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Tracking Toronto's Outdoor Advertising Industry

Wednesday, July 09, 2008

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Yvonne Davies, Committee Administrator
Givernment Managemetn Committee
City Hall, Committee Room 1

Regarding Item: 16.1, Comments on the Tabello case in the letter from George H. Rust-D'Eye, WeirFoulds LLP (GM.Supp.GM16.1.4)

I and writing regarding the legal opinion of the learned solicitor form WeirFoulds which was recently released on the City's web site in the Supplementary agenda.

Unfortunately, the learned solicitor has misread the opinion of the Adjudicator in the *Tabello* case and has made comments on issues which are not ripe for comment. In particular the solicitor appears to have made serious misinterpretation of the Adjudicators comments regarding fees.

The solicitor states on page 12 of his opinion that "the City's position was undermined by the fact that it has not required the requester to pay the full fees permitted under the Act."

This is not only completely incorrect, but the matter of the fees charged in this case is not ripe for comment by the solicitor because it is still before the IPC.

Firstly, the adjudicator did not conclude that the City was charging me fees that were lower than provided under the Act. The adjudicator in fact concluded that the fees the **City was already charging me** were enough to provide for cost recovery.

Secondly, a separate appeal was filed with respect to the fees charged in this case. Both the City Clerk and the City Solicitor have been personally involved in the fees appeal – MA07-58 and the learned solicitor ought to have been made aware of this appeal before writing his report.

My research has concluded that the City Clerk is substantially overcharging all Torontonians for Freedom of Information enquiries, and not just my organization. We expect a ruling on the fees matter in the upcoming months.

Once the Information and Privacy Commissioner rules on the fees issue, I will certainly be bringing her decision to the attention of this committee. We expect that decision to conclude that the City Clerk is systematically putting too high a price on access to information and we expect that decision to support the proposal that Councilors be granted access to the IBMS system. The learned solicitor's conclusions will then have to be re-written.

Sincerely,

Rami Tabello