



Anna Kinastowski, B.A., LL.B.*

City Solicitor

Legal Services

Metro Hall, 26th Floor, Stn. 1260

55 John Street

Toronto, ON M5V 3C6

Tel. 416-392-8047

Fax 416-397-5624

** Certified by the Law Society as a Specialist in
Municipal Law: Local Government / Land
Use Planning & Development*

Reply To: Anna Kinastowski
Tel: 416 392-0080
Fax: 416 397-5624
E-Mail: akinasto@toronto.ca

File No.

MEMORANDUM

Date: November 30, 2009

To: Mayor David Miller
Members of Council

From: City Solicitor

Reference: **Motion MM42.3, Reimbursement of Legal Expenses Incurred by Councillor Heaps as a result of the 2006 Municipal Election**

There is a motion before City Council to approve reimbursement of legal expenses incurred by Adrian Heaps for \$36,000.00 as a result of the defamation suit by the second place candidate in the 2006 municipal election. This motion requires me to remind members of City Council of advice previously given and summarized below.

Section 83 of the City of Toronto Act, 2006 (COTA) contains the power to make grants. This power must be exercised in a manner reasonably connected to the municipality's permissible objectives. Courts have held that a municipal council has no authority to reimburse a member of council for legal expenses incurred in relation to activity engaged in outside of the office of councillor. Courts have also held that a councillor's conduct as a candidate predating the term of office is activity outside of the office of councillor. The COTA requires that its general powers be interpreted to include any limitations inherent in specific powers like the grant-making power, so the general COTA powers also cannot be used to make the grant.

Anna Kinastowski
City Solicitor