



**STAFF REPORT
ACTION REQUIRED
with Confidential Attachment**

Revisions to City's Grants Policy and Anti-Discrimination Policies – Legal Issues

Date:	April 8, 2013
To:	Executive Committee
From:	City Solicitor
Wards:	All
Reason for Confidential Information:	This report concerns litigation or potential litigation that affects the City or one of its agencies, boards, and commissions.
Reference Number:	

SUMMARY

This report has been prepared to provide confidential commentary on the recent Supreme Court of Canada decision in *Saskatchewan (Human Rights Commission) v. Whatcott* which was released on February 27, 2013 and issues arising from the two reports which shall be before Executive Committee for its consideration on April 23, 2013 respecting proposed amendments to the City's Grants Policy and Anti-Discrimination policies arising from direction given by the Committee at its meeting of September 10, 2012.

RECOMMENDATIONS

The City Solicitor recommends:

1. That City Council receive this report for information.
2. That City Council direct that the confidential information in Attachment 1 shall remain confidential in its entirety as it relates to litigation or potential litigation affecting the City of Toronto.

Financial Impact

There is no financial impact arising from the recommendations in this report.

DECISION HISTORY

In June 2011 City Council directed the City Manager to report to Council via Executive Committee on an: *updated anti-discrimination policy which ensures that events which are funded by the City of Toronto, and/or take place on City of Toronto property, are in accordance with the policy of the City of Toronto of promoting respect, tolerance and diversity and that the grants policy and use of space policy are consistent with the updated anti-discrimination policy.*

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.EX6.21>

In June 2012, the Executive Committee deferred the report *A Review of the City of Toronto's policies on Anti-Discrimination* to the Sept. 2012 Executive meeting.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.EX21.13>

Executive Committee passed a motion at the September 2012 meeting to refer the item back to the City Manager, with the request that he:

- a. Revise the Declaration of Compliance to include anti-discriminatory City policies which go beyond provincial and federal statutes and legislation.
- b. Report on amendments to the City's anti-discrimination policies, which would state that the City condemns harassment, denigration, discriminatory actions, promotion of hatred or anything which shows a lack of respect for all persons.
- c. Report on amendments to the City's Grants Policy and ensure that events which are funded by the City of Toronto, and/or take place on City of Toronto property, are in accordance with the objectives of the City of Toronto of promoting respect, tolerance and diversity and that the grants guidelines and use of space guidelines are consistent with the amended Grants policy.
- d. Consider the following motion in the requested report:
"That in respect of the application of the anti-discrimination policy to the grants programs, in light of the purposes of the grants policy and the community complaints, Council also give specific direction for the imposition of a condition of the funding for the 2013 Pride event, that the term "Israeli Apartheid" not be permitted to be used as part of the event."

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.EX22.4>

ISSUE BACKGROUND

Council initially requested this review due to concerns about whether the participation of Queers Against Israeli Apartheid (QuAIA) in the annual Pride Parade violated the City's anti-discrimination policies and the appropriateness of City grant funding to such events on City property.

COMMENTS

In response to the request by the Executive Committee, the City Manager and the Executive Director, Social Development, Finance and Administration have both submitted reports to address the Committee's motions. I have reviewed those reports and provided comments. To assist the Committee and Council in its consideration of these matters, I have also prepared this report to address certain legal issues in respect of this matter, including the impact of the recent *Whatcott* decision, as contained in the Confidential Attachment to this report.

CONTACT

Edward Earle
Director, Municipal Law
Legal Services Division
Tel: (416) 397-4058
E-mail: wearle@toronto.ca

SIGNATURE

Anna Kinastowski
City Solicitor

ATTACHMENTS

Attachment 1 – Confidential Attachment from City Solicitor on Grants Policy and Anti-Discrimination Policies – Legal Issues