

The Toronto Star

Councillor's repentance solves only part of problem

Tue Jan 26 2010
Page: GT02
Section: Gta
Byline: Royson James
Source: Toronto Star

Toronto Councillor Adrian Heaps has seen the light - lamentably late, but he has come to his senses.

Sort of.

After tacitly approving city council's move to hike his salary by \$65,680 to cover legal expenses flowing from a 2006 election lawsuit, the rookie councillor has had a change of heart. He has sent a letter to city council advising that he will not cash the cheque.

But his 11th-hour repentance only goes part of the way.

The move, we assume, is intended to quell the storms brewing over the controversial council vote that ignored the clear and persistent city solicitor's advice that the payment was illegal.

Heaps' rejection of the \$65,680 will likely take the matter off the council agenda Tuesday and Wednesday. But there is so much more at issue.

For one, there are a lot more tax dollars at stake than the \$65,680 Heaps' letter addresses. Council also gave tax dollars amounting to:

\$82,478 to Heaps more than a year ago to pay for a compliance audit requested by a citizen wanting to probe his election spending habits.

\$92,276 to Councillor Giorgio Mammoliti for a similar audit.

\$18,335 to Councillor Sandra Bussin to defend herself against action because of election campaigning.

City solicitor Anna Kinastowski told council at least four times they cannot pick up such costs because they cover events that took place during a campaign, not while the councillor was performing his or her duties. Case law seems to support her view.

Besides, in the case of Heaps' \$65,680, the money is for a defamation suit brought against Heaps by opponent Michelle Berardinetti, a claim Heaps settled, offering an apology. All this happened before Heaps was a councillor. If council pays his bills, shouldn't the city be paying Berardinetti's as well? Isn't she the victim?

A citizen group called the Toronto Party has filed a lawsuit to get back the money. And Councillor Doug Holyday is asking the courts to quash the several council votes last year benefitting Heaps, Mammoliti and Bussin.

Heaps' letter addresses just the latest instalment. The lawsuits could continue. And the majority of city councillors appear inclined to repeat the flouting of the law. Some have said they are protesting the law that leaves them vulnerable to frivolous legal action by vengeful opponents who lose at the voting booth.

George Rust d'Eye, a municipal law expert representing Holyday, says the case law is pretty clear, notwithstanding whatever point council wants to make.

Mayor David Miller obviously supports the council action. He wasn't present for the latest 21-4 December vote, late in the day with the media gone, but says: "It's the city's duty to protect the integrity of the elections process, and we've seen a number of examples in this term on council of legal actions that didn't have merit."

The idea is people don't challenge the losers, only the winners, so a candidate-cum-councillor is at risk. It's a fair point. So find a fair way to fix it. You can't protect those who end up on council and leave other citizens unprotected.

But as Heaps and others have discovered, it's not wise to try to sneak these matters under the noses of a comatose citizenry. A few media dogs will bark, people will stir and the issue could bite you in the derriere in an election year.

Council should request provincial legislation to set up some kind of insurance fund to cover compliance audit probes and lawsuits arising from the campaign. All who contribute to the fund would be eligible to draw from it to cover legal costs arising from an election.

rjames @ thestar.ca

© 2010 Torstar Corporation