

REVIEW OF CERTAIN APPLICATIONS BEFORE THE NORTH YORK COMMITTEE OF ADJUSTMENT

Date:	January 29, 2007
To:	City Council
From:	City Solicitor
Wards:	
Reference Number:	

SUMMARY

At its meeting of June 14th, 2006, City Council in considering Notice of Motion F(2) dealing with reports prepared by the Auditor General and the City Solicitor with respect to the Auditor General's review of the processing and hearing of certain applications to the Committee of Adjustment, City Council requested that the Auditor General take further action and submit a supplementary report. In addition Council requested that the City Solicitor report on the implications on the City of Toronto's defence of the libel suit and whether the affected Member of Council should participate in this debate. As the Auditor General has now submitted a supplementary report with respect to his review, it is appropriate that Council also consider this report.

FINANCIAL IMPACT

There are no financial implications resulting from the adoption of this report.

ISSUE BACKGROUND

The Municipal Conflict of Interest Act provides that a Member of Council shall not participate with respect to a matter which is the subject of consideration by Council, where the member has a direct or indirect pecuniary interest in the matter. The Act requires that the member disclose the interest and its general nature, not take part in the discussion of, or vote on any question in respect of the matter, and, shall not attempt to

influence the vote on any such matter. The dictionary meaning of “pecuniary” is relating to money or consisting of money.

From time to time Members of Council declare an interest which strictly speaking, is not a pecuniary interest within the meaning of the Municipal Conflict of Interest Act, but one which may lead a third party to question the appropriateness or fairness of the member participating in the consideration of a matter.

The responsibility to declare a conflict whether within the meaning of the Municipal Conflict of Interest Act or otherwise rests with the Member of Council. If a member requires legal assistance as to whether he/she might have an interest that should be declared, the member is obliged to seek his/her own legal counsel. The City Solicitor advises City Council and it would be inappropriate to provide personal legal advice to individual councillors in such circumstances.

The former Chair and current member of the North York Committee of Adjustment commenced a defamation action against a Member of Council. The City has retained outside counsel to defend the Councillor in accordance with the City’s insurance and risk management program.

While I have a copy of the Statement of Claim issued in this matter, neither I nor any of my staff are involved in the defence of the action. As such, I have no information to assist in providing legal advice whether the affected Member of Council should participate in the debate on the Auditor General’s review of certain applications before the North York Committee of Adjustment and, indeed, nor should I provide such advice.

Under the circumstances, the Councillor would need to obtain independent legal advice with respect to this issue and make a determination based on that advice whether to declare a pecuniary interest in the matter under discussion.

CONTACT

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SIGNATURE

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