

IN THE MATTER OF THE TORONTO EXTERNAL CONTRACTS INQUIRY

AFFIDAVIT OF DAVID O'BRIEN

I, David O'Brien, of the City of Mississauga, in the Province of Ontario, **MAKE OATH AND SAY:**

1. From October 1995 to July 2004 I was the City Manager of Mississauga.
2. I am currently the President and Chief Executive Officer of Toronto Hydro.
3. I have known Wanda Liczyk since the mid-1990s when we were working on the four mayor's report and other municipal initiatives involving our two cities.
4. In 1998, I was aware that Mississauga and Toronto were working in partnership to develop a tax system, Tax Manager 2000 ("TXM2000"). However, as City Manager, I was not involved in the day to day details of the TXM2000 project. I did not become directly involved in the project until I received a letter from Wanda Liczyk dated February 27, 1998 expressing concerns over marketing of the TXM2000 software. **(TEC001654, vol. 1, tab 69)**
5. I agree with Wanda Liczyk's testimony that I became involved in the TXM2000 issues between Toronto and Mississauga, and specifically in the letter writing between the two cities in early 1998, because staff requested that I do so **(Wanda Liczyk testimony, November 9, 2004, 82:7 to 10)**.

6. I agree with Debbie Barrett's testimony that Wanda Liczyk prematurely escalated the marketing issues above the Steering Committee level, and that in any event, Wanda Liczyk should have addressed her concerns to Bill Munden, as he was her peer at the City of Mississauga. **(Debbie Barrett testimony, October 28, 2004, 183:4 to 184:11)**

7. I do not recall any Mississauga staff talking to me about any issues involving TXM2000 prior to receiving the February 27, 1998 letter.

8. I passed the February 27, 1998 letter to Debbie Barrett, who drafted our March 17, 1998 response for my signature **(TEC013061, vol. 1, tab 79)**. The March 17, 1998 letter responded to the concerns raised in Wanda Liczyk's February 27, 1998 letter and added that Mississauga would not agree to Toronto's request to implement TXM2000 in Toronto as one database. I do not recall why Debbie Barrett added that line to the letter but I would have talked to her about the one database issue and agreed with this statement before signing the letter.

9. I signed a subsequent letter to Wanda Liczyk dated May 6, 1998 **(TEC010886, vol. 1, tab 96)**, in which I advised that I had authorized Mississauga staff to provide copies of TXM2000 to Brampton, Richmond Hill, and Markham. While I do not specifically recall signing this letter or authorizing the release of the software, I would not have signed this letter without speaking to Debbie Barrett and/or members of the TXM2000 Steering Committee.

10. Wanda Liczyk replied by letter dated August 17, 1998 (TEC013084, vol. 2, tab 4). I turned the letter over to Bill Munden for a response because he was Wanda Liczyk's peer in Mississauga (TEC010892, vol. 2, tab 7). Bill Munden replied on August 31, 1998. (TEC013086, vol. 2, tab 8)

11. We did not receive a reply to our August 31, 1998 letter. Bill Munden wrote a subsequent letter on October 14, 1998 advising that Mississauga would be cutting off all support to Toronto on the TXM2000 project (TEC013101, vol. 2, tab 21). Mississauga staff spoke to me about cutting off support to Toronto prior to this letter being written, and I agreed with this course of action.

12. I do not recall having a scheduled meeting with Wanda Liczyk in mid to late October 1998 to specifically discuss the termination of the Toronto-Mississauga partnership. However, it is probable that we spoke about it at some point, either over the telephone or during a meeting on another subject. We must have discussed a set of criteria to terminate the agreement given that I instructed Janice Baker to do so upon her advising me that the matter was still outstanding in 2001. There is also a draft letter dated February 9, 1999 (TEC013123, vol. 2, tab 36) which was never sent, from Wanda Liczyk to me that indicates that we had reached agreement on the terms of terminating the agreement.

13. If I had met with Wanda Liczyk regarding this issue specifically in a formal meeting ,
I would have told staff in Mississauga (likely Debbie Barrett, or perhaps Bill Munden) about the meeting and any agreement reached. However, having likely discussed this issue as a secondary matter at another meeting or in a telephone conversation, I would probably have asked Wanda to put her proposal in writing and then waited for her to respond.

14. I recall that at some point, Wanda Liczyk told me that the TXM2000 project was in jeopardy and the system was not going to be delivered on time. She told me that the system was not going to work for Toronto, and that I should consider whether the system would work for Mississauga. I do not know if this conversation took place before or after October 7, 1998.

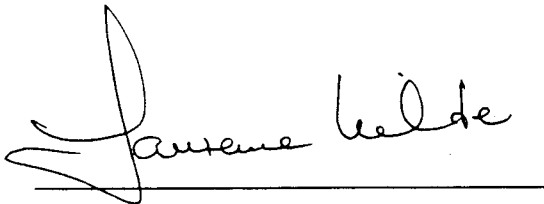
15. These comments did cause me some concern, as they were coming from the Chief Financial Officer of the City of Toronto. Accordingly, I repeated Wanda Liczyk's comments to Debbie Barrett and Bill Munden and asked them if the project was going to be able to meet the deadlines. Their assurances that the project was on track and would be completed on time satisfied me and I told Wanda Liczyk that she could do what she wanted, but Mississauga would be continuing with TXM2000.

16. I was not concerned that Toronto wished to pull out of the TXM2000 project. My concern was that Mississauga have a system that could reliably issue the tax bills.

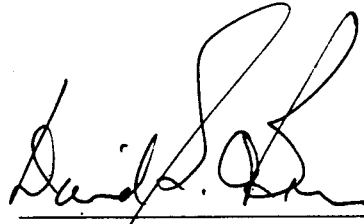
17. What I recall most vividly from that time period was how adamant Wanda Liczyk was about removing Toronto from the TXM2000 project. Her insistence that the project was not going to be successful struck me as very odd at the time.

18. In early 1999 Bill Munden retired as Mississauga's Commissioner of Corporate Services and Treasurer and was replaced by Janice Baker. Janice Baker advised me in early 2001 that the TXM2000 partnership issue was still outstanding, and I asked her to resolve it. I understand that she met with Wanda Liczyk and the two signed a letter dated March 21, 2001 agreeing to terminate the partnership. (TEC050558, vol. 3, tab 61)

SWORN BEFORE ME at the City of)
Toronto in the Province of Ontario)
on the 15th day of December, 2004)



A COMMISSIONER, ETC.
Lawrence Wilde.



DAVID O'BRIEN