



ONTARIO SOCCER ASSOCIATION

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DECISION OF APPEAL HEARING

HEARING DETAILS

COMMITTEE: OSA DISCIPLINE & APPEALS COMMITTEE

CASE: A16-01

HEARING DATE: March 19, 2016

HEARING TIME: 10am

HEARING LOCATION: Conference Call

APPEAL DETAILS

APPELLANT: Greater Sudbury Soccer Club

RESPONDENT: Sudbury Regional Soccer Association

DATE OF DECISION BEING APPEALED: Date Unavailable

GROUND FOR APPEAL

Only those grounds for Appeal which are noted below will be considered by the Appeal Panel when ruling on the Appeal:

- The Decision Maker failed to follow procedures as described in the relevant Published Rules
- The Decision Maker was influenced by bias, where bias is defined as a lack of neutrality to such an extent that the Decision Maker is unable to consider other views.

PARTIES REQUIRED TO ATTEND:

Teleconference Documentary Review (Parties not required to participate)

DECISION

- UPHeld and refer the matter back to initial decision maker
- UPELD and vary the decision
- DENIED forfeit the appeal fee and confirm the decision being appealed

After careful consideration of documentation provided the Appeal Panel denies the appeal by the Greater Sudbury SC as outlined in the following. Greater Sudbury SC (GSSC) will forfeit the appeal fee and the decision to award Sudbury District Soccer Club the mandate for competitive soccer for 3 years will stand.

(HIGHLIGHT THE DECISION OF THE PANEL)

FINDINGS

Issues to be decided:

1. Did SRSA fail to follow their procedures in mandating SDSC to be the newly appointed Competitive Club?
2. Was this decision influenced by bias?

Background to the case:

This appeal has its origins in a decision made 5 years ago. In October 2010 a mandate was awarded to Greater Sudbury SC to run the competitive component of soccer in the Sudbury Soccer Association. This initiative is in compliance with the SRSA Constitution Article 1.4 Members - Zones of Operation, only one Club in the District shall be permitted to register youth competitive players and teams, and this Club shall be designated by the membership for a specified period not to exceed five years, which may be renewed by the Board. (for review in October 2015).

In the April 2012 document Why Are Clubs Merging, prepared for the OSA 2012 Conference inaugural GSSC President Andy Charsley, noted that GSSC's competitive mandate was for a period of 5 years and action would need to be taken to determine who would be awarded the mandate after that.

Statement of the facts:

Current President Mr. Moretta also acknowledged this 5 year mandate. As far as the Appeal Panel is concerned the entity known as GSSC knew its Competitive mandate would expire in 2015.

In addition to the Mandate issue, discussions were apparently occurring during 2015 on the merger of GSSC and SDSC. The March 2015 Minutes note the transfer of three teams to SDSC for the 2015 competitive season. While the merger did not take place it is apparent that SDSC were also interested in a competitive mandate.

In March and June 2015, Tom Ryan sent emails to Dino Moretta reminding him the Mandate was expiring. While Mr. Moretta states in his appeal submission that GSSC knew this and intended to renew the Mandate the Club actually took no action on this.

In October 2015, in the wake of GSSC's failure to take action on renewing their competitive mandate the District was asked by Sudbury District SC about the status of the competitive mandate.

As the minutes of the October Board meeting record, discussion ensued and the Competitive mandate was awarded to SDSC at that same Board Meeting although the term was changed to three years. A sentence about a performance based review was added and the SRSA Executive Board is to present that to the membership within the upcoming months.

Authorities considered:

Sudbury Regional Soccer Association Constitution (Rules/Regulations)

Reasons for decision:

1. The Decision Maker failed to follow procedures as described in the relevant Published Rules.

Based on the documentation provided the Appeal Panel is of the opinion that there was no formal procedure to renew the Competitive mandate. To a large extent it was incumbent on GSSC to take action by formally requesting it be renewed—particularly since the District had reached out to GSSC twice by email reminding them their mandate was drawing to a close.

The lack of a formal process of selection and vetting is important because it places the awarding

of the mandate squarely in the Boards jurisdiction.
 The Appeal Panel considered whether the District had done enough to invite/encourage GSSC to take action on their expiring mandate. Given that this would have been an ongoing issue in the District the Panel believe the District acted reasonably in the circumstances.
 In the absence of any formal request from GSSC the newer Club SDSC asked to take on the Competitive mandate and the Board award it to SDSC for three years. It is clear that the awarding of this mandate to SDSC is by vote of the Board whose members represent the clubs in the SRSA. And as stated in the constitution it is/can be a board decision.¹

2. The Decision Maker was influenced by bias, where bias is defined as a lack of neutrality to such an extent that the decision maker is unable to consider other views.

It is the panel’s opinion that the decision was not influenced by bias and/or the lack of neutrality.

The Panel recognizes the *potential* for influence with Mr. Wayne Trainor as Executive Director and his son Peter also involved with SDSC. But it should be emphasized there were numerous other people around the table who participated in the decision to give the Competitive mandate to SDSC.

In the circumstances, the Appeal Panel is not persuaded that the Trainor’s had undue influence.
(Executive Director of SRSA Wayne Trainor is a non-voting member. And the President of SRSA has no voting privileges unless to break a tie.)

1. The Panel cannot ignore the fact that in the absence of GSSC’s request to renew, the member Clubs of Sudbury region that comprise the BOD did not—at that October 13 meeting —seek a further delay to ask GSSC to indicate their interest—which they could clearly have done.

OSA APPEAL PAYMENT

AMOUNT OF APPEAL FEE RETURNED TO APPELLANT	\$0.00
ADMINISTRATIVE FEE CHARGED TO RESPONDENT	\$0.00
DECISION DATED	March 31, 2016

RIGHTS TO APPEAL TO THE CANADIAN SOCCER ASSOCIATION (ATTACHED)

DECISION OF APPEAL PANEL