



ADR
CHAMBERS

Integrity Commissioner Office
for the Town of Niagara-on-the-Lake

EDWARD T. MCDERMOTT
Integrity Commissioner
Town of Niagara-on-the-Lake
Email: emcdermott@adr.ca

August 2, 2022

SENT BY EMAIL TO:

Victoria Steele
Town Clerk
Town of Niagara-on-the-Lake
1593 Four Mile Road
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Virgil, Ontario
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Re: Niagara-on-the-Lake Integrity Commissioner
Annual Report- March 19, 2021- March 18, 2022- IC-17220-0422

Dear Ms. Steele:

Thank you for the opportunity to act as the Integrity Commissioner (the "IC") for the Town of Niagara-on-the-Lake (the "Town") over the past year.

In accordance with the terms of the Agreement between the Town and ADR Chambers Inc. and pursuant to s. 223.3 (1) of the *Municipal Act, 2001*, I am providing an Annual Report for the period March 19, 2021 to March 18, 2022.

As you know the IC's role is to help Members of Council and the municipality's eligible Local Boards ("Members") ensure that they are performing their functions in accordance with the Town's *Code of Conduct* ("The Code"). The Integrity Commissioner

is available to educate and provide advice to Members on matters governing their ethical behavior and compliance with the Code and Municipal Conflict of Interest Act ("MCIA"). The Integrity Commissioner is also responsible for receiving, assessing, and investigating appropriate complaints made by Council, Members, and members of the public respecting alleged breaches of the Code by Members.

In addition, and independently from an IC's duties under the Code, under the March 1, 2019 amendments to the Municipal Act, the IC was empowered (upon application by an "elector" of the municipality or "a person demonstrably acting in the public interest") to inquire into an alleged contravention of the MCIA and make application to a judge for a judicial determination as to whether a Member of Council has contravened section 5, 5.1, or 5.2 of the MCIA. If the Court determines such a contravention has occurred it can impose a wide range of penalties on the offending Councillor including declaring the Member's seat vacant and prohibiting the Member from serving on Council for up to seven years.

Activities During the Year under Review.

The fourth year of our service to the Town was more active than the third. During the year I received, and processed one request for investigation of an alleged contravention of the Code which was, with our assistance, resolved.

In addition to dealing with this complaint, I received and responded to five Requests for Advice (compared to 3 from the previous year and 12 from the year prior to that) from various members of Council and Local Boards of the municipality. Most of these were dealt with by means of a full written response to the issue(s) raised by the Councillor as is mandated by the provisions of the Municipal Act.

Occasionally because of the nature of the matter or its urgency to the Councillor or the municipality, a verbal response was given with subsequent written confirmation of the conversation (and a full written response to be provided if the Councillor required it). The advice provided is confidential to the Councillor unless he/she determines to release it. If the Councillor only discloses part of the advice, I may determine to release the balance of my Response.

I also prepared and delivered an Annual Report for the third year of our service.

Costs

The total costs incurred by the Town during the year for the Complaint process as well as the responses to Requests for Advice amounted to \$16,450.01 (plus HST) which was more than last year (\$10,732.50 plus HST) but still a substantial reduction from the cost incurred for the previous year (\$53,059.00 plus HST).

Issues to be Considered Going Forward

As a result of our experience during the past year, it is respectfully suggested that Council consider the following issues on a going forward basis:

- The provisions of Bill 68 came into force on March 1, 2019 and contain some significant amendments to the *Municipal Act 2001* and the *Municipal Conflict of Interest Act* which affect the role and powers of the Integrity Commissioner and the obligation of Members under the Town's Code. We have now been working with these new requirements for two years and have gained a considerable amount of knowledge and experience in contending with the various issues that have arisen under the amendments.

We accordingly suggest that an *in camera* (preferably in person) education seminar should be scheduled in the future in order to review our experience with these changes and familiarize all Councillors with the effect of these new amendments as well as emphasizing our experience with evolving issues such as the importance of not disclosing confidential information in accordance with the requirements of the Code. In my view, we should look at doing this when the next elected Council is in place- December, 2022 or early 2023.

- It also might also be of some value if Councillors could have at least some personal interaction with the Integrity Commissioner (in the form of an education seminar) so that Requests for Advice and subsequent complaints are not dealt with in a vacuum.
- The content of the Town's Code of Conduct is also a living document which should be periodically reviewed to ensure it meets the needs and requirements of the law, the Town, its Councillors and its citizens. There are a number of provisions which should, in my view, be re-considered (e.g. the Town's protocol for investigating Complaints of a violation of the Code).

It has also recently come to light that a significant number of municipalities have not properly dealt with the requirements of the Municipal Act to have a Code of Conduct and Integrity Commissioner in place for Members of “Local Boards” of the municipality.

These and other issues should be addressed at the first reasonable opportunity. I would be pleased to assist in such a review if Council so requests.

- On March 5, 2021, The Ontario Government launched a Consultation process to “Strengthen Municipal Codes of Conduct” with the objective of eliminating “workplace harassment or discrimination of any kind”. The Consultation process was led by Ms. Jill Dunlop the Associate Minister of Children’s and Women’s Issues.

It is likely that the results of this consultation process will lead to further statutory obligations being placed on municipalities and their Councils and that the duties and powers of an Integrity Commissioner will be expanded to deal with matters arising out of these new measures.

Council should be aware of this impending development and make appropriate plans to deal with any new obligations once they are announced as it is anticipated these measures will affect the scope of the Code; the role of the IC; and inevitably, the cost of administering this program.

Summary

It has been a pleasure to assist the Town and its Members with the issues that have arisen in connection with the administration of its Code of Conduct.

Yours truly,



Edward T. McDermott
Integrity Commissioner, Niagara-on-the-Lake