TORONTO

Giorgio Mammoliti

Councillor, York West, Ward 7
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November 26th, 2013

Anna Kinastowski
City Solicitor
Legal Services
Metro Hall, 26th Floor, Stn. 1260
55 John Street
Toronto, Ontario
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Dear City Solicitor,

Re: Collection of Personal Information by Members of TCEU, Local 416

My office is in receipt of your letter dated November 15th, 2013 in response to my letter sent to Jim Harnum, General Manager, Solid Waste Management Services.

I accept your position and response on their behalf that Solid Waste Management Division does not have the capacity or authority to conduct the investigation I requested.

However, I cannot in good conscience accept your position on behalf of the residents of the City of Toronto that there is no department within this city that can investigate the use of personal and private information collection at a City funded event.

Can you please provide an explanation on why the City of Toronto cannot restrict City of Toronto affiliates, employees and unions at a City funded event to collect personal and private information representing the City of Toronto and withholding the sue of the collection of such information from the City, the local Councillor and the individual taxpayer themselves.

Can you also provide the City of Toronto policy on the collection and use of personal and private information at City of Toronto events.

As well, can you provide an explanation as to why a City of Toronto branded "Councillor's" event does not allow for the local Councillor to protect the privacy of their constituents and why the City Solicitor and any other department is unable to compel any affiliate of the City of Toronto to provide information with respect to the purpose for which it collects this information.

We are all we aware of the circumstances surrounding Community Environment Day and the very open manner in which CUPE Local 416 president, Mark Ferguson, has publicly indicated his intentions and abuse of the resources provided to him by the City of Toronto at these events and others; i find it

irresponsible of the City of Toronto's administrative body to simply pass along the issue as Federal jurisdiction.

In addition, I would also like your response on the matter of Mr. Apollo Chung. It has come to my attention, through City Staff, that he has held various positions simultaneously within the City of Toronto through Councillor's offices and affiliates, namely CUPE 416, Councillor Wong-Tam, Councillor Vaughan and Councillor DeBaermaker. He has operated both under his personal name as well as issuing invoiced work under a company called Aneon, based out of British Columbia; all of his work is in reference to data base development and other computer programming functions. I attach for you a copy of the article reporting the connections of his employment by Sue-Ann Levy, dated April 30th, 2013. I submit this article as confirmation of the actions and intentions of CUPE, Local 416 as expressed by their own members. Given this is common knowledge within the CUPE Executive, how is it possible that the City of Toronto has no authority to insist their participation in community events be limited to not include the collection of personal data?

I look forward to your explanations and interest in protecting the rights and privacy of the tax payers.

Sincerely,

Giorgio Mammoliti
Councillor, Ward 7 – York West

cc. Mayor Rob Ford
Joseph Pennachetti, City Manager
John Livey, Deputy City Manager
Jim Harnum, General Manager, Sold Waste Management Services

TORONTO

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File No.

November 15, 2013

Councillor Giorgio Mammoliti
City Hall
100 Queen Street West, Suite B27
Toronto, ON M5H 2N2

Dear Councillor:

Re: Collection of Personal Information by Members of TCEU, Local 416

I have been asked to respond to your correspondence of November 1 in relation to this matter.

In that correspondence you requested that the Solid Waste Management Division undertake an investigation into the collection, by TCEU, Local 416, of taxpayer's private and personal information at City of Toronto funded events and/or on City of Toronto property.

Unfortunately, the Solid Waste Management Division has no capacity or authority to undertake an investigation of the type that you describe. It has no ability to compel officials of TCEU, Local 416 to provide information with respect to the purpose for which it collects this information. I am concerned that any investigation by the Solid Waste Management Division would be doomed to failure from the outset.

At the same time, the Federal *Personal Information and Protection of Electronic Documents Act* may be relevant to the actions of TCEU, Local 416 in relation to these matters. That *Act* applies to any organization, including a trade union, which collects, uses, or discloses personal information in the course of commercial activities. The *Act* defines commercial activities as including any particular transaction, act or conduct or any regular course of conduct that is of a commercial character, including the selling, bartering or leasing of donor, membership or other fundraising lists.

The *Act* requires:

- the purpose for which personal information is collected to be identified by the organization at or before the time that the information is collected;
- the organization collecting personal information to document the purpose for which the personal information is collected;
- when personal information that has been collected is to be used for a purposes that has not previously been identified, the new purpose must be identified prior to its use and, unless the new purpose is required by law, the consent of the individual to whom the information relates is required before the information can be used for that new purpose.

The *Act* provides for the creation of a Federal Privacy Commissioner who is empowered to conduct investigations of complaints under the *Act*. The Privacy Commissioner of Canada can be contacted as follows:

•By email:	notification@priv.gc.ca
•By phone:	613-995-2042
•By mail:	Notification Officer Office of the Privacy Commissioner of Canada 112 Kent Street Place de Ville Tower B, 3rd Floor Ottawa, Ontario K1A 1H3
Website:	http://www.priv.gc.ca/index_e.asp

Based upon the complaint that you have identified, I would suggest that this official is the appropriate party to whom your complaint should be directed.

Yours very truly,

Anna Kinastowski
City Solicitor

AK/DM/dm

c. Mayor Rob Ford
Joe Pennachetti, City Manager
John Livey, Deputy City Manager
Jim Harnum, General Manager, Solid Waste Management Services