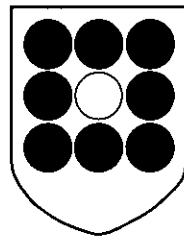


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A. ALAN BOROVOY

February 19, 2013

Sent by mail and email

Mayor Ford and City of Toronto Executive Committee Members
c/o Kelly McCarthy

10th floor, West Tower, City Hall
100 Queen Street West
Toronto, ON M5H 2N2
Email: exc@toronto.ca

Dear Mayor Ford and Executive Committee Members,

I am writing on behalf of the Canadian Civil Liberties Association to express our concern regarding the direction of the ongoing Executive Committee discussion about revisions to the City of Toronto's policies on anti-discrimination.

In September 2012, the Executive Committee requested that the City Manager revise city anti-discrimination policies to "go beyond provincial and federal statutes and legislation," report on amendments stating that the City "condemns ... anything which shows a lack of respect for all persons," and consider a motion that would withdraw funding from Pride Toronto if the term "Israeli Apartheid" is used as part of the event. Based on statements made by some Council Members, it is our understanding that the revision exercise is premised on the suggestion that the City's anti-discrimination policy is flawed because it does not prohibit the use of offensive terms –and in particular the term "Israeli Apartheid" – in events partly funded by the City.

We would like to invite you to abandon this course of action. The fact that individuals can make even highly offensive statements without contravening any laws or government policy is not a "loophole" – it the essence of freedom of expression, a constitutionally-guaranteed cornerstone of a vibrant democracy.

Vibrant societies must rely on *both* equality and freedom of speech, and one cannot be pursued without a serious and robust consideration of the other. Individuals and groups must be able to take strong, controversial, even offensive stands in order for a democracy to function. Surely this City Council, which is no stranger to statements that some may find offensive, understands how such speech must be tolerated and even at times encouraged within the democratic system. Council must celebrate and promote not only

respect, tolerance and diversity, but also robust freedom of expression, discussion and debate.

In our view it is inappropriate to single out one particular group for heightened protection from offensive speech. Why should the phrase “Israeli apartheid” be banned, but not any of the other myriad statements, symbols, acts or gestures that might be highly offensive to different portions of the population? The City currently provides funding grants to Pride, the Art Gallery of Ontario, the Toronto International Film Festival, the Canadian Opera Company, the National Ballet of Canada, Toronto Symphony Orchestra, the Gardiner Museum, the Scotiabank Caribbean Carnival and Luminato. So much of the reason why we love the arts is *because* they have the ability to take risks, to provoke, criticize and, indeed, offend. Countless artistic works which scandalized their contemporary society have since become treasured cultural touchstones. How will you handle the next demand to defund the AGO or TIFF because a particular exhibit or film highlighting human rights violations was offensive to those whose country was targeted? Which institutions will have to forgo City support – or pre-censor artistic works – because they might contravene the city’s condemnation of “anything which shows a lack of respect for all persons”?

In our view, if you go down this route, the possibility of undue censorship by the City does require a process by which Torontonians would know which “offensive speech” justified the denial or reduction in funding of any organization. In our view, the arbitrariness of such judgment calls about whether speech shows a lack of respect to some people warrants a more transparent process for funding applications. We believe that, if the City pursues this course of action, it should commit that all future decisions taken to allow or disallow grantees’ “offensive speech” be fully disclosed, and justified, to the public.

Sincerely,

A handwritten signature in black ink, appearing to read 'NDR', written over the printed name 'Nathalie Des Rosiers'.

Nathalie Des Rosiers

General Counsel, Canadian Civil Liberties Association