

STOCKWOODS

Barristers

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SENT VIA E-MAIL and COURIER

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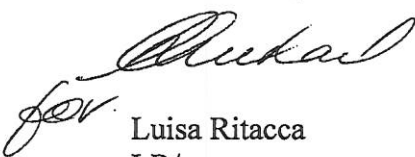
Attention: William McDowell, Commission Counsel

Dear Mr. McDowell:

Re: Mississauga Judicial Inquiry

Enclosed please find the standing and funding submissions of Peter McCallion.

Sincerely,


for Luisa Ritacca

LR/ cm

Enclosure

Motion for Standing and Funding by Peter McCallion

Peter McCallion hereby moves for standing to participate fully in all aspects of the Mississauga Inquiry commenced by City Council Resolution 0271-2009, pursuant to section 274 of the *Municipal Act, 2001* (the "Inquiry"). Further, Mr. McCallion moves for funding and requests that the Commissioner make a recommendation to the City of Mississauga that he receive funding in order to facilitate his preparation for and participation in the Inquiry.

Standing

1. Mr. McCallion has a substantial and direct interest in the subject-matter of the Inquiry and can contribute to several of the issues raised by the Inquiry's Terms of Reference.
2. Mr. McCallion has been involved as a real estate agent in the City of Mississauga (the "City") for over 25 years.
3. In or about 2005, Mr. McCallion became involved in negotiations with OMERS Realty Management Corporation ("OMERS") for the purchase of lands owned by OMERS in the City of Mississauga's City Centre. Mr. McCallion was involved in these negotiations on behalf of a shareholder of World Class Developments Limited ("WCD"). WCD intended to use the lands, in part, for the development of a hotel and conference centre.
4. In or about January 2009, negotiations between OMERS and WCD broke down, resulting in the commencement of litigation between the parties. Mr. McCallion swore affidavit evidence on behalf of WCD in response to OMERS' application.

5. As a result of the breakdown between OMERS and WCD, Mr. McCallion received no compensation for his work on the proposed transaction, and derived no financial benefit from the settlement between OMERS and WCD.
6. If granted standing, Mr. McCallion would be of assistance to the Commissioner in fulfilling his mandate to:
 - (a) investigate and inquire into all relevant circumstances pertaining to an Agreement of Purchase and Sale entered into between OMERS and WCD for the purchase of lands in Mississauga's city centre for the purposes of the development of a hotel and conference centre; and
 - (b) investigate and inquire into all relevant circumstances pertaining to Mayor Hazel McCallion's and Mr. McCallion's involvement in the OMERS/WCD transaction.
7. Mr. McCallion seeks standing in order to fully participate in presenting evidence and making submissions related to the Terms of Reference and the Commissioner's mandate.

Funding

8. Mr. McCallion respectfully requests that the Commissioner recommend to the City of Mississauga that he receive funding in order to assist him to prepare for and participate in the Inquiry.
9. A party with a direct and substantial interest in the Inquiry must be afforded full opportunity to actively participate in the hearings. That can best be achieved by having the party's counsel present throughout the Inquiry process. In the *Toronto Computer Leasing Inquiry*, The Honourable Denise Bellamy, Commissioner recommended that the

City of Toronto provide funding to two former employees of the City, who had direct and substantial interests in the Inquiry. In making her recommendation, the Commissioner referenced comments made in the funding ruling of May 14, 1987, of the Commissioners of the *Royal Commission on the Donald Marshall Jr., Prosecution*:

The Commission, if its findings are to be considered credible, must be perceived to be conducting fair Hearings, and to be doing everything possible to ensure that proper representation is provided for all parties whose participation in all, or some particular part, of the Hearings is required. It would be extremely unfortunate, and inconsistent with the proper administration of justice, if a necessary party were prevented from presenting its full story to the Commission due to lack of financial resources. The public interest is unlikely to be served adequately if only some interested groups and parties are represented, since necessarily that would risk having our findings influenced in favour of those parties who are either better organized or better funded.¹

10. Mr. McCallion is self-employed in real estate. Mr. McCallion does not have substantial financial means and would therefore find it difficult to participate fully in the Inquiry, if required to pay for his legal representation himself.
11. Mr. McCallion is a necessary party to these proceedings. As outlined above, it is expected that Mr. McCallion's participation at the Inquiry will be significant given his direct knowledge of many of the matters at issue. Mr. McCallion expects that he will be required to provide information and to review documents in an effort to assist in the Commissioner's work in this Inquiry.
12. Mr. McCallion is represented by Brian Gover and Luisa Ritacca of Stockwoods LLP. Given the complexity of the Inquiry and the anticipated involvement of Mr. McCallion in all stages of the Inquiry, it is estimated that significant number of hours of legal services

¹ As referenced in the Toronto Computer Leasing Inquiry, Ruling on Standing and Funding, July 3, 2002 at page 9

will be required for Mr. McCallion to both prepare for and participate in the hearing. As set out above, it is anticipated that Mr. McCallion and his legal counsel will be required to review documentation and to provide information to Commission counsel prior to the commencement of the hearing.

13. Based on the early estimates provided by the City's solicitor, Mr. McCallion understands that the hearing is scheduled for approximately 40 days. While it is not anticipated that Mr. McCallion will require two counsel each day of the hearing, it is expected that there may be occasion during the hearing where the participation of two counsel is required. Mr. McCallion requests that the Commissioner recommend funding for two counsel to assist him in dealing with requests from Commission counsel, preparing for the hearing, and attending the hearing on days where it is anticipated that issues relating to Mr. McCallion will be discussed. On all other days of the hearing, Mr. McCallion seeks funding for one lawyer to be present.
14. Further, Mr. McCallion's legal counsel are prepared to negotiate a reasonable cap directly with the City's counsel, should the Commissioner make that recommendation.
15. Finally, should the Commissioner require any further particulars regarding Mr. McCallion's legal representation, his legal counsel are prepared to provide a work plan for review.
16. Mr. McCallion respectfully requests standing to participate fully at the Inquiry and respectfully requests that the Commissioner recommend to the City of Mississauga that Mr. McCallion be provided with funding to prepare for and participate in the Inquiry.

All of which is respectfully submitted,

DATED at Toronto, this 9th day of December, 2009

Lian Jover