

November 21, 2005

Inquiry of Anna Kinastowski – City Solicitor

RE: St. Clair Right of Way Streetcar Project

FROM: Councillor Michael Walker

You decided that the City should challenge a decision of the Divisional Court against the City's and the TTC's position supporting the St. Clair Right of Way because you believed one of the three judges, Justice Ted Matlow, because his actions on another City project near his home created, "a reasonable apprehension of bias".

However, I understand you did not come to this conclusion until **after** the Divisional Court panel, which included Judge Ted Matlow, gave its decision on October 11, 2005.

I place the following questions to you.

- 1) If there was, "a reasonable apprehension of bias" on the part of Judge Ted Matlow, why did you not make this argument before the hearing commenced, not after the hearing ended and a decision was given?
- 2) Has Judge Ted Matlow heard any other cases in his court involving the City over the last 2 years? If so, how many? Did you challenge Judge Matlow's neutrality or that he was biased because of his actions on another City project near his home in any of these cases? If you didn't challenge Judge Matlow's ability to give the City a fair hearing on these cases, why not?

Yours sincerely,

Michael Walker
Councillor – Ward 22, St. Paul's