

TORONTO EXTERNAL CONTRACTS INQUIRY

Submissions of Margo Brunning

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MARGO BRUNNING

1. Margo Brunning became employed with the City of North York as a summer student in the summer of 1983. Upon completing her education in the fields of finance and accounting, Ms. Brunning returned to the City of North York as a systems analyst in May of 1984. By October of 1984, Ms. Brunning was promoted to the position of Assistant Tax Collector and ultimately became the Director of Tax Revenue in August of 1986. In July of 1998, Ms. Brunning was appointed Manager, Collections/Receivables, Payments and Regional Customer Service for the amalgamated City of Toronto.
2. As the Director of Tax Revenue, Ms. Brunning was responsible for managing the municipal property and business tax system in North York. She worked to ensure that the administration of tax accounts, appeals and grant billings for other municipal, provincial and federal government agencies was conducted in a manner that both complied with statutory requirements and was responsive to the needs of both the City of North York and its taxpayers.
3. Ms. Brunning effectively managed the day-to-day operations of the tax department and worked to implement the strategic decisions that were made by North York city council and senior management.

4. Throughout the course of this hearing, Ms. Brunning has been described as an intelligent, hardworking, committed individual who cared about her job, cared about the city and the people who live in this city.
5. Ms. Brunning is a strong-willed, assertive individual who held firm opinions that she expressed freely.
6. The passion and enthusiasm that Ms. Brunning exhibited in her decision-making role was influenced by her genuine desire to best serve the interests of this city and the hardworking men and women who lived therein.

THE CLIMATE OF AMALGAMATION

7. In December of 1996, the Province of Ontario announced that the Cities of Etobicoke, North York, Scarborough, Toronto and York, the Borough of East York and the Municipality of Metropolitan Toronto would be amalgamated to form a unified City of Toronto with shared services, staff and programs.
8. The *City of Toronto Act, 1997* was proclaimed into force on April 21, 1997.
9. Amalgamation created a number of professional and personal pressures and challenges for municipal government employees.

10. Staff members were working exceptionally long hours to meet the strict deadlines that had been mandated by the province.
11. The move towards a unified city required the reconciliation of markedly different approaches to doing business. Invariably, employees' inherent loyalty and bias towards their former municipalities' practices, policies and procedures coloured the entire amalgamation process.
12. Everyone recognized that amalgamation would likely result in significant staff reductions.
13. A competitive dynamic developed which inevitably influenced many dealings between staff members.
14. The race was on. The clock was ticking. Employees were running on adrenaline. Nerves were raw.
15. Ms. Brunning was not spared from these pressures. Throughout the entire process of amalgamation, Ms. Brunning had to balance a number of competing demands.
16. During this period, Ms. Brunning faced the personal demands and pressures associated with marriage and parenting a three-year old son.

17. As the Director of Tax Revenue, Ms. Brunning was tasked with managing a dynamic, busy and important department. In this capacity, Ms. Brunning managed the pressures associated with the issuance and collection of tax bills and accounts. Ms. Brunning was also responsible for ensuring that the major structural changes associated with current value assessment were properly implemented and administered.
18. Amalgamation, and its demand for systems development, integration and implementation, created further pressures.
19. During this difficult, emotionally charged and frustrating time, Ms. Brunning sometimes clashed with her co-workers.
20. These clashes were the inevitable by-product of the merging of strong people with extensive backgrounds, passionate opinions and clear preferences. Despite these differences of opinions, the evidence suggests that these individuals were committed to implementing the best decisions for the citizenry of Toronto.

THE NEED FOR A UNIFIED TAX SYSTEM

21. One of the most important responsibilities of municipal government is the administration of a system of taxation.

22. The newly amalgamated city needed to select and implement a unified tax system that could meet its needs.
23. Two separate products were under consideration. The Tax Management and Collection System (hereinafter, "TMACS") had been developed and implemented by the City of North York. Tax Manager 2000 (hereinafter, "TXM2000") was in the process of being developed as the system of choice for Mississauga, Scarborough, Toronto and Etobicoke.
24. The successful implementation of a functional tax system was of critical importance to the newly amalgamated city. The collection of property taxes generates annual revenue in the amount of \$4.5 billion. The delivery of municipal government services is wholly dependent upon the collection of this revenue.
25. A failed tax system would have far-reaching consequences that would impact the populace of Toronto. Failure was not an option.

TMACS – A SUCCESS STORY

26. TMACS was developed in the early 1990's to increase automation and realize efficiencies in the administration of the tax function.

27. The City of North York formed a team that was tasked with searching for the desired tax system. The team concluded that there were no packages on the market that met North York's unique needs. The team recommended that North York develop its own tax system. The recommendation was accepted and development ensued.
28. As the tax department would be the primary users of the tax system, Ms. Brunning had a clear interest in ensuring that the final tax program met the needs of her division.
29. Ms. Brunning's role was limited to providing business user input. She provided information for the development process. In performing this function, Ms. Brunning was extensively involved in ensuring that the delivered product was a user-friendly, efficient system that produced accurate results.
30. However, decisions related to who would be tasked with developing, implementing and supporting the North York tax system were outside of Ms. Brunning's technical expertise and authority. Ms. Brunning played no role in this decision-making process or in the negotiations pertaining to the implementation of these decisions.

31. The development of TMACS took one-and-a-half years to complete.
TMACS went live in January of 1993.
32. The development and implementation of TMACS within the City of North York achieved the following successes:
- TMACS created efficiencies by reducing processing time;
 - TMACS permitted a reduction in the tax department staff complement from thirty to twenty-two through attrition;
 - TMACS permitted increased information flow and sharing between the North York tax and assessment department and other municipal and provincial government agencies;
 - TMACS permitted an improved ability to forecast;
 - Staff members were able to use the system with ease.
33. In Ms. Brunning's opinion, TMACS was a wonderful system.

THE DEVELOPMENT OF TMACS – VERSION 2

34. In late 1996 or early 1997, North York began development on an upgraded TMACS system.
35. TMACS was to be transferred to a different technical platform and translated into a different technical language.

36. Although the impetus for change developed through technical considerations, certain substantive changes were also incorporated to reflect the shift towards current value assessment, its legislation and rules of application.
37. Ms. Brunning was not as involved in the development of TMACS version 2 as she had been with the original TMACS system. The business requirements had already been identified during the previous TMACS development process. However, Ms. Brunning was involved in testing the second TMACS product in the final stages of development.
38. Ms. Brunning was not involved in the decision to upgrade TMACS or in the negotiations associated with implementing this decision. These decisions were not within Ms. Brunning's authority.

SELECTION OF A NEW TAX SYSTEM FOR THE CITY OF TORONTO

39. Following the announcement of amalgamation, the "Committee to Evaluate and Recommend a Joint Tax System for the Municipalities of Metropolitan Toronto" was formed on May 29, 1997.
40. The Committee was tasked with evaluating TMACS and TXM2000 and recommending a tax system for the amalgamated city to the Treasurers by June 30, 1997.

41. Two groups were formed to evaluate the systems from both the business user and technical user perspectives.
42. Ms. Brunning was appointed to serve as North York's representative on the User Group. She acted in the capacity of co-coordinator of the User Group.
43. Ms. Brunning recognized that it was inevitable that a number of the User Group's committee members had a preconceived preference for one system over another as consistent with their prior commitments to a particular project. Accordingly, Ms. Brunning felt that it was essential that the ultimate committee decision be well informed.
44. The TXM2000 and TMACS systems were both presented to the User Group.
45. During the evaluation process, Ms. Brunning provided documentation to the User Group which listed the projected business user requirements for the amalgamated City of Toronto and incorporated the business user documentation for TMACS.
46. The technically focused TMACS systems documentation was provided to the Technical Group during the demonstration of TMACS.

47. Ms. Brunning did not make the decision to release the TMACS systems documentation to the Technical Group.
48. Ms. Brunning did not make the decision to not release the TMACS systems documentation to the User Group.
49. The systems documentation was neither in her possession nor control.
50. At its meeting on June 26, 1997, the members of the User Group voted four to three in favour of the TXM2000 system.
51. On July 9, 1997, the Metro Toronto Area Treasurers selected the TXM2000 system by a vote of six to one.
52. Ms. Brunning was disappointed by the Treasurers' decision.
53. Ms. Brunning was a strong advocate for the TMACS system. It is our respectful submission that her preference for this system was not ill founded or motivated by any inappropriate factors.
54. In Ms. Brunning's opinion, the TMACS system was much more developed than TXM2000 at the time of evaluation.

55. TMACS was fully operational in the City of North York. TMACS version 2 had a number of prototype screens from which the evaluators could see what it did, what it looked like and what sort of information would be captured on each screen. TMACS version 2 was six months away from being fully operational and capable of issuing tax bills.
56. TXM2000 was a concept. TXM2000 was paper. TXM2000 was flowcharts. TXM2000 was binders.
57. The North York team had developed and successfully implemented a fully functional TMACS system that met the needs of the second largest municipality in Metropolitan Toronto. In contrast, the Scarborough and Mississauga partnership had an unstable history of systems development. The Scarborough/Mississauga project had previously been started, aborted and started again.
58. Members of North York Management shared Ms. Brunning's disappointment.
59. Ms. Liczyk, Mr. Shultz, Mr. Vizzachero and Ms. Brunning all believed that the TXM2000 project bore an unacceptable level of risk to the new city. They further believed that many aspects of the selection process were flawed and that the process was rushed.

60. Ms. Liczyk, Mr. Shultz, Mr. Vizzachero and Ms. Brunning collectively believed that a merged/combined project, which drew on the best of both the North York and the Mississauga/Scarborough systems, should be created to meet the common business practices from the six area municipalities.
61. It was ultimately understood that the Treasurers' decision had been made and that further advocacy on behalf of the TMACS system should be discontinued.

NORTH YORK HOPES FOR THE BEST AND PREPARES FOR THE WORST

62. Following the Treasurers' decision, North York began moving towards implementing a fully integrated and unified Toronto tax system. At the same time, North York worked towards finalizing TMACS version 2 as a potential backup tax system.
63. Ms. Brunning did not decide to continue the development of TMACS version 2. This decision was outside of Ms. Brunning's mandate and authority.
64. However, Ms. Brunning did believe that the decision to continue with the development of TMACS version 2 was a correct one.

65. It is respectfully submitted that TMACS development continued due to the well-founded fear that the TXM2000 system would not be designed and delivered on schedule. Having developed and implemented an automated tax system, Ms. Brunning knew that unanticipated glitches could delay implementation and were practically inevitable.
66. Tax revenue played a crucial role to the City's finances. With the amalgamated City and its increased budgetary needs, it was critical that a system be delivered on time. The harms associated with delayed or failed delivery could not be underestimated. A back up plan was required.
67. North York's decision to continue with TMACS development was not a secret.
68. On August 25, 1997, Mr. Adams advised the TXM2000 Steering Committee that North York was going to continue working on its tax system and complete its agreement with Mr. Saunders.
69. By memorandum dated September 29, 1997, Ms. Liczyk advised Mayor Lastman that North York was proceeding with the development of TMACS and that North York had voted against the TXM2000 system on the record due to the unacceptable level of risk associated with the chosen system. Ms. Liczyk further advised Mayor Lastman that North York was continuing

to complete its project as a backup plan (if required). North York was also participating in the implementation phase of the chosen system and the development of a single business practice to facilitate one implementation in April 1998.

70. Ms. Brunning similarly informed the Steering Committee and User Group on several occasions of North York's continued development of the TMACS version 2 as a potential backup system.
71. TMACS version 2 ultimately went live in North York in January of 1998.
72. In early 1998, the former municipalities of Toronto, Scarborough, Etobicoke, York and East York issued their 1998 interim tax bills on their legacy tax systems. North York successfully issued the North York interim tax bills using TMACS version 2.

THE LONG ROAD TO TXM2000 CONVERSION

73. On September 5, 1997, a Letter of Understanding was signed between the former Cities of Scarborough, Toronto and Etobicoke for the development and implementation of the TXM2000 system.
74. An addendum to this Letter of Understanding provided that North York was not a participant in the software development of the TXM2000 project,

the Letter of Understanding or the Scarborough/Mississauga agreement to develop a joint tax system. North York would be actively involved in the process of moving towards a unified tax management system (including billing and collection) for the new City of Toronto.

75. Ms. Brunning was not involved in any discussions or decisions regarding the role that North York would play in implementing TXM2000. These decisions were outside of Ms. Brunning's authority.
76. It is respectfully submitted that the evidence clearly establishes that Ms. Brunning committed herself to ensuring that TXM2000 was successfully implemented in the former City of North York and the amalgamated City of Toronto.
77. Ms. Brunning had a clear and direct interest in ensuring that the system was functional and capable of meeting North York's and ultimately, the City of Toronto's taxation needs. A failed North York conversion would have consequences for the newly amalgamated City of Toronto and Ms. Brunning personally, as North York's Director of Tax Revenue.
78. Between February of 1998 and June of 1998, Ms. Brunning attended a significant number of meetings that were directed towards the implementation of TXM2000.

79. North York's senior management directed the timing and extent of Ms. Brunning's involvement in TXM2000 conversion.
80. Ms. Brunning also provided extensive feedback regarding the functionality and implementation of TXM2000 and worked with many different people to ensure that North York was prepared for conversion to TXM2000.
81. The evidence adduced during the course of this inquiry documents Ms. Brunning's active involvement:

- a) A February 19, 1998 email to Ms. Brunning and Mr. Vizzacchero (copied to Ms. Liczyk) from Mr. Saunders discussed the conversion to TXM2000.

Agreed Statement of Non-Contentious Facts, ph. 91
TEC001724, v. 3, t. 36

- b) On March 4, 1998, Ms. Brunning emailed Mr. DeSousa regarding the conversion of code tables and the lack of standardization among the six instances being implemented as well as her inability to generate a tax receivable with TXM2000.

Agreed Statement of Non-Contentious Facts, ph. 98
TEC007041, v. 3, t. 39

- c) On April 3, 1998, Ms. Brunning emailed Ms. Liczyk about the TXM2000 "Train the Trainer" sessions. In this email, Ms. Brunning stated that the

billing and levying session had been cancelled because it was not ready. Ms. Brunning was concerned and started tracking the items that remained to be completed on TXM2000.

Agreed Statement of Non-Contentious Facts, ph. 114
TEC001577, v. 1, t. 87

- d) On April 14, 1998, after attending the Train the Trainer sessions, Ms. Brunning drafted a memo to Ms. Liczyk and Mr. DeSousa listing her concerns with TXM2000. These concerns included making the training better, difficulty in navigating in TXM2000 as compared to TMACS and issues surrounding the payment process.

Agreed Statement of Non-Contentious Facts, ph. 177
TEC000001, v. 1, t. 89

- e) On April 16, 1998, Mr. McDade sent an email to Ms. Brunning in response to her call regarding problems with North York loading Beta Version 3.

Agreed Statement of Non-Contentious Facts, ph. 118
TEC002001, v. 3, t. 43

- f) Following the May 13, 1998 evaluation, Ms. Brunning documented her concerns about the TXM2000 system in an email to Ms. Carbone on May 14, 1998.

Agreed Statement of Non-Contentious Facts, ph. 128
TEC012248, v. 1, t. 103

- g) Mr. Saunders sent Ms. Brunning two separate emails on May 22, 1998 which dealt with various issues with respect to the implementation of TXM2000.

Agreed Statement of Non-Contentious Facts, ph. 133
TEC002255, v. 1, t. 115
TEC002254, v. 1, t. 116

- h) On May 26, 1998, Mr. Saunders sent an email to Mr. Vizzacchero, copied to Ms. Brunning, regarding the installation of TXM2000 on computers in North York.

Agreed Statement of Non-Contentious Facts, ph. 135
TEC002253, v. 3, t. 46

- i) On May 27, 1998, Mr. Saunders sent an email to Ms. Brunning regarding the processing of open appeals prior to conversion to TXM2000.

Agreed Statement of Non-Contentious Facts, ph. 136
TEC00250, v. 1, t. 119

- j) On May 27, 1998, Mr. Saunders sent a further email to Ms. Brunning which contained a proposed project plan for implementing TXM2000 for a June 15 go live date. Ms. Brunning was asked to provide her comments and make a list of anything that had been missed.

Agreed Statement of Non-Contentious Facts, ph. 137
TEC002250, v. 1, t. 119

- k) On May 28, 1998, Ms. Brunning emailed Ms. Carbone with questions about the TXM2000 conversion.

Agreed Statement of Non-Contentious Facts, ph. 140
TEC006987, v. 3, t. 47

- l) On May 28, 1998, Ms. Brunning emailed Mr. Saunders, Ms. Carbone, Mr. Currie and Mr. Vizzacchero on the conversion and implementation of TXM2000, particularly with respect to system setup, data conversion and training.

Agreed Statement of Non-Contentious Facts, ph. 140
TEC006992, v. 3, t. 48

- m) On June 2, 1998, Ms. Elkington emailed Ms. Brunning regarding the TXM2000 conversion occurring in North York and outlined issues that would affect the way that they did business and which needed to be addressed prior to going live.

Agreed Statement of Non-Contentious Facts, ph. 144
TEC006980, v. 3, t. 49

- n) On June 2, 1998, Ms. Brunning sent an email to Ms. Carbone in which she outlined issues (including how to do duplicate bills, producing tax stubs to facilitate payments, processing post-dated cheques, being able to produce statement of accounts and supplementary tax bills, processing grant accounts and the conversion of business accounts)

which remained unresolved.

Agreed Statement of Non-Contentious Facts, ph. 144
TEC006978, v. 3, t. 50

- o) On June 10, 1998, Mr. Saunders sent an email to Ms. Carbone (copied to Ms. Liczyk and Ms. Brunning) regarding the status of the conversion to TXM2000 and stated that conversion should be ready for the weekend of June 20, 1998.

Agreed Statement of Non-Contentious Facts, ph. 148
TEC000716, v. 1, t. 125

- p) Ms. Brunning reviewed the City of North York TXM2000 cutover plan and emailed her comments to Mr. Currie and Mr. Saunders on June 10, 1998.

Agreed Statement of Non-Contentious Facts, ph. 150
TEC001911, v. 3, t. 5

- q) On June 17, 1998, Ms. Brunning emailed Ms. Carbone regarding continued issues with balancing in TXM2000. North York had requested that Mr. Ripley attend at North York a week and a half prior.

Agreed Statement of Non-Contentious Facts, ph. 154
TEC001517, v. 1, t. 129

- r) On June 24, 1998, Mr. Saunders emailed Ms. Brunning seeking clarification of the calculation of the final tax bill amount.

Agreed Statement of Non-Contentious Facts, ph. 157
TEC001898, v. 1, t. 132

- s) Ms. Brunning advised North York staff members that conversion of the North York data to TXM2000 was scheduled to proceed on June 26 to June 28, 1998. This date was later adjusted to July 4-6, 1998.

Agreed Statement of Non-Contentious Facts, ph. 158
TEC001912, v. 3, t. 6
TEC000719, v. 3, t. 7

82. The identification of deficiencies within TXM2000 was done to ensure that conversion was successful. Ms. Brunning was acting constructively to ensure that all steps had been taken to ensure that TXM2000 would succeed following conversion and implementation.
83. It is respectfully submitted that the assertion that Ms. Brunning failed to participate and support the development and implementation of TXM2000 is not based in fact or evidence, without merit and offensive.

CONVERSION IS ABORTED IN NORTH YORK

84. It was ultimately announced that North York would not be converting to TMACS for the 1998 final billing.
85. North York never converted to TXM2000.

86. Ms. Brunning was first apprised that North York might not convert to TXM2000 by a May 29, 1998 email from Mr. Saunders. In this email, Mr. Saunders asked Ms. Brunning to compile a list of what would be required to maintain TMACS as the North York system.
87. Margo was surprised that this was being contemplated.
88. Regardless of what decisions were being made concerning North York's conversion or non-conversion, Ms. Brunning continued to ready North York for eventual conversion, as consistent with her prior instructions.
89. Ms. Brunning was not involved in the decision as to whether North York conversion would or would not occur. This decision was outside of Ms. Brunning's authority.

CONVERSION OF CITY OF TORONTO TO TMACS

90. A decision was ultimately made before October of 1998 to convert the entire City of Toronto from TXM2000 to TMACS.
91. Ms. Brunning was not involved in this decision. This decision was outside of Ms. Brunning's authority.

THE INEVITABILITY OF TMACS IMPLEMENTATION?

92. During the course of this inquiry, certain evidence was led to suggest that an early decision was made that TMACS would be the tax system implemented within the amalgamated City of Toronto.
93. In her testimony, Ms. Birt alleged that Ms. Brunning was in possession of this information, which she frequently expressed as fact.
94. It is respectfully submitted that this allegation is not supported by any of the documentary evidence. Furthermore, this allegation completely defies logic.
95. Ms. Brunning dedicated a significant amount of her professional time to North York's conversion to TXM2000. The demands associated with conversion forced Ms. Brunning to spend considerable time away from her young family.
96. The personal and professional demands that Ms. Brunning faced during this difficult, emotionally charged and stressful time were such that she did not have time to lend to the perpetuation of a charade.

NO CONFLICT OF INTEREST

97. Ms. Brunning's involvement with Mr. Maxson and Mr. Saunders related solely to her employment and she rarely engaged in social activities with either consultant.
98. Ms. Brunning respected Mr. Maxson's and Mr. Saunders' knowledge and expertise in technology and tax systems.
99. Ms. Brunning did not accept any personal benefit or gift from either Mr. Saunders or Mr. Maxson that could be construed as a bribe or inducement.

MS. BRUNNING'S ROLE IN THE DEVELOPMENT AND IMPLEMENTATION OF THE TMACS AND TXM2000 SYSTEMS

100. It is respectfully submitted that the evidence has clearly established that Ms. Brunning did not have the knowledge and/or authority to become involved in a number of decisions which are the subject matter of this Inquiry, including:
- a) The contracting of Mr. Saunders and Mr. Maxson to develop, implement and maintain the former City of North York's and the City of Toronto's tax and water revenue system;
 - b) The procedures, processes and considerations involved in awarding these contracts to Mr. Saunders and Mr. Maxson;

- c) Establishing the rules, procedures and processes concerning the approval, processing and payment of invoices, expenses and billings submitted by Mr. Saunders and Mr. Maxson;
 - d) Directing the development, implementation, maintenance and use of TMACS and WMACS;
 - e) Directing the activities, actions and behavior of Mr. Saunders and Mr. Maxson;
 - f) Directing and assigning resources associated with the design, development and implementation of TMACS and TXM2000.
101. In performing her responsibilities at both the City of North York and amalgamated City of Toronto, Ms. Brunning always acted in accordance with the prescribed codes, rules, policies and accepted practices.
102. In performing her responsibilities at both the City of North York and amalgamated City of Toronto, Ms. Brunning always acted within the scope of her authority in accordance with the directions received from her superiors.

ALL OF WHICH IS RESPECTFULLY SUBMITTED
this 28th day of February, 2005.

BENSON PERCIVAL BROWN

per: David S. Young

per: Courtney A. Leyland

Solicitors for Margo Brunning