



University of Toronto Engineering Society

Association des Étudiants en Génie de l'Université de Toronto

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April 21, 2012

MEMORANDUM

To: All Members of the Engineering Society

From: Rishi Maharaj, President

Re: **Appeal of Levy Referenda Results**

Dear Members of the Engineering Society:

On March 29th and 30th, 2012 the Engineering Society held a series of referenda alongside its Board of Directors elections to approve the creation or renewal of designated levies for several engineering student clubs. The results of the referenda were as follows:

Blue Sky Solar Racing		Sustainable Engineers Association	
IN FAVOUR	237	IN FAVOUR	143
OPPOSED	248	OPPOSED	298
Destination Imagination		University of Toronto Concrete Canoe	
IN FAVOUR	103	IN FAVOUR	212
OPPOSED	318	OPPOSED	273
Iron Dragons		You're Next Career Network	
IN FAVOUR	183	IN FAVOUR	226
OPPOSED	292	OPPOSED	233
Skule Nite			
IN FAVOUR	274		
OPPOSED	217		

As a result, only the Skule Nite levy was approved. An appeal of the referenda results was subsequently filed by Blue Sky Solar Racing alleging seven (7) flaws in the elections process and seeking that the results be overturned. The complaint was adjudicated by the Elections Review Committee (ERC), which consists of Faculty Registrar Barbara McCann, 2011-2012 Engineering Society President David Cheung, and Sonia De Buglio representing the Engineering Alumni Association. Their decision is attached to this memo. In sum, it

found no substantial flaws in the elections process but called for all levy referenda to be repeated immediately.

I take issue with this decision for several reasons:

1. **The remedy is not consistent with the findings of fact.** On seven causes of complaint, no merit was found to six of them and mitigating circumstances on the seventh. With regard to the lack of notice of the All Candidates Meeting, it was found that while the CRO failed to comply with Bylaw 3 that this resulted in no harm to the appellant. In my view this constitutes a finding that the referenda process was, in fact, conducted in a fashion that was fair to all parties.
2. **The conclusion is logically inconsistent;** either the election was conducted in a fair and transparent fashion, in which case the results should stand, or it was critically flawed, in which case the results must be rejected. With regard to elections, the validity of results is, indeed, a dichotomy.

The Elections Review Committee's decision to allow levy applicants the opportunity to have a "second chance" referendum puts the Engineering Society in the difficult position of now having two sets of valid elections results on the same question, in the same term. This position is untenable and does not reflect the need to strike a balance between the interests of the levy applicants and the interests of the student body as a whole. While I am cognizant of the impact that failing to pass their referendum question will have on groups such as Blue Sky, as a representative of the over 4,000 students who will pay these levies, I don't accept that it is "fair" to simply make it easier for these referenda to pass when they have already failed in a fair vote.

Elections are dependent on an "air of legitimacy", which is lost when the institution running the election is seen to be biased toward one side. It is not reasonable or appropriate to grant such an enormous advantage to levy applicants - the Engineering Society does not aid clubs in obtaining levies, it only facilitates the democratic process - especially when our bylaws already provide a very simple process for obtaining a student club levy. I believe that the ERC failed to consider the impact their decision would have on the overall perception and legitimacy of Engineering Society elections.

For the above reasons, I intend to ask the Board of Directors to reject the ERC's ruling and uphold the original referenda results, and I will not direct the Chief Returning Officer to re-run the 2012 Levy Referenda questions unless I am otherwise directed by my Board of Directors.

Engineering Society Elections/Referendum Appeals Committee Meeting 2012

Meeting Date: April 17, 2012, 9:00am

Elections/Referendum Appeals Committee Composition

David Cheung, President 2011-2012

Barbara McCann, Faculty Registrar

Sonia De Buglio, Director of Alumni Relations & Annual Giving

Appeal Submission

An appeal was filed by Paul Park, Managing Director of the Blue Sky Solar Racing Team regarding the procedures and results of the 2012 club levy referendum. The appeal stated a number of inconsistencies between the bylaws of the Engineering Society and the referendum procedures.

Appeal Remarks

1. The appeal noted that CRO, Rafal Dittwald, did not inform Blue Sky Solar Racing of the levy renewal process as stated in Bylaw 3, Section 0.0.4.

The appeals committee determined that the communication made by Pierre Harfouche, Executive Secretary, and David Cheung to the Blue Sky Solar Racing Team to start the levy referendum process was sufficient. The bylaw inconsistency would not have affected the results of the referendum.

2. The appeal noted that the all candidates orientation meeting was not held 3 days before campaign period as stated in Bylaw 3, Section 5.0.4.

The appeals committee determined that "3 days" does not refer to 72 hours and that it was logical for the CRO to hold the meeting at 5:30pm on March 23rd, 2012 in advance of the start of the campaign period at 9:00am on March 26th, 2012.

3. The appeal noted that there was inadequate notice leading up to the all candidates meeting and that the meeting was optional contrary to Bylaw 3, Section 5.0.4.

The appeals committee determined that Bylaw 3, Section 5.0.4 was not followed as the meeting was made optional due to short notice. The committee noted that due diligence was taken by the CRO to ensure that all clubs acknowledged receipt of the rules and provided an opportunity for questions via e-mail.

4. The appeals noted that Blue Sky Solar Racing had 237 votes in favour of the levy and 248 votes against the levy.

The appeals committee determined that although the results were close that referendum results cannot act as a reason for an appeal.

5. The appeals noted that only 10% of the student population voted potentially misrepresenting the engineering student body due to low turn-out.

The appeals committee determined the referendum turnout met the required voter turnout of 5%. The argument over whether or not 10% of the student population should suffice to legitimize a referendum is a separate debate topic.

6. The appeal noted that a large number of levies were passed by the Engineering Society Board of Directors leading to irregularity in voting results.

The appeals committee determined that the referendum questions put to the students followed a democratic procedure passed through the Engineering Society Board of Directors. The committee further determined that the number of referendum questions did not lead to any inconsistencies in the election procedures.

7. The appeal noted that the levy referendum was postponed from early February to late March causing confusion within the Blue Sky Solar Racing team.

The appeals committee determined that the decision to postpone the referendum did not break any Engineering Society bylaws; however the delay should have been better organized to ensure there is no confusion between the clubs.

Appeals Committee Recommendations

The appeals committee recommends that a set timeline and procedure is laid out well in advance of the election and referendum period to ensure delays do not occur and if so can be communicated in a proper manner to ensure there is no confusion between the various parties.

Appeals Committee Decision

The appeals committee decided that in order to provide the clubs with a fair opportunity, any club that had a referendum may re-run their referendum or keep the results of the previous referendum. The decision was made based on the following details:

- The delay in the referendum caused confusion within the clubs regarding the referendum date
- The all candidates orientation meeting was not mandatory and sufficient notice was not provided to clubs to attend as required by the Engineering Society Bylaws
- The inconsistencies in the referendum procedure did not create any positive affect for the clubs