



**ADR**  
C H A M B E R S

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](mailto:emcdermott@adr.ca)

March 24, 2021

SENT BY COURIER AND EMAIL TO:

Peter Todd  
Town Clerk  
Town of Niagara-on-the-Lake  
1593 Four Mile Road  
P.O. Box 100  
Virgil, Ontario  
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[ptodd@notl.org](mailto:ptodd@notl.org)

**Re: Niagara-on-the-Lake Integrity Commissioner  
Annual Report - March 19, 2020 - March 18, 2021 - IC-12530-0121**

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Dear Mr. Todd:

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, 2020 to March 18, 2021.

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 third year of our service to the Town was less active than the second. During the year I received, investigated and determined one request for investigation of an alleged contravention of the Code.

In addition to dealing with this complaint, I received and responded to three Requests for Advice (compared to 12 from the previous year) 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 second year of our service.

## **Costs**

The total costs incurred by the Town during the year for the investigation and adjudication process as well as the responses to Requests for Advice amounted to \$10,737.50 (plus HST) which was a substantial reduction from the cost incurred for the previous year (\$53,059.00 plus HST) and more in line with our first year of service (\$8,085.00).

## **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 (when circumstances permit) 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.

- Consideration should be given to amending the City's investigation protocol to include a provision conferring on the IC the discretion to mandatorily order a mediation session when, in the judgment of the IC, circumstances so warrant. In light of certain situations that have emerged over the past two years, Council may also wish to consider altering or adding to other provisions of the Code (e.g. limitation periods on Complaints).
- 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 will be led by Ms. Jill Dunlop the Associate Minister of Children's and

Women's Issues. On March 8, 2021, a Private Member's Bill was introduced by a Member of the opposition to expand the ambit of the Codes of Conduct of Municipalities by requiring all Members of Council to comply with Municipal Policies with respect to workplace violence or harassment under the OHSA.

The Bill contemplates expanding the powers of an IC to receive and investigate Complaints of a contravention of this mandated provision under the Code and to apply to the Court for a determination by it of the issue and the imposition of a penalty (including declaring the Councillor's seat vacant).

While the provisions of the Private Member's Bill will not necessarily become law, it is reasonably clear that Complaints against Councillors for mistreatment of staff will be enabled under an amendment to the Municipal Act and it will likely fall to the IC to determine these Complaints.

Council should be aware of this impending development and make whatever submissions it wishes to the Government Consultation process as 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. I look forward to continuing to provide the services of Integrity Commissioner to the Town in the forthcoming year.

Yours truly,



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