

121 William Street North, Unit #3
Lindsay, Ontario K9V4A9

City of Kawartha Lakes Council
26 Francis Street
Lindsay, Ontario K9V5R8

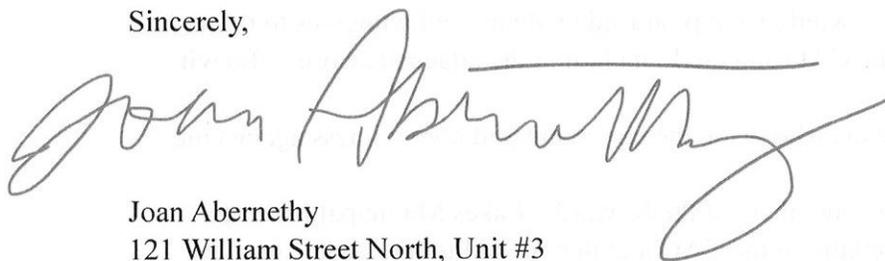
March 27, 2020

Dear Councillors and Mayor Letham,

Re. *Ontario Superior Court Divisional Court* Reasons, File No. 1154/19

Please see attached, my claim and rationale.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joan Abernethy', with a large, stylized flourish at the end.

Joan Abernethy
121 William Street North, Unit #3
Lindsay, Ontario K9V4A9
705-308-6679

Re. Ontario Superior Court Divisional Court ruling 1154/19
CLAIM AND RATIONALE

I, Joan Abernethy, claim the following from the City of Kawartha Lakes:

1. A letter from the City of Kawartha Lakes, signed by the mayor and the clerk, admitting Council's wrong and expressing regret for that wrong.

Because Council neglected to demand that the natural justice principle of Audi Alteram Partem - literally, "to hear the other side" or "to hear both sides" - apply to its closed session hearing procedure, Council decided, based on scurrilous accusations and malicious lies, that I was guilty of violent criminal offences. It found me guilty without allowing me a defence.

The court found that Council acted unlawfully.

Had Council observed the democratic principle of procedural fairness established by the Magna Carta in 1215, it would have asked the City to consult both me and the committee chair, which it did not do. Had it done so, I would have produced evidence and witnesses to refute the malicious lies told to Council via the CAO and clerk, including the attached sworn Affidavit.

2. The names of those individuals who made the complaint and bore witness against me.

My understanding is that two members of the Kawartha Lakes Municipal Heritage Committee (KLMHC) made a complaint to the CAO and that, in addition to protecting their identity from me, the City also protected their identity from Council so that Council had to decide an anonymous complaint. In addition, it appears the City hired a confidential informant.

The reason given by the City for protecting the identity of the complainants and informant from me was that revealing their identity would expose them to risk of physical harm.

The court ruled that the evidence did not support the allegation that I posed a threat of bodily harm to the informant or to the committee members who complained to the CAO.

The individuals in question bore false witness against me and I want the opportunity to hold them accountable for that and for how their lies damaged me.

3. Disclosure of the evidence referred to but not disclosed to council, to the court or to me on which council relied to make its decision.

The clerk's memo that Council relied on to make its decision alleged that, during the two and a half years I served on the Heritage Committee, I was aggressive and hostile toward members and harassed, bullied and threatened them. The City told me, the Court and Council that it had evidence to support those grievances but that privacy required it not be disclosed.

Council made its decision to terminate me without seeing that evidence.

The court ruled that the city could have disclosed that evidence to me.

I need it to hold accountable those individuals that bore false witness against me.

4. A transcript of Council's closed-session deliberation of the complaint(s).

The City claimed privilege under section 239(2)(b) of the *Ontario Municipal Act* but privilege under the *Act* only applies when Council acts lawfully and the court ruled that, in deliberating the complaint in this matter, Council acted unlawfully.

I need that transcript to hold accountable those who bore false witness against me.

5. If the complainants continue to serve on City staff, boards, task forces or advisory committees, fire them or suspend them immediately pending a police investigation or an inquiry under section 274.1 of the *Ontario Municipal Act*.

It is my understanding that the councillor who made the motion to terminate my appointment was, at the time, a member of the KLMHC. He was a witness to the fact that the complaint presented to Council by the City clerk was scurrilous yet he did not correct the record.

Lying to Council to influence a vote constitutes the criminal offence of municipal corruption under section 123 of the Criminal Code.

Municipal corruption erodes public confidence in the municipality and it undermines the ability of Council to represent its constituents because two questions naturally arise:

1) if the anonymous complainants lied to Council via the CAO and the councillor lied directly to Council, what else have they lied to Council about, and

2) by what other lies has Council been duped?

I believe the complainants, including the councillor, lied to discredit me because I opposed their financial mismanagement of government funding and their intention to lie to Council to support a funding request on behalf of a local Not-for-Profit corporation.

If the City lets the complainants away with municipal corruption in this matter, they and others with similar malign interests will be encouraged to corrupt the municipality in future.

6. \$10,000 for costs and interest.

7. An additional \$25,000 in damages if the City refuses to grant #2, #3 and #4 above.

I suffered damages to my reputation and to my society from being targeted by lies the City believed. Because Council acted unlawfully, the publication of the complaint was not protected by privilege under the *Act*. It was public.

AFFIDAVIT OF WILLIAM BATEMAN

Abernethy v City of Kawartha Lakes.

File No. 1154/19

*Ontario Superior Court of Justice
Divisional Court*

PROCEEDING COMMENCED AT

Oshawa, Ontario

AFFIDAVIT OF WILLIAM BATEMAN

William Bateman
Deponent
874 Highway 7A,
Bethany, Ontario
webateman@gmail.com
705-277-9657

**ONTARIO
SUPERIOR COURT OF JUSTICE
DIVISIONAL COURT**

BETWEEN:

Joan Abernethy

Applicant

-and-

The Corporation of the City of Kawartha Lakes

Respondent

APPLICATION UNDER the
Judicial Review Procedure Act, R.S.O. 1990
and Rules 38 and 68 of the
Rules of Civil Procedure R.R.O. 1990, Reg. 194

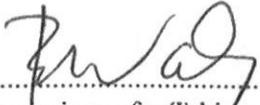
AFFIDAVIT OF JOAN ABERNETHY

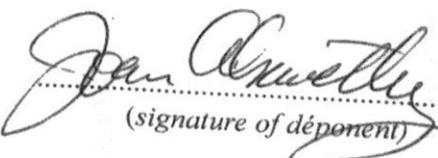
I, Joan Abernethy, of the City of Kawartha Lakes, DO SOLEMNLY SWEAR:

1. I, Joan Abernethy, am the applicant in this matter and have knowledge of the issues herein referred to.
2. I am innocent of the offenses charged against me by the City of Kawartha Lakes.
3. The wrongful accusations and the decision of the city to deny me notification, disclosure of evidence, and an opportunity to answer their accusations caused me considerable nervous shock, depression, diminished self esteem and suicidal ideation.
4. The fact that an unknown and/or unknown individuals told lies about me to the city to intentionally harm me caused me to wonder who, among my peers, held such malice against me. It has been a torture to wonder who wishes me such ill and not be able to address or correct it.
5. It has caused me to suspect everyone, and to lose faith in others and confidence in myself.

6. The wrongful accusations harmed my relationships. A councillor with whom I sat on another board refused to look me in the eye and to recognize me in public. Another councillor, whom I have never met, attacked me on social media, claiming she knew "all about" me.
7. The City disclosed that it relied on a confidential informant to try to create evidence against me that included civil court judgements related to wrongful accusations made against me in the past for blowing the whistle on a corporate insurance scam that exploited the disabled by subjecting them to sexual harassment and sexual assaults to extort their pension benefits.
8. The City's institutional prejudice against me has made me reticent to offer my volunteer services elsewhere. I have been an active volunteer in my community since I was a teenager and not being able to contribute without fear of this sort of attack has impoverished my society.
9. This is my witness testimony of the aggravated damages I suffered as the direct result of the City of Kawartha Lakes decision to deny me notification, evidence and an opportunity to answer malicious wrongful accusations made against me in secret by unidentified individuals.
10. The effects of this bad faith attack on my character and reputation has been devastating.

Sworn before me at the City of
Kawartha Lakes on January 24, 2020.


.....
Commissioner for Taking Affidavits
(or as may be)
BRENT WALMSLEY
Barrister and Solicitor


.....
(signature of déponent)

AFFIDAVIT

Abernethy v. City of Kawartha Lakes.

File No. 1154/19

*Ontario Superior Court of Justice
Divisional Court*

PROCEEDING COMMENCED AT

Oshawa, Ontario

AFFIDAVIT

Joan Abernethy
Moving Party/Applicant
121 William Street North, Unit #3, Lindsay K9V4A9
705-308-6679
joanabernethy@yahoo.ca

Court File No. 1154/19

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

Joan Abernethy applicant

-and-

The Corporation of the City of Kawartha Lakes respondent

AFFIDAVIT OF WILLIAM BATEMAN

I, William Bateman, of the City of Kawartha Lakes in the Province of Ontario DO
SOLEMNLY SWEAR:

1. I, William Bateman, am the Chairperson of the Kawartha Lakes Municipal Heritage Committee (KLMHC) and was the chairperson at all material times concerning the application; as such, I have knowledge of the issues herein referred to.
2. During the appointment of Joan Abernethy to the KLMHC, no committee member or any other person shared with me or expressed any complaint or other concerns about her behavior.
3. During the appointment of Joan Abernethy to the KLMHC, I did not observe her to demonstrate any hostile, aggressive, harassing or bullying behavior toward any committee member or staff person.



4. In addition to serving on the KLMHC, Joan Abernethy served on the Designation sub-committee and on the Heritage Awards sub-committee that she also chaired. I heard no complaints from members of those sub-committees about Joan Abernethy or from any member of the public with whom she interacted in her role on those sub-committees.

5. I have known Joan Abernethy for several years and, in addition to serving on the KLMHC with her, I also served with her on the board of the Victoria County Historical Society and as a co-founding director of the Ottawa-Huron Tract Historical Company. I have never witnessed Joan Abernethy demonstrate any hostile, aggressive, bullying or harassing behaviour towards any individual nor any but the most civil, courteous and kind behaviors towards all.

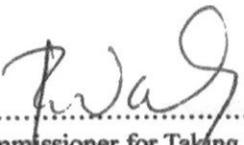
6. I have never been contacted by any member of municipal staff to inquire about the actions of Joan Abernethy during her tenure on the KLMHC.

Sworn before me at the City of

Kawartha Lakes

in the Province of Ontario

on October 17, 2019.


.....
Commissioner for Taking Affidavits
(or as may be)

BRENT WALMSLEY
Barrister and Solicitor


.....
William Bateman
(deponent)