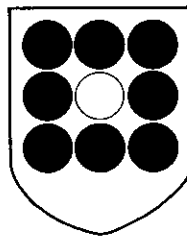


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Ms. Ulli S. Watkiss
City Clerk, City of Toronto
Toronto City Hall
13th floor, W., 100 Queen St. W
Toronto, ON. M5H 2N2

Delivered by Mail and Email

August 27, 2010

Dear Ms. Watkiss,

I am writing on behalf of the Canadian Civil Liberties Association (CCLA) to express our concerns about the City of Toronto's policy prohibiting all candidates in the upcoming municipal election from campaigning on City property. This matter has been brought to our attention by a candidate in the upcoming election, Mr. Michael Sims. He apparently sought clarification about the policy and was advised by Marie Greig, Acting Elections Coordinator, that the policy does not prohibit campaigning on public sidewalks, but does preclude the use of city parks and public squares for campaigning purposes. When he spoke with another City official, Winnie Li, he was given a different interpretation of the policy.

The Canadian Civil Liberties Association is a not for profit public interest advocacy organization that has existed since 1964 to promote and defend the fundamental freedoms of all Canadians, including the right to freedom of expression. This right, protected by s. 2(b) of the *Canadian Charter of Rights and Freedoms*, lies at the core of our democracy and is a crucial tool in the exercise of all other rights. While we acknowledge that reasonable limits may be placed on expression, such limits must be demonstrably justified. The City of Toronto's policy prohibits a particular species of political speech on public property. The Supreme Court of Canada has repeatedly recognized the importance of protecting freedom of expression, and political expression lies at the core of this right. Moreover, the Court has recognized the right of individuals to exercise this right on public property provided expression in the particular place does not conflict with the purposes of freedom of expression (i.e. democratic discourse,

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truth-finding and self-fulfillment).¹

We would like to draw your attention to a recent case from the Supreme Court of Canada, *Greater Vancouver Transportation Authority v. Canadian Federation of Students*, [2009] 2 S.C.R. 295, that suggests that a complete prohibition of political expression on public buses is unconstitutional. Since a public park is a forum that has traditionally been used for expressive purposes, a policy that prohibits campaigning on City-owned property does seem to be incompatible with this latest decision. In addition, the policy severely limits candidates' opportunities to inform the public of their position and thus hinders the ability of the electorate to make an informed decision. In this instance, campaigning in the months and weeks preceding an election in a public park appears to further the purposes of freedom of expression and should not be prohibited.

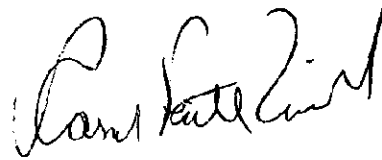
In addition, we note that while a statement reminding candidates of this prohibition is included in the most recent candidates' update document (Update #8, August 13, 2010), it does not appear to be set out in any law, bylaw, or even in the Candidates' Guide. This raises questions about the extent to which this prohibition is in fact prescribed by law and whether candidates have reasonable notice of the policy.

In light of these serious concerns, we urge you to reconsider the City's policy and amend it in order to accord with the fundamental right to freedom of expression enshrined in the *Charter*. If you have an interest in discussing this matter further, please do not hesitate to contact us.

Yours very truly,



Nathalie Des Rosiers
General Counsel



Cara Faith Zwibel
Program Director

cc. Michael Sims (via email)

¹ See e.g. *Greater Vancouver Transportation Authority v. Canadian Federation of Students*, [2009] 2 S.C.R. 295. See also *Ramsden v. Peterborough*, [1993] 2 S.C.R. 1084 and *Montreal v. 295-1366 Quebec*, [2005] 3 S.C.R. 141.