

Morris launches lawsuit against Town over 2010 defamation case

By Brock Weir

Former Aurora mayor Phyllis Morris has launched a \$250,000 lawsuit against the Town, seeking costs stemming from her \$6 million lawsuit against three local bloggers, among others.

Lawyers for Ms. Morris served the Town with the suit on Friday, claiming the Town Solicitor at the time, Christopher Cooper, told her that she would be indemnified for any legal costs in the lawsuit, which stemmed from a closed session Council meeting in September 2010.

Ms. Morris launched the lawsuit the following month, claiming they had information that could pinpoint the identities of anonymous users of the Aurora Citizen blog whose posts she claimed were defamatory.

The Council of the day authorized Town Staff to "take any and all action" to address the matter and the result was the ultimately aborted lawsuit. Following the 2010 municipal election, the newly minted Council voted to terminate the Town's association with the suit and Ms. Morris continued on with the lawsuit before dropping it the following year.

"Ms. Morris consented to having her name listed as a plaintiff on the Notice of Action and Statement of Claim issued by the Town in support of the Town Action because she was advised that this was the only way that identities of the anonymous bloggers could be determined," reads Ms. Morris' Statement of Claim. "At some point prior to the issuance of the Notice of Action that commenced the Town action, the Town Solicitor and the Town's Integrity Commissioner declined to have their names listed on the pleading, without notice to Ms. Morris.

"Ms. Morris states at the time she provided her consent to have her name listed as a plaintiff in the Town Action, she was not aware that she would be the only named plaintiff. On or about October 5, 2010, Ms. Morris was advised by the Town Solicitor unconditionally and in writing that she would be indemnified for any legal costs that might be incurred in the pursuit of the Town Action. The Town Solicitor confirmed in writing that this indemnity was being made on behalf of the Town.

"Ms. Morris relied on the representations made by the Town CAO and the Town Solicitor and the indemnity provided by the Town in allowing her name to be used in order to accomplish the Town's objectives in the Town action."

The document goes on to claim that Ms. Morris was not notified the Town was going to terminate its funding of the lawsuit, which ultimately cost \$55,000 in legal fees from public money. She says that if the Town gave "proper notice" of the potential termination, "she could have worked with the Town to determine the most cost-effective manner in which to carry out the discontinuance."

The Town, the document concludes, was "negligent" in discontinuing its involvement in the lawsuit and that she "acted in good faith in accordance with her responsibilities as an elected representative."

"Ms. Morris states that as a result of the breaches of contract, misrepresentations and negligence of the Town and those for which it is liable at law, she has sustained losses and damages, including but not limited to liability to pay a cost award in respect to the Town action, a liability in respect to legal fees incurred in the pursuit of the Town action, and other legal fees incurred to obtain legal advice in respect to the Town's actions."

In the initial defamation lawsuit, lawyers for Ms. Morris argued that the case in question was not a municipally driven lawsuit, but a lawsuit by Ms. Morris to protect her reputation. In the subsequent hearings stemming from an unsuccessful lawsuit by resident George Hervey claiming Ms. Morris breached the Municipal Conflict of Interest Act by participating in the closed session meeting which ultimately lead to the defamation case, it was argued the case was brought about by the Town simply using Ms. Morris' name.

Speaking to The Auroran, Ms. Morris' lawyer, Steven O'Melia, said this was not a matter of Ms. Morris seeking compensation, but a

matter of asking the Town to honour its obligations; obligations which, he said, were clearly given.

I don't want it to be characterised that Ms. Morris is out trying to seek a personal benefit here, said Mr. O'Melia. This was a very extensive process that she was left to deal with all by herself and that is not reasonable given the context of how the whole thing unfolded.

Ms. Morris is not seeking any compensation other than what she is out of pocket. That number will have to be proven in court. The amount on the claim, which is the outer limit necessary to protect against costs which could continue to mount, but at this point in time the amount that would resolve the matter is significantly less than the amount listed on the pleading.

This lawsuit, he said, comes after unsuccessful attempts to get [the Town] to honour their obligations.

The Town disagrees. On Monday, Warren Mar, Solicitor for the Town of Aurora, said Ms. Morris' claims were baseless.

The Town of Aurora believes the suit filed by Ms. Morris is without merit, said Mr. Mar in an email. The Town denies the allegations contained in the claim and will vigorously defend itself against the claim.