

Buck says she felt "silenced" as trial opens

By Brock Weir

Lawyers for Councillor Evelyn Buck have started to state her case in her multi-million dollar defamation lawsuit against former mayor Phyllis Morris, Councillors Wendy Gaertner and John Gallo, and three former councillors.

They faced off in the long-standing lawsuit in Newmarket courts starting last Tuesday with the trial itself getting underway the following day.

Her lawsuit was launched in the fall of 2009 and stems from public objections to posts made by Councillor Buck in her online blog which the Council of the day claimed criticized municipal staff.

The issue was aired in a public notice in local newspapers, titled "Statement from Town of Aurora Council" explains Council retained "independent legal counsel" to review the offending blog posts, legal advice which concluded the posts "contravened numerous provisions of the Council Code of Conduct, which included unfounded and completely unmerited public criticism of staff in a manner that unjustifiably maligned their professional competence and credibility."

In her Statement of Claim, Councillor Buck claims damages of \$1 million "for misfeasance in public office and abuse of power, conspiracy, intentional infliction of mental suffering, injurious falsehood, breach of confidence and breach of privacy" with a further \$1 million for "infringement or breach [of her] Charter Rights of Freedoms," a further \$1 million in punitive damages, and \$250,000 in aggravated damages.

The defendants strongly deny the claim.

"At the end of the case you will be asked questions of whether or not the plaintiff was defamed by any or all of the defendants through the publication of the statement," said Justice Edwards, giving instructions to the jury on Wednesday morning. "You will also be asked if the plaintiff was defamed and what, if any, damages were suffered by the plaintiff."

While David Boghosian, the lawyer for Ms. Morris and the co-defendants, is expected to make his arguments later this week, the trial thus far has been dominated by Councillor Buck's side. In making his opening remarks to the jury, lawyer Kevin MacDonald outlined to the jury the length of Councillor Buck's career in politics compared to the short window of time they will be asked to look at.

In addition to whether Councillor Buck was defamed, Mr. MacDonald said the jury must consider whether the actions of the defendants "may have been motivated by an ulterior or improper motive" in an attempt to damage Councillor Buck.

Mr. MacDonald painted a picture of a woman whose life had been devoted to politics, having held multiple elected posts in York Region over the past 46 years, first becoming elected to Aurora Council in 1967. During this time, he argued, she has held herself "to the highest standards imaginable" in politics and was re-elected for her views.

"You are ultimately voted into office to express your views in matters of public interest and that is what she has been doing," said Mr. MacDonald.

This, however, took a hit in the last term of Council, he argued, stating that his client felt the last Council had turned into a "dysfunctional", "hostile", and "personal" situation where Councillor Buck was "consistently on the outside", feeling she didn't have a voice at the table.

Consequently, she created her blog to express her views to residents, he contended.

Matters "dramatically escalated" in May, 2009 during a raucous Council meeting in which Sher St. Kitts, then organizer of the Canada Day parade, criticised Councillor Buck in open forum, Mr. MacDonald continued, characterizing what unfolded as a "smear" which "seemed to be pre-orchestrated by some members of Council."

He contended minutes of Town meetings did not accurately reflect what transpired, and lead to the offending statement being read in Council and subsequently published both in newspapers and online, as a prelude to a formal Code of Conduct complaint.

?You have to ask yourself why they would do that,? Mr. MacDonald told the jury, of the defendants going ?out of their way? to ?damage? a reputation before a formal complaint was filed with, and ruled on by, an integrity commissioner.

?It's pretty clear. If you're going to impact someone's political career, the much better way to do it is to go around and widely broadcast, publish to anyone who could potentially be a voter, this statement.?

He went on to claim there were several iterations of the statement drafted before the final version added in the line that the main offence was about protecting municipal employees. When David Nitkin, Aurora's then Integrity Commissioner, came back with his findings and found that the complaint was ?ill-informed,? ?inappropriate? and ?wholly political?, Mr. MacDonald contended he was terminated the following day.

?We all have a reputation and we all know what that reputation means to us,? Mr. MacDonald concluded. ?You will be asked to examine what a reputation means to public confidence, and to someone with Mrs. Buck's stature and her life in politics.?

The case continued throughout the week with testimony from former councillor Alison Collins-Mrakas. Fellow former councillor Bob McRoberts will also testify, Mr. Macdonald told the jury of four men and two women. Then it will be time for the defence to state their case and call witnesses.

None of these claims have been proven in court.