

# TORONTO COMPUTER LEASING INQUIRY

The Honourable Madam Justice Denise Bellamy  
Commissioner

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## REPLY SUBMISSIONS OF THE CITY OF TORONTO

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Date: January 24 2005

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## **I. Overview**

1. The City of Toronto has reviewed the submissions filed by the other parties. The City disagrees with many of these submissions either because they do not fully and accurately synthesize the evidence or because they draw unreasonable inferences from the evidence. Little would be gained by repeating the detailed evidence review and arguments contained in the City's December 6, 2004 submissions. Most of the flaws in the submissions of the other parties are answered in the City's primary submissions.

2. The City of Toronto wishes to address three matters:

- a. The Commissioner should place no weight on the KPMG 'statements' when making findings of fact;
- b. There is no evidence to support Jim Andrew's claim that there was a "pre-approved" candidate for the position of Commissioner of Corporate Services and Mr. Andrew's own evidence contradicts that claim; and
- c. Ms. Leggieri is mistaken when she suggests that she has not been represented or funded at the Inquiry.

## **II. KPMG statements should be given little weight**

3. A number of the submissions refer to the contents of the KPMG interview notes. The City submits that no weight should be placed on the KPMG interview notes. In many cases, City employees did not have the opportunity to review or correct the notes taken and prepared by KPMG. Moreover, none of the employees interviewed by KPMG had the benefit of receiving most of the thousands of relevant documents that have been placed in evidence before the Inquiry when they spoke to KPMG. Further, the Inquiry heard no evidence from the KPMG interviewers about the procedures used in the interviews or the accuracy of the interview notes.

4. The Commissioner has had the benefit of reading all the relevant documents and seeing the witnesses in the witness stand. It is not appropriate to place any weight on unverified, unsigned, uncorrected KPMG 'statements.'

### **III. There was no "pre-approved" candidate for the Commissioner of Corporate Services**

5. On page 110 of his submissions, Jim Andrew stated:

Mr. Andrew entered the competition [for the position of Commissioner of Corporate Services] only to be informed that there was a pre-determined or pre-approved candidate and further to learn that his application was late and could not be accepted.

6. This statement is not relevant to the work of this Inquiry. In addition, Mr. Andrew did not provide a reference to the evidence in support of this assertion. The City submits that there is absolutely no evidence before the Commissioner to support it. In fact, at paragraph 54 of his affidavit Mr. Andrew stated that:

...I decided to apply for the position and did so shortly after this meeting. After submitting my application, I was informed that the search committee had already started the interviewing process. I received a telephone call from Mike Garrett about my application and was told that interviews had indeed begun. I was not interviewed.<sup>1</sup>

7. The City submits that the Commissioner should not find that there was a pre-determined or pre-approved candidate for the Commissioner of Corporate Services.

### **IV. Paula Leggieri was represented and funded**

8. Ms. Leggieri stated at paragraph 26 of her submissions that she was "not funded and not represented" at the Inquiry. She was represented by counsel both times she

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<sup>1</sup> Andrew Affidavit, para. 54, 9/24/2003 at 33.

testified at the Inquiry. Her counsel examined witnesses at the Inquiry. Counsel prepared her submissions. As she and her counsel know, the City reimbursed Ms. Leggieri for her legal expenses on the same basis as other former City employees participating in the Inquiry.

9. The Commissioner should not find that the City has treated Ms. Leggieri unfairly.

ALL OF WHICH IS RESPECTFULLY SUBMITTED on January 24, 2005

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Paliare Roland Rosenberg Rothstein LLP  
Barristers and Solicitors

Counsel to the City of Toronto