

# SAVE JAZZ.FM91

## JAZZ.FM91 BREACHES COURT ORDER TO PROVIDE EMAIL ADDRESSES TO MEMBER

**December 21, 2018** -- The announcement by the Board of Directors that JAZZ.FM91 will appeal last week's Ontario Superior Court of Justice order to provide email addresses of Members to Brian Hemming is astounding on many levels. We will have more to say about this in the coming days. Our initial thoughts are:

- The Board has once again signalled their determination to deny Members the right to a level playing field to challenge the current Board's entrenched position. The Board is intent on denying Brian Hemming (and other Members) their legal right to communicate with Members the same way the Board does -- by email, which is how the Board announced its intention to appeal the decision.
- The Board's supposed reason for commencing an appeal is privacy. But the Court's unequivocal finding is that the Board was not concerned about privacy as they have repeatedly claimed.
- The Board continues to disrespect due process and the Court. JAZZ.FM91 was ordered by the Court to produce the email addresses by December 20. The Board has caused JAZZ.FM91 to breach the Court's order without seeking a stay of that order or for that matter, even filing an appeal.
- The Board's email appears to suggest that JAZZ.FM91 is commencing an appeal on the advice of its lawyer. Tellingly, there is no recommendation for an appeal in the letter excerpt emailed to Members. Was an appeal recommended or not by JAZZ.FM91's lawyer? Why is the insurer who covered the main application not also covering the appeal's costs? The Board should immediately provide Members a pdf of the entire letter as drafted by its counsel and confirm that the letter has been fully disclosed. There is no compelling reason not to do this because the Board has deliberately waived privilege over the subject matter in the letter. If the Board has not produced the entire letter in its email, which is the impression it has left with Members who received the email, then the Board has potentially breached its duties to JAZZ.FM91 and members under the *Corporations Act*.