

A L B E R T A
PRESS COUNCIL

IN THE MATTER OF A DECEMBER 3, 2016 HEARING

BETWEEN:

Mr. Wayne Croswell
Appellant

AND,

The Redwater Review
Respondent

Hearing held on December 3, 2016
Decision of January 11, 2017

Hearing Panel Chair: M. Fulford

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Introduction

The Alberta Press Council Panel (The Panel) heard the appeal of the Appellant on December 3, 2016. The Appellant contends that the Respondent's paper published several articles that were inaccurate and misleading. The Appellant further contends that he was not given a fair opportunity to correct the inaccuracies and misleading facts of the articles or to reply to personal attack or criticism.

Issue

Did the respondent breach the Alberta Press Council Code of Practice Section 1 and 2?

Exhibits

The following documents were presented at prior to or at hearing:

- A newspaper article entitled "Two councillors won't explain why they walked out of council meeting"
- A Letter to the Editor entitled "Why did two councillors leave a meeting?"
- A newspaper article entitled "Robert's Rules okay for quorum, why not for debates?"
- A newspaper article entitled "Council moves on from June 28 break issue"
- The Alberta Press Council Code of Practice
- And numerous emails dated between August through to October 2016 between the Alberta Press Council and the appellant
- And numerous emails dated August through to September, 2016 between the Alberta Press Council and the respondent.

A L B E R T A

P R E S S C O U N C I L

Analysis

The Alberta Press Council was established in 1972, and was the first such body in Canada. Consisting of members from the public and the press, the Council's mandate is:

- to hear and mediate complaints brought against member newspapers
- to defend the established freedoms of the press, and
- to protect against limitations on access to public information

Members of the Alberta Press Council have adapted a Code of Practice. In this particular case, the Appellant contends the Respondent breached the following section of the Code of Practice:

Accuracy

1. It is the duty of the newspapers to avoid publishing inaccurate or misleading statements and further, it is the duty of newspapers to correct promptly, and with due prominence, significant inaccuracies or such misleading statements.

Opportunity To Reply

2. It is the duty of newspapers to allow a fair opportunity for reply when reasonably called for. Individuals and organizations should be given a fair and reasonable opportunity to reply to a personal attack or criticism.

Arguments:

The Appellant contends:

- A headline "Two councillors won't explain why they walked out of council meeting" is false and misleading
- The headline suggest the Appellant rudely got up and walked out of the meeting that was in active session and left everyone else waiting. This is not true. What did happen was Council came out of an in-camera meeting and the councillors used the three minutes as a comfort break before the meeting resumed.
- The headline caused anger in the community. A "Letter to the Editor" expressed that anger and asked for answers.

A L B E R T A

P R E S S C O U N C I L

- The Appellant provided two Letters to the Editor that addressed the concerns of the community and the Respondent refused to publish the letters. In not publishing the letters the Respondent breached section 2 of the Code of Practice.
- A second article entitled “Robert Rules okay for quorum, why not for debates? was published and this article repeated the false information of the first article.
- The Respondent also contends that three hours of the Council meeting was void because of the break. This was not true and a legal opinion obtain confirms no procedural errors occurred. This was not reported.
- There was all so inaccurate reporting about a change in meeting dates.

The Respondent contends:

- The headline “Two councillors won’t explain why they walked out of council meeting” is not false and misleading. The Appellant indeed “walked out of the meeting” and he did not answer question as to why.
- The “Letter to the Editor” asked valid questions that had not been answered. As well, this is an opinion of the writer and not the paper
- The Appellant has been given an opportunity to respond and did not.

Preliminary Matters

Subsequent to the hearing and prior to completion of their decision, the panel determined that they required additional information. To that end, the panel requested that the Respondent provide correspondence indicating he offered the Appellant via email a chance to respond to the newspaper articles. The Respondent could not produce the evidence and the panel convened to render a decision.

A L B E R T A

P R E S S C O U N C I L

Questions to be Answered

- Question 1: Is the headline “Two councillors won’t explain why they walked out of council meeting” inaccurate or misleading? Does the headline contain a personal attack or criticism of the Appellant? If so, did the Respondent give the Appellant a fair and reasonable opportunity to reply to a personal attack or criticism?

- Question 2: Is the Letter to the Editor entitled “Why did two councillors leave a meeting?” inaccurate or misleading?

- Question 3: Is the newspaper article entitled “Robert’s Rules okay for quorum, why not for debates?” inaccurate or misleading? Does the article contain a personal attack or criticism of the Appellant? If so, did the Respondent give the Appellant a fair and reasonable opportunity to reply to a personal attack or criticism?

- Question 4: Is the newspaper article entitled “Council moves on from June 28 break issue” inaccurate or misleading? Does the article contain a personal attack or criticism of the Appellant? If so, did the Respondent give the Appellant a fair and reasonable opportunity to reply to a personal attack or criticism?

Findings

Question 1: Is the headline “Two councillors won’t explain why they walked out of council meeting” inaccurate or misleading? Does the headline contain a personal attack or criticism of the Appellant? If so, did the Respondent give the Appellant a fair and reasonable opportunity to reply to a personal attack or criticism?

The panel has reviewed the newspaper article entitled “Two councillors won’t explain why they walked out of council meeting” and finds:

- The ordinary meaning of the word “inaccurate” means “not accurate; incorrect or untrue.”

A L B E R T A

P R E S S C O U N C I L

- The ordinary meaning of the word misleading means “to lead or guide wrongly; lead astray or to lead into error of conduct, thought, or judgment.”
- The term “walked out” has a connotation of “leaving in protest”.
- The panel finds that this term is misleading because, as testified to in the hearing, the Respondent was not present at the meeting in question and had no knowledge about the incident in question.
- Given, the Respondent’s testimony that the article was based on minutes of the meeting and not on personal knowledge the panel finds the term “walked out” misleading because it has negative connotation of leaving in protest which was not what transpired at the meeting.
- The panel also finds that the statement “Two councillors won’t explain” is misleading. The Respondent testified that he asked the Appellant for comment regarding the events around the meeting, however; the Appellant did not respond. The panel does not accept this testimony because the Appellant has submitted two rebuttals to the Respondent for consideration both of which were rejected for publication. As well, once the rebuttals were received the Respondent did not correct the information.
- Based on the above analysis, the panel finds that the headline does contain significant inaccuracies and misleading statements.
- Section 1 of the Code of Practice indicates that it is the duty of the newspapers to avoid publishing inaccurate or misleading statements and further, it is the duty of newspapers to correct promptly, and with due prominence, significant inaccuracies or such misleading statements.
- The panel finds the Respondent did not correct with due prominence the inaccuracies or misleading statement and as such the panel recommends the Respondent do so.

With respect to Section 2 of the Code of Practice the panel finds that this section indicates that individuals and organizations should be given a fair and reasonable opportunity to reply to a personal attack or criticism. The panel concludes the newspaper article entitled “Two councillors won’t

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PRESS COUNCIL

explain why they walked out of council meeting” did not personally attack or criticize the Appellant. The article reported that the Appellant left the meeting and that he indicated past practice that occurred when councillors left the meeting. The article also quotes the CAO regarding quorum and reviewed a motion regarding councillor’s attendance at a review meeting. The panel finds the article does not personally attack or criticize the Appellant.

Question 2: Is the Letter to the Editor entitled “Why did two councillors leave a meeting?” inaccurate or misleading?

The panel reviewed the “Letter to the Editor” and find it expresses the opinion of the writer and not the Respondent. Section 5 of the Code of Practice indicates:

Journalism of Opinion

5. Newspapers are free to exercise the widest possible latitude in expressing opinions, no matter how controversial or unpopular the opinions may be. Columnists, editorial cartoonists and others should have the same latitude in expressing opinion, but when they present what purports to be a statement of fact, they should strive to ensure it is accurate. Journalists should clearly distinguish between comment and fact, and conjecture should not be expressed as a statement of fact. Opinions should be distinguishable from news stories.

The panel finds that this letter is expressing an opinion and does not hold itself out to be statements of fact. The panel also finds that this letter is distinguishable from news stories as it is labelled “Letter to the Editor” therefore the Respondent has not breached the Code of Practice with respect to this article.

Question 3: Is the newspaper article entitled “Robert’s Rules okay for quorum, why not for debates?” inaccurate or misleading? Does the article contain a personal attack or criticism of the Appellant? If so, did the Respondent give the Appellant a fair and reasonable opportunity to reply to a personal attack or criticism?

The panel also reviewed the article entitled “Robert Rules okay for quorum, why not for debates?” and finds the article discusses procedural issues of past meetings. The panel finds that the article is accurate and does not personally attack or criticize the Appellant.

A L B E R T A

PRESS COUNCIL

Therefore, the panel finds that this article did not breach the Code of Practice.

Question 4: Is the newspaper article entitled “Council moves on from June 28 break issue” inaccurate or misleading? Does the article contain a personal attack or criticism of the Appellant? If so, did the Respondent give the Appellant a fair and reasonable opportunity to reply to a personal attack or criticism?

The newspaper article entitled “Council moves on from June 28 break issue” details the legal opinion obtained by Council regarding the Council meeting and loss of quorum and does not contain any personal attack or criticism of the Appellant. The article also does not contain significant inaccuracies or misleading statements as it details the legal opinion and events of past council meetings.

Decision

The headline “Two councillors won’t explain why they walked out of council meeting” contains significant inaccuracies and misleading statements.

Section 1 of the Code of Practice indicates that it is the duty of the newspapers to avoid publishing inaccurate or misleading statements and further, it is the duty of newspapers to correct promptly, and with due prominence, significant inaccuracies or such misleading statements.

The Respondent did not correct with due prominence the inaccuracies or misleading statement and as such the panel recommends the Respondent do so.

The respondent breached the Alberta Press Council Code of Practice with respect to the headline.

A L B E R T A
P R E S S C O U N C I L

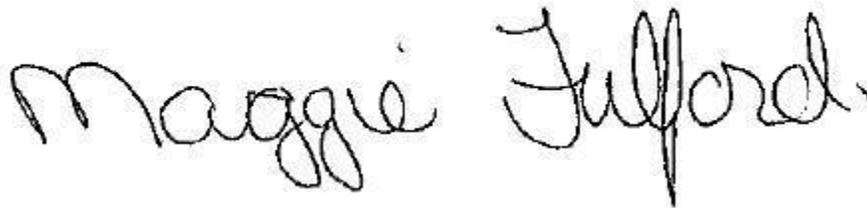
With respect to the other articles, the Panel finds the Respondent did not breach Alberta Press Council Code of Practice.

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This decision is made with the full agreement of the hearing panel.

DATED at the City of Edmonton Province of Alberta

this 11th day of January, 2017

A handwritten signature in black ink that reads "Maggie Fulford". The signature is written in a cursive, flowing style.

M. Fulford
Panel Chair, on behalf of the panel for
Alberta Press Council