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*Integrity
Commissioner's
Report*

DATE: May 4, 2015
TO: Mayor and Members of Council
Meeting Date: May 13, 2015
FROM: Robert J. Swayze
Integrity Commissioner
SUBJECT: Gift of Hockey Tickets to Councillor Pat Saito



RECOMMENDATION: The Integrity Commissioner recommends, in accordance with Section 223.4 (5) of the *Municipal Act*, that the sum of \$600 be suspended from the salary of Councillor Pat Saito at the next pay period following May 13, 2015 and that such sum be added to general funds.

BACKGROUND: As part of the requirement for Councillors to file gift statements with the Integrity Commissioner contained in the Council Code of Conduct (the "Code"), I received a Councillor Information Statement from Councillor Saito which identified a gift of four hockey tickets to her from Erin Mills Developments, valued at \$600. The Code requires all Councillors to file such a form with me within 30 days of receipt of any gift exceeding \$500. She advised me that she gave the tickets to her daughter who was able to use only two of the tickets and her daughter gave away the other two. I reviewed the statement and advised the Councillor that in my opinion the gift is contrary to the Code and that I am obligated to report the matter to Council. She replied that she was involved in drafting the original Code and that the

R-3(a)

intention of Council was not to prohibit such a gift. She was content that I report to Council and have it resolved.

COMMENTS:

The first paragraphs of Rule 2 – Gifts and Benefits provide as follows:

“Gifts and Benefits:

- 1. No Member shall accept a fee, advance, cash, gift, gift certificate or personal benefit that is connected directly or indirectly with the performance of his/her duties of office unless permitted by the exceptions listed below.

For these purposes, a fee or advance paid to or a gift or benefit provided with the Member’s knowledge to a Family Member or to a Member’s staff that is connected directly or indirectly to the performance of the Member’s duties, is deemed to be a gift to that Member.”

In my opinion, this section prohibits all members of Council and their family from accepting gifts of whatever value from developers having land in the City and from contractors doing business with the City, unless such a gift is permitted by the exceptions listed in the Code. There is a column in the Councillor Information Statement which requires the Councillor to identify the exception contained in the Code and that column was left blank by Councillor Saito.

The exceptions relating to gifts from developers include political donations, food and beverages at events serving a legitimate business purpose and sponsorships for community events run by the member. There is a reference to sports events in the commentary later in the Rule that states: “Likewise, accepting invitations to professional sports events, concerts or dinners may serve a legitimate business purpose.” In my view, accepting tickets from a developer and giving them to your daughter cannot be characterized as a business purpose.

OPTIONS:

The Code also, in the gift section, purports to grant additional powers to the Integrity Commissioner as follows:

“Should the Integrity Commissioner determine the receipt was inappropriate, the Integrity Commissioner may direct the Member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, or the Integrity Commissioner may order the Member to forfeit the gift or remit the value of any gift or benefit already consumed to the City, or a City agency, board or commission. Any such direction ordered by the Integrity Commissioner shall be a matter of public record.”

In the *Magder v. Ford* case, the Toronto Integrity Commissioner ordered the Mayor to repay donations to a football team to the lobbyist donors. The Court declared the exercise of this power as a nullity and not within the authority of the Integrity Commissioner pursuant to the *Municipal Act*. It is however within my power to recommend the suspension of remuneration paid by the City to Councillor Saito in the amount of \$600 and I have recommended that.

CONCLUSION:

It is necessary and appropriate for members of Council to have interaction with lobbyists to enable them to make informed decisions in business matters that come before Council. That contact may be at functions paid for by the lobbyist or even at a sports event. However, in the opinion of the Integrity Commissioner, it is not the intention of the Code to permit the acceptance of tickets to functions where no such business purpose is involved.

ATTACHMENTS:

None



Robert J. Swayze
Integrity Commissioner

Prepared By: Robert J. Swayze