



City of Mississauga Judicial Inquiry

The Honourable J. Douglas Cunningham, Commissioner

Motion by Peter McCallion: Decision of Commissioner Cunningham December 3, 2010

Counsel for Mr. McCallion raises an important issue. I won't repeat what I said on May 17, other than to recap that on I recommended that Mississauga City Council grant Mr. McCallion full funding for legal representation. I noted then that it was imperative that I have experienced counsel appear for Mr. McCallion who were able to properly prepare and put forward all the issues in their proper context. Mississauga City Council awarded limited funding, and Mr. McCallion has been ably represented to date.

The funding provided by City Council has now been exhausted, and Mr. McCallion's counsel advises it was in fact exhausted by the end of July. This is not surprising, given the length of the Inquiry and the complexity of the issues raised. Ahead of us remains one further day of evidence, two days of expert testimony, the preparation of written submissions and approximately one week of oral submissions.

I implore City Council to consider Mr. McCallion's request for further funding. It would be unfortunate to come this far and not allow the hearing to finish with all the procedural protections we can afford a party. While I have of course made no findings, it is obvious that Mr McCallion's interests are squarely in play based upon the evidence which I have heard to date. City Council set the terms of this Inquiry, specifically naming Peter McCallion in the Terms of Reference. His request for further funding is valid and should be given serious consideration. Clearly there is some mystery and indeed some real concern about the alleged interest of Peter McCallion in WCD. This will be for me to untangle in my report.

Nevertheless, if City Council elects not to follow my recommendation, the appropriate remedy is not to halt these proceedings. There are seven parties in this Inquiry, and the citizens of Mississauga have expended significant resources and are entitled to my findings of fact and my recommendations. The only jurisdiction I have is to make recommendations to the municipality, and it would not be appropriate to hold the hearing hostage until City Council takes specific action.

If further funding is not awarded, Mr. McCallion's remedy is to argue that no finding should be made against him because he lacked the procedural protection of representation by legal counsel. I would then be required to determine whether the lack of full funding undermined the Inquiry's process and hampered its ability to lead to fair and accurate findings of fact with respect to Mr. McCallion.

The Inquiry will therefore resume as planned on Tuesday, December 14 at 10:00 a.m. I hope that Mississauga City Council will assess Mr. McCallion's request for full funding with an eye to its duty to act responsibly and fairly, having set into motion the steps leading to the Inquiry and leading us here today. Regardless of City Council's decision, however, the Inquiry will proceed on December 14.

Cunningham, A.C.J.O. (Commissioner)
December 3, 2010