

This will respond to the Supplementary Report from the City Solicitor dated July 16, 2018 on the City of Toronto's interest in the proceeding: Friends of Toronto Public Cemeteries and Kristyn Wong Tam v. Ontario Attorney General, Ontario Public Guardian and Trustee and Mount Pleasant Group of Cemeteries.

Margot Boyd, President of Friends of Toronto Public Cemeteries (Friends), is the great-great-great granddaughter of the original Attorney General of Ontario responsible for the creation of the Trustees of the (then York) General Burying Ground now known as MPGC. Friends is a place holder for the citizens of the province of Ontario.

We ask that City Council **support** Recommendation 1 of the City Solicitor's Report, however are disappointed that Recommendation 2 'instructions to staff' is not on the public record, meaning that the people who represent the citizens are unable to comment, confirm or deny any statements made in this Recommendation.

We ask that Council support Recommendation 1 notwithstanding the fact that the body of the Supplementary Report continues to reproduce large portions of MPGC's factually unsupported statements as to the nature of this Application. The Report also baldly misstates the law.

For the record, the primary purpose of Friends' court action (Notice of Application) is to ask the Ontario government to re-assert its authority and jurisdiction over the Public Trust now known as Mount Pleasant Group of Cemeteries (MPGC), by appointing a Board of Trustees which is properly constituted according to MPGC's governing legislation, and restoring accountability and transparency to the operations of the Trust, now wrongly claimed to belong to a small private group of individuals. By MPGC's own admission there is no existing legislation or other record by which the government of Ontario ever divested itself of the ownership of this Trust, to these individuals or anyone else.

Also for the record and despite statements to the contrary in the Report, *no documents or information of any sort* were requested by the City Solicitor from Friends' lawyers for the Report prepared for the July 3, 2018 Government Management Committee meeting. The only lawyers consulted were those from the respondent MPGC. *Why?* At the GMC, City Solicitor staff were seen on camera speaking from MPGC's briefing notes, while having no information whatsoever from the party *bringing the action*.

It is disconcerting that the City Solicitor continues to demonstrate an unwillingness or inability to understand the issues as they appear in the pleadings, indeed confusing the Public Guardian and Trustee's (PGT) pleadings with those of MPGC, and asserting completely unsubstantiated fiction, such as that MPGC agrees it is a corporate trustee, or that MPGC and PGT *agree* that MPGC is under the jurisdiction of the PGT (MPGC denies these statements in its pleadings). Exactly what is going on here?

The original 6 acres of Trust land at Yonge and Bloor were wholly paid for by the citizens in 1826 and the Trust continues to enjoy tax exempt status under its Provincial 'Special Act' legislation. As a result, today MPGC makes 'super profits' from its 'free' land and tax exempt status, while *the City of Toronto foregoes millions in lost municipal taxes*. If Friends is not successful in court on August 20 and 21, 2018 the City will lose hundreds of acres of valuable public green space. Why would the City not support Friend's efforts to restore accountability to the Public Trust and the parkland green space back to Toronto's citizens?

## Fact Check Chart

City Solicitor's Report <b>FALSE:</b>	Actual Facts/Events <b>TRUE:</b>
"The City Solicitor had contacted lawyers acting for both Friends and the Mount Pleasant Group of Cemeteries (MPGC) prior to preparing the report that came before GMC on July 3 2018..."	The lawyer for the applicants, 'Friends of Toronto Public Cemeteries' (Friends) made repeated attempts to contact the <i>City Solicitor</i> , <i>who would not take or return his calls.</i>
The City Solicitor lists additional submissions to review that the representative of Friends provided GMC on July 3	As contact with us (Friends) was refused, the only point of access for us to submit documents was at the GMC meeting July 3 <sup>rd</sup> . The City Solicitor shortened the list and it is incomplete – for example, it omits Diane Francis' article: <a href="http://business.financialpost.com/diane-francis/mount-pleasant-cemetery-group-is-a-public-trust-but-its-being-run-like-a-private-corporation">http://business.financialpost.com/diane-francis/mount-pleasant-cemetery-group-is-a-public-trust-but-its-being-run-like-a-private-corporation</a>
The City Solicitor states: "[Friends] alleges in its factum that in 2011, the assets of "Cemetery Trust" were transferred to MPMS, and then in 2012 further transferred to "Trustees of the Toronto General Burying Grounds."	The date of the transfer of the "Cemetery Trust" (i.e. MPGC) to a corporation held by private individuals calling themselves 'Mount Pleasant Memorial Services' (MPMS) is <i>unknown and unstated</i> . What is known is that after Friends initiated our legal case in 2013, the assets of the public trust were "transferred back" to MPGC.
"MPGC states in its factum that its real property, which would include the Mount Pleasant Cemetery is held in a "statutory trust ... subject to the oversight of among others, the Public Guardian and Trustee."	MPGC categorically denies that it is a trust and has done so in public statements and in its legal submissions. <b>The very essence of their case is that they are NOT subject to oversight of the Public Guardian and Trustee. Not the reverse.</b>
"It further states in its factum that in 1997 it underwent a corporate re-organization to create MPMS as a "service company." "	To whom does the City Solicitor refer to as "it"? 'MPMS' was a private corporation created by 3 individuals who had no part of or relation to the public trust. The people who owned this private corporation claimed they were the new "owners and operators" of the public trust – aka Mount Pleasant Cemeteries. A legal researcher at the Province of Ontario stated that the two corporations are "legally unrelated."
"It states that while "financial statements were consolidated by [their] auditors in the name of [MPMS]" this was for "accounting purposes" only and that "cemetery assets (including the land and various trust funds) have always been owned and managed by [MPGC]." <i>Direct quote from City Solicitor, parentheses hers.</i>	To whom does the City Solicitor address as "it"? MPMS signage at Mount Pleasant Cemetery stated: <b>"Mount Pleasant Group of Cemeteries is a Mount Pleasant Memorial Services Company."</b> The City Solicitor defends the appropriation of the public trust by MPMS as an act committed by MPGC auditors.

<p>“The PG&amp;T concurs in its factum with the position of MPGC (as stated in its factum) that MPGC holds its assets in trust.”</p>	<p>There is no concurrence between the PG&amp;T on the issue of MPGC holding its assets in trust. <b>It’s in fact the opposite and at the heart of the litigation against MPGC. MPGC denies the issue of a trust and the supervisory jurisdiction of the PG&amp;T over its assets.</b></p>
<p>“Specifically, as it related to MPMS, the PG&amp;T concludes the following in its factum:” a list from a. to f. of items.</p>	<p>At best this is the invalid board of directors’ of MPGC list recited by the PG&amp;T. <i>MPGC has never produced any financial records in this detail to prove or disprove any of these statements.</i> This is a narrative of pure conjecture by the City Solicitor without any substance or proof.</p>
<p>The City Solicitor states: “The PG&amp;T concluded that MPGC’s former control over MPMS is “no longer an issue because it was dissolved in 2013, with all its assets transferred back to MPGC.”</p>	<p>This is misleading. The PG&amp;T has no jurisdiction over commercial fraud. It’s not an issue for <i>him</i>.</p>
<p>“These parcel registers confirm that all parcels of property which make up the Mount Pleasant Cemetery are still owned by MPGC. None of the Mount Pleasant cemetery properties have ever been owned by MPMS.”</p>	<p>The Friends have never disputed the land titles, nor does land title form any part of the legal proceedings. MPMS did not transfer title of ownership – rather they claimed ownership of the entire organization. <b>They stated: “Mount Pleasant Group of Cemeteries is a Mount Pleasant Memorial Services Company.”</b></p>
<p>“No relief is sought in the Amended Notice of Application in relation to any of MPGC’s corporate by-laws.”</p>	<p>Friends is asking the court to uphold the Provincial legislation governing the trust. <i>Thus, all by-laws that have been written in conflict with MPGC’s legislation are automatically invalidated.</i> For instance, current by-law provisions for succession of the board contravene the law of Ontario. <b>The PG&amp;T and the Attorney General are in public agreement with Friends’ position that the board is invalid.</b></p>
<p>“Finally, and in any event, s. 101.1(7) of the Funeral, Burial and Cremation Services Act, 2002 already provides that upon a declaration of abandonment, a cemetery, along with any assets, trust funds and trust account, becomes the property and responsibility of the respective municipality. The provisions referenced by [Friends] in the bylaw at issue repeat the legal impact of currently prevailing Ontario legislation.”</p>	<p>The Funeral, Burial and Cremation Services Act is a type of act called a “general act.” MPGC was created through a “Special Act.” Where there is a conflict or disagreement between a general and a special act, the special act prevails. In this case, as MPGC is a public trust in perpetuity created by the Province of Ontario, its assets belong and would revert to the Province of Ontario. Thus, the Funeral, Burial and Cremation Services Act to which the City Solicitor refers is irrelevant.</p>

<p>The City Solicitor makes reference to the Corporations Act and any effect it may have on MPGC's current status.</p>	<p>The Corporations Act is a general act that was written <i>after</i> (1907) MPGC's Special Act of incorporation (1871). Special Acts supersede general acts. When MPGC applied to be converted under the Corporations Act in 2008, their application was denied by the Government of Ontario.</p>
<p>"Should MPGC's submission that it is not a charity be accepted by the presiding Judge, and therefore MPGC not fall under the Charities Accounting Act, the proportion of MPGC's assets which are other than trust assets as required by Funeral, Burial and Cremation Services Act, 2002 would appear to not fall under the oversight of the PG&amp;T."</p>	<p>Yes. The City Solicitor is correct!</p> <p>The judge will just have 'given' or 'divested' \$2 billion of Toronto's public trust parklands to 9 people.</p> <p><b>Why would Toronto NOT want to raise its voice to Superior Court prevent that?</b></p>