

VAUGHAN

**OFFICE OF THE INTEGRITY COMMISSIONER'S
ANNUAL REPORT**



2019-2020

JANUARY 2019 – JUNE 2020

Table of Contents

MESSAGE FROM THE INTEGRITY COMMISSIONER	4
ABOUT THIS OFFICE	
Office of the Integrity Commissioner.....	6
Office of the Lobbyist Registrar.....	6
Activities of the Office of the Integrity Commissioner	7
SIGNIFICANT ISSUES	
City of Vaughan Code Complaints #091819 and #101619.....	8
Councillor use of Social Media.....	10
FINANCIAL STATEMENT	11
ACTIVITIES OF THE OFFICE OF THE INTEGRITY COMMISSIONER	13
MANDATORY LOBBYIST REGISTRY	
Moving Forward: Office of the Lobbyist Registry.....	14
EDUCATION AND OUTREACH	
Collingwood Inquiry – Policy Panel – December 2019.....	18
Appointment as Interim Temporary IC of City of Brampton.....	19
Meeting With Other Jurisdictions.....	19
EXAMPLES OF IC ADVICE/ISSUES OF NOTE	20
CLOSING REMARKS	23

Message from the Integrity Commissioner

This report covers the 2019 reporting year and up to June 30, 2020.

I am honoured to present the City of Vaughan Integrity Commissioner's 2019 Annual Report that sets out the Office's activities and decisions over the 2019 year. In December 2018, the newly elected Vaughan Council was sworn into office. 2019 was a year marked with work on updates to the Vaughan Code of Ethical Conduct (the "Code"). These updates amended the Code and Code Protocol to include new rules that codify the expanded role of Integrity Commissioner passes under Bill 68¹. I believe these amendments will serve to enhance and promote ethical culture of Members of Council and Local Boards, in the years to come. The additional mandate and powers of this Office to investigate allegations of conflicts of interest under the *Municipal Conflict of Interest Act* (the "MCIA") and to make applications to court to have a judge decide if a Member breached the conflict of interest rules, provides the public with a more accessible accountability tool and an alternative route separate and apart from the courts.

Throughout the last half of the year, my Office received several significant Code complaints that required this Office to enter into the new territory of MCIA investigations. While municipal accountability officers are at arms length independent statutory officers and City staff have respected my statutory independence, it would be remiss of me not to acknowledge the senior leadership within the City, whose professional expertise and collaboration has been instrumental in assisting me in ensuring that the changes made to the Code rules are reflected in aligned City policy rules. In particular, I would like thank the City Clerk, Mr. Todd Coles and his staff and the City Solicitor, Ms. Wendy Law and her staff



Suzanne Craig,
Integrity Commissioner

dedicated to this Office, Ms. Rebecca Hall-McGuire for their professional support to this Office in the legislative amendments passed through Bill 68. In 2019, the Office built upon the successes of the creation of the Office of the Lobbyist Registrar's work to promote open and transparent communication between the City of Vaughan and the residents to ensure elected officials are held accountable for their actions and decisions on behalf of the City. Additionally, the new requirement under the MCIA that the City maintain a registry of declarations of pecuniary interest, allowed a more transparent view of the Mayor and Councillor's conduct so



that the public could be informed and assured that decisions of elected officials are being made in the best interests of the City.

This Office investigated important complaints under the Code and the MCIA. Some of the investigations filed in 2019 were completed in 2020, hence my decision to include the first 6 months of 2020 in this report. I am pleased to report that the investigations conducted this year have had noticeably positive outcomes, demonstrating both that the public can and does take full advantage of the ability afforded under the Accountability and Transparency provisions of the *Municipal Act* to hold their elected and appointed officials accountable. Further, the outcomes of these investigations have provided clarity for elected politicians of the City on what conduct demonstrates decision-making free from bias in accordance with the ethics rules of the Code.

The complex complaint investigations and the City office closures due to Covid-19, significantly impeded the timely reporting obligations of this

Office. Nonetheless, I am proud of the work of the Offices of the Integrity Commissioner and Lobbyist Registrar, which continues to endeavor to accomplish the mission to foster openness, transparency, fairness and accountability. I take pride in the work of this Office, as is reflected in this annual report.

My thanks go to Ms. Cathy Passafiume, whose hard work and dedication has provided this Office with professional support and expertise, as well as to Mr. John Britto of the City Clerk's Office, who has provided invaluable assistance to this Office in eSCRIBE submissions.

The health emergency of the recent months impedes my ability to set a predetermined path forward for the Office for the upcoming year, however, I am committed to facing the challenges ahead to the best abilities of this Office.

¹Legislative amendments to three key pieces of municipal legislation were passed through Bill 68, which received Royal Assent on May 30th, 2017. Accountability changes to 223.4 of the Municipal Act, 2001 expanded the Integrity Commissioner's portfolio to include investigations concerning the compliance of members of council and of local boards with sections 5, 5.1 and 5.2 of the MCIA; and requests from members of council and of local boards for advice respecting their obligations under the Code of Conduct and the MCIA applicable to the member

About This Office

The Office of the Integrity Commissioner and Lobbyist Registrar is an independent office that reports directly to Council. The office has two divisions – the Office of the Integrity Commissioner and the Office of the Lobbyist Registrar – which are supported by the administrative support of one Executive Assistant.

OFFICE OF THE INTEGRITY COMMISSIONER

The Integrity Commissioner is responsible for providing policy advice, complaint resolution and education to Members of Council on issues of ethics and integrity, with respect to the Code rules. This is done to maintain high ethical standards at the City of Vaughan. Elected officials are required to follow the Code of Ethical Conduct for Members of Council and Local Boards. The Integrity Commissioner's primary role is to ensure the Code is followed, this includes:

- Addressing any violations made against the code.
- Assessing requests and complaints made by a member of the public or Council.
- Educating Council Members on the Code.
- Outlining recommendations to deal with any violations.

The role of the Integrity Commissioner has been expanded to include the application of the MCI A rules in respect of conduct of Members of Council and Local Boards.

This means that members of the public can bring complaints alleging MCI A contraventions by Members of Council and Local Boards to the Integrity Commissioner.

- The IC is now specifically empowered to provide advice to members of councils and local boards, including advice on MCI A rules.
- The IC has the power to apply to a judge for a determination of a question of whether a member has contravened sections 5, 5.1 or 5.2 of the MCI A.

OFFICE OF THE LOBBYIST REGISTRAR

The Office of the Lobbyist Registrar oversees a system of registration in which registrations are kept (returns) of persons who lobby public office holders and which include such information as determined by the Lobbyist Registrar. The Lobbyist Registry is a tool that provides accountability and transparency to lobbying activities by giving the public access to information about who is communicating with public office holders.

Lobbying is any communication conducted by interested parties to elected officials or senior executives. This activity is in many respects a positive contributor to debate and is an important part of the governing process. The lobbying of Members of Council and staff on municipal issues can enhance the deliberative process by providing the perspective of stakeholders that might otherwise be lost. Greater transparency of who is communicating with Members of Council or senior



staff, will enhance the public's perception that decisions are being made in an accountable way.

Upon receipt of a complaint, the Lobbyist Registrar will conduct an investigation to determine if the individual or company communicating with the Member of Council, Local Board or staff, has registered as a lobbyist and if she or he has complied with the requirements of the Lobbyist Code of Conduct. Following an investigation, the Lobbyist Registrar may impose a penalty in accordance with the Lobbying By-Law of the City of Vaughan.

ACTIVITIES OF THE OFFICE OF THE INTEGRITY COMMISSIONER

In the 2019 reporting year, the Office received 6 informal complaints and 6 formal complaints in relation to the Code of Ethical Conduct for Members.

Of the six formal complaints, an investigation file was opened on 2 but they were dismissed, 1 was mediated with recommendations to the Respondent as part of the settlement negotiations, 3 were subject of complete investigations. Of the two formal complaints that triggered the MCI A rules that were dismissed after opening a complaint investigation, the matters were discontinued as it became apparent in the course of the investigation, that there were insufficient grounds to continue.

Of these 3 formal complaints, one was investigated under section 223.4 of the Municipal Act (non-MCI A Code of Conduct provisions) with the allegations not sustained and two were investigated under section 223.4.1 of the Municipal Act and concluded with a finding that as Integrity Commissioner, I would not make an application to court to have a judge determine if there had been a breach of the MCI A.

Significant Issues



CITY OF VAUGHAN CODE COMPLAINTS #091819 & #101619

This Office dedicated considerable time and thoughtful consideration in 2019 to the investigation of Code Complaints #091819 and #101619. In complaint #101619, I investigated the allegations that the Respondent acted with hostility towards the opposition levelled against another Redevelopment Program and emphatically supported the experts' opinions in its support. The Complaint alleged that the Respondent was "more bent on promoting the interests of [a named developer] than fulfilling her duty as a councillor to consider different perspectives brought by the City's constituents". The Complaint alleged that a senior staff person contacted the Complainant by telephone to inform that if the Complainant ceased opposing [two Developers] with regards to their land Redevelopment Program, the two Developers would have City Council, through the Respondent, "back off" its review of the Complainant's development project assumption issues.

In short, the complaint set out that the City's investigation into the Complainant's development project was not undertaken in good faith but rather was initiated to respond to pressure from the Respondent in response to a Developer to pressure the Complainant into ending their opposition to the other Redevelopment Program.

In this complaint, I reviewed the allegations through the provisions contained in Rules 1, 7 and 9, which are in place with a view to ensuring that municipal elected officials do not act in a manner that would cause a reasonable person to think that they would show favour toward someone or that they can be improperly influenced. A Member of

Vaughan Council is required to consider whether their relationships and affiliations could prevent them from acting fairly and objectively when performing their duties for the City. If they cannot be fair and objective because of a relationship or affiliation with a group, the Member should refrain from participating in the discussion and decision-making, not insofar as any potential financial gain, but rather in relation to a real or perceived granting of favour towards the group.

The Code recognizes that the decision-making authority for the municipality lies with Council, not an individual Councillor and that it is the role of the officers and employees of the municipality to implement Council's decisions. Members of Council recognize and respect the role of City staff and affirm that only Council as a whole has the capacity to direct staff members. However, this does not mean that an individual Member of Council may take at face value, information about the performance of staff and utilize the unvetted information to make decisions, especially not in the area of procurement or planning where Provincial legislation sets out not only the process municipalities must follow to ensure lawful decision-making, but also the professional standards that professional staff must follow in their designated areas of expertise. At meetings, members are permitted to ask questions, seek clarification, and engage critically with the reports which inform the decisions which they must make. There was no evidence that the Respondent overstepped her role in respect of the subject matter of this complaint.

It was clear from the information that I received

throughout this investigation that the Respondent showed no preferential treatment towards certain developers and did not direct staff in any way, including by favouring one developer or causing delays in respect to projects of another developer. This investigation again highlighted to me that when there are allegations of wrongdoing by a staff person as part of a Code complaint against a Member of Council, the fact that my jurisdiction does not include the review of City staff conduct, is problematic. Issues relating to staff, in this case the "culture of fear" within a City department, as referred to me by witnesses through interviews, was not an issue that I could substantively review and it left troubling questions unanswered. While the City has a robust process in place to receive and investigate complaints against staff, through engaging an independent Human Resources investigator, the overlapping investigations for which this Office has carriage and the independent investigator has carriage respectively, create an impediment to a thorough review of all allegations of wrongdoing.

It is not uncommon for victims of harassment to tolerate unwanted behaviour longer than expected. However, there is a zero tolerance policy in place for harassment at the City and the intersection between the investigative jurisdiction of the this Office and the responsibility of the administration, should work in such a way that the beneficiary of a safe and respectful workplace is City staff. In other words, being assured of a safe workplace should not mean that staff must go out on a limb with fear of reprisals for working with this Office. I will be working with the Human Resources department to explore opportunities for the creation of a memorandum of understanding so that our respective areas may enter into undertakings to maintain confidentiality of the respective files, while having the ability to obtain redacted information to enable all information relevant to an investigation to be received by an investigator, so that a fair outcome can be reached.

In Complaint #091819, the Complainant raised several allegations, and I interpreted and reformulated the Complaint into five issues which

alleged that 6 Members of Council violated the Municipal Conflict of Interest Act ("MClA"). In short, the Complaint alleged that the Members named as Respondents:

- 1** Retained a law firm to act for the City of Vaughan and individual Members of Council with respect to a lawsuit brought against the City and certain Members of Council and the assertion that there were meetings at which both the City Solicitor and the law firm gave legal advice to individual members of Council on this matter;
- 2** Directed and attempted to influence the law firm and the City Solicitor with respect to the formulating of the defence of the Action on behalf of the City;
- 3** Discussed the Action with the law firm and other Members of Council not named in the Action; and
- 4** Used the City's Indemnification By-law to pay for their defence of the Action.

The fact that the Complainant had raised issues that were germane to an ongoing matter before the courts did not remove from my jurisdiction those issues that fall within the ambit of enforcement of the Code and the MClA. The fact that the Complainant has chosen to submit a complaint which has elements that intersect with matters not within the jurisdiction of the Integrity Commissioner did not, in my view, colour the complaint with bad faith. A complainant is allowed to raise issues that challenge and publicize public decision making. That is one of the reasons for the 2006 amendments to the Municipal Act that introduce Part V.1 entitled Accountability and Transparency.



The Complainant suggested that it is not proper for the Indemnification By-law to indemnify Members of Council who were named in a claim under s. 424 of the Municipal Act. I concluded that if the Court determines during the litigation of the Claim, that the Defendants must repay the amount, and if at that time the Members of Council rely on the Indemnification By-law to pay the court ordered amount, it would be up to a court in further litigation, to determine that the City/taxpayers should not be responsible to pay damages ordered by the court for personal liability with City funds pursuant to the rules of the Indemnification By-law.

It was my obligation as Integrity Commissioner in investigating this complaint, to ensure that the only discussions that took place between the Respondents and staff, were administrative and not substantive discussions that could reasonably affect the outcome of the court proceeding. The Complaint made several allegations that the Respondents conducted discussions with the City Solicitor, external Counsel to the City and unconflicted Members of Council, with a view to influencing the decision of the City Solicitor in respect of the City's defence. It was my position that I had a public interest responsibility to commence an investigation to ensure that conduct contrary to the Code rules did not occur. Early in the investigation, I received information that enabled me to dismiss the Claim against three of the Respondents.

There was no evidence that the Members attempted to influence the unconflicted member of council by discussing the Action despite their conflict. Indeed, as a result of the lack of quorum, no meetings took place and all discussions of Council are on hold pending determination of the Quorum Application. As a result of my findings, I decided not to make an application to the Court to determine whether there has been a breach of the MCIA.

Throughout this investigation, the Complainant sought a determination on whether Members of Council generally may be indemnified for liability under s.424 of the Municipal Act. I noted, that the matter goes beyond my jurisdiction and can only be

resolved by the courts. The Complainant alleged that Council members in bringing amendments to the Indemnification By-law forward to a council meeting were, in essence directing staff on a matter that represents a pecuniary interest for which they have personal liability under the Municipal Act. The fact that the courts may consider whether the Indemnification By-law is ultra vires in respect to reimbursement of Members in a suit under s.424 of the Municipal Act, does not preclude the Integrity Commissioner from considering the application of the Indemnification By-law in respect of investigation MCIA complaints.

I concluded that objectively, it is within the powers of a municipality to indemnify employees and Members of Council who are sued while carrying out their duty of employment or elected office, in other words, while doing their job. I stated in my report that there is a carve out in the Municipal Act, with respect to special funds and it appears that the legislature has said in this case, if a Member is found to have contravened s.424, there is personal liability. However, a determination on whether a municipality can include a provision in the Indemnification By-law to reimburse Members for s.424 contraventions, is a decision reserved for the courts.

COUNCILLOR USE OF SOCIAL MEDIA

There were many questions raised during this reporting year about the use by Members of Council of social media to communicate with their constituents. Unlike the City of Toronto, the City of Vaughan does not provide Constituency Offices for Members of Council. Funded with taxpayer dollars, the use of City staff to populate private social media accounts is a matter that will be discussed with City executives responsible for this area, as well as, Members of Council themselves. Parliamentary convention has established that if a Member of Council has established that a social media handle will be used as their official

City vehicle for communicating City business and updates, there is an expectation that this space will be a partisan-free zone; that is, when constituents visit they should not encounter any evidence of the Member's partisan role or activity. If the Member is using their personal social media account also as a City business account, the lines will be blurred. Parliamentary convention extends beyond the bricks and mortar of City Hall or the Member's office into the online world. A constituent who visits a Member's Councillor website should not encounter any partisan content, nor should they be directed to partisan content if they click on any links on the site. Many Councillors have sought advice from this Office about whether their personal social media feeds, that they use to disseminate City business, can also be used in the 2022 municipal election and beyond.

During this reporting year, this Office met with City staff to discuss a workable and practical way forward that would allow Members of Council to

use the immediacy of social media without running afoul of the Code of Conduct rules. As part of an ongoing discussion, I advised that to comply with the Municipal Elections Act, 1996, the Code of Conduct and the City's Policy on Use of City Resources During an Election, Members must take affirmative steps to clearly distinguish between use of social media for personal or election purposes on the one hand, and use of social media in his or her capacity as a City official on the other. Municipal Integrity Commissioners, as well as ethics officers at the provincial and federal level of government, agree on fundamental principles that apply to all levels of government, including the requirement to separate partisan activity and third-party business promotion from all members' official duties.

I look forward to continuing this ongoing discussion with the professional staff at the City and to receive valuable input from the Members of Council themselves, to arrive at a position that balances transparency and fairness.

Financial Statement

The Office of the Integrity Commissioner's fiscal year runs from January 1, 2019 to December 31, 2019.

*Salaries include remuneration of Integrity Commissioner, Lobbyist Registrar, Executive Assistant for the Office of the Integrity Commissioner and Lobbyist Registrar and respective benefits.

Salaries & Benefits*	340,192
Seminars & Workshops	5,637
Computer Software	40,943
Training & Development	7,391
Copier/Fax Supplies	489
Copier/Fax Lease Charges	2,342
Professional Fees	45,000
Cellular Line Charges	506
Memberships/Dues/Fees	2,391
Office Supplies	3,158
Hardware Equipment	2,462
Rental, Leases - Buildings	27,388
Total	477,900

Term of Council Service Excellence Strategy Map (2014-2018)



TERM OF COUNCIL PRIORITIES

- Improve municipal road network
- Continue to develop transit, cycling and pedestrian options to get around the City
- Facilitate the development of the VMC
- Support the development of the hospital
- Re-establish the urban tree canopy
- Invest, renew and manage infrastructure and assets
- Continue to ensure the safety and well-being of citizens
- Meet Council tax rate targets (no greater than 3%)
- Update the Official Plan and supporting studies
- Attract investment and create jobs
- Create and manage affordable housing options (secondary suites)
- Continue to cultivate an environmentally sustainable city
- Support and promote arts, culture, heritage and sports in the community
- Continue to advance a culture of excellence in governance
- Establish a lobbyist registry
- Enhance civic pride through a consistent city-wide approach to citizen engagement

SERVICE EXCELLENCE STRATEGIC INITIATIVES

CITIZEN EXPERIENCE			
Citizen Experience and Service Delivery		End-to-End Citizen-Centred Services	
Citizens Engaged in Decision Making	Consistent Service Delivery	Improvement Through Technology	
<ul style="list-style-type: none"> Develop a meaningful and inclusive citizen engagement framework 	<ul style="list-style-type: none"> Improve the use of tools and resources Develop service level standards to enhance satisfaction through consistent service experience 	<ul style="list-style-type: none"> Develop and implement a digital service strategy that defines how the City will deliver services through multiple channels (phone, web, mobile) 	
OPERATIONAL PERFORMANCE			
Service Delivery Options		Financial Sustainability	
Effective Service Delivery	Continuous Improvement	Sustainable Fiscal Framework	Demonstrate Value for Money
<ul style="list-style-type: none"> Review service delivery options and shared services to match resources to the desired level of service 	<ul style="list-style-type: none"> Implement continuous improvement initiatives to improve our service and business processes 	<ul style="list-style-type: none"> Create a Financial Master Plan to ensure sustainable fiscal policies and management of assets 	<ul style="list-style-type: none"> Continue to refine our performance measures and benchmark for service delivery
STAFF ENGAGEMENT			
Employee Engagement		Corporate Governance and Accountability Framework	
Invest in Our People	Communication Strategy	Leadership Alignment	Governance and Accountability
<ul style="list-style-type: none"> Establish a People Plan to support employees through change: <ul style="list-style-type: none"> Succession plan Learning and development Workforce planning and talent management 	<ul style="list-style-type: none"> Develop communications to frame the journey of service excellence and transformation 	<ul style="list-style-type: none"> Develop and implement a leadership alignment process that aligns people, process and technology to foster a culture of service excellence 	<ul style="list-style-type: none"> Review the organizational structure with defined roles and responsibilities to ensure it is positioned to deliver on Council priorities Develop an Enterprise Risk Management Framework to better support governance and accountability

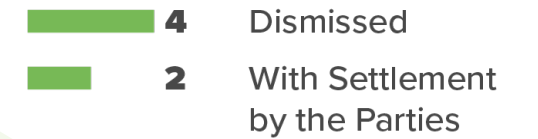
DEPARTMENTAL BUSINESS PLANS

Activities of the Office of the Integrity Commissioner

6 Formal Complaints



6 Informal Complaints

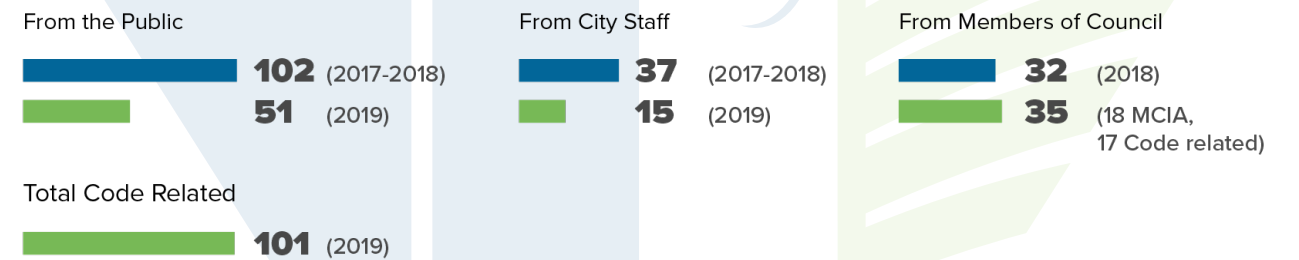


Investigation under s. 223.4.1 of the Municipal Act

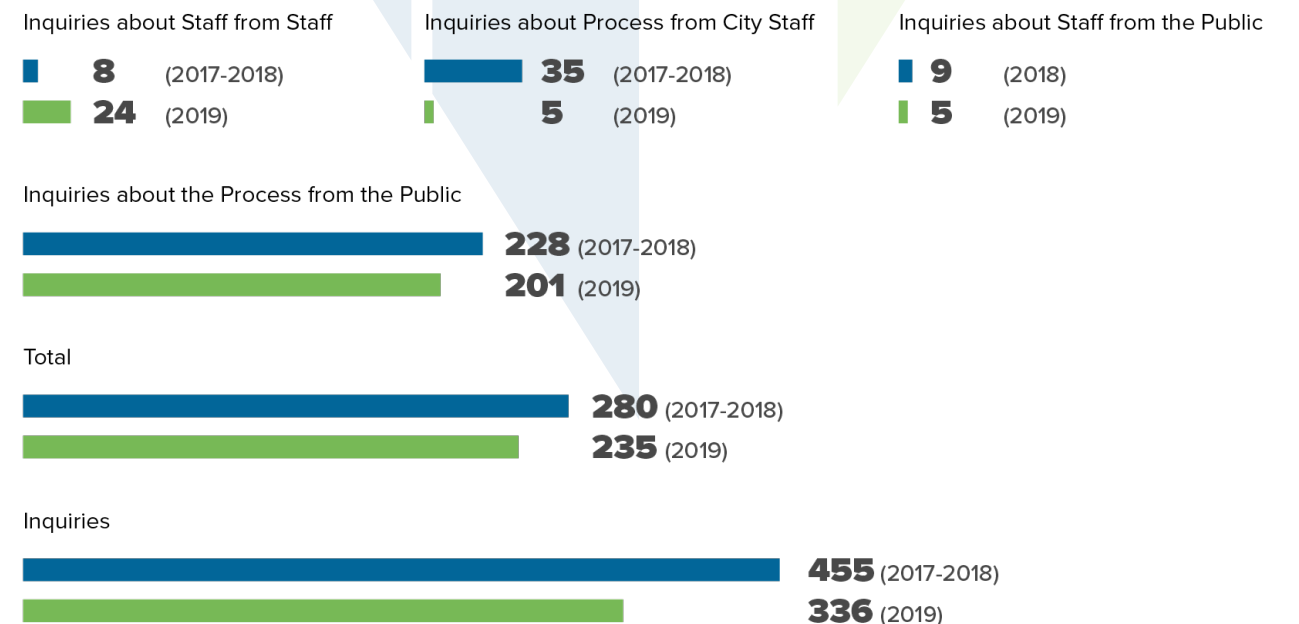
*2 full investigations – decision to not apply to court for a judge to determine if there was a breach of the MCIA

**2 dismissals

Inquiries on Code Application



Inquiries Non-Code Application



Mandatory Lobbyist Registry

The City of Vaughan's mandatory Lobbyist Registry came into force in January 2018. Implementing the registry demonstrates the City of Vaughan's commitment to a culture of excellence in governance. The mandatory Lobbyist Registry allows the public to see who is communicating with public office holders about governmental decisions. Both Justices Bellamy and Cunningham have recommended in their inquiry reports, the creation of lobbyist registries are to ensure transparency in procurement at the municipal level.

Lobbying typically involves communicating outside of a public forum such as a Council meeting or a public hearing. It is often, but not always, done by people who are paid or compensated in other ways for their efforts. What we see throughout Canada, at the federal, provincial and municipal level is that lobbying is one way stakeholders can help public office holders make informed decisions. When transparent to the public and in accordance with the By-law, lobbying public office holders of a city is a legitimate and potentially helpful activity. Registering lobbying activities allows both public office holders and senior staff to carry out their duties with impartiality and transparency. Lobbying is a legitimate activity that facilitates Council's receipt of information necessary to make effective decisions that are responsive to the needs of their community.

MOVING FORWARD: OFFICE OF THE LOBBYIST REGISTRY

As the City's chief accountability officer, I exercise my statutory authority independent of the administration. The goal of a Lobbyist Registry system is to ensure that members of the public are assured that communications that are considered

to be lobbying for the purposes of the By-Law, will be treated as such and registered. Though the mandatory Lobbyist Registry is in the early stages of its development, there are significant opportunities to learn from the experiences of other jurisdictions. One such area was how not-for-profits' communications would be treated under the regime. Generally, not-for-profit organizations do not have to register if they lobby while acting in their official capacity. However, when a member of a not-for-profit lobbies for a financial benefit or for a purpose that is generally beyond the purpose of the not-for-profit, or when a consultant lobbyist communicates on behalf of a not-for-profit, the entity or the consultant lobbyist must register. Early in the existence of the mandatory lobbyist registry, this Office had received a significant number of questions from City staff, the public, for-profit businesses and not-for-profit entities, about the status of not-for-profits under the City of Vaughan's lobbying regulations.

In April 2019, this Office brought forward a report to Council entitled Regulation of Not-For-Profit Lobbying Activities Under the City of Vaughan Lobbying By-Law. A healthy democracy requires open and fully transparent communication between the government and the public, as well as strong and fair relationships clearly defined roles, responsibilities and definitions.

Not-For-Profits are a vital part of the community and should not be burdened by excessive administrative requirements to register according to the Registry guidelines. However, where the activities of a not-for-profit operate to benefit private or for-profit interests and are not ancillary or incidental to the purpose or operation of the not-for-profit, the group or organization will be subject to the lobbyist registration rules.

What led up to the Lobbyist Registrar recommending changes to the Lobbying By-Law?

a) In the first year that the mandatory lobbyist registry was in force (2018) the Office of the Lobbyist Registrar fielded many questions from the business community and City of Vaughan staff with respect to what communications were captured by the Lobbying By-Law and who was required to register their communications.

b) It became evident in 2019, that there was a need for this Office to clarify who had to register as a lobbyist under the Lobbying By-Law. With a view to obtaining an understanding of how the new mandatory regime was being implemented "on the ground", and how best to ensure the spirit and letter of the By-Law, this Office met with several City senior staff to receive suggestions on what content was needed to provide greater clarity. The meetings involved a full and frank discussion of the problems the community sector was experiencing in understanding the registration requirements under the mandatory regime.

In order to provide clarity to the public and City staff, the Office of the Lobbyist Registrar recommended to Council that a change be made to the Lobbying By-Law. The recommendation was approved and the following changes were included in the Lobbying By-law:

a) A definition of a Not-For-Profit;

b) In order for the Not-For-Profit exemption to apply, all of the following three conditions must be met:

A. The group or organization must be a **not-for-profit** group or organization as defined by the By-Law;

B. The lobbying activities undertaken by the not-for-profit must be **ancillary or incidental** to the purpose or operation of the not-for-profit; and

C. Any lobbying activities on behalf of the not-for-profit must be performed by a **voluntary unpaid lobbyist**.

If any of the above conditions are not met, the not-for-profit exemption would not apply and the group would be required to register any communications with the City.

2019 was the second full year of the Office's experience with the new powers given to this Office as Lobbyists Registrar, to investigate matters of non-compliance and to impose penalties if there is a contravention of the rules. In this reporting year this Office has not received or concluded any investigations. In discussions with some businesses owners in the Vaughan community, I have been advised that "nobody wants to be viewed as a lobbyist". This is not the sentiment overall of business in Vaughan and individuals doing business in Vaughan. However, it does provide evidence to me that it will take some time for matters to come into the mandatory regime system, be investigated and then be reported on. Overall, the anecdotal information that I have received suggests to me that there is a greater need for education that must come from my Office to clarify what a lobbyist is and who is required to register.

This year there were no investigations concluded but several individuals have contacted this Office to discuss whether they are required to register their communications that took place with elected officials. These queries reflect the fact that over a two-year period we are moving towards a steady state of understanding of the what the regime entails, but more needs to be done on the part of this Office to educate and inform of the mandatory registry rules. I recognize that there is work to be done on the education front. I was pleased with the initiative of the Corporate and Strategic Communications Department that publishes an annual magazine highlighting Vaughan's achievements. An article

about this Office was included the Annual Magazine and since the magazine goes out to approx. 100,000 residents including residential and business owners, in addition to the information session and distribution of materials sent out in the first year the registry was in force, through inclusion in the annual magazine, lobbyists have been given further information about the work of this Office. It is clear that individuals want to stay on the right

side of the rules and register their communications with elected officials and senior staff making decisions at the City. I realized that language had to be included in the Code to encourage Members of Council to be more fully engaged in encouraging lobbyists to register communications. I therefore, included in the commentary of Rule 2, language that if a Member is or at any time becomes aware that a person is in violation of the Lobbyist Code of

Conduct or registration regime, the Member should draw that person's attention to the obligations imposed by the Lobbying By-law and Lobbying Code of Conduct. A Member should report any such violation or attempted violation of the Lobbying By-Law to the Lobbyist Registrar. I have no indication of significant omissions on the part of lobbyists to register, however, it is clear that there is a need for the development of further education tools that will

assist the Office in our efforts to have an ongoing dialogue with the lobbyist community together with the development of advisory opinions and speaking engagements to better underscore the obligations of lobbyists under the mandatory lobbyist registration regime.

² Inquiries from multiple individuals on same topic counted as 1 inquiry.

DEC 2018 – DEC 2019

NEW ACCOUNTS		ISSUES		WHO WAS LOBBIED	
January	9	January	3	Interim City Manager	8
February	1	February	1	Councillor Alan Shefman	9
March	3	March	3	Councillor Marilyn Iafrate	6
April	3	April	2	Councillor Tony Carella	5
May	5	May	5	Regional Councillor Linda Jackson	5
June	8	June	2	Deputy Mayor and Regional Councillor Mario Ferri	4
July	8	July	4	Mayor Maurizio Bevilacqua	4
August	1	August	0	Regional Councillor Gino Rosati	4
September	5	September	1	Councillor Sandra Yeung Racco	4
October	5	October	3	Chief Information Officer	2
November	5	November	4	Councillor Rosanna DeFrancesca	2
December	3	December	3	Regional Councillor Sunder Singh	2
				Deputy City Manager, Public Works	1
				Chief Corporate Initiatives and Intergovernmental Relations	1
				Director of Transformation and Strategy	1
				CFO and City Treasurer	1
				Deputy City Manager Community Services	1
				City Clerk	1
				City Solicitor	1
				City Manager	1
				Director Corporate and Strategic Communications	1
				Deputy City Manager Public Works	1

JAN 2020 – JUNE 2020

NEW ACCOUNTS		ISSUES		WHO WAS LOBBIED	
January	1	January	1	Mayor Bevilacqua	7
February	4	February	5	Regional Councillor Linda Jackson	7
March	6	March	6	Regional Councillor Gino Rosati	6
April	3	April	1	Councillor Sandra Racco	6
May	5	May	3	Councillor Tony Carella	6
June	3	June	6	Councillor Alan Shefman	5
				Deputy Mayor and Regional Councillor Mario Ferri	4
				Councillor Marilyn Iafrate	3
				Councillor Rosanna DeFrancesca	2
				DCM Planning	2
				Interim City Manager	1
				Acting DCM Planning	1
				DCM Public Works	1
				Director Internal Auditor	1
				Director Corporate and Strategic Communications	1
				Director Economic Development	1
				Policy Analyst	1
				Director of Transformation and Strategy	1
				DCM Corporate Services City Treasurer	1
				City Solicitor	1
				DCM Infrastructure Development	1
				City Clerk	1
				Chief Information Officer	1

Non-Lobbyist Registry Issues

January 2019 - June 2020 **54**

Telephone Inquiries

2019 = **30**

2020

January - June approx. **30**

Phone calls received related to technical issues (ie. Problems creating passwords) **9** LR Accounts have been closed – by request of the Lobbyist

Education & Outreach

COLLINGWOOD INQUIRY – POLICY PANEL – DEC 2019

The Town of Collingwood Judicial Inquiry was called by a vote of the Town of Collingwood Council in February 2018, and public hearings began in April 2019. Council asked the inquiry to look into the 50 per cent share sale of Collus to PowerStream in 2012 and the subsequent spending of the proceeds from the sale to cover some of the costs of two fabric membrane structures built as recreation facilities.

According to Associate Chief Justice Frank Marrocco, Commissioner for the Collingwood Judicial Inquiry, there have been 61 days of hearings, 650 pages of foundation documents prepared by the inquiry, half a million documents submitted by participants, 14 experts, five panels, and 14 affidavits.

The inquiry hearings were split into three phases. The first phase dealt with the share sale and included 29 witnesses testifying at hearing dates from April 15 to June 28.

Part two looked into the spending of the proceeds and construction of the Central Park Arena and Centennial Aquatic Centre. Hearings ran from Sept. 11 to Oct. 24 and included 14 witnesses.

The third part of the inquiry was called a “policy phase” and hearings ran from Nov. 27 to Dec. 2 with panels of experts on good governance, municipal law, procurement, and lobbying. As 1 of 3 subject matter experts called to act as an expert witness in municipal governance policy in the final panel of the Collingwood Judicial Inquiry, I attended on December 2, 2019 and spoke on the topic of lobbying. The information provided by the lobbying

policy experts will assist Justice Frank N. Marrocco in forming the recommendations in the final report to the Town of Collingwood. The December 2, 2019 panel discussion on lobbying and lobbyist registries, featured presentations by the Integrity Commissioner and Lobbyist Registrar of the City of Vaughan, former City of Toronto lobbyist registrar Linda Gehrke and Ottawa lobbyist registrar and integrity commissioner Robert Marleau.

As a Member of the lobbying policy panel, I provided the Inquiry Commissioner with my own experiences with the Vaughan Lobbyist Registry, and advised on how in the absence of an ethical compliance framework, including a mandatory lobbyist registry, a municipality’s legal and reputational risk is high.

Over 61 days, the inquiry has heard evidence on the 2012 sale of the town-owned electricity distribution company, Collus, to PowerStream, and the subsequent use of those funds to purchase two fabric membrane structures. In both deals, Paul Bonwick — the brother of then-mayor Sandra Cooper — had been retained by PowerStream and the company that built the structures to negotiate with the municipality, earning approximately \$1 million.

I was quoted as saying that “[w]e have to clearly recognize that development and lobbying is not bad, and this is something that we have to work very hard to communicate” and “[a] lobbyist registry has to ensure that the relationships that members of council have with the community and with staff are transparent. If this does not happen, it hurts the town, it hurts the city, and it hurts business.”

“Lobbying is generally perceived as a negative black art by the general public, and that’s largely due to the reputation that lobbying has developed south of the border,” said Robert Marleau. “Knowing

that it is legitimate, so long that it is transparent, only enhances the reputation of the public office holder and the reputation of lobbyists.”

The parties were scheduled to file closing submissions to the second phase of the inquiry in early January. Associate Chief Justice Frank Marrocco said he expects to publish his report of findings and recommendations in 2020.

APPOINTMENT AS INTERIM TEMPORARY IC OF CITY OF BRAMPTON

In a press release, the City of Brampton announced that it had appointed the City of Vaughan’s Integrity Commissioner as a temporary integrity commissioner from March 1, 2019 to May 31, 2019 as it continued its search for a permanent replacement [of its resigning Integrity Commissioner]. Provincial legislation, which came into effect March 1st, requires all municipalities to have an integrity commissioner in place; the city said: Section 233.3 (1.1) of the Municipal Act states that If a municipality has not appointed a Commissioner, the municipality shall make arrangements for all of the responsibilities set out in the Act to be provided by a Commissioner of another municipality. In order to remain in compliance with the Municipal Act,

the City of Brampton, which modeled its Code of Conduct on that of the City of Vaughan, saw the temporary appointment of Vaughan’s Integrity Commissioner as an obvious choice.

MEETING WITH OTHER JURISDICTIONS

- Participated in bi-monthly meetings with the Lobbyist Registrar of the City of Toronto.
- Hosted the 10th Annual Municipal Integrity Commissioners of Ontario (MICO) meeting on October 25, 2019 at the McMichael Canadian Art Collection Museum, in Kleinburg, Vaughan. Over 35 Integrity Commissioners from across Ontario attended. Presentation topics included the Changing Role of the Integrity Commissioner, Councillor Misconduct and Social Media, Intersection between Code Breaches / Councillor obligations and Lobbyist Rules. The Keynote speaker was Ms. Nancy Belanger, Commissioner of Lobbying of Canada.
- Benchmarked and had best practices discussions with Integrity Commissioners across Canada, including with the Integrity Commissioners of the City of Winnipeg, City of Edmonton and First Nations in Ontario.



Guest Speaker – City of Vaughan – Black History Month 2019 Event | Emcee of Ceremonies, City of Vaughan – Black History Month 2020 Event

Examples of IC Advice/Issues of Note

Q. A Member of Council who was named in a civil proceeding asked whether discussing and voting on changes to the City of Vaughan Indemnification By-law and Code of Ethical Conduct (the “Code”) Complaint Protocol in respect of indemnification of legal expenses incurred for responding to Code of Conduct complaints would trigger obligations for Members of Council under s. 5, 5.1 and 5.2 of the Municipal Conflict of Interest Act (“MCIA”) and if they would be disqualified from participating in a discussion at Council of amendments of the City’s Indemnification By-law.

A. In the course of carrying-out their official duties, Members of Council are potentially subject to a legal action or Code of Conduct complaint, including one that alleges a contravention of the MCIA. Generally, the indemnification for Code complaints will provide for the payment of legal fees, as well as costs incurred or made against a Member of Council in response to a Code of Conduct complaint. I stated that it is my position that participation and vote were in the context of a discussion involving indemnification to which a Member generally is or may have been entitled to is a benefit and falls within the meaning of s. 4(i) of the MCIA. Conversely, when Council functions as a tribunal sitting in judgment on an issue of whether a counsellor’s conduct came within requirements of the municipality’s Indemnification By-law, the Member subject of the discussion is disqualified from participation in the discussion and cannot avail her or himself of the s.4(i) exception of the MCIA.

³Furniss v. Nishikawa, 2018 ONSC 3674, 2018 CarswellOnt

Q. A Member of Council advised that after having read the agenda for an upcoming council meeting, they discovered that there would be an item regarding the Proposed sale of land. The Member’s child lives in a house which backs onto or is in close proximity to the property subject of the matter that will be before Council. The house title is in the name of the future in-law of the Member’s child.

A. This request for advice triggered both Code and MCIA rules. Rule No. 1

Key Principles of the Code states:

c) **Members of Council shall avoid** the improper use of the influence of their office, and **conflicts of interest, both real and apparent.** Members of Council shall not extend, in their discharge of their official duties, preferential treatment to family members, organizations or groups in which they or their family member have a pecuniary interest. (**emphasis added**, Commentary omitted).

In accordance with section 3 of the MCIA, a decision-maker may have a personal interest where their spouse, child or parent has an interest in the matter subject of the council meeting, including the increase or diminished value of residential property. Where there is a sufficiently close relationship due to a combination of factors, it may also give rise to a personal interest.

Pursuant to sections 4(j) and (k) of the MCIA, where the pecuniary interest of the councillor is “in common with electors generally” or “so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence” the councillor, s. 5 does not apply. Based on the information that the

Member provided to me, the Member’s child and future son-in-law are not tenants at the property where they currently reside. However, at some point in the future, upon the sale of the property, the two may receive a small portion of the proceeds of the sale.

In the 2011 decision the court decided that any decision of the members of Council could affect the price or whether the property would be sold at all. Therefore, the court posited that “[t]he question that must be asked and answered is ‘does the matter to be voted upon have a potential to affect the pecuniary interest of the municipal councillor?’” [Emphasis added].

I advised the Member that while it was my position that based on the facts presented to me, they did not currently have a deemed pecuniary interest pursuant to section 3 of the MCIA, as their child is neither the owner of the property nor the spouse of the owner, there is a possibility that a court may find differently based on evidence adduced. In the event that a court were to find that the Member’s child’s imminent change in marital status and gifting of the residential property, would place the Member in a deemed pecuniary interest position pursuant to s.3 of the MCIA, the Member would not be relieved of their obligations under section 5.1 of the MCIA, as they would not have an interest in common with other electors, given the difference in size of the lot in comparison to the majority of the lots in the affected area.

I concluded by advising the Member that the decision to exercise the obligations set out in s. 5 of the MCIA is characterized as a matter of personal judgment for each Member of Council and therefore, based on my comments, the Member must make their own personal decision, taking into consideration all facts.

Q. A Member of Council asked if they could appear in a promotional video for the opening of a local business.

⁴Godfrey et al v. Bird and District of North Saanich, 2005 BCSC 626 at paragraph 121

⁵Mondoux v Tuchenhagen (2010), 79 M.P. (4th) 1 (Ont. S.C.J.).

A. I advised the Member can attend the opening of the business and celebrate the business’ achievements. However, it would not be an appropriate activity under the Code to appear in the promotional video as this may be viewed as an endorsement of the business and using the Member’s position improperly to further the business’ private interest.

Q. A Member of Council asked if they could use an embosser purchased with office budget funds, to add a seal to correspondence from their office.

A. I advised that while I was available to provide comments on the interpretation of the Code and what outcomes may play out as a result of a Councillors’ actions, I cannot be the decision-maker on what City policies allow. In other words, in this case, it is the responsibility of the relevant City department to interpret the Council Expense Policy and what an allowable expense entails. Upon review of the seal, it appears that the City’s name was included, as well as the Member’s title.

I advised that it was my understanding that most letters of recognition/greetings and congratulatory certificates are produced by the City of Vaughan, in accordance with approved Corporate standards. I was not aware that individual Members of Council created their own individualized seal/logo to be placed on these types of correspondence. Whether or not it is permissible for a Member to create their own individualized seal/logo is a determination to be made by appropriate City staff.

Generally speaking, while the certificates issued by a Member to residents in the community to recognize their achievements and milestone birthdays, as appropriate under the Council Expense Policy, if a Member is participating in a recognition ceremony for a private organization, then the letterhead and seal of that organization should be used.

Only if the Member is attending in his or her official Vaughan capacity, should the Vaughan logo be used and only on Vaughan approved letterhead.

Q. A Member of Council asked if they could allow a candidate running in the federal election to use their name on a campaign letter they would be sending out.

A. I responded that as a Member of Vaughan Council, their Code of Conduct obligations require them to avoid affording any one person or group preferential treatment and to avoid any actions that may be perceived to grant preferential treatment.

A letter with a political party letterhead or logo endorsing an election candidate is prohibited under Rules 5 and 6 of the Code. It is my position that a letter that includes a general invitation to vote but identifies a political party or candidate, is election related activity and is prohibited behaviour under the Vaughan Code of Conduct.

The only times that this would be allowed is if the Member were running for election in the Federal election or , in a municipal election year and past nomination day, the Member would be permitted to continue their mandate as a Councillor of Vaughan and conduct separate actions as candidate.

If there is a political party logo or a particular candidate endorsement, the letter would fall into the category of election campaign activity.

Q. A Member's Executive Assistant(EA) asked if they could use their social media account to encourage the public to donate articles of clothing to a local charity as a part of a clothing/funding raising drive.

A. I responded that as long as the EA is soliciting donations and contributions for the clothing drive through their personal social media accounts and as long as there are no links in the social media accounts to a City of Vaughan website or the

Councillor's official social media sites or use of the City of Vaughan logo, there is no Code impediment to this activity.

Of course, any work, including volunteer work would have to be conducted during hours for which the EA is not remunerated for work for the City of Vaughan. In addition, if any individuals, who have seen the private social media account, want to discuss donations or contributions using the EA's City of Vaughan contact (phone, email, coming into the office and dropping items off), it would be prudent to prepare a script to advise individuals that they may contact the EA (a) during hours when they are not working at the City of Vaughan, and (b) by way of their personal email/telephone contact.

An EA's City of Vaughan work obligations do not act as an impediment to doing volunteer work in the community, especially assisting the most vulnerable. The important thing to remember is that the staff person clearly define their personal/private from their official work as a City of Vaughan employee.

I also recommended that the EA contact City of Vaughan Human Resources staff, to determine what if any requirements must be observed under the Employee Code of Conduct.

Q. A Member of Council asked if there were Code restrictions to helping a non-profit organization fundraise. The Member wanted to know if they could endorse the organization and solicit funds from corporations or donors on its behalf?

A. I advised that the Member should avoid directly asking for donations on behalf of any organization. While provisions of Rule 2.3 of the Code and the Council Expense Policy allow a Member to attend fundraising events and speak publicly about the good work of a particular organization, soliciting donations in fundraisers can be seen as an improper use of the Member's influence, contrary to Rule 7 of the Code.

Closing Remarks

As the City's chief accountability officer, I exercise my statutory authority independent of the administration. Often accountability reports focus solely on wrongdoing, however, I am pleased to report that I have received cooperation from senior executives of the Administration, with respect to information I believed to be necessary for the investigations conducted. Early integration of mediation into informal investigations has enabled timely advice to be provided to Members of Council and, as appropriate, more broadly recommendations to City staff on policy rules that intersect with the application of the Code of Conduct.

The Office of the Integrity Commissioner's operational strategy is to prioritize the detection and deterrence efforts against activity that would significantly undermine the public trust in municipal government ethical decision-making. A significant amount of work of this Office in this reporting year has been dedicated to responding to Members' formal and informal requests for advice. With this strategic focus on facilitating compliance, the Office has continued its strong mandate of proactive consultation with Members, their staff and the public, with a view to encouraging interaction, dialogue and understanding of the day to day application of the rules of the Code and Lobbying By-law.

Respectfully submitted,



Suzanne Craig
Integrity Commissioner

VAUGHAN CITY HALL



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For information about the Integrity Commissioner's office please visit us [here](#)
For information on the Lobbyist Registry, please visit us [here](#)