

Committee of the Whole (2) Report

DATE: Wednesday, May 20, 2020

WARD(S): ALL

**TITLE: FORMAL CODE OF CONDUCT COMPLAINT INVESTIGATION
REPORT NO.091819**

FROM:

Suzanne Craig, Integrity Commissioner and Lobbyist Registrar

ACTION: FOR INFORMATION

Purpose

To present the findings of the investigation by the Integrity Commissioner and Lobbyist Registrar under the City of Vaughan Code of Ethical Conduct for Members of Council and Local Boards (the “Code”) relating to the conduct of six Members of Council with respect to a complaint under the Code and the Municipal Conflict of Interest Act (MCIA) [as set out in Attachment 1].

Report Highlights

- Pursuant to obligations under sections 10(ii), 11(ii) and 12(iii) of the Code Complaint Protocol, the analysis discusses the investigative process, decisions on jurisdiction, and findings on the allegations related to the Code and the MCIA.

Recommendation

1. That the formal Code of Conduct Complaint Investigation Report No.091819 by the Integrity Commissioner and Lobbyist Registrar be received, for information.

Background

On September 18, 2019, a complaint under the “Code” was received by the Integrity Commissioner and Lobbyist Registrar.

The Complainant made several allegations about violations of the MCIA and the Code. The Complaint alleges that six Members of Council violated the MCIA and the Code by:

1. Retaining Aird & Berlis to act for the City of Vaughan (the “City”) and individual Members of Council with respect to a lawsuit brought against the City and certain Members of Council by Frank Miele (the “Action”), and participating in meetings at which both the City Solicitor and Aird & Berlis gave advice to individual members of Council;
2. Directing and attempting to influence Aird & Berlis and the City Solicitor with respect to the formulating of the City’s defence to the Action;
3. Discussing the Action with Aird & Berlis and other Members of Council not named in the Action; and
4. Using the City’s Indemnification By-law to pay for the defence of individual Members to the Action.

Previous Reports/Authority

Not applicable.

Analysis and Options

The Integrity Commissioner and Lobbyist Registrar reviewed the Complaint and concluded that there was no jurisdiction to review any of the alleged violations of the Rules of Civil Procedure or the Municipal Act (“*The Act*”).

The Complaint Protocol, section 6(3)(e) provides that if the complaint is not within the jurisdiction of the Integrity Commissioner, the Complainant shall be so advised and provided with reasons and referrals as the Integrity Commissioner and Lobbyist Registrar considers appropriate. The Complainant was advised accordingly.

After reviewing several documents submitted by the Complainant, it was determined that there were sufficient grounds to commence an investigation of the allegations under the Code and MCIA.

Financial Impact

There are no financial implications relating to this report.

Broader Regional Impacts/Considerations

There are no regional impacts resultant from this report.

Conclusion

The Integrity Commissioner and Lobbyist Registrar concludes that none of the individual Respondents retained Aird & Berlis and none of them received legal advice from the City Solicitor or Aird & Berlis on the Action. Similarly, they did not direct the City's defence. As a result, there was no obligation to declare a conflict of interest under the MCI A until this matter was brought before Committee of the Whole of the City of Vaughan.

The Integrity Commissioner and Lobbyist Registrar concludes that the six Respondents did not violate Rules 2, 7 or 16 of the Code, or Sections 5, 5.1, or 5.2 of the MCI A.

For more information, please contact: Suzanne Craig, Integrity Commissioner and Lobbyist Registrar, extn. 8301.

Attachment

1. Code of Conduct Complaint Investigation Report No.091819.

Prepared by

Suzanne Craig, Integrity Commissioner & Lobbyist Registrar, 8301