.R. 522, 2002 SCC 41. This includes decisions by the Commissioner of a public inquiry;
5. The McCallion affidavit and the cross-examination on that affidavit will play a significant role in whether the Commissioner recommends that the City of Mississauga reconsider giving Mr. McCallion public funds;
6. Prohibiting public access to this information will deprive the public of important information with respect to the use of public funds;
7. Rules 4 and 34 of the *City of Mississauga Judicial Inquiry Rules of Procedure*.
8. Such further and other grounds as counsel may advise and this Inquiry allow.
9. The *Mississauga News* asks that this motion be heard by this Inquiry on April 30, 2010 at 10:00 a.m., or as soon thereafter as can be arranged by this Inquiry.

Dated at Toronto, Ontario, this 26th day of April, 2010



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