



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: integrity@adr.ca

October 31, 2023

SENT BY EMAIL TO:

Shaunna Arenburg, Acting Town Clerk
Town of Niagara-on-the-Lake
1593 Four Mile Road
P.O. Box 100
Virgil, Ontario
L0S 1T0
shaunna.arenburg@notl.com

**Re: Niagara-on-the-Lake Integrity Commissioner
Annual Report- March 19, 2022- March 18, 2023 - IC- 24068-0523**

Dear Ms. Arenburg:

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, 2022 to March 18, 2023.

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 fifth year of our service to the Town was once again a very active one as we undertook a number of significant matters within my jurisdiction and mandate as established by Council, the Municipal Act and the MCIA.

As required by the Municipal Act and the Code, we provided full written responses to Requests for Advice from Members of Council seeking advice with respect to their involvement in a variety of fact scenarios which were presented to us.

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.

In addition, a significant amount of time was consumed in investigating and determining two separate Complaints commenced against a Councillor and Local Board Member by members of the public.

We also provided advice and assistance with respect to certain issues which arose in connection with the 2019 amendments to the MA and, in December 2022, convened a

fulsome education session (in person) for all Members of Council on the Code of Conduct and role of the Integrity Commissioner.

We also prepared and delivered an Annual Report for the fourth year of our service.

Costs

The total costs incurred by the Town during the year during the period under review for the investigation and adjudicative process as well as the responses to Requests for Advice and the education seminar and Annual Report amounted to \$51,585.00 (plus HST) which was significantly more than each of the last two years, (\$16,450.00 and \$10,732.50 plus HST respectively) and almost equal to the charges from three years ago which amounted to \$53,059.00 plus HST.

As can be seen from the foregoing, the cost of this government mandated process is unpredictable in any give year. Council should accordingly continue to make reasonable budgetary provisions for this mater (in line with past experience).

Issues to be Considered Going Forward

As a result of our experience during the past year and continuing into this year, I offer the following comments:

- Pursuant to our earlier suggestions, we were able to schedule an in-person education seminar for all Members of Council and senior staff in December, 2022 which I believe was of considerable benefit to all who participated in that process. I would respectfully suggest that this exercise should be repeated at least one more time during this term of Council as we all attempt to configure and enforce the Town's Code of Conduct.
- It is also my view that (as indicated in the education seminar) certain provisions of the Code still need to be reviewed and perhaps updated in order to provide a more fulsome and accurate response to the requirements of the provisions of the Municipal Act and the MCIA in light of the requirements of Bill 68 which is now in force. The Code is a living document and should be reviewed at periodic intervals to make sure it adequately meets the needs of the Town, its Members of Council (and Local Boards) and its Residents. I am quite willing to review and provide comments on any proposed revisions to the Code if and when Council decides to proceed with this review.

Summary

It has been a pleasure to assist the Town and its Members in contending with the numerous issues which have arisen in connection with the administration of its Code of Conduct and the MCIA in the past year.

Yours truly,

A handwritten signature in blue ink, appearing to read "E. T. McDermott". The signature is fluid and cursive, with a large initial "E" and "M".

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