



Integrity Commissioner Office  
for Niagara Region

September 11, 2018

SENT BY COURIER AND EMAIL TO:

Ann-Marie Norio  
Regional Clerk  
Office of the Regional Clerk  
Niagara Region  
1815 Sir Isaac Brock Way, P.O. Box 1042  
Thorold, ON L2V 4T7  
Ann-Marie.Norio@niagararegion.ca

**Re: Niagara Region Integrity Commissioner  
Annual Report**

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Dear Ms. Norio:

Thank you for the opportunity to act as the Integrity Commissioner (or “IC”) for the Region of Niagara over the past year. In accordance with the terms of the Agreement between the Region and ADR Chambers pursuant to s-s. 223.6 (1) of the *Municipal Act, 2001*, we are providing our annual report for the first operating period of the Agreement covering the period August 17, 2017 to August 16, 2018.

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 Region’s Code of Conduct (“the Code”). The IC is available to educate and provide advice to Members on matters governing their ethical behaviour and compliance with the Code. 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.

There is no question that the first year of operation undertaken by the Office of the Integrity Commissioner and this Integrity Commissioner was indeed a busy one.

At the outset, we were charged with the responsibility of processing three complaints which had been outstanding for some months as the selection process to secure a new IC unfolded. We immediately turned to dealing with these complaints and were able to process and bring them to final conclusion in a reasonable time frame. We were also asked by the Region to undertake a review of a draft Code which had been prepared by the previous Interim Integrity Commissioner, Mr. Mascarin, that had been the subject of considerable input and debate both by Members and the public. We completed that review and presented it to Council in November 2017 following which, at the invitation of Council, we attended before it on December 14, 2017 in order to respond to any questions that Council may have relative to the proposed new Code and/or review thereof. In the end result, Council determined not to adopt the proposed new Code and opted to remain with the existing Code which had been in place for some time.

We also prepared and provided the Regional Clerk with a proposed Investigation Protocol which sets forth a process for dealing with complaints of contraventions of the Code.

### **Complaints received during the first year**

The Office of the IC received 14 formal requests for investigation of contraventions of the Code. Twelve of these complaints had been completed and determined by the Integrity Commissioner as at of July 25, 2018, although since then, two additional complaints have now been received by the Office of the Integrity Commissioner and are now in the course of being processed.

With respect to the 12 requests for investigation that were received and disposed of during the first year of operation:

- One Complainant did not submit a signed Consent and Confidentiality Agreement in accordance with the terms of the protocol and accordingly the matter was not proceeded with.

- Five of the requests for investigation were disposed of on a summary basis with rulings issued to the Complainants denying the complaints on various grounds without or after a partial investigation.
- Six requests (excluding the two most recent ones) were fully investigated and reported on to Council with the determination being made as to whether the Councillor in question had or had not violated the terms of the Code and if a contravention was found, the penalty which the IC recommended that Council adopt. Of the six which were fully investigated, two resulted in a recommendation of a penalty.

It is of some interest to note that of the 14 complaints filed:

- Four of the complaints were initiated by a Councillor (although one was not proceeded with);
- Three complaints were initiated by the same citizen;
- Three complaints were initiated against one Member;
- Two complaints were initiated against each of two Members.

In addition a significant number of complaints touched upon the use of social media or email by a Member.

### **Cost**

Aside from the work associated with reviewing the proposed new draft Code and attending before Council in that respect, the total costs incurred by the Region during the year (up to and including the end of July 2018) for the investigation and adjudication process amounted to \$65,218.17 including tax.

Two of the complaints initiated by a Councillor resulted in a cost of \$23,551.56. A third was still in progress as at August 17, 2018 and had not been completed or billed at the end of the period covered by this Report. The three complaints initiated by one citizen involved a total cost of \$22,578.19.

### **Issues to be considered going forward**

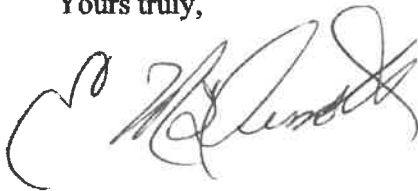
As a result of our experience during the past year, it is respectfully suggested that Council consider the following issues:

- The provisions of Bill 68 will come into force on March 1, 2019 and will 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 Region's Code. Once the new Council is in place, an *in camera* education seminar should be scheduled in order to familiarize all Councillors with the effect of these new amendments as well as emphasizing the importance of not disclosing confidential information in accordance with the requirements of the Code.
- We are seeing a significant increase in complaints being filed by a Member against other Members both within and out of the Region. The Region's investigation protocol should include a provision conferring on the IC the discretion to mandatorily order a mediation session when circumstances so warrant.
- Council should formally adopt a new and updated investigation protocol as the current complaint process was adopted by Council in contemplation of the Regional Chair, rather than the Integrity Commissioner, dealing with complaints under the Code. We would be pleased to submit a revised protocol for consideration by Council.

**Summary**

It has been a pleasure to assist the Region and its Members in contending with the numerous issues which have arisen in connection with the administration of its Code of Conduct. We look forward to continuing to provide the services of Integrity Commissioner to the Region of Niagara in the forthcoming year.

Yours truly,

A handwritten signature in black ink, appearing to read 'E. McDermott', with a large, stylized initial 'E' on the left.

Edward T. McDermott  
Integrity Commissioner  
Office of the Integrity Commissioner for Niagara Region