

Councillors going to court in bid for access to database; City staff says information is considered privileged under protection of privacy law

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A trio of city councillors is going to court seeking access to a computerized database of information. The city's clerk, solicitor and two high-profile lawyers all argue councillors have no right to the system, which contains information subject to municipal freedom of information and protection of privacy legislation.

Councillors Howard Moscoe, Cesar Palacio and Cliff Jenkins, and their latest legal council, disagree. And they succeeded Monday in securing a fall court date for their case.

The three insist the city's 44 councillors need access to the database, which contains information on everything from permit applications to bylaw infraction investigations, in order to do their job. But councillor Doug Holyday, head of the city's audit committee, says their protracted and pricey quest for information is becoming an unnecessary drain on taxpayer resources.

The tussle over bureaucratic access to information dates back to 2007, when council asked for the city manager to give councillors free access to the city's Integrated Business Management System Database. Designed in 1999 to "address Y2K compatibility issues," according to a May, 2007 city manager's report, this system is the data backbone of the city's Municipal Licensing and Standards division, and contains personal, private and "law-enforcement" information.

The councillors say they need access to this information to check up on investigations into potentially problematic properties, to find out who owns what and what actions are being taken.

No dice, city staff say: Multiple reports from the city manager in 2007 and city clerk 2008 insist that city staff can't simply give councillors free rein to information considered privileged under protection of privacy law: If city bureaucrats did so, the reports stated, it would "constitute a willful contravention" of the privacy act. "Access is denied in full," the 2008 report states.

Starting in 2007, Mr. Moscoe said, the city sought legal advice from multiple prominent lawyers - Jane Pepino, from Airt & Berlis, and George Rust D'Eye, from WeirFoulds. Both found in favour of the city.

Not satisfied with the answers and legal opinions they were getting, they sought the legal advice of Martin Zarnett, who took their case to court Monday. Despite an intervention intending to place the matter in the hands of the Municipal Freedom of Information and Protection of Privacy officer, the

court agreed to hear the case Oct. 14.

If the court finds against the councillors, Mr. Moscoe says, "then game over. That's it. We'll finally accept that interpretation.

"But none of us in our hearts believe that interpretation was ever intended by the legislature. Because it's ludicrous that you would think the people you elected to represent you are not allowed the tools they need to represent you."

"Legal bills are not cheap," he allows, but "the city has budgeted for those - it's part of the normal course of our budgeting."

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