



## STAFF REPORT ACTION REQUIRED

### Compliance with the City of Toronto's Anti-Discrimination Policy – Pride Toronto

<b>Date:</b>	April 2, 2011
<b>To:</b>	Executive Committee
<b>From:</b>	Joseph P. Pennachetti
<b>Wards:</b>	All
<b>Reference Number:</b>	

#### SUMMARY

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The purpose of this report is to review Pride Toronto's compliance with the City's Anti-Discrimination Policy and whether the participation of Queers Against Israeli Apartheid (QUAIA) including carrying banners in the Pride Parade constitutes a violation under the City's Anti-Discrimination Policy. This report also confirms that Pride Toronto adopted all the recommendations from their recent Community Advisory Panel related to governance, finance, community relations and operations, including the Panel recommendation to develop a comprehensive conflict resolution process especially with regards to participation in the Pride Festival including the annual Parade.

City staff have determined that the phrase 'Israeli Apartheid' in and of itself does not violate the City's Anti-discrimination policy as it does not impede the provision of services and employment provided directly by Pride or the City to any group on any grounds provided for in the Policy. The City staff has carefully reviewed the matter of whether the participation of QUAIA violates the City's Anti-Discrimination Policy. To date, the phrase "Israeli Apartheid" has not been found to violate either the Criminal Code or the Human Rights Code (Ontario). However, a decision on the latter would have to be made by the Human Rights Tribunal of Ontario. The City Staff has therefore concluded that the participation of QUAIA in the Pride Parade based solely on the phrase "Israeli Apartheid" does not violate the City's Anti-Discrimination Policy. The City also cannot therefore conclude that the use of term on signs or banners to identify QuAIA constitutes the promotion of hatred or seeks to incite discrimination contrary to the Code.

A funding application as a Major Cultural Organization under the Community Partnership and Investment Program (CPIP) for the Pride Festival was received by the City on April 1, 2011 and is currently being reviewed by city staff.

## **RECOMMENDATION**

The City Manager recommends that City Council receive this report for information.

### **Financial Impact**

There are no financial implications as a result of this report.

### **Equity Impact Statement**

The scope of an anti-discrimination requirement for organizations in receipt of public funds ensures that funded agencies are in compliance with the City's principles of delivering those services in an equitable and non-discriminatory manner.

The City's requirement assists in ensuring that funded organizations are pro-active in addressing equity and anti-discrimination issues within their own organization to promote the City's overall strategy for respecting the diversity among the City's population.

## **DECISION HISTORY**

At its July 2010 meeting, City Council approved a notice of motion that directed:

- (a) Funding for Pride Toronto be paid after the parade and be conditional upon Pride Toronto requiring all registered participants to comply with the City of Toronto's Anti-Discrimination Policy.
- (b) Requested the City Manager to advise Pride Toronto on what is required of them to meet the Policy.
- (c) Requested the City Manager advise Pride Toronto whether the participation of Queers Against Israeli Apartheid and the signs or banners they carry contravenes the City's Anti-Discrimination Policy.

The link to the Council decision can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2010.MM51.3>

## ISSUE BACKGROUND

Organizations funded under the City's Community Partnership and Investment Program (CPIP) are required to complete a Declaration Form indicating that the City's Anti-Discrimination Policy has been adopted by their board of directors. The City's Anti-Discrimination Policy prohibits discrimination on the following grounds:

*“age, ancestry, citizenship, creed (religion), colour, disability, ethnic origin, family status, gender identity, level of literacy, marital status, place of origin, membership in a union or staff association, political affiliation, race, receipt of public assistance, record of offences, sex, sexual orientation or any other personal characteristics”.*

In addition, organizations receiving over \$25,000 under CPIP are required to follow the Anti-Racism, Access and Equity Guidelines adopted by City Council in December 1998.

The Guidelines require that:

- All organizations receiving City grants are non-discriminatory and promote the goals of anti-racism, access and equity;
- All organizations receiving City grants take reasonable steps to ensure their services, programs and decision-making reflect the community they serve;
- The City of Toronto's grants programs are accessible to organizations from Toronto's diverse communities, including organizations representing equity-seeking communities; and
- All required documentation and conditions will be reasonable and grants will not be withheld if the applicant is taking reasonable steps to comply with the City policy.

The Anti-Racism, Access and Equity Guidelines can be found at:

[http://www.toronto.ca/grants/pdf/grants\\_policy\\_anti-racism\\_access\\_equity.pdf](http://www.toronto.ca/grants/pdf/grants_policy_anti-racism_access_equity.pdf)

These requirements ensure funded organizations are pro-active in addressing human rights issues and creating a positive environment. This is part of the City's overall strategy to establish respect for diversity among the City's population.

City staff that receive allegations of discrimination by funded organizations are required to ensure the organization has established a policy and procedures for addressing complaints of discrimination, referring the complainant to the funded organization for resolution, and advising the complainant that they have a right to proceed to the Human Rights Tribunal of Ontario if their complaint is not resolved to their satisfaction. Complaints and human right violations by City funded organizations are considered through the annual grants application review process.

## COMMENTS

### 1. Overview of the Pride Festival

The Pride Festival is a ten-day long cultural festival celebrating Toronto's gay, lesbian, bi-sexual, transgender, transsexual, intersex, queer, questioning and two-spirited communities.

Pride Toronto was incorporated as a not-for-profit organization in 1995 but has been in existence as the organizer of the Pride Festival since 1971.

In 2005 City Council recognized the Pride Festival as a signature cultural event in Toronto when it included Pride Toronto within the Major Cultural Organizations Grant Program through the Community Partnership and Investment Program (CPIP). The Major Cultural Organizations Grant Program provides financial support to major cultural organizations recognized as essential cultural ambassadors, and for cultural attractions with significant tourism benefit.

In addition to Pride, the City currently provides funding to the Art Gallery of Ontario, National Ballet of Canada, National Ballet School, Canadian Opera Company, Toronto Symphony Orchestra, Caribana, Gardiner Museum of Ceramic Art, Toronto International Film Festival and Luminato, under this Funding Program. These organizations play a major role in enhancing a local cultural ecology and in developing Toronto as a worldwide cultural destination.

Organizations funded under the Major Cultural Organizations Grant Program are required to demonstrate a consistent level of professional standards, artistic excellence, and international achievement as well as sound financial management system, diverse funding base and board accountability.

#### (a) Economic Impact of the Pride Festival

Enigma Research Corporation conducted an economic impact study of the 2009 Pride Festival and estimates that the festival generated \$94.3 million and created 600 full time jobs in Toronto. Total festival attendance was approximately 410,000 people: 312,000 locals, 62,000 domestic tourists and 36,000 international tourists. The study estimates that 107,000 visitors from outside the Greater Toronto Area stayed 3 or more nights in Toronto, US visitors stayed an average of 4.7 nights and international visitors an average of 9.5 nights. The study also estimates that the 2009 Pride Festival generated an additional \$21 million for Toronto's local economy that is not included in the overall economic impact, predominantly from local residents visiting restaurants, bars and clubs.

The 2009 Festival generated taxes in the following amounts: Federal - \$9.2 million, Provincial - \$7.8 million, and Local - \$4.1 million.

Pride Toronto estimates that the 2010 Pride Week contributed over \$136 million to the economy, an increase over 2009, and that World Pride in 2014 could result in five times more visitors to Toronto than the annual Pride Festival.

The 2009 economic impact study can be found at:

[http://www.pridetoronto.com/downloads/Economic\\_Impact\\_Study\\_2009.pdf](http://www.pridetoronto.com/downloads/Economic_Impact_Study_2009.pdf)

(b) 2010 CPIP Funding - Pride Cultural Festival

Pride Toronto received \$123,800 in 2010 through the Major Cultural Organizations Grant Program specifically to support a ten-day arts and cultural festival which includes a weekend street festival, not the parade itself. The City's 2010 grant to Pride Toronto represents 5 per cent of their annual operating budget.

## **2. Compliance with the City's Anti-Discrimination Policy**

(a) Community Advisory Panel – Pride Toronto

Through 2009 and 2010 Pride Toronto received conflicting requests from stakeholders and community members about the participation of Queers Against Israeli Apartheid (QUAIA) in the annual Pride parade. Pride Toronto undertook various strategies to resolve these complaints including the decision to restrict the use of the phrase "Israeli Apartheid" in the parade which some people deemed as discriminatory and a violation of their freedom of expression. To address this issue in the short-term, Pride Toronto required all participants in the 2010 Pride Parade to directly sign an agreement that they would adhere to the City's Anti-Discrimination Policy.

The issue of whether QUAIA should be able to participate in future Pride Parades affected the organization's relationship with its communities, stakeholders and funders. In response, Pride Toronto established a Community Advisory Panel in September 2010 to find a lasting solution to these issues and to ensure the continued viability of the Pride Festival.

The Community Advisory Panel was responsible to:

- Undertake a consultation process to seek input from the LGBTQ communities and other relevant informants, funders and corporations to examine the relevance of Pride Toronto in relation to these stakeholders, and the mandate within which they would like to see the organization operate;

- Develop a broad strategic recommended policy framework to assist the board of Pride Toronto ensure it defines its mission, vision and values and operates consistently with the mandate; and
- Provide recommendations to the Board of Directors to structure the Board's strategic planning process and, as appropriate, organizational / governance elements to ensure the viability and sustainability of the organization and a positive relationship with the broader LGBTQ communities.

The Community Advisory Panel presented its report to Pride Toronto in February 2011 and the Board of Pride Toronto accepted the report in its entirety. The Board is in the process of implementing all its recommendations.

In addition to broad based recommendations related to governance, finance, community relations and operations, the Panel recommended the development of a comprehensive conflict resolution process especially with regards to participation in the Pride Festival including the annual Parade.

(b) Review of Compliance with the City's Anti-Discrimination Policy

As requested by City Council, the City Staff met with Pride Toronto to review and reinforce the requirements of the City's Anti-Discrimination Policy. Pride Toronto was advised that City funded organizations are required to adopt the City's Anti-Discrimination Policy and must have adequate policies and procedures in place to address complaints of discrimination. Pride Toronto was also advised that continued compliance with the City's requirements will be reviewed and assessed through the annual grants application review process.

(c) Pride Parade

The City staff has reviewed the matter of whether the participation of Queers Against Israeli Apartheid and the signs or banners they carry during the Pride parade contravenes the City's Anti-Discrimination Policy.

The phrase 'Israeli Apartheid' in and of itself does not violate the City's Anti-discrimination policy as it does not impede the provision of services and employment provided directly by Pride or the City to any group on any grounds provided for in the Policy. There is no legal precedent that the phrase constitutes a hate crime under the Canadian Criminal Code.

For the use of messaging containing the term "Israeli Apartheid" to contravene the Ontario Human Rights Code, it would have to be judged by the Human Rights Tribunal of Ontario (HRTO) to contravene Section 13(1), which prohibits any notice, sign, etc. that indicates the intention of the person to infringe a right under Part I of the Code or

that is intended by the person to incite the infringement of a right under Part I. This restriction is, however, explicitly subject to the requirement that it "shall not interfere with freedom of expression of opinion". To obtain a decision from the HRTO, a section 34 Application would have to be filed per information obtained from the Ontario Human Rights Commission.

The Community Advisory Panel's report, in the process of being implemented by the Pride Board, sets out clearly a process to determine both who can participate in the annual Parade and how such participation shall occur. It states: "To help focus Parade participation on LGBT issues, the Panel recommends that the Parade require an emphasis on LGBT messages during the Parade to be organized under the following suggested sections: "Celebrating our Communities", "Diverse Voices United", and "We Are Family". The Panel recommends that the messaging in "Celebrating Our Communities" be confined to issues directly related to sexual orientation and gender identity, and that other messages be permitted in "Diverse Voices United" so long as they are not commercial in nature and provided that the predominate message is directly related to sexual orientation or gender identity. "We Are Family" will be a new section for individuals not affiliated with groups."

According to recommendation 115 the report further clarifies: "All Parade participants will be required to sign an enforceable undertaking not to portray messages or images that condone or promote violence, hatred or negative stereotypes against any group...All groups applying to participate in the Parade or a march must complete an undertaking to abide by Pride Toronto's anti-discrimination policy. Included in this undertaking will be the following phrase *"The applicant will not present images or messages that promote or condone, or may promote or condone, violence, hatred, degradation or negative stereotypes of any person(s) or group(s)."* Allegations that this undertaking has been or will be violated by any group, like other allegations of rule violations, will be resolved through the Pride Toronto dispute resolution process. Groups violating this undertaking or other Pride Toronto rules may be subject to sanctions, including being denied the right to participate in the current or future Parades or marches."

It is clear from the review of the Pride Festival and the comments of the Community Advisory Panel in its report (dated February, 2011), that there is a strong belief in the community that political expression of various kinds is appropriate in the context of the Parade. In this regard, it may be noted that, in addition to QuAIA, groups supporting Israel have also participated in the parade in the past.

The City staff has therefore concluded that there is no basis in these circumstances to conclude that the use of the phrase "Israeli Apartheid" or the participation of QuAIA in the annual Pride Parade constitutes a violation of the City's Anti-Discrimination Policy. While Council clearly has the ability to choose whether or not to fund an event of this nature or this aspect of the Pride Festival event, that would be a decision which should be made based on the nature of the Parade itself, not the participation of a single group.

## CONCLUSION

The Pride Festival is one of the premier cultural festivals held in Toronto and has a significant impact upon the local economy.

In keeping with the City's relationship with its funded organizations which respects their independence and in light of the comprehensive review done by the Community Advisory Panel, it is up to Pride Toronto to set the terms and conditions for the participation in the Festival, including the annual Pride Parade.

Based on the scope and current requirements of the City's anti-discrimination policy, it is the conclusion of staff that Pride Toronto has met the City's requirements because it has adopted the City's anti-discrimination policy and is in the process of developing policies and procedures as recommended by the Community Advisory Panel to effectively respond to complaints of discrimination.

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