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June 25, 2018

VIA EMAIL TO UWATKIS@TORONTO.CA
HARD COPY DELIVERED

Ms. Ulli Watkiss
City Clerk
City of Toronto
Toronto City Hall, 13th Floor West
100 Queen Street West
Toronto, ON M5H 2N2

Dear Ms. Watkiss:

**Re: Council Meeting of June 26-28, 2018, Agenda Item CC43.5
Report Regarding the Conduct of Councillor Michael Thompson**

I represent Councillor Michael Thompson in respect of the above-captioned matter, and respectfully request that this correspondence be circulated in advance to Council for its consideration in respect of the above-captioned Agenda item and be placed upon the public record.

Councillor Thompson has, throughout the investigation of this complaint against him, freely acknowledged that Mr. Albert Gasparro, to whom he provided assistance, is a longstanding friend of his. But Mr. Gasparro is also a Toronto resident with a business in the city. With the greatest of respect to the Integrity Commissioner, it makes little sense that Mr. Gasparro's status as a friend of Councillor Thompson should preclude him from receiving the assistance from the Councillor that was provided when he encountered serious obstacles to his company's planned project in Councillor Filion's ward. But nevertheless, that is the position adopted by the Integrity Commissioner in her Report. In furtherance of Councillor Thompson's request that Council take no action beyond receiving the Integrity Commissioner's Report, this correspondence expands upon that fundamental point.

The actions of Councillor Thompson here at issue constitute only the reasonable conduct of a diligent Councillor who has been made aware of significant problems encountered by an individual who happens to be his friend, and for whom there seemed to be no alternative means of recourse. Before acting directly, the Councillor approached two Council colleagues to see if they would assist Mr. Gasparro, but both declined, thereby avoiding any potential conflict with Councillor Filion. It was only then that Councillor Thompson proceeded to act directly in an effort to assist.

The situation to be considered by Council is not one likely to have been contemplated at the time that the Code of Conduct was prepared. While, certainly, the notion that a Councillor might intervene in a matter in order to give a friend some sort of benefit or competitive edge is something that the Code should quite properly prohibit, the situation at hand is of acting only in response to the perceived obstruction of a project by the local Councillor in whose Ward the project is located. Moreover, the reason for this obstruction appeared, both to Mr. Gasparro and Councillor Thompson, to be rooted in the local Councillor's apparent displeasure at the failure of Mr. Gasparro's company to do his bidding and hire a particular consultant as a means of advancing the project.

Section VIII of the Code of Conduct provides that "No member of Council shall use the influence of her or his office for any purpose other than for the exercise of her or his official duties." It prohibits the use of

one's status as a member of Council to improperly use one's influence to the private advantage of one's friends. "This would include attempts to secure preferential treatment beyond activities in which members normally engage on behalf of their constituents as part of their official duties." It addresses only preferential treatment and says nothing about seeking ordinary treatment for someone who is not receiving it.

As acknowledged by the Integrity Commissioner (at page 13, and again at page 14 of the Report), all that Councillor Thompson and his staff did was to persistently advocate for timely review by staff. She expressly found that they neither urged nor directed any specific actions or outcomes, such as the sale price or terms of sale of city land that was to be purchased; no one was asked to do anything that they would not ordinarily have done in the course of their responsibilities, and the inquiries made were always respectful of those responsibilities. To the extent that any influence was exerted at all, it was properly exerted to correct the apparent injustice of undue delay and never extended into the improper realm of substantive decision-making.

In acting to assist Mr. Gasparro in this limited manner, Councillor Thompson did so based in no small part upon his understanding that the motivation for Councillor Filion's obstruction of the project was rooted in "an improper arrangement or referral scheme between Mr. Belza and Councillor Filion" which was not only rumoured to exist, but that was itself the subject of a formal request by the Auditor General to the Integrity Commissioner that such arrangement be investigated (see the Commissioner's Report Regarding the Conduct of Councillor John Filion dated June 15, 2018, Agenda item CC43.6 for the present Council Meeting). Indeed, the Integrity Commissioner found, at page 14 of the Report, that "it became clear to me there is a long list of individuals who have propagated this rumour for years before – I find – it ever came onto Councillor Thompson's radar". This was not a tale simply of Mr. Gasparro's making. To the contrary, this rumoured arrangement was utterly consistent with what Mr. Gasparro had experienced in his own dealings with Councillor Filion, as described in Mr. Gasparro's attached Statutory Declaration.

While it is certainly true that the Integrity Commissioner found there to be no such referral scheme or arrangement between Councillor Filion and Mr. Belza, it is equally true that the claims that one did exist were sufficiently credible to her that she thought it proper to carry out an investigation, the results of which are only now becoming known. In that light, it was not at all unreasonable for Councillor Thompson to respond to Mr. Gasparro's concerns, utterly congruent with these so-called rumours, that his proper business endeavours were being thwarted because of his refusal to yield to Councillor Filion's strong urging that he retain Mr. Belza.

Indeed, prior to the release of these Integrity Commissioner Reports on June 15, belief in that state of affairs had been rejected by no one in a position to examine it properly. Moreover, that view was reinforced by the rather unusually lopsided lobbying registration history of Mr. Belza, who, between 2009 and October of 2017 (when records were examined) had registered 182 contacts with City of Toronto public office holders, of which 172 (94.5%) were with Councillor Filion or a member of his staff.

In short, it was reasonable for Councillor Thompson to believe there to be an improper relationship in play, and that Mr. Gasparro was effectively being punished for having had the audacity to refuse to follow Councillor Filion's guidance. It is only fair and appropriate then that his actions in response to the situation be evaluated in light of this reasonable belief.

The proper, or "official" duties of a City Councillor include an ombudsperson role, of assisting people in their dealings with the complex mechanisms of city government. This includes assisting stakeholders who are faced with unjustifiable obstacles to their efforts. This was most certainly the case under the present circumstances. Councillors, I would suggest, have an obligation to take remedial action when barriers to progress are arbitrary, vexatious or malicious.

If a Councillor believes that a member of the public, otherwise unknown to him, was the victim of such oppressive conduct, it goes without saying that the Councillor is properly entitled, if not morally obliged, to assist that person in obtaining an appropriate resolution to the problem. It is counter-intuitive to suggest that where the victim is a friend - regardless of the degree of friendship - that for this reason alone, the Councillor is precluded from advocating in an effort to ensure that the person's matter proceeds

appropriately. As the Integrity Commissioner found, Councillor Thompson and his staff did no more than that.

In coming to her conclusion, the Integrity Commissioner relied upon a prior circumstance involving former Councillor Doug Ford, where he had intervened on behalf of clients of his personal business. But there is a radical distinction to be made between the Ford Report and the present circumstance. No comparison should be drawn between a Councillor who was advancing the interest of his own company's clients (and in whose continued business he accordingly had a pecuniary interest) and one who could have derived no possible financial benefit from the successful resolution of his friend's concerns.

In rejecting this argument, the Integrity Commissioner interpreted the broad language of Article VIII of the code to permit for no such distinction. She went on to engage in some rhetoric about "friends in high places". She did not, however, address the more significant factor of the nature of what one might or might not do for a friend.

In rejecting the argument that Councillor Thompson's actions were no different than those in which he would engage for a stranger, the Integrity Commissioner neglected to address the evidence she had before her that this was indeed his previous practice. The actions taken were not particularly different from the actions he had in the past undertaken on behalf of total strangers. To rule that he was unable to do so for Mr. Gasparro, particularly in a context where he had tried to obtain the assistance of other councillors first, is to say that any friend of any Councillor is precluded from obtaining assistance from the Councillor, even if the same assistance would be provided to a member of the general public. If indeed this is a correct interpretation of the Code, then friends of Councillors are at a significant disadvantage as compared to the rest of the public. Accordingly, not only should the Code be amended to change this when next reviewed, but Council should reject the proposed sanctions set out in the report.

At no time did Councillor Thompson act in anything other than an open and transparent manner. Not only did his staff keep, and share with the Integrity Commissioner a detailed log of contacts with City staff and Mr. Gasparro regarding the matter, but Councillor Thompson of his own initiative contacted the Commissioner's office for advice on dealing with the matter, and received only information about how to make a complaint against Councillor Fillion, something that he thought could only further inflame the situation.

The circumstances of this matter are undoubtedly challenging. They relate to a fundamental dispute not only as between two Councillors, but as between a Councillor and a stakeholder of the city. While the underlying dispute is fraught with conflict and no small degree of complexity, the hallmark of Councillor Thompson's response was to limit his interventions to process, and he diligently avoided any actions that could be seen to constitute advocacy that a particular substantive determination be made. While the latter might constitute an improper exercise of influence, the Integrity Commissioner was clear that Councillor Thompson never did this. His thoughtful good faith led him to a course of measured and principled conduct undeserving of sanction.

Yours very truly,

Blaney McMurtry LLP



Jack B. Siegel

JBS/aa

encl.

c. M. Thompson

STATUTORY DECLARATION

Canada
PROVINCE OF ONTARIO

) In the Matter of the Consideration by the City of
) Toronto Council of the Integrity Commissioner Report
) Regarding the Conduct of Councillor Michal Thompson,
) dated June 15, 2018, pursuant to sections 159 - 162 of
) the City of Toronto Act, 2006, SO 2006, c 11, Sch. A
) and further pursuant to the City of Toronto Code of
Conduct Complaint Protocol for Members.

I, Albert Gasparro, of the City of Toronto, in the Province of Ontario do solemnly declare that:

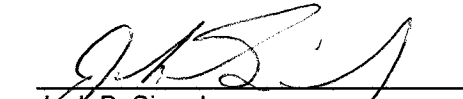
1. I am a principal, and the CEO of G Group Development Inc., a real estate development and construction company undertaking a development project at 5220 Yonge Street in the City of Toronto. I have known and been friends with Toronto City Councillor Michael Thompson since approximately 1984. As such, I have personal knowledge of the matters to which I attest below.
2. In 2013, my business partners and I had an interest in purchasing the property located at 5220 Yonge Street in Toronto. Prior to acquiring the property, my partners and I sought and obtained an opportunity, along with the planner we had retained, to have a meeting with Toronto City councillor John Filion, in whose Ward the property is located, for the purpose of advising him of our intention to acquire the property, and to let him know that if we were to be successful in acquiring the property, we wanted to work cooperatively with him.
3. At that initial meeting, we discussed the project and what was to be built on the site. We indicated that it was our intention to build exactly what was already approved by council in principle in accordance with the official plan, the zoning by law and section 37, including rental replacement terms and the construction of social facility space.
4. Councillor Filion appeared in all respects to be supportive of our project, but rather than merely wishing us well, he specifically said that if we retained a particular consultant by the name of George Belza in support of our efforts, the approvals would proceed expeditiously and that all the items that needed approval by city would go smoothly with this consultants help. My partners and I chose not to do so, insofar as we already had Council's approval in principle for the project.
5. We had a second meeting with Councillor Filion in November of 2013, having not retained Mr. Belza, but wishing to advise the Councillor that we had purchased the property and that we were prepared to proceed. At that meeting, we found Councillor Filion's tone and attitude toward us to be completely different than the first time we had met. He was aggressive and confrontational, saying that if you don't know how to read the approvals, you should hire a lawyer to read it for you, and he told us not to contact him anymore. I left the meeting with the distinct impression that the change in approach was a result of the fact that Mr. Belza had not been hired to assist on the project.

6. The intended project for the property, a 31 storey residential building and a 10 storey office building, plus 70,000 square feet of retail space, had been approved in principle on July 11, 2012, prior to its purchase by G Group, which took place on October 25, 2013. In December 2015, the company proposed some minor changes to what had previously been approved, none of which related to the potentially contentious subjects of increased square footage, height or density.
7. I had two subsequent telephone calls with Councillor Filion regarding the project. They did not go well. In one of the conversations, which I believe took place in early 2014, he was quite aware, despite not having been told so by me or anyone associated with me, that we had not retained Mr. Belza, and he reiterated to me that I should do so, saying that it would only cost \$15,000 a month, and that "it would avoid the spin cycle" that can occur with City staff.
8. Thereafter, I proceeded to work with my staff and the experts we had retained, who had extensive experience in the City of Toronto, but from that point forward, things changed. New obstacles to the project kept emerging and the local councillor, Mr. Filion, swung 180 degrees from warm and cooperative in our initial encounter to completely refusing to so much as meet or speak with us. It felt as if, with every department we turned to, we were being stonewalled, and it was my clear understanding that there was to be no assistance rendered by the local elected representative.
9. At some point in late 2014 or early 2015, I called Councillor Thompson, whom I had known for many years, to seek advice. I explained to him that I couldn't speak to Councillor Filion and that he clearly was not prepared to speak to me. It was agreed that he would speak to the local Councillor for me. At no time did I ever ask or expect him to facilitate any changes or concessions whatsoever; I made no requests, and only hoped that he might assist in addressing these barriers that had arising seemingly out of nowhere other than at the behest of the local councillor.
10. At one point, a sign permit was revoked and we were directed to remove a sign post on the property that had been there for something of the order of 30 years. The call that was received from a member of City staff began with the question, "What did you do to piss off Filion?"
11. On another occasion we had obtained the required permit to erect hoardings on the property, and we had them put up professionally in the same manner as others have done and as we have done on other projects, only to learn that we had to relocate them at the behest of Councillor Filion to the face of the abandoned buildings on the property. Similar obstacles continued to arise, ranging from constantly changing demands relating to the nature of a drainage pipe system and to parking, as well as the erection of barriers to the purchase for the project of city-owned land, all of which I was led to understand were as a result of the actions of, and instructions given to staff, by Councillor Filion.
12. On another occasion I was told by a senior City official that he was being required to keep going back to Councillor Filion regarding approvals relating to this property. He was clearly frustrated with his inability to be of assistance, saying things like "I've got to take this to Filion," and "We have to meet with Filion," on multiple occasions.

13. I am advised by Councillor Thompson that he had asked at least two of his council colleagues if they could be of any assistance to us, and that both had declined to get involved in a matter that would lead them into conflict with Councillor Filion. At about that time, I was made aware of rumours circulating about me that I was advised had originated with Councillor Filion to the effect that I had "Mafia" ties, and that we were bad guys not to be trusted, even though Councillor Filion had never met with us prior to our involvement on this project. I asked Councillor Thompson to vouch for my character, and understand that he did so.
14. Thereafter, Councillor Thompson and his staff began to communicate from time to time with City staff in an effort to keep the matter moving at a normal pace. Again, at no time did I ask for special favours of any kind from Councillor Thompson or request any intervention. I only requested that ordinary and appropriate steps be taken with respect to the property. I only sought to be treated fairly, and only obtained assistance in response to the obstruction that my company was facing at the apparent behest of Councillor Filion.
15. Had Councillor Thompson not provided the assistance that he did, I believe that Councillor Filion would, unjustly, have stalled the project at issue. I further believe that had I identified another Councillor instead who might have stood up to the obstruction the project faced, that councillor could properly have provided assistance of the same nature without reproach. I am troubled greatly by the notion that Councillor Thompson might face public sanction as a result of the fact that he was both a Councillor and a friend when he provided that assistance.

And I make this solemn Declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Declared before me
at the City of Toronto,
this 25th day of June, 2018.



Jack B. Siegel
A Commissioner, etc.

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Albert Gasparro