TORONTO EXTERNAL CONTRACTS INQUIRY

The Honourable Denise E. Bellamy, Commissioner

Ruling on Application for Particulars by Ball Hsu & Associates Inc.

BACKGROUND

In early 2002, Toronto City Council voted to use the power granted by s. 100 of Ontario's *Municipal Act,* R.S.O. 1990, c. M. 45 (now s. 274, S.O. 2001, c. 25) to hold a judicial inquiry into its computer related dealings with MFP Financial Services Ltd., and the City's acquisition of Enterprise Licences from Oracle Corporation. That inquiry is the Toronto Computer Leasing Inquiry, or TCLI. In the fall of 2002, City Council voted to hold a second but closely related inquiry into other City dealings with external suppliers of computers and related services. The second inquiry is the Toronto External Contracts Inquiry, or TECI. Part of the Terms of Reference of TECI require me to examine the City's dealings with Ball Hsu and Associates Inc., a company that has, in recent years, provided information technology consultants and expertise to the City of Toronto.

On February 14, 2003, I heard an application for particulars by Ball Hsu and Associates Inc. and Mr. Ball Hsu personally. An "application for particulars" is a procedure generally used in civil or criminal proceedings where parties or accused persons, as the case may be, contend that there is not sufficient detail in the allegations against them to allow them to respond properly. They usually seek either a dismissal of the proceedings or a decision from the Court ordering the other side to provide them with information that is more detailed so that they can respond properly.

The Applicants assert that the Toronto City Council TECI Resolution does not contain the level of detail that the law requires. Arguments by all counsel are on our website, www.torontoinquiry.ca under Transcripts/Inquiry Transcripts/TECI/Toronto External Contracts Inquiry, February 14, 2003.

CONCLUSION

The Application is dismissed for the reasons that follow.

JURISDICTION

The Applicants stated their position in different ways in their written material, and in oral argument.

In the Notice of Application, the Applicants sought "an order directing particulars":

- "Setting out what circumstances surrounding the selection of Ball Hsu and Associates to provide consulting services to the City of Toronto were relied upon by the Council of the City of Toronto to suppose a malfeasance, breach of trust or other misconduct"; and

- "Setting out what it is about the circumstances surrounding the selection of Ball Hsu and Associates to provide consulting services to the City of Toronto that affects the good government of Toronto or the conduct of its public business".

In oral argument, the Applicants further developed their position. They asked:

- that Commission counsel inform Ball Hsu and Associates Inc. why they recommended that Ball Hsu and Associates Inc. be included in TECI (*Transcript of Oral Argument, p. 54*);

- that the City inform Ball Hsu and Associates Inc. why they were included in TECI (*Transcript of Oral Argument, p. 55*); and

- that I direct Commission counsel to ask or direct the City to insert a preamble in the Terms of Reference which particularizes the City's concerns in a format similar to that which appeared in the TCLI Resolution (*Transcript of Oral Argument, pp. 19, 20, 37, 44, 78*).

If the Applicants assert that the TECI Resolution lacks sufficient detail so as to fall outside the power granted to the City by s.100 of the *Municipal Act,* they raise an issue I have no jurisdiction to decide. In *MacPump Developments Ltd.* v. *Sarnia* (1994), 20 O.R. (3d) 755 (C.A.) 761, the Court of Appeal held that "any exercise of a municipality's statutory powers is judicially reviewable, at least to the extent of determining whether that exercise is *intra vires* the municipality". Judicial review in these circumstances is to the Superior Court of Justice: ss.1 and 2 of the *Judicial Review Procedure Act,* R.S.O. 1990, c.J.1.

If the Applicants seek a mandatory order that the City provide further detail in the TECI Resolution, then again they seek more than I have jurisdiction to grant. As a Commissioner, I do not have the jurisdiction to order the City to do what the Applicants seek.

On the other hand, assuming as I must, that the TECI Resolution is legally valid, I have jurisdiction to request, not order, that the City provide additional information to assist the Inquiry. This jurisdiction flows from the duty and broad discretion of commissioners to ensure that persons affected by commissions of inquiry be treated fairly according to the principles of natural justice. On the duty and broad discretion to ensure fairness, see, for example, the decision by the Supreme Court of Canada in *Consortium Developments Developments (Clearwater) Ltd.* v. *Sarnia (City),* [1998] 3 S.C.R. 3.

THE DIVISION OF RESPONSIBILITY BETWEEN MUNICIPALITIES AND COMMISSIONERS

In my view, the position of the Applicants overlooks the key distinction made by the Supreme Court of Canada in *Consortium Developments*. At paragraph 28 of

the judgment, the Court emphasized the “distinction between the requirements for a valid exercise of the s.100 power to establish an inquiry, on the one hand, and the procedural protections to which … [parties to an inquiry] are entitled in the course of an inquiry once validly established on the other hand”. This distinction is important and is instructive on the issue of particulars. It divides responsibilities between the municipalities that establish commissions of inquiry and the commissioners who conduct them.

THE RESPONSIBILITIES OF MUNICIPALITIES

To understand the division of responsibility between a municipality establishing a s.100 inquiry, and a commissioner conducting it, one must keep in mind that s.100 inquiries are at their core judicial investigations. They seek understanding of events not fully understood. As a result, one cannot expect a municipality establishing a judicial inquiry to set out with particularity or detail the problems that led to the creation of the inquiry in the first place. As the Supreme Court of Canada said in *Consortium Developments* at paragraph 30: “If the municipality had a sufficient grip on the relevant facts to give detailed particulars there might be no need for an inquiry”.

On the other hand, commissions of inquiry respond to issues of public concern. They are expensive. They can generate intense media interest. They can affect reputations. Indeed, the Supreme Court has recognized the possible effect of inquiries on reputations: *Canada (Attorney General)* v. *Canada (Commission of Inquiry on the Blood System in Canada - Krever Commission)*, [1997] 3 S.C.R. 440, paragraph 39. The Court accepted the observations of Décary, J.A. in the Federal Court of Appeal [1997] FCJ No. 17 (QL) paragraph 35:

> It is almost inevitable that somewhere along the way, or in a final report, such an inquiry will tarnish reputations and raise questions in the public’s mind concerning the responsibility borne by certain individuals. I doubt that it would be possible to meet the need for

> public inquiries whose aim is to shed light on a particular incident without in some way interfering with the reputations of the individuals involved.

It is for this reason that the Supreme Court has ruled that a municipality cannot "trample on the rights of … persons with whom it has done business": *Consortium Developments,* paragraph 30.

A municipality that establishes an inquiry must set some limits to prevent trampling on the rights of those who might be affected. How has the Supreme Court defined those limits? In *Consortium Developments* (paragraph 28), the Court mandates that a resolution that establishes a s.100 judicial inquiry set out the subject matter of the inquiry in an "intelligible" way, and must connect that subject matter to one or more of the following three areas in s.100 of the *Municipal Act*:

- malfeasance, breach of trust, or other misconduct by anyone connected to the municipality;
- the good government of the municipality;
- the conduct of its public affairs.

Specifically, this means that the TECI Resolution must convey intelligibly the subject matter of the Inquiry. (The full Terms of Reference of TECI are attached at Schedule "A".) Paragraph 4 of the Resolution, and the final paragraphs numbered 2 and 3, do just that. Paragraph 4 says the Inquiry must look into "all of the circumstances surrounding the selection of Ball Hsu & Associates Inc. consultants to provide consulting services to the City of Toronto". This clearly states a subject matter with specific limits. The Resolution then lists eight intelligible and limited areas of particular concern. They are:

1. whether “expenditures relating to consultants were accurately reported” 4(a);

2. whether “the need for consulting services was appropriately determined, justified and documented” 4(b);

3. whether “consulting services were awarded based on sound business practices and in accordance with established procurement by-laws, policies and procedures” 4(c);

4. whether “adequate justification existed for waivers from required procedures” 4(d);

5. whether “consulting contracts were effectively managed to ensure the contract deliverables were achieved, expenses incurred were reasonable and justifiable, and “value for money” was obtained” 4(e);

6. whether “payments were made in accordance with the terms of the contract” 4(f);

7. “the relationships, if any, between the existing and former elected and administrative representatives of the City of Toronto” and the Applicants: paragraph 2; and

8. “any professional advice obtained by the City of Toronto in connection with” Ball Hsu and Associates Inc.: paragraph 3.

The TECI Resolution must also connect its subject matter with one of the areas in s.100 of the *Municipal Act*. This connection has been made. To take but one example, item six, above, from the TECI Resolution is whether “payments were made in accordance with the terms of the contract”. If either a consultant, or the City of Toronto with whom the consultant conducts business, does not pay in accordance with a contract it has entered into, then the conduct of the City’s public affairs, and possibly the good government of the City, is compromised. Further, depending on how and why payments were not made, there may also be malfeasance, breach of trust, or other misconduct by someone connected to or dealing with the City.

The Supreme Court in *Consortium Developments* at paragraph 40 said the following about the municipal Resolution that was the subject of consideration:

> The s.100 Resolution in this case is perfectly intelligible. It identifies not only what is to be inquired into but the limits of the municipality's interest. The subject matter of the inquiry as set out in the … Resolution is a matter of legitimate concern within the ambit of the matters referred to in s.100.

In my view, the same can be said about the TECI Resolution. Indeed, a comparison of the two leads to the conclusion that the TECI Resolution was closely modelled on the *Consortium Developments* Resolution. A further detailed comparison of this Application with the appellants' contention in *Consortium Developments* shows a striking similarity in the legal arguments in both hearings. The Supreme Court interpreted the appellants' complaint (which is in essence the same as that before me) as an attempt "to limit the inquiry to particulars the municipality already knows about, if indeed there are any such particulars" (paragraph 35). The Court concluded that section 100 "does not compel a municipality to advance more extravagant allegations than it is ready, willing and able to make" (paragraph 35). In any case, when read in its entirety, the TECI Resolution makes it abundantly clear that the City requires me to inquire into the public business between the Applicants and the City of Toronto.

In oral argument, the Applicants directed much of their concern at the absence in the TECI Resolution of allegations of wrongdoing by them. In the Applicants' submission, if the City cannot particularize alleged malfeasance by them, the City should not draw them into the Inquiry.

One naturally empathizes with those who find participating in a public inquiry to be difficult. It is rarely enjoyable to have one's conduct closely scrutinized in a public forum. I accept without question that those in the Applicants' position face discomfort.

However, empathy for the difficulties faced by inquiry participants cannot limit the scope of these inquiries by leading to a rule that a municipality must allege specific misconduct before including anyone in an inquiry mandate. Indeed, the authorities say the contrary. Allegations of misconduct are not required. The Supreme Court in *Consortium Developments* held at paragraph 29 that a s.100 Resolution "is not a pleading, much less is it a bill of indictment". The Court of Appeal in the same case put the point even more plainly (1996), 30 O.R. (3d) 1 (C.A.) at 22:

> The resolution does not need to spell out specific allegations for the commissioner to understand the potential problem areas that might be related to the public interest.

The logic of these authorities is as compelling as their language is clear. One should not expect detailed allegations to precede a proper investigation. To do so would cripple an investigation before it begins. As the Supreme Court noted in *Consortium Developments* at paragraph 30:

> Aspects of procedural fairness, *such as the need for particulars*, should not defeat an inquiry at the outset *unless it is concluded that in the particular circumstances of the case a fair inquiry simply cannot be had based upon the wording of the particular resolution under consideration.* Otherwise the inquiry should be allowed to proceed, and procedural objections dealt with at a later stage when the Commissioner has had an opportunity to consider the fairness issues and deal with them. [Emphasis added]

Further, s.100 of the *Municipal Act* is very broad, and has application to any matter related to good government of the municipality or its public business. To insist that misconduct allegations define all legitimate inquiries from the outset is to prune away vital branches of s.100. As stated by the Supreme Court in *Consortium Developments* at paragraph 36:

> It is evident that an inquiry under the second branch of s.100 into an item of public business may disclose misconduct. Equally, an

> inquiry under the first branch may look into "supposed malfeasance", and discover the conduct was entirely innocent, but ought nevertheless to result in recommendations for the good government of the municipality. While it may therefore be useful for some purpose to think of s.100 as having two branches, it is but a single power, and the preconditions for its valid exercise to establish a judicial inquiry do not vary with the subject matter. A more compartmentalized interpretation would undermine the utility of the power and contradict the broad legislative intent evident on the face of s.100.

Practical considerations likewise show it is inappropriate to ask the City for specific allegations of misconduct against the Applicants. Any allegations the City might provide would simply express the City's position based on the incomplete information before it. When a municipality establishes an inquiry, it is not required to allege misconduct. Indeed, it might be unwise to do so, as the allegations clearly could not compromise the Inquiry's independence by specifying in advance conclusions the Inquiry must reach. The City is quite properly sensitive to this point, as the Terms of Reference specifically state that particular enumerated subjects of interest to the City are not to be taken as "infringing on the Commissioner's discretion in conducting the inquiry in accordance with the terms of reference stated herein". Thus, whether or not the City provides allegations, the Inquiry must still conduct the same careful and impartial investigation of all the matters in the TECI Resolution. Section 100 states that the judge "shall" conduct the inquiry as requested by a municipal council.

In short, asking the City for specific allegations of misconduct cannot alter the focus of this Inquiry. On the other hand, misconduct allegations that support only some parts of the TECI Resolution might be seen to imply that those parts not supported by allegations are of no concern. Therefore, requesting details from the City might improperly limit the Inquiry contrary to the public interest as expressed in s.100. of the *Municipal Act*.

The Applicants filed an affidavit describing the material Toronto City Council had before it when it passed the TECI Resolution. The affidavit is offered to try to shed some light on what was or was not Council's underlying reason for including the Applicants in the TECI Resolution.

The Applicants' affidavit material addresses an issue that the Supreme Court in *Consortium Developments* has rejected as unhelpful. The Appellants in that case submitted that evidence of the intent of individual members of the Sarnia City Council was admissible to show the true purpose of the Resolution at issue. The Court at paragraph 45 rejected this submission:

> The motives of a legislative body composed of numerous persons are "unknowable" except by what it enacts. Here the municipal Council possessed the s.100 power and exercised it in the form of a resolution which speaks for itself. While some members of the present or previous Sarnia Council may have made statements which suggest a desire to unmask alleged misconduct, the inquiry will not be run by city councillors, but by Commissioner Killeen, a Superior Court Judge, who will take his direction from the s.100 Resolution, not from press reports or comments of some of the city politicians.

In this Inquiry, I too must be guided by the wording of the TECI Resolution rather than secondary material.

THE RESPONSIBILITIES OF A COMMISSIONER

As described above, the Supreme Court in *Consortium Developments* defined a crucial division of responsibility between municipalities that establish inquiries, and commissioners who conduct them. The Applicants appear to have intermingled the conceptual distinctions emphasized by the Supreme Court of Canada in *Consortium Developments:* the distinction between "legislative validity and the fair inquiry interests of the participants" (paragraph 30).

I have already commented on the responsibilities that fall within the purview of the City of Toronto. I will now examine the other side of the division of responsibility, that of a commissioner of an inquiry.

In the course of conducting a s.100 judicial inquiry such as this one, a commissioner must be guided by the principles of procedural fairness and natural justice.

On several occasions so far, I have publicly stressed that inquiries are not civil or criminal trials, and that a commissioner is not to find anyone guilty of a criminal offence nor to establish civil responsibility for damages. I have repeatedly asked the public to keep an open mind when they hear the evidence because these inquiries will take time to fully unfold and the strict rules of evidence governing trials in our courts do not apply. The Supreme Court recognized the inherent difficulty of the public inquiry process when it said the following:

> Unlike an ordinary lawsuit or prosecution where there has been preliminary disclosure and the trial proceeds at a measured pace in accordance with well-established procedures, a judicial inquiry often resembles a giant multi-party examination for discovery where there are no pleadings, minimal pre-hearing disclosure (because commission counsel, at least at the outset, may have little to disclose) and relaxed rules of evidence. The hearings will frequently unfold in the glare of publicity. Often, of course, at least some of the participants will know far in advance of commission counsel what the documents will show, what the key witnesses will say, and where "misunderstandings" may occur. The inquiry necessarily moves in a convoy carrying participants of widely different interests, motives, information, involvement, and exposure. It is a tall order to ask any Commissioner to orchestrate this process to further the public interest in getting at the truth without risking unnecessary, avoidable or wrongful collateral damage on the participants. *Consortium Developments*, paragraph 41.

Inquiries are given the responsibility of establishing their own rules. We did just that. We invited those who obtained standing to comment on the draft Rules of

Procedure before we implemented them. As s.5(2) of the Ontario *Public Inquiries Act*, R.S.O. 1990 c. P.41 (the misconduct section) does not apply to a section 100 inquiry, we specifically incorporated that section into Rule 35 so that there would be no confusion about this Inquiry's clear intention to be bound by principles of natural justice.

No specific misconduct is alleged against the Applicants in the Terms of Reference. It may happen that in the course of the inquiry, misconduct is disclosed. Equally, as noted in *Consortium Developments*, an inquiry looking into supposed malfeasance may "discover the conduct was entirely innocent, but ought nevertheless to result in recommendations for the good governance of the municipality" (paragraph 36).

In the event that misconduct is alleged against the Applicants during the course of the Inquiry, the Applicants are clearly entitled to particulars. How and when the Commission must provide details of any alleged misconduct has been fully canvassed by the Supreme Court in the *Blood Inquiry* decision.

There is no requirement that the Commission provide the Applicants with particulars at this early stage of the Inquiry. Our procedural obligations are found in the *Municipal Act,* Part II of the Ontario *Public Inquiries Act,* our Rules of Procedure, and the common law requirements of procedural fairness and natural justice.

At the Blood Inquiry, the Commissioner issued confidential notices of alleged misconduct on the final day of scheduled hearings. The Supreme Court upheld the notices, stating the following at paragraph 69:

> There is no statutory requirement that the commissioner give notice as soon as he or she foresees the possibility of an allegation of misconduct. While I appreciate that it might be helpful for parties to know in advance of the findings of misconduct which may be made

> against them, the nature of an inquiry will often make this impossible. *Broad inquiries are not focussed on individuals or whether they committed a crime; rather they are concerned with institutions and systems and how to improve them.* It follows that in such inquiries there is no need to present individuals taking part in the inquiry with the particulars of a "case to meet" or notice of the charges against them, as there would be in criminal proceedings. Although the notices should be given as soon as it is feasible, it is unreasonable to insist that the notice of misconduct must always be given early. There will be some inquiries, such as this one, where the Commissioner cannot know what the findings may be until the end or very late in the process. So long as adequate time is given to the recipients of the notices to allow them to call the evidence and make the submissions they deem necessary, the late delivery of notices will not constitute unfair procedure. [Emphasis added].

Rule 35 of this Inquiry encapsulates the essential principles in the foregoing passage of the Supreme Court decision. Therefore, the Applicants' procedural rights to fair notice of any alleged misconduct and a fair opportunity to respond flow from both the Supreme Court's decision and this Inquiry's Rules of Procedure.

Like the Krever Commission, TECI is a broad inquiry. It is centrally concerned with institutions and systems – those of municipal governance and municipal dealings with external contractors. Accordingly, as was the case at the Krever Commission, it may be well into the TECI hearings before I know whether any misconduct may have taken place. Further, there is nothing to suggest at this stage that any misconduct I might find would necessarily be by the Applicants. The TECI hearings are months away from beginning. In the interim, as I stated above, it is essential that this Inquiry, and for that matter, members of the public, not jump to hasty and ill-considered conclusions. I stated at the outset of the TCLI hearings in December, 2002:

> One important role of public inquiries can sometimes be to show the public, where it is warranted, that groups or individuals suspected of wrongdoing or tarnished by rumour have, in fact, done nothing wrong.

CONCLUSION

I conclude that the TECI Resolution conforms to the standard set by the Supreme Court of Canada and that Ball Hsu and Associates Inc. and Mr. Ball Hsu have sufficient details in the Terms of Reference. I have no jurisdiction to explain, revise, expand or limit the Terms of Reference established by the TECI Resolution. Equally, I have no jurisdiction to order the City to further develop the Terms of Reference. I do have jurisdiction to ask the City to further develop the Terms of Reference, but I see no shortcomings in the Resolution that might prompt me to send such a non-binding request to the City. There is nothing inadequate or unfair about the level of detail that the Applicants already have. A fair Inquiry can be conducted based entirely on the existing wording of this Resolution. Asking the City for particularized allegations of misconduct against the Applicants is contrary to the authorities, would serve no useful purpose and may have the unintended effect of undermining and limiting the operation of s.100 of the *Municipal Act* in the context of this Inquiry. Likewise, there is no need for me to direct Commission counsel to provide more details to the Applicants at this stage of the Inquiry.

As a matter of procedural fairness to the Applicants, allegations of misconduct relating to them are not warranted at this early stage in the TECI Inquiry.

The application is dismissed.

Application Heard on: February 14, 2003
Release of Decision: March 6, 2003

SCHEDULE "A"

Terms of Reference – Toronto External Contracts Inquiry

WHEREAS, under section 100 of the Municipal Act, R.S.O. 1990, c. M.45, a Council of a municipality may, by resolution, request a Judge of the Ontario Superior Court of Justice to inquire into or concerning any matter connected with the good government of the municipality or the conduct of any part of its public business;

AND WHEREAS any Judge so requested shall make inquiry and shall report with all convenient speed, to Council, the result of the inquiry and the evidence taken, and for that purpose shall have all the powers of a commission under Part II of the Public Inquiries Act, R.S.O. 1990 c. P.41;

AND WHEREAS Madame Justice Denise Bellamy was designated as Commissioner for an inquiry established by the Council of the City of Toronto under s. 100 of the Municipal Act by resolution dated February 14, 2002 ("Toronto Computer Leasing Inquiry");

AND WHEREAS Justice Bellamy has appointed Commission Counsel who have been conducting investigations including the interview of witnesses and the review of documents since that time;

AND WHEREAS the Council of the City of Toronto believes it would be fair and expedient for Madame Justice Bellamy to conduct a further inquiry into certain external contracts entered into by the City of Toronto;
AND WHEREAS the Council of the City of Toronto hopes to minimize delay in the conduct of the Toronto Computer Leasing Inquiry by requesting this further inquiry in this manner;

NOW THEREFORE the Council of the City of Toronto does hereby resolve that:

1. an inquiry is hereby requested to be conducted pursuant to section 100 of the Municipal Act which authorizes the Commissioner to investigate any matter relating to a supposed malfeasance, breach of trust or other misconduct on the part of a member of the council, or an officer or employee of the City, or of any person having a contract with it, in regard to the duties or obligations of the member, officer, employee or other person to the City, and to inquire into or concerning any matter connected with the good government of the municipality or the conduct of any part of its public business, including any business conducted by a commission appointed by the municipal council or elected by the electors ("Toronto External Contracts Inquiry" or "TECI"); and

2. Madame Justice Denise Bellamy, a judge of the Superior Court of Justice, be requested to act as Commissioner for the TECI and the judge so designated is hereby authorized to conduct the TECI.

AND IT IS FURTHER RESOLVED THAT the terms of reference of the TECI shall be:

1. To investigate and inquire into all of the circumstances related to the retaining of consultants to assist in the creation and implementation of the tax system of the former City of North York ("TMACS") including, but not limited to whether or not:

    a. expenditures relating to consultants were accurately reported;

    b. the need for consulting services was appropriately determined, justified and documented;

    c. consulting services were awarded based on sound business practices and in accordance with established procurement by-laws, policies and procedures;

    d. adequate procedures justification existed for waivers from required procedures;

    e. consulting contracts were effectively managed to ensure the contract deliverables were achieved, expenses incurred were reasonable and justifiable, and "value for money" was obtained; and

    f. payments were made in accordance with the terms of the contract.

2. To investigate and inquire into all of the circumstances related to the amalgamated City of Toronto's selection of TMACS.

3. To investigate and inquire into all of the circumstances surrounding the selection of consultants to develop and/or implement TMACS at the amalgamated City of Toronto ("Tax System Consultants"), including, but not limited to whether or not:
    a. expenditures relating to consultants were accurately reported;

    b. the need for consulting services was appropriately determined, justified and documented;

    c. consulting services were awarded based on sound business practices and in accordance with established procurement by-laws, policies and procedures;

d. adequate justification existed for waivers from required procedures;

e. consulting contracts were effectively managed to ensure the contract deliverables were achieved, expenses incurred were reasonable and justifiable, and "value for money" was obtained; and

f. payments were made in accordance with the terms of the contract.

4. To investigate and inquire into all of the circumstances surrounding the selection of Ball HSU & Associates Inc. consultants to provide consulting services to the City of Toronto, including, but not limited to whether or not:

a. expenditures relating to consultants were accurately reported;

b. the need for consulting services was appropriately determined, justified and documented;

c. consulting services were awarded based on sound business practices and in accordance with established procurement by-laws, policies and procedures;

d. adequate justification existed for waivers from required procedures;

e. consulting contracts were effectively managed to ensure the contract deliverables were achieved, expenses incurred were reasonable and justifiable, and "value for money" was obtained; and

f. payments were made in accordance with the terms of the contract.

5. To investigate and inquire into all aspects of the purchase of the computer hardware and software that subsequently formed the basis for the computer leasing RFQ that is the subject of the Toronto Computer Leasing Inquiry.

6. To investigate and inquire into all aspects of the matters set out above, their history and their impact on the ratepayers of the City of Toronto as they relate to the good government of the municipality, or the conduct of its public business, and to make any recommendations which the Commissioner may deem appropriate and in the public interest as a result of her inquiry.

AND IT IS FURTHER RESOLVED THAT the Commissioner, in conducting the inquiry into the matters set out above in question to which the City of Toronto is a

party, is empowered to ask any questions which she may consider as necessarily incidental or ancillary to a complete understanding of these matters;

And, for the purpose of providing fair notice to those individuals who may be required to attend and give evidence, without infringing on the Commissioner's discretion in conducting the inquiry in accordance with the terms of reference stated herein, it is anticipated that the TECI may include the following:

1. an inquiry into all relevant circumstances pertaining to the various matters referred to in this resolution, the basis of and reasons for making the recommendations for entering into the subject transactions and the basis of the decisions taken in respect of these matters

2. an inquiry into the relationships, if any, between the existing and former elected and administrative representatives of the City of Toronto, the Tax System Consultants, Ball HSU & Associates Inc., and any representatives of companies or persons referred to in paragraph 5 above at all relevant times; and

3. an inquiry into any professional advice obtained by the City of Toronto in connection with the matters referred to in this resolution at the relevant times.)