

---

**CANADIAN BROADCAST STANDARDS COUNCIL  
ONTARIO REGIONAL COUNCIL**

CITY-TV re *Silverman Helps*

(CBSC Decision 96/97-0087)

Decided February 20, 1998

A. MacKay (Chair), R. Stanbury (Vice-Chair), R. Cohen (*ad hoc*),  
P. Fockler, M. Hogarth, M. Ziniak, T. Gupta

---

**THE FACTS**

On December 6, 1996, during its *CITY Pulse* newscast, CITY-TV aired a segment of *Silverman Helps* (a consumer help/ombudsman type of program) which dealt with the issue of home inspection services. The full transcript of the segment (involving segment host Peter Silverman, real estate lawyer Alan Silverstein, home inspector Alan Carson and home buyer Tony Corindia), which was introduced by news anchor Gord Martineau, was as follows:

**Martineau:** And imagine getting a new house this Christmas. It would be a nice gift but pretty tough to return if things started to fall apart. Well, tonight, Peter Silverman takes a look at housing inspectors and what you should know before making the big purchase.

**Silverman:** Tonight on *Silverman Helps*, who inspects the inspectors? Last month 6,000 homes were bought and sold in Metro, and most of the people who bought homes had a person come in to inspect them, called a home inspector. They check out the plumbing, the wiring and to find out if there are termites. Now I could be doing that! And aside from a brief period in construction, I have no real qualifications, but that's the problem!

**Silverstein:** Lawyers, real estate agents, even mortgage brokers, insurance agents, they're all license governed. The home inspection industry is unlicensed, ungoverned, unregulated. And that's a problem for the consumer because you don't know the qualifications of the person who is doing your inspection.

**Silverman:** Four years ago, Tony Corindia bought this house. He was really concerned about termites so he had the home looked over by a home inspection company. Well, he made the mistake of using one recommended by the real estate agent. And that home inspection company gave his house a clean bill of health.

- Corindia:** About six, seven months later, I was just vacuuming the basement, actually these stairs here, and the vacuum cleaner pretty much just bumped the stairs and they just started crumbling and was just falling apart and, uh, you could see they were just infested with termites.
- Silverstein:** They make a mistake with your home inspection, I've seen clauses that say "Here's the cost of your home inspection back and that's the total extent of our liability to you".
- Silverman:** But there are home inspection companies who have the qualifications and do a good job.
- Carson:** The questions to ask are probably things like, do people have education, training, experience that qualifies them to do the work. And you want experience that is in the home inspection area rather than their experience in some other field such as building and renovating.
- Silverman:** Should the home buyer get a written report?
- Carson:** Absolutely. In my opinion, if a home inspector isn't going to provide you with a written report, the home inspection may as well not have happened.
- Silverman:** If you're thinking of buying a home and want it inspected before you close the deal, here are some things to watch out for when you are hiring a home inspector. What are their qualifications? Do they belong to any professional association such as the Ontario Home Inspectors Association? How much is it going to cost? Between \$250 to \$500. How long should it take? Between 2 - 3 hours. And finally, if the inspector offers to do some repair work, shy away. They can't do both jobs at the same time. I'm Peter Silverman for CITY Pulse.

## The Letter of Complaint

On December 5, the day *before* the segment in question was aired, a lawyer for the home inspection business which considered that it had been unfairly targeted by the segment wrote two letters to CITY-TV, one to CITY-TV broadcast journalist Ann Mroczkowski and the other to Moses Znaimer, President of CITY-TV. Both letters were written on behalf of Homespec Building Inspections Inc. ("Homespec"), the home inspection business in question. They were similar in all material respects, although, as would be expected, the perspective differed as a function of the addressee. The letter to Ann Mroczkowski advised of telephone calls that she had recently made to the lawyer's client

indicating that there is a problem with [her] personal residence. You described a problem with your home, and advised that Homespec had previously performed an inspection at your home. You asked what Homespec would be doing about the problem, stating that your "producer wants to run this problem on the air; I'm sure you don't want this to happen". Mr. Turl indicated that he would try to get a response for you as soon as he could.

The letters went on to allege that she had screamed at Homespec's Manager and used profane language to him, finally threatening to broadcast a program on the subject. Through its solicitors, the company offered

to have an inspector attend at your home to take a look at the problem in order to see if it can be resolved quickly and in order to see if the inspector who originally inspected your home overlooked anything. However, our client is not prepared to deal with you or anyone else under threats. This was the first time that the problem has been brought to the attention of our client, and our client is more than willing to look into the matter further.

That being said, the use of the threat to publicize this matter on the airwaves is, in our opinion, an abuse of your position as a journalist and as a broadcaster for your own personal purposes. ...

If you had a problem which involved Homespec, you could very well have contacted our client in order to ask them to look into the matter, without threatening to publicize this matter on television. Our client is still prepared to look into the problem and see if there is any responsibility on the part of our client which led to the problems you are now experiencing. ... We trust that ... this matter can be resolved with you in your personal capacity.

The complainant lawyer then wrote to the CRTC on January 3, 1997 and this letter was in turn forwarded to the CBSC. The complainant's letter read, in part, as follows:

We are the solicitors for HomeSpec Building Inspections Inc. ("HomeSpec"). HomeSpec performs home inspections throughout Ontario for those who wish to retain their services. In the usual course, such an inspection is performed after the signing of an Agreement of Purchase and Sale for a residential home and prior to the completion of the transaction.

In this particular case, two individuals, [one of whom was] Ann Mroczkowski, entered into an Agreement of Purchase of Sale for a home located ... in the City of Toronto. Ms. Mroczkowski ... hired HomeSpec to perform a house inspection. HomeSpec performed the inspection on September 24, 1996, and provided a report ...

On December 2, 1996, our client received a telephone call from an irate Ms. Mroczkowski, [who] indicated that there was a problem with the home she had purchased and for which HomeSpec had prepared an inspection. ...

The letter alleged that the journalist threatened to broadcast a show dealing with "this problem on the air" and used profane language. The letter went on:

On December 5, 1996, we wrote to Ms. Mroczkowski, indicating that our client was prepared to try to resolve the problems that she was experiencing. This is the first time that any such problem was brought to our client's attention and our client was certainly willing to look into the matter. However, our client was not prepared to deal with her under threats.

On Friday, December 6, 1996, City-TV, on the 6:00 p.m. newscast, broadcast a report on the business practices of home inspection services, in general fashion, and it singled out our client for special treatment. Our client's name was broadcast on the television screen and the implication was that HomeSpec was neither trustworthy nor competent. Since the broadcast, our client has been contacted by several realtors, with whom it does business, inquiring about the matter, causing HomeSpec embarrassment in the community and damage to its reputation.

Ms. Mroczkowski's actions have turned what is a personal matter between her and HomeSpec into something larger. She has used her position as a journalist and broadcaster to try to exact some special treatment for herself and she has used the public airwaves for her own personal purposes. It is our client's view, and indeed our own, that such actions are an abuse of her position and that some action ought to be taken to ensure that this does not happen again in the future.

## The Broadcaster's Responses

On January 27, 1997, the Producer of *Silverman Helps* wrote to the CBSC to explain the nature of *Silverman Helps* and to provide details regarding the challenged segment.

I understand that Mr. Abramowitz [lawyer for HomeSpec] has filed a complaint with the CBSC in respect of a segment of *Silverman Helps* which was telecast on December 6, 1996. Mr. Abramowitz inferred in his letter of complaint, that the *Silverman Helps* segment concerning home inspection services may have been produced and telecast as a result of a personal dispute of one of my co-workers, with his client, HomeSpec Building Inspections Inc. This allegation is untrue and has absolutely no merit.

As the producer of *Silverman Helps* I am completely aware of the basis of the December 6, 1996 telecast, in which HomeSpec was referenced. Firstly, however, I'd like to briefly explain what *Silverman Helps* is.

Peter Silverman is this station's ombudsman. Our unit investigates consumer complaints (we get approximately 6000 per year), or general consumer issues. In the case of complaint [*sic*], we try to mediate and solve it. When it comes to general issues we try to provide timely 'news you can use'.

In May 1996 we received a complaint from Mr. Tony Corindia, a former client of HomeSpec. In April 1992 he and his wife purchased their first home and it was subject to a home inspection. Tony hired HomeSpec Building Inspections and asked them to pay particular attention for any signs of termites. HomeSpec claimed there were no termites and the deal closed.

Seven months later Tony was cleaning the basement staircase when he bumped it with the vacuum. The stairs began to literally crumble and he found termites feasting inside. He immediately called a termite inspector from Aetna Pest Control. His assessment; "this home has been subject to a live termite infestation and that it had been subject to such an infestation for several years ... extensive damage was found throughout the structure ...". Tony was left with thousands of dollars in repairs and costs to rectify the damage and control the infestation, so he decided to sue in small claims court. The court found HomeSpec negligent and ordered them to pay the Corindias \$5054.65. Unfortunately HomeSpec refused to pay the court judgment and claimed they would appeal.

After two years of waiting and frustration for the Corindias, they came to us for help. According to Tony, the day before we were to interview him he told his lawyer about the impending story. His lawyer called HomeSpec and, after two years of fighting a court order, HomeSpec paid up.

We then postponed our story. But when the housing market heated up last fall with sales increasing 78% we decided to do a general information story about not only the importance of

getting a good home inspection (telecast on December 6, 1996) but also the pitfalls of that industry. We contacted Canada's foremost legal authority in real estate, Alan Silverstein. Alan pointed out that this was an industry which could expose consumers to great risk. Home inspectors are neither regulated or licensed. Currently anyone, regardless of their lack of qualifications, can hang out a sign and claim to be a qualified inspector. Considering the importance home buyers might put on their reports, the competence and integrity of an inspector is vitally important.

This is why HomeSpec was included in our story. It demonstrated the need to hire a qualified inspector from a company that would stand behind their work. We would also point out that, despite the opportunities to do so, HomeSpec was never mentioned by name in the story. The only reference to them was included in a key for Tony which stated "Tony Corindia sued HomeSpec and won judgement". The reference to the lawsuit was based upon fact, and is not refuted by HomeSpec.

This was predominantly an educational report containing valuable tips on how to select a qualified home inspector. This report was by no means an exposé of HomeSpec. It was a balanced summary concerning many aspects of home inspections.

Furthermore, at no time during the production of our story (between August and December) was any one of my staff aware of the conflict between Ms. Mroczkowski and HomeSpec. It was their failure to properly inspect the Corindias' home for termite infestation, and the Court's finding of liability on the part of HomeSpec, not their dispute with Ann Mroczkowski, which led to their inclusion in our story.

In his letter of January 28, the Director of News Programming for CITY-TV responded to the complainant's letter and explained that:

As the Director of News Programming for Citytv, I will address the concerns you raised in your letter dated January 3, 1997 to the CRTC. No response was given to your letter of December 5, 1996 as it was a personal matter between your client and Ms. Mroczkowski.

Indeed, it would be an abuse of our position as broadcasters to resolve personal matters on the air. We agree that Ms. Mroczkowski's distraught threats were both wrong and regrettable particularly in terms of the position she holds in our newsroom. Other than personal conversations about the collapse of the plumbing in her new home, we were unaware of the specifics of any correspondence between Ms. Mroczkowski and your client until your December 5<sup>th</sup> letter.

I received a copy of the December 5<sup>th</sup> letter on the 9<sup>th</sup> and I immediately spoke to Ms. Mroczkowski concerning our disappointment by her involving the newsroom in a personal matter. I subsequently sent a memo to her that has been placed in her personal file. No further action was required. As a newsroom we never use our airtime to mitigate personal disputes.

As to the issue of the *Silverman Helps* story on your client. The ombudsman's unit is a separate entity within the newsroom itself. They work independently of the rest of the daily news team. They had been working on a consumer awareness piece about your client. At no time did Ms. Mroczkowski or any producer speak to the *Silverman Helps* unit regarding Ms. Mroczkowski's personal predicament. I have asked the producer of the *Silverman Helps* unit to include a letter detailing the specifics of their investigation and subsequent story that resulted.

The *Silverman Helps* story was a valid representation of a consumer affairs item that we stand by. That it aired during a dispute with one of our senior staff was pure coincidence. If we were in the habit of resolving personal issues on the air we would have been inundated with complaints of this nature and yours is the first in twenty years of news gathering.

The complainant attorney was unsatisfied with this response and, on February 25, wrote the following letter to the CBSC:

We have received a copy of the letter to you from Terry O'Keefe, Producer, *Silverman Helps* at Citytv. We have also received a response from Stephen Hurlbut, Director of News Programming, Citytv. We are not satisfied with the responses but we are taking the matter up directly with them and will be back to you if we are still not satisfied with the response we receive.

On April 28, a subsequent letter to the Director of News Programming was copied to the CBSC. In his letter, the complainant acknowledges receipt of a letter dated March 3 from CITY-TV and states the following:

Your letter does not address the issues raised in our letter of February 25, 1997 and merely restates the position of Citytv previously articulated.

In particular, your letters fails to address the following matters:

1. The fact that the *Silverman Helps* story was aired two days after the telephone calls from Ms. Ann Mroczkowski in which she threatened to speak to her producer about a story on HomeSpec;
2. The fact that HomeSpec was never contacted with respect to the story;
3. The fact that there was no attempt to be "even-handed" or fair to HomeSpec; and,
4. Why there was a need to mention HomeSpec and the court judgment if the program was primarily an "educational report" and why there was the need to display HomeSpec's name on the screen.

The letter also challenged the broadcaster on the question of the timing of the interview with Mr. Corindia, the consumer whose house had been infested with termites. This issue was subsequently dealt with in a letter addressed by CITY-TV's Director of News Programming; however, the Regional Council does not consider the issue germane to its decision in this matter.

On June 12, 1997, the Council received the signed Ruling Request from the complainant requesting that the CBSC refer the matter to the appropriate Regional Council for adjudication.

## THE DECISION

The CBSC's Ontario Regional Council considered the complaint under Clause 6 of the *CAB Codes of Ethics* as well as Articles 4 and 5 of the *Radio Television News Directors Association (RTNDA) Code of Journalistic Ethics*. The texts of the relevant provisions of these Codes read as follows:

### Clause 6, *CAB Code of Ethics* (News and comment)

It shall be the responsibility of member stations to ensure that news shall be represented with accuracy and without bias. The member station shall satisfy itself that the arrangements made for obtaining news ensure this result. It shall also ensure that news broadcasts are not editorial. News shall not be selected for the purpose of furthering or hindering either side of any controversial public issue, nor shall it be designed by the beliefs or opinions or desires of the station management, the editor or others engaged in its preparation or delivery. The fundamental purpose of news dissemination in a democracy is to enable people to know what is happening, and to understand events so that they may form their own conclusions.

Therefore, nothing in the foregoing shall be understood as preventing news broadcasters from analysing and elucidating news so long as such analysis or comment is clearly labelled as such and kept distinct from regular news presentations. Member stations will, insofar as practical, endeavour to provide editorial opinion which shall be clearly labelled as such and kept entirely distinct from regular broadcasts of news or analysis and opinion.

It is recognized that the full, fair and proper presentation of news, opinion, comment and editorial is the prime and fundamental responsibility of the broadcast publisher.

### Article 4, *RTNDA Code of Journalistic Ethics*

Broadcast journalists will always display respect for the dignity, privacy and well-being of everyone with whom they deal, and make every effort to ensure that the privacy of public persons is infringed only to the extent necessary to satisfy the public interest and accurately report the news.

### Article 5, *RTNDA Code of Journalistic Ethics*

Broadcast journalists will govern themselves on and off the job in such a way as to avoid conflict of interest, real or apparent.

The Regional Council members reviewed the lengthy and protracted correspondence. There were some misunderstandings regarding access to the tape of the segment, but these were ultimately entirely satisfactorily resolved. The Ontario Regional Council considers that the segment of *Silverman Helps* in question discloses no violation of the *CAB Code of Ethics*.

## The Content of the Program

There are two significant aspects to this complaint. One involves the alleged behaviour of Ann Mroczkowski, which is dealt with in the following section, and the other relates to the content of the program segment *Silverman Helps*. Insofar as the segment is concerned, anyone *reading* the transcript would draw no connection with HomeSpec. In fact, the only link is via a key, or super, over the scene with the home-owner describing his problem with the home inspection service he had engaged prior to buying his house. That key, which read "Tony Corindia sued HomeSpec and won judgement", was on air for about three seconds.

As to the issue of the fairness of the segment, there can be no doubt. The entire thrust of the segment related to home inspection services *in general*. The description of their nature, the purpose they serve, the criteria to look for in engaging such a service all contributed to a "buyer beware" kind of item and this is one of the ongoing purposes of the *Silverman Helps* segment. The HomeSpec aspect of the story is clearly *incidental* to the piece. Furthermore, it unquestionably falls within the ambit of journalistic entitlement. Most, if not all, news and public affairs pieces must be tied to a real story to work. In this case, the Corindia-HomeSpec story fitted that journalistic requirement. The point is that *someone's* story would have had to be told and, as is generally the case in such matters, *that* person or business would have been left disconcerted. (And, in this case, the story is told primarily from the consumer's point of view, not that of the business.) There would in any case, needless to say, be no link to be made between such a sentiment on the part of an affected party and the breach of a broadcaster Code, particularly where the complaining party has been the subject of court proceedings which are, by their nature, a matter of *public* record.

The present matter is, in most respects, so similar to that faced by the B.C. Regional Council in *CHBC-TV re Newscast* (CBSC Decision 93/94-0292, December 18, 1996) that the Ontario Regional Council considers its ruling on this point to be very relevant to the present matter. It should, however, be noted that the B.C. decision was focussed on the business, rather than the consumer.

The Regional Council is of the view that the right of privacy of an individual ends when he or she becomes a party to court proceedings insofar as the reporting of those proceedings and their outcome are concerned. In the absence of a judicial order to the contrary, the CBSC considers that all court proceedings and their outcomes are *public* by their nature.

In the matter at hand, one of the parties, the defendant, would have preferred that the final step, namely, the collection of amounts awarded under these particular court proceedings, be kept away from the public's awareness. The Council considers that a broadcaster is entitled to conclude that the public interest extends equally to the proceedings themselves and to the results of the proceedings. This interest may be: in the general precedent established by a court decision, which may ultimately serve as a guide for members of the public to determine how they will carry on their activities, civil, commercial or private; or in the actions of the specific parties which gave rise to the proceedings in question.



In the matter at hand, the story began and ended as a news item with an element of informed analysis. The piece alerted members of the public to the dangers of purchasing a house with undisclosed structural problems and the potential perilous consequences, even where a wronged buyer is found justified in his or her claim by the court.

It is to be expected that the complainant who, in this case, was the defendant in the B.C. Supreme Court and the other party in the on-air newscast, felt sensitive at *being* the example. This fact taken alone does not, however, validate his complaint. No story is, after all, told in a vacuum, unrelated to real people and real events. Had the story been *biased*, the issue would have been a different one. In this case, there was no suggestion by the complainant that the coverage was slanted or unfair; his complaint was that there was coverage of the incident *at all*. The B.C. Regional Council does not agree with the complainant's view of the newscast; members consider that this issue falls squarely into the category of matters envisaged in Article 7 of the RTNDA Code:

News directors recognize that informed analysis, comment and editorial opinion on public events and issues is both a right and responsibility.

It is, in other words, a story which the broadcaster was entitled to tell.

It follows that, in the present case, in which HomeSpec was identified to only a marginal extent in comparison with the B.C. complainant, the Regional Council finds that there are no grounds, in the *telling* of the story, which disclose any breach of a broadcaster Code.

### **Evidentiary Issues**

This matter also involves off-air aspects which depend on facts with respect to which the CBSC has no method of determination. The allegations by the lawyer regarding the threats of Ms. Mroczkowski cannot be substantiated by the CBSC, whose mandate does not include any authority to compel testimony or gather unoffered evidence. Since the vast proportion of the CBSC's work involves the assessment of radio and television programming for which it has both the tapes and the Codes against which to measure what has been broadcast, such off-air issues rarely come before it. As stated in *CFRN-TV re Eyewitness News* (CBSC Decision 96/97-0149, December 16, 1997), where there are not agreed facts regarding an off-air matter, the Council is generally limited to being able to deal with the "on-air" portion of the complaint:

Not only does the CBSC never have a tape or transcript of such conversations, but it is also not an evidence-gathering body. It does not hold "hearings" in a quasi-judicial sense. It limits its review, in almost all cases, to the evaluation of the on-air program against the Codes which it administers. While the correspondence between the complainant and the broadcaster is always taken into consideration, these letters are treated only as argument and not as evidence.

On those infrequent occasions when the CBSC is asked to evaluate off-air issues, the Council is dependent upon *agreed* sets of facts which it can then interpret when such

matters fall within the Codes it administers or the standards it is otherwise entitled to apply to its broadcast members. In this case, there appears to be a sufficient acknowledgment in the broadcaster correspondence that the alleged behaviour *may* have occurred that the Council considers that it can at least deal with that hypothetical possibility.

### **Conflict of Interest Issues**

There is only one previous occasion on which the CBSC has previously dealt with the conflict of interest provisions of the *RTNDA Code of (Journalistic) Ethics*. In *CKNW-AM re Journalistic Controversy* (CBSC Decision 94/95-0175, December 18, 1996), the B.C. Regional Council was called upon to deal with the result of the station's political reporter's filing of a conflict of interest allegation regarding Premier Harcourt with the Province's Conflict of Interest Commissioner. In that matter, the filing was either done with the explicit or implicit authority of the broadcaster. The Council's view of this action was as follows:

In the view of the Council, it would have been entirely within the scope of CKNW's journalistic responsibility to ferret out any and all accurate information relating to a possible conflict of interest on the part of the Premier or any other individual whose actions fell within the sphere of the public interest. It would then have been within the responsibility of the station to *publish* this information so that the public would be informed "in an accurate, comprehensive and balanced manner about [an] event of importance." It would have fallen within their entitlement, in the editorial areas of their broadcast day, to express an opinion about the information they had uncovered. In the Council's opinion, it was, however, a breach of the *RTNDA Code of Ethics* to bring the matter to the Conflict of Interest Commissioner to ask *him* to carry out that role, for it then put CKNW in an *apparent* conflict of interest regarding the story in question.

In other words, the action of the reporter in filing the complaint involved the station *itself* in the apparent conflict of interest. It is in this respect that the CKNW matter differs entirely with the case at hand for here, to the extent that the behaviour of the reporter *might* have been as described, there is no indication whatsoever that the actions *in any way* related to the station's programming. The actions of the reporter, if true, could only have benefited *her*. Since she, unlike the political reporter in the CKNW matter, had nothing to do with the challenged segment, it was Ms. Mroczkowski alone who allegedly sought to benefit herself by applying unfair leverage to HomeSpec. The only indication from the broadcaster is that it in no way condoned such actions, had never experienced even an allegation of such actions in the past 20 years, and that it took swift action to ensure that such a step by this journalist would not recur. Consequently, the Ontario Regional Council has no difficulty in concluding that its broadcast member CITY-TV was not in any way a part of the alleged behaviour, much less a beneficiary of it, and was not in breach of Article 5 of the *RTNDA Code*.

## **The Broadcaster's Response**

The CBSC always recognizes the broadcaster's obligation, as a CBSC member, to be responsive to complainants. In this case, the Regional Council considers that the responses from two of the broadcaster's representatives on more than a single occasion each, together with their frank acknowledgment of the steps they had taken to deal with the journalist, manifested an "above and beyond" effort to deal fairly and sensitively with the issues raised by the complainant. Nothing more could have been expected of CITY-TV. Consequently, the station did not breach the Council's standard of responsiveness.

*This decision is a public document upon its release by the Canadian Broadcast Standards Council. It may be reported, announced or read by the station against which the complaint had originally been made; however, in the case of a favourable decision, the station is under no obligation to announce the result.*