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**OFFICE OF THE INTEGRITY  
COMMISSIONER**

**TO:** Vicki Tytaneck Town Clerk  
**FROM:** Suzanne Craig, Integrity Commissioner  
**RE:** Dismissal Report - TOWN OF OAKVILLE CODE OF CONDUCT  
COMPLAINT REPORT #051724

I am writing to provide you with information regarding Integrity Commissioner Inquiries Procedure rules and application to the above-noted Dismissal Report that will be before Council for consideration on September 16, 2024.

As set out in my public report, the factors that I considered when deciding to exercise my discretion to publish my reasons include that:

- this is a matter of public interest and one in which my comments may provide useful guidance with respect to a novel question about the ethics of a member's activities or their decisions;<sup>1</sup>
- it was clear that confusion and misunderstanding played into the Respondent's comments at Council on May 6<sup>th</sup>, and I determined it served the public interest to report publicly on the dismissal of this complaint;
- I received multiple complaints, which further suggested that the public has an interest in my consideration of this matter.

**1. Reasons for Dismissal:**

There are two relevant sections in the Integrity Commissioner Inquiries/Advice Procedure (the "Code Procedure").

Section 3(b) and (d);

(b) If the Integrity Commissioner is of the opinion that a complaint is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an investigation, or that the pursuit of the investigation would not, in the opinion of the Integrity Commissioner be in the public interest, the Integrity Commissioner shall not conduct an

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<sup>1</sup> *Di Ciano (Re)*, 2020 ONMIC 18 (CanLII), wherein IC Batty considered whether to continue an investigation against a former member.

investigation, or, where that becomes apparent in the course of an investigation, terminate the investigation.

...

(d) Where the Integrity Commissioner rejects or terminates an investigation pursuant to this section, reasons shall be provided.

Section 6(c) of the Code Procedure states that:

***Where the complaint is dismissed, other than in exceptional circumstances, the Integrity Commissioner shall not report to Council*** except as part of an annual or other periodic report.

Under section 3 of the Complaint Procedure, where the Integrity Commissioner refuses to investigate or terminates an investigation because a complaint is frivolous, vexatious or not in good faith or there are no grounds or insufficient grounds for an investigation, pursuant to this section, reasons shall be provided. I have interpreted that provision to mean that reasons shall be provided to the parties, as s. 6(c) addresses separately the requirements about a report to Council.

Pursuant to s. 6(c), when a complaint is terminated, absent exceptional circumstances, the Integrity Commissioner shall not report to Council. Typically, I would not publicly report when I terminate a complaint investigation; however, I determined that these were “exceptional circumstances” and exercised my discretion to do so in respect of this Complaint.

For the above reasons, I decided to explain my termination of the investigation and dismissal of the Complaint in a public report. Given that I have dismissed the Complaints, Council may only receive this report.

Pursuant to s. 223.4(5) of the *Municipal Act*, if the Integrity Commissioner reports to the municipality that, in her opinion, the member has contravened the code of conduct, then the municipality may impose a penalty. I have not made such a report.

## **2. The Role of Council when receiving Integrity Commissioner Code of Conduct Reports:**

When the Integrity Commissioner submits to Council a Code of Conduct Complaint Investigation Report, Council:

- receives the Report;
- may accept, vary or reject the Integrity Commissioner recommendation on sanctions, if any;
- may ask the Integrity Commissioner questions of clarification on her process. Questions seeking clarification go to the Integrity Commissioner. The Member subject of the Complaint is not investigated at Council.;

- may not ask questions of the Member who has been investigated. The Integrity Commissioner is the third-party investigator and fact finder and the only person who may question the Member in the course of the investigation process.

I have not made a finding that there was a breach of the Code .Section 223.6(2) of the *Municipal Act* sets out that:

### **Report about conduct**

(2) If the Commissioner reports to the municipality or to a local board his or her opinion about whether a member of council or of the local board has contravened the applicable code of conduct, the Commissioner may disclose in the report such matters as in the Commissioner's opinion are necessary for the purposes of the report.

The Integrity Commissioner is the fact finder and has statutory authority to manage Code complaints pursuant to the Complaint Protocol. The Code of Conduct regime set out in Part V.1 of the *Municipal Act* does not contemplate questioning of the Respondent by Council or further consideration of the underlying facts of the complaint after the Integrity Commissioner has made a report.

### **3. Role of the Town Clerk in Code**

The Town Clerk has no authority to provide answers with respect to matters within the jurisdiction of the integrity Commissioner. Their role is to place reports on the Council agenda for consideration at the next meeting of Council (Procedure Rule 8).

Respectfully submitted this 4<sup>nd</sup> day of September 2024



Suzanne Craig  
Integrity Commissioner