



ADR
CHAMBERS

Integrity Commissioner Office
for the Town of Pelham

Edward T. McDermott
Integrity Commissioner
Town of Pelham
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March 23, 2021

SENT BY EMAIL TO:

Nancy Bozzato
Town Clerk
Town of Pelham
20 Pelham Town Square
Fonthill, Ontario L0S 1E0

Re: Town of Pelham Integrity Commissioner
Annual Report – January 1, 2020- December 31, 2020 - IC-12520-0121

Dear Ms. Bozzato:

Thank you for the opportunity to act as the Integrity Commissioner (the “IC”) for the Town of Pelham (the “Town”) over the past year.

In accordance with the terms of the Agreement between the Town and ADR Chambers Inc. pursuant to s. 223.3 (1) of the *Municipal Act 2001*, I am providing my Annual Report for the second operating period of the agreement covering period January 1, 2020 – December 31, 2020. The previous reporting period covered eleven months and was adjusted for this year to coincide with the Town’s budget processes.

As you know, the IC's role is to help Members of Council ("Members") ensure that they are performing their functions in accordance with the Town's *Code of Conduct* (the "Code"). The IC is available to educate and provide advice to Members on matters governing their ethical behavior and compliance with the Code and the Municipal Conflict of Interest Act ("MCIA"). The IC 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 Second Year

The second year of our service to the Town was more active than the first as we undertook an investigation into a significant matter within my jurisdiction and mandate as established by Council, the Municipal Act and the MCIA. The result of the investigation into this matter was the subject of a full public Report to Council in May 2020. In the result, findings were made that the Code had been contravened and Council imposed a penalty.

As required by the Municipal Act and the Code, we also provided full written responses to Requests for Advice from Members of Council.

We also provided Council with an Annual Report on the first year (eleven months) of our service to the Town.

Costs

The total cost incurred by the Town during the year for the services performed amounted to \$21,197.50 (plus HST) as compared to the charges of \$7,000.00 during our first year of service. This amount does not include billings for any work performed with respect to matters which were initiated or in progress but not completed prior to the end of the review period (December 31, 2020).

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.

Inasmuch as it has now been almost two years since our last seminar with Council, 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 in the past year. I look forward to continuing to provide the services of Integrity Commissioner to the Town in the upcoming year.

Yours very truly,



Edward T. McDermott

Integrity Commissioner, Town of Pelham