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July 7, 2014

Ulli S. Watkiss
City Clerk
Toronto City Hall
100 Queen Street West
13th Floor W.
Toronto, Ontario
M5H 2N2

Dear Ms. Watkiss:

Re: Giorgio Mammoliti -and- Integrity Commissioner of the City of Toronto

Enclosed please find a letter to all members of Toronto City Council which relates to Item CC 54.3 – Integrity Commissioner Report on Violation of Code of Conduct: Councillor Mammoliti, which Item is on the agenda for tomorrow.

Please ensure the letter is put on the agenda along with Item CC 54.3.

Yours very truly,
MORRIS MANNING, Q.C.
PROFESSIONAL CORPORATION

Morris Manning, Q.C., C.S., J.D.



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Toronto City Council
Toronto City Hall
100 Queen Street West
13th Floor W.
Toronto, Ontario
M5H 2N2

Dear Members of Toronto City Council,

Re: Giorgio Mammoliti -and- Integrity Commissioner of the City of Toronto

I am counsel to your colleague, Councillor Giorgio Mammoliti.

On June 8th 2014, prior to the completion of the Report of the Integrity Commissioner, Councillor Giorgio Mammoliti filed a Notice of Application for Judicial Review in the Divisional Court of Ontario in respect of the investigation by the Integrity Commissioner of the City of Toronto. That application was brought as a result of serious legal issues arising from the methods utilized by the Integrity Commissioner in carrying out her investigation.

At the meeting of Toronto City Council commencing July 8th, 2014 you will be asked to consider the Item CC 54.3 - Integrity Commissioner Report on Violation of Code of Conduct: Councillor Mammoliti. As that Report will form the basis of the Judicial Review by the Court, I am asking that you defer your consideration of this item until the Divisional Court has rendered its decision.

I ask that you defer your consideration of the Report as a result of the fact that you do not have a complete picture. Upon review of the publicly released report, it is clear that it contains many overt mistakes which suggests that the Integrity Commissioner has written much of her report in error. Further, the Final Report of the Integrity Commissioner does not contain all of the facts and issues that will be before the Divisional Court, some of which include:

- a) whether the Integrity Commissioner has power to access the private e-mails of the staff of City Councillors and whether that power was lawfully exercised;
- b) whether the Integrity Commissioner came to a conclusion which is contrary to her own policy, particularly the statement published in 2013 interpretation bulletin:

"In the case of legal fees that are not covered by the City of Toronto, the Code of Conduct is not intended to apply to private arrangements for contributions. A member of Council in his or her private life may have relatives and friends who are able and willing to help defray the costs of legal proceedings. This is consistent with past advice from the Office of the Integrity Commissioner and continues to be the position of the office."

- c) what factual basis was there to enable the Integrity Commissioner to reach the conclusion that the Councillor's staff did not work on their own time with respect to the celebration of life event;
- d) why was there no reference in the Report to the responses made by Councillor Mammoliti's staff to the Integrity Commissioner;
- e) why was there no interviews conducted of those who actually organized the celebration of life event;
- f) why did the Integrity Commissioner fail to advise Councillor Giorgio Mammoliti that she had obtained an admission from Mr. Iler that he had been responsible for the breach of the confidentiality which she was required by law to keep;
- g) why did the Integrity Commissioner continue her investigation in light of the breach of the confidentiality rules by the complainant;
- h) why was the Report released to the public and not put on the Council agenda as an in camera item;
- i) why the report was released to the public when there are instances in which private contact information for both a private citizen and my client were not redacted;
- j) what the circumstances were under which witnesses gave testimony – were they under oath and were they advised of their rights;
- k) why was the Judicial Review Application not included in the report.

As I stated above, a more complete picture of all of the evidence will be presented by the Integrity Commissioner to the Divisional Court including a full discussion of those legal issues which concern not only Councillor Giorgio Mammoliti but each and every one of you.

The way this report is handled goes beyond whatever internal politics may be reflected upon Councillor Mammoliti - the Court case will determine whether each of you can or cannot make arrangements for events in your private lives with or without the Integrity Commissioner having control of your private lives or the private lives of your family and staff.

As a matter of fairness and completeness it should be borne in mind that a past investigation conducted by the Integrity Commissioner was found wanting in law and that was due to the manner in which she conducted her investigation. It is only right to defer this item until the Judicial Review is heard and determined by the Court. Only at that point in time will you have a complete picture which will enable you to make an informed decision. Any other action taken by City Council may create a liability for the City as it would then be involved in the present Court case.

Yours very truly,

MORRIS MANNING, Q.C.
PROFESSIONAL CORPORATION



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