

**DEAN D. PAQUETTE & ASSOCIATES**  
**BARRISTERS & SOLICITORS**

*Certified by the Law Society  
as a Specialist in Criminal Law*

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November 24, 2008

**COPY**

Detective Jim Elliott,  
Hamilton Police Services,  
155 King William Street,  
Hamilton, ON,  
L8R 1A7

Dear Detective Elliott:

**Re: Brad Clark**

I am responding to your written request for information on behalf of my client, Mr. Brad Clark.

I can advise you that Mr. Clark came into possession of the information on two discrete occasions. First in January 2008, he received an email with one (mp3) formatted document. Again, in June 2008, he received a further email containing one document in word format.

The information was provided by a confidential source that Councilman Clark assured would remain anonymous. Councilman Clark is asserting privilege with respect to the source of this information.

As previously indicated, the source that provided the information to Councilman Clark has been assured that his or her identity shall remain confidential and Councilman Clark has no intentions of either confirming or denying any potential source of this information.

At no time did Councilman Clark "realize" that any of the material that was provided to him was the product of a theft. In fact, not only did he not "realize" that it was a part of a theft, he believes it is not stolen property and that at all times was in the lawful possession of his source.

In the event of criminal proceedings being initiated by the Hamilton Police Service, you will have available to you this response. Do not expect that there would be any further "written statement" to the police. Undoubtedly, if Councilman Clark receives a subpoena he will attend in response to that subpoena and give his evidence, subject to an assertion that the source of his information is confidential.

Furthermore, it is his belief that this transaction does not involve the commission of any criminal offence and it is his opinion that Mayor Eisenberger fully realizes that the disclosure of the information contained in these documents is not the result of the commission of a criminal offence. It is believed that the investigation that undoubtedly the Mayor has initiated is politically motivated by a desire by the Mayor to deflect attention from his own breach of confidentiality. Furthermore, it should be pointed out that it appears to both the councilor and the writer that this matter ought not to be investigated by the Hamilton Police Service. The Mayor is a current member of the Hamilton Police Service Board and he is alleging that he is a "victim" of a crime when it is my submission that this is not the case.

Given the nature of the investigation and those parties who you "copied" on your request, it appears to me that this "complaint" is receiving an unjustified allocation of police resources. I am left to conclude that that expenditure of time and resources is solely as a result of the fact that the complainant is the "Mayor" and also a member of the Hamilton Police Service Board. Perhaps if this matter was being handled by an outside police agency, an at-arms-length relationship would permit the investigating body to be completely objective in their investigation and fully capable of treating the Mayor's complaint as it would any other unmeritorious complaint by a Hamilton citizen.

It is my view that in light of this relationship, the Hamilton Police Service is not capable of objectively dealing with this matter as it appears to me that there is a clear conflict of interest in this matter. This is particularly true given the suggestion that the allegation of criminal wrongdoing is "politically motivated".

Please treat this as Councilman Clark's response to your inquiries.

Yours very truly,

**COPY**

**DEAN D. PAQUETTE**

/sp

Cc: Mr. Clark