

Submitted by  
Maya Ford CC 42.1.6

TORONTO  
CITY CLERK'S OFFICE

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TO THE COUNCIL OF THE CITY OF TORONTO;

RE; PROPOSED MOTIONS BEFORE THE COUNCIL FROM; George Rust-D'Eye

Dear Members of Council:

Mr. Dennis Morris, solicitor for Mayor Rob Ford, has retained me, on behalf of the Mayor, to provide to the Council my opinion with respect to Motions proposed to be placed before it which would, if adopted by the Council:

-suspend the power of the Mayor to appoint and dismiss the Deputy Mayor and Standing Committee Chairs, and

-provide that the Deputy Mayor assume all powers and duties that have been delegated by Council to the Mayor,

both decisions to have effect for the remainder of the current term of Council.

#### ISSUES

I have reviewed the Notices of Motion, and the relevant provisions of the City of Toronto Act ("COTA"), and concluded as follows:

-issues which are raised by the proposed actions include:

-the role and mandatory responsibilities of the Mayor established by statute;

-the extent to which the Council can reduce or change the duties of the head of Council from those of the position to which he was democratically elected by the people of this City in the last general municipal election;

-the grounds which form the basis for the proposed action, and its timing, being prior to anticipated inquiry, and resultant findings of fact, by the City's Integrity Commissioner; and

-the precise nature and extent of the powers and duties proposed to be conferred upon the Deputy Mayor.

#### RELEVANT STATUTORY PROVISIONS

The City of Toronto is created by statute, the City of Toronto Act, ("COTA"), and its Council has powers only to the extent conferred upon it by COTA or other legislation.

Similarly, the Mayor, as head of Council, is invested with the following role and responsibilities under COTA:

**"s. 133: (1) It is the role of the mayor of the City, as the head of council,**

- (a) to act as chief executive officer of the City;**
- (b) to preside over meetings of council so that its business can be carried out efficiently and effectively;**
- (c) to provide leadership to council;**
- (d) to represent the City at official functions; and**
- (e) to carry out the duties of the head of council under this or any other Act.**

**(3) The City may, with the consent of the head of council, appoint a member of council to act in the place of the head of council on any body, of which the head of council is a member by virtue of being head of council.**

**134: As chief executive officer of the City, the Mayor shall:**

- (a) uphold and promote the purposes of the City;**
- (b) promote public involvement in the City's activities;**
- (c) act as the representative of the City both within and outside the City, and promote the City locally, nationally and internationally; and**
- (d) participate in and foster activities that enhance the economic, social and environmental well-being of the City and its residents. "**

As City Council was advised by the City Solicitor, at its meeting held on Wednesday, November 13, 2013, the City Council does not have the legal power to dismiss, impeach or remove its Mayor, who was elected by general vote at large across the City.

I would also submit for Council's consideration, the following principles of general municipal law, as relevant to the matters before it:

-although the Council generally has the power to amend or suspend its own by-law in accordance with the Procedures By-law and other applicable law, it cannot

reduce or interfere with the statutory responsibilities of the Mayor, nor can it purport to do indirectly what it does not have the power to do directly;

-it is the responsibility of the Council to address, and act on the basis of, facts relevant to the merits of the question before it for decision, and not make such decisions on the basis of speculation, or extraneous or irrelevant allegations;

-the proposed motions involve changes to City governance, which could be perceived by the public as being apparently based, not upon alleged breach by the Mayor of the duties of governance conferred upon him by statute or City by-law, but as an attempt to punish him for alleged personal misconduct, or as a symbolic statement of Council's intent to be doing SOMETHING, in response to it;

-there is no evidence before the Council suggesting that the Mayor has failed to exercise, or abused, his powers, or been unwilling or unable to fulfill them, or forming any other grounds having a relationship to those which led this and previous Councils to establish existing standards and procedures.

All of which is respectfully submitted to the City Council

Yours truly

(SIGNED)

George Rust-D'Eye  
Barrister and Solicitor

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