2024 May 12 FOR IMMEDIATE RELEASE

Residents Demand Carra Recuse on Blanket Re-Zoning Vote Due to Bias

(Calgary) City Councillor Gian-Carlo Carra demonstrated bias and a "closed mind" in advance of a marathon public hearing on blanket rezoning in Calgary and should, therefore, be recused from debating or voting on the matter when City Council begins its deliberations on Monday, May 13th.

In a letter to the City Law Department and copied to City Council, lawyer Richard E. Harrison outlines the legal standard and evidence of Carra's bias justifying his recusal on behalf of his clients, Messrs. Lehodey, K.C. and Twiss, two Calgary residents.

Evidence supporting Carra's bias relates to an event he participated in on April 13, 2024, hosted by an organization called "More Neighbours Calgary" and witnessed by Mr. George Clark, who attended the meeting.

Mr. Clark's sworn affidavit outlining his observations of the event and Cllr. Carra's comments accompany the letter demanding the councillor's recusal. Summarizing these events and their implications, lawyer Richard Harrison notes:

"There is sufficient basis to recuse Councillor Carra as he meets the legal threshold of a closed mind. Referring to opponents of blanket rezoning as "racist" and "blowhards," participating in a training session for blanket rezoning proponents, failing to object to the characterization of opponents as fearful of mixing races and, most importantly, stating that his mind was predetermined demonstrates a closed mind."

The letter concludes by noting the residents intend to raise bias as grounds for judicial review should Carra participate in the final decision-making process of the proposed bylaw amendment.

Attachments:

Letter to Henry Chan, City Law Department, cc: City Council Affidavit sworn May 9, 2024, by Mr. George Clark

-30-

Media Contact: Robert Lehodey 403-680-4444 Rusty Miller 403-560-7850

WILSON LAYCRAFT

Barristers & Solicitors

Richard E. Harrison*

Direct Line: 403 441-2257 Email: rharrison@wilcraft.com

Paralegal: **Amy Mitchell**Direct Line: 403 476 0150
Email: amitchell@wilcraft.com

May 10, 2024 Our File Number: 4217-001 REH

Via email

Henry Chan

The City of Calgary 800 Macleod Trail S.E. Calgary, AB T2G 2M3

Dear Sir:

Re: Calgary's Housing Strategy 2024 – 2030 0 Land Use Amendment Citywide CPC2024-0213

I act for Robert Lehodey, K.C. and Wesley Twiss.

Mr. Lehodey presented to Council as part of panel 105 and Mr. Twiss provided a written submission to Council.

My clients move that Councillor Gian-Carlo Carra recuse himself from any further readings or decisions relating to the above captioned application due to him exhibiting a closed mind.

Enclosed is the following information:

- Affidavit sworn May 9, 2024 by George Clark; and
- A Video relating to Councillor Carra.

The information evidences a closed mind by Councillor Carra.

Our office is compiling further information of a closed mind of other Councillors. If and when that information becomes available, we will provide it to Council.

The Supreme Court of Canada in *Old St. Boniface Residents Association Inc. v The City of Winnipeg* held:

In my opinion, the test that is consistent with the functions of a municipal councillor and enables him or her to carry out the political and legislative duties entrusted to the councillor is one which requires that the objectors or supporters be heard by members of Council who are capable of being persuaded. The Legislature could not have intended to have a hearing before a body who has already made a decision which is irreversible.

Citing its decision in *Old St. Boniface*, the Supreme Court went on to further articulate the closed mind test in *Newfoundland Telephone Company Limited v The Board of Commissioners of Public Utilities*:

Page 2 May 9, 2024

Bias was considered in a different setting in *Old St. Boniface Residents Assn. Inc. v Winnipeg (City)*, [1990] 3 S.C.R. 1170. That case concerned a planning decision which was made by elected municipal councillors. The governing legislation for municipalities was designed so that councillors would become involved in planning issues before taking part in their final determination. The decision of the Court recognized that city councillors are political actors who have been elected by the voters to represent particular points of view. Considering the spectrum of administrative bodies whose functions vary from being almost purely adjudicative to being political or policy-making in nature, the Court held that municipal councils fall in the legislative end. Sopinka J., at p. 1197, set forth the "open mind" test for this type of situation:

The party alleging disqualifying bias must establish that there is a prejudgment of the matter, in fact, to the extent that any representations at variance with the view, which has been adopted, would be futile. Statements by individual members of Council while they may very well give rise to an appearance of bias will not satisfy the test unless the court concludes that they are the expression of a final opinion on the matter, which cannot be dislodged.

There is sufficient basis to recuse Councillor Carra as he meets the legal threshold of a closed mind. Referring to opponents of blanket rezoning as "racist" and "blowhards", pariticipating in a training session for proponents of blanket rezoning, failing to object to the characterization of opponents as fearful of mixing races and, most importantly, stating that his mind was pre-determined demonstrates a closed mind.

This letter serves as notice that my clients will raise bias as an ground for judicial review, should Councillor Carra participate in the final decision making process relating to this matter.

Sincerely,

WILSON LAYCRAFT

Richard E. Harrison Barrister & Solicitor

Encl.

COURT FILE NUMBER

COURT

COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

APPLICANTS

ROBERT LEHODEY, K.C. and WESLEY

TWISS

RESPONDENTS

THE CITY OF CALGARY

DOCUMENT

AFFIDAVIT

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT Wilson Laycraft Attn: Richard E. Harrison #650, 211 11th Ave SW Calgary, AB T2R 0C6

T: 403.290.1601 F: 403.290.0828

AFFIDAVIT OF GEORGE CLARK Sworn on May 9, 2024

I, George Clark, of Alberta, SWEAR AND SAY THAT:

- 1. I am a third party to these proceedings and I have personal knowledge of the facts and matters hereinafter deposed to, except where stated to be based on information and belief, and where so stated, I verily believe same to be true.
- 2. I am active on social media and became aware of a training session hosted by an unincorporated organizations known as 'More Neighbours Calgary' and 'Calgary's Future'. Attached hereto to this my Affidavit are the following exhibits:
 - a. Exhibit 'A' is a copy of the 'About' page on More Neighbours Calgary website, moreneighbourscalgary.ca/about;
 - Exhibit 'B' is a copy of the homepage and About page on Calgary's Future website, https://www.calgarysfuture.ca/; and
 - c. Exhibit 'C' are copies of the social media posts advertising the training session.
- I understood that More Neighbours Calgary is a group advocating in favour of CPC2024-0213, which is the
 proposal to rezone residential districts in The City of Calgary. The proposal is commonly known as 'blanket
 rezoning'.
- 4. The event was hosted on April 13, 2024 from 1:00 3:15pm in Room 3-16B of the Calgary Central Library. I attended the event because I wanted to learn more about why Calgarians were interested in supporting blanket rezoning.
- 5. The event was a training session where speakers connected with More Neighbours Calgary provided advice to attendees on how to present to Council in favour of blanket rezoning.
- 6. When I attended the event, I was surprised to find Gian-Carlo Carra who is my councillor in Ward 9. I sat close to him at the event and he and I discussed the blanket rezoning proposal near the end and after the training session (discussed below).

- 7. The initial presenter at the training event was Kathryn Davies. During her presentation, she described Calgarians who were against blanket rezoning as 'racist' and that their opposition was based upon a class system to exclude ethnic diversity and lower middle class Calgarians from accessing housing. She stated that those who were against blanket rezoning were trying to prevent the mixing of races and maintain socio-economic patterns of development that favoured the wealthy.
- 8. I looked over at Councillor Carra as Ms. Davies described Calgarians opposing blanket rezoning as racists. He nodded his agreement.
- 9. I was exceptionally surprised by the manner in which Calgarians were described. I raised my hand to try and offer a contrary perspective. I stated that Calgarians opposed to blanket rezoning may have other reasons, such as property rights and expectations of buying property in low density neighbourhoods, for opposing blanket rezoning. Ms. Davies said I was wrong and that the predominant motivator for opponents was race based. After her response I began taking photographs of the training session. Attached hereto to this my Affidavit as Exhibit 'D' is a photograph of Ms. Davies speaking at the event.
- 10. Although I was surprised by Ms. Davies' presentation, I was more surprised when Councillor Carra rose to speak at the training session. He spoke for roughly one hour. During his presentation, he described opponents to blanket rezoning as "racist" and "blowhards". He stated that he "was under no obligation to hear, consider nor include anything" that constituents opposing to blanket rezoning might wish to inform him of since he was simply completing the work of "re-engineering Calgary". He stated that he had been advocating for this process since 2010.
- 11. Councillor Carra informed attendees that there were two Councillors they needed to focus on, Councillors Wyness and Spencer. He said that both had "agreed" to support blanket rezoning, but that they were open to persuasion, they did not have a closed mind and that for that reason presenters needed to focus on them. He specifically informed attendees that he believed that he had a 9 6 lock in favour of blanket rezoning, 8 7 if Councillor Spencer changed his mind.
- 12. Councillor Carra also advised attendees to ignore Councillor Sharp as she was capable of swaying the debate.
- 13. During his presentation, Councillor Carra stated that his mind was made up and that he would support blanket rezoning. He stated that he was not going to change his mind and that the public hearing was a formality that he needed to get through with their better inclusionary arguments helping him keep Council committed.
- 14. I raised my hand and asked him why he hadn't held a public townhall to hear from Ward 9 residents. His response was that he "had no interest" in hearing their concerns and that "they would not have any bearing on his decision to promote and pass the [blanket rezoning] bylaw". Attached hereto to this my Affidavit as Exhibit 'E' are some photographs I took of Councillor Carra presenting.
- 15. After his presentation, he and I left the training session together. Councillor Carra again told me that his mind was made up and that he had no intention of listening to anyone opposing blanket rezoning. He used the same descriptor of 'racist' and exclusionary to describe Calgarians opposing blanket rezoning.
- 16. After the event, I was upset by the polarization of views used to describe Calgarians. I posted my experience to Facebook and X and attached hereto to this my Affidavit as **Exhibit 'F'** are copies of those posts.
- 17. I ultimately spoke against blanket rezoning, in part because of how disappointed I was in the manner in which Calgarians were described during Councillor Carra's training session. I understand other training sessions were held after April 13, but I did not attend them. Attached hereto to this my Affidavit as Exhibit 'G' is a copy of my written submission to Council.

SWORN BEFORE ME at Calgary, Alberta, this 9th day of May, 2024.

(Commissioner for Oaths in and for the Province of Alberta)

GEORGE CLARK

AMY ANNE MITCHELL

A Commissioner for Oaths in and for Alberta My Commission Expires: July 26, 2024 THIS IS EXHIBIT "C Referred to in the Affidavit of Cheorge Clark

Sworn before me this 9+n

Allefaller

AMY ANNE MITCHELL

A Commissioner for Oaths in and for Alberta
My Commission Expires: July 26, 20

← Post

Calgary's Future reposted



Team Ward 9 for Gre...@Ward9Tweets

Follow

Today from 1pm-3pm at the Central Library, join @calgarysfuture and @YYCNeighbours for a collaborative conversation about Calgary's housing crisis.

Pre-register and learn more



calgarysfuture.ca
Join our Inclusive Zoning Strategy Session

11:24 a.m. · 13 Apr. 24 from Calgary, Alberta · **191** Views

Post your reply





Team Ward 9 for Great Neighbourhoods

@Ward9Tweets

Team Ward 9 | We believe

#GreatNeighbourhoods make a great city.
Celebrating the incredible communities of East
Calgary : ward09@calgary.ca

- ⊘ gccarra.ca
 ☐ Joined October 2014

1,090 Following **1,609** Followers



Posts Replies Media Likes



Team Ward 9 for Great Neigh... · 22h
Today from 1pm-3pm at the Central
Library, join @calgarysfuture and
@YYCNeighbours for a collaborat
conversation about Calgary's hou
crisis.



THIS IS EXHIBIT D
Referred to in the Affidavit of

CICCICLE CICLE

Sworn before me this 9

Day of May A.D., 2024

A Commissioner for Oaths in and for the Province of Area is

AMY ANNE MITCHELL
A Commissioner for Oaths in and for Alberta
My Commission Expires: July 26, 20





THIS IS EXHIBIT FREGERIED TO THE Affidavit of Referred to in the Affidavit of CLOCK

Sworn before me this 9

Day of May A.D. 20 24

A Commissionly for Oaths in and for the Province of Alberta

AMY ANNE MITCHELL
A Commissioner for Oaths in and for Alberta
My Commission Expires: July 26, 20 7