

**ATTACHMENT 'A'**



**THE CORPORATION OF THE CITY OF  
MARKHAM**

---

**EXTRACT CONTAINING ITEM #0018 OF THE GENERAL COMMITTEE OF (May 07, 2012)**

**18. STRATEGIC LAWSUIT AGAINST PUBLIC PARTICIPATION (SLAPP)  
LEGISLATION (7.0)**

Councillor Valerie Burke advised that SLAPPs are lawsuits that silence public discussion on important public issues. She suggested that staff prepare a report requesting the Province of Ontario to review the Rules of Civil Procedure with respect to SLAPP lawsuit to provide protection to citizens against such lawsuits and protect citizens' right to participate in democratic discussions.

Moved by Councillor Valerie Burke

Seconded by Councillor Howard Shore

That staff be directed to prepare a report on Strategic Lawsuit Against Public Participation (SLAPP) Legislation.

**CARRIED**

# COUNCIL MINUTES (Extract)

October 16, 2012, 7:00 p.m.

Council Chamber, Anthony Roman Markham Civic Centre

## Meeting No. 16

---

### 8. NOTICES OF MOTIONS

#### (1) STRATEGIC LITIGATION AGAINST PUBLIC PARTICIPATION (SLAPP) (7.0)

Moved by Councillor Howard Shore  
Seconded by Councillor Valerie Burke

Whereas Strategic litigation against public participation (SLAPP) has been defined as a lawsuit started against one or more persons or groups who speak out or take a position on an issue of public interest; and,

Whereas the intent of such litigation is to limit the freedom of expression of the defendants and neutralize their actions by resorting to the courts to intimidate them, exhaust their resources and reduce their means of action by redirecting their energy and finances into defending a lawsuit and away from their original public criticism; and,

Whereas Strategic Lawsuits Against Public Participation (SLAPP) are a major impediment to free speech in Ontario; and,

Whereas these frivolous lawsuits are a waste of already overburdened Court time and resources; and,

Whereas concerns have been raised that SLAPPs also act as a warning to other potential critics, including Ratepayer Associations and community activists; and,

Whereas SLAPP is a form of bullying and intimidation, and an abuse of our judicial and quasi-judicial systems the effect and intent of which is to discourage public debate; and,

Whereas the SLAPP experience, already familiar in the United States, first appeared in Canada as a type of abuse of process, or began to be identified as such, in the 1990s. A number of companies initiated legal proceedings that fit the definition of a SLAPP in order to silence groups or citizens who were speaking out on public issues, especially on environmental, but also municipal or consumer, issues; and,

Whereas abusive SLAPP lawsuits are an observable reality and constitute a serious threat to the participation of citizens and groups in public debate; and,

Whereas the public's right to participate in decision-making in matters of public interest is a cornerstone of our democratic system; and,

Whereas the only way to protect the citizen's right to public participation is through the creation of effective legislation; and,

Whereas Article 25 of the *International Covenant on Civil and Political Rights* states:

“Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- (c) To have access, on general terms of equality, to public service in his country”; and,

Whereas the province of Quebec and over half of U.S. states have anti-SLAPP legislation; and,

Whereas the Association of Municipalities of Ontario has passed a resolution to meet with the provincial government in order to find solutions to SLAPP intimidation in Ontario; and,

Whereas more than 60 municipalities in Ontario have passed resolutions calling on the provincial government to protect citizens and adopt anti-SLAPP legislation; and,

Whereas Yasir Naqvi, Member of Provincial Parliament for Ottawa Centre, tabled a private member's bill on October 15, 2012 – *the Protection of Public Participation Act* – that targets Strategic Lawsuits Against Public Participation (SLAPPs), and,

Whereas the City of Markham believes that the right to participate in public affairs is an essential condition for the effective exercise of the right to freedom of expression and right of association and implies the free communication of information and freedom of the press and further, the right to hold opinions without interference.

Therefore be it resolved that:

- 1) Council through the Mayor, write to the Attorney General and Premier of Ontario urging the adoption of the “Anti-SLAPP Advisory Panel Report to the Attorney General of Ontario dated October 28, 2012” and enact anti-SLAPP legislation, to discourage SLAPP intimidation and protect citizens' rights to free speech and participation in public debate, without fear of frivolous and meritless lawsuits; and,

- 2) That Council recommend to the Attorney General and Premier of Ontario to extend Parliamentary Privilege to members of municipal Councils where a member of the Council participates in the exercise of their responsibilities representing the constituents of their electoral district, and generally, the carrying out of the functions of his or her responsibilities as Councillor, the Councillor shall not be held personally liable for SLAPP lawsuits; and further,
- 3) The City of Markham shall protect the right to freedom of expression and opinion of any duly elected Councillor, Regional Councillor or Mayor, exercising his or her responsibilities representing the constituents of their electoral district, and generally, the carrying out of the functions of his or her responsibilities as Councillor by indemnifying, defending and holding harmless said Councillor from any such frivolous lawsuit.

**Note:** Council consented to consider the motion titled "Strategic Litigation Against Public Participation (SLAPP)" when the staff report on same is being presented to Council for consideration at a future meeting.