



ADR  
CHAMBERS

Integrity Commissioner Office  
for Niagara Region

October 18, 2018

SENT BY 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  
Complaint Reference No. IC-30-0718**

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Dear Ms. Norio:

I am enclosing herewith the report of my investigator who was delegated by me pursuant to section 223.3(3) of the Code of Conduct, to investigate and report on the subject matter of this complaint.

I can advise that I have fully reviewed the evidence, process and results of the investigation as well as the report, recommendations and addendum and I am in agreement with them.

This matter is now concluded.

Yours truly,

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



ADR  
CHAMBERS

Integrity Commissioner Office  
for Niagara Region

MICHAEL L. MAYNARD  
E-mail: mmaynard@adr.ca

October 18, 2018

SENT BY COURIER AND EMAIL TO:

Ms. 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: Complaint Reference Number IC-30-0718**

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Dear Ms. Norio:

### **Delegation of Investigative Powers**

Pursuant to a written delegation of powers dated July 31, 2018, Edward T. McDermott, in his capacity as Integrity Commissioner for the Regional Municipality of Niagara, delegated to the undersigned pursuant to section 223.3(3) of the *Municipal Act, 2001*, certain of his powers and duties as Integrity Commissioner to inquire into, investigate, and prepare a report (subject to his review and approval) with respect to the complaint described herein.

### **The Complaint**

The complaint I have investigated (the "complaint") is made against Regional Councillor Tony Quirk ("Councillor Quirk" or "Tony") by Mr. Ted Mouradian (the "Complainant" or "Ted") (collectively, the "parties"), alleging a breach of the Regional Municipality of Niagara's Code of Conduct for Members of Council (as most recently amended by By-law No. 65-2015) (the "Code").

Specifically, it is alleged Councillor Quirk breached the following sections (with applicable excerpts of the Code included):

- *Scope of the Code of Conduct:*
  - These standards should serve to enhance public confidence that Regional Municipality of Niagara's elected representatives operate from a base of integrity, justice and **courtesy**.
- *Foster Respect for Decision-making Process*
  - All Members of Council shall accurately communicate the decisions of Council, even if they disagree with Council's decision, such that respect for the decision-making processes of Council is fostered.
- *Respect, Truth, Honesty and Integrity*
  - Members of Council shall not impose their personal, moral or religious standards on others as every person is an individual with specific rights, values, beliefs and personality traits to be respected at all times.
- *Conduct*
  - As representatives of the Region, every member of Council has the duty and responsibility to treat members of the public...appropriately and without abuse, bullying or intimidation.
  - A member shall not use indecent, abusive, or insulting words or expressions toward any other member, any member of staff or any member of the public.

## Investigation

My investigation included a review of the documentation provided by the Complainant and Councillor Quirk. Additionally, I conducted in-person interviews with the parties, meeting on August 29 with Councillor Quirk and on September 6 with the Complainant.

### *Complaint Particulars*

On July 22, 2018, the Complainant sent an email to all Members of Council expressing his opinion that the Chief Administrative Officer (the "CAO") for the Regional Municipality of Niagara (the "Region") should be terminated from his employment for cause and that the Regional Chair (the "Chair") should be sanctioned by reason of their alleged incompetence including their responsibility as the Chair and CAO of the Region for an incident which, according to the Complainant, resulted in the removal of a reporter and citizen blogger from Council and the seizure of their recording equipment. In the reply-all email exchange that followed, it is alleged by the Complainant that Councillor Quirk contravened the Code by:

1. Dismissing the Complainant's opinion by attempting to discredit and humiliate him. Specifically, Councillor Quirk accused the Complainant of sending out "false, misleading and forged documentation" and stated the Complainant had an "inability to separate fact from fiction on the internet"; and accused him of a "lack of ethics" contrary to the *Scope* and *Conduct* sections of the Code;
2. Calling the Complainant's sincerity into question by imputing "ulterior motives" contrary to the *Scope* and *Conduct* sections of the Code;
3. Demonstrating a conflict of interest or a bias and attempting to bully his Council colleagues by pre-emptively noting his intention to legally challenge any move by Council to terminate the employment of the Region's CAO (i.e. stating he will testify on behalf of the CAO in a hypothetical wrongful dismissal lawsuit) contrary to the *Foster Respect for Decision-making Process* section of the Code;
4. Making a false statement about an "illegal recording device". This comment referred to the above referenced matter which was dealt with in an Ontario Ombudsman's investigation regarding a citizen-blogger's recording device left on during a closed session of Council. Here, the Complainant states that the Ombudsman's investigation did not find the recording device to be "illegal" contrary to Councillor Quirk's assertion and contrary to the *Foster Respect for Decision-making Process* and *Respect, Truth, Honesty and Integrity* sections of the Code;
5. Making a negative statement about the Complainant's aptitude or ability as a university instructor contrary to the *Scope* and *Conduct* sections of the Code;

6. Attempting to discredit the Complainant with repeated references to a prior private meeting between them that was not relevant to the issue raised by the Complainant. Specifically, he "misstated the reason for the meeting", made an unnecessary reference to the Complainant's use of profanity at said meeting and called into question the Complainant's ethics with respect to his conduct in that meeting, contrary to the *Scope, Respect, Truth, Honesty and Integrity and Conduct* sections of the Code;
7. Intimidating the Complainant by stating "Bring it on, Ted" and explaining he had never had an Integrity Commissioner complaint against him succeed, contrary to the *Conduct* section of the Code.

The Complainant believes that Councillor Quirk's decision to use "reply-all" when responding is indicative of his intent to discredit the Complainant in front of all Members of Council.

## **Facts and Evidence**

### *Chronology*

On July 22, 2018 at 12:58 p.m., the Complainant sent an email to all Members of Council stating his opinion that the Region's CAO should be fired following an Ontario Ombudsman's report (*supra* at page 3). In the following email exchange, both parties used reply-all throughout.

At 1:50 p.m., Councillor Quirk responded as follows:

I will take this missive with a grain of salt coming from you Ted as someone who circulated a report to your contact list that contained false, misleading and forged documentation without waiting to determine if the allegations were true or not.

Your agenda is pretty clear so I will just say this: I look forward to testifying on behalf of [the CAO] in his wrongful dismissal suit, should anyone be fired with cause.

I also look forward to reminding everyone in Niagara who it was that said we should "call the police" when the illegal recording device was found.

At 4:58 p.m., the Complainant responded. Addressing the issue of his "agenda", he explained that he had developed a "relationship model" to "fix corrupt, broken

and mismanaged organizations" and that he uses that model in business and would be teaching it to instructors and professors at a university in Mexico. He claimed his "agenda" was based on that model, and his intention was to "eliminate incompetence, bullying, corruption and mismanagement by leaders and people in positions of power in every organization that contracts me to do so." He admitted to "bragging" about his work, and concluded:

There is an old saying...when the student is ready the teacher arrives...sometimes though Tony, the teacher arrives but the student is not ready. It is now time for the ready students in this council to stand up to those students who are not ready and move them aside for the betterment of all of the citizens of Niagara.

At 5:30 p.m., Councillor Quirk responded:

That sounds all very impressive but given your inability to separate fact from fiction on the internet and the lack of ethics demonstrated in circulating a fraudulent document with the hopes of discrediting a public servant, I don't think your students will be well served. But that is just my opinion. Good luck in Mexico.

At 5:50 p.m., the Complainant replied again, stating: "Attacking my ethics or integrity does not change the facts Tony, but I guess only history will reveal the truth." The Complainant then imparted a parable about Gandhi refusing to accept the "gift" of a heckler's taunts.

At 5:55 p.m., Councillor Quirk responded, stating:

Thanks again for all the insights Ted but given your response to me when I suggested an apology was in order for your circulating of a fraudulent document was: "That's not going to f—king happen!" I don't think I will be accepting any advice on ethics from you. Cheers and have a great trip.

Following a response from another Councillor stating her hopes that all Members of Council are doing their best to educate their children and grandchildren about civics, and specifically about what is going on at the Region, Councillor Quirk replied at 7:40 p.m.: "Yes. I was surprised that Ted would use language like that at our first ever meeting."

At 7:59 p.m. the Complainant responded:

Tony...you have publicly and personally attacked my character with issues that have nothing to do with my original email. I can only assume that you are trying to discredit me and my right to ask for the resignation of [the CAO] as a citizen of the region.

Tomorrow I will be filing a formal complaint with the Ombudsman for your conduct during this public discussion.

This conversation is now over.

A longer and more detailed reply came from Councillor Quirk at 8:21 p.m.:

Well Ted, that would assume you have any credibility with me in the first place.

I was personally disgusted to find out in the emails shared by [Third Party] in his testimony that you were distributing the "call for accountability" without any regard for the truth of the document and that you presented yourself to me for our meeting as an independent third party trying to find a solution to the [Third Party] lawsuit. That is when you lost any credibility you might have had.

So just make sure you have your facts straight.

The meeting between us took place on December 7th, 2016 at 2 pm at the Four Points Sheraton in Thorold. You sent and (sic) email to me the next day thanking me for the meeting. I can share that with the Ombudsman or the Integrity Commissioner.

You were trying to find a way to end the [Third Party] lawsuit. I told you that if [Third Party] apologized for using the forged document that we probably could find a way out but your response to me was "There is no f—king way that is going to happen!"

I was shocked that you would feel so comfortable swearing in a meeting where we had just met, and I personally swear

at a level that would make a Tyrion Lannister blush but not with someone I had just met.

I would also state that to the Ombudsman or the Integrity Commissioner that this behaviour wasn't out of character for you, as I would remind you of the email you sent when you felt the need to apologize for swearing publicly on April 12, 2017 when you repeatedly said "b-l s-t" in an open and public forum and stormed out. Great ethical behaviour.

So bring it on Ted. Looking forward to the report. I will be happy to share my meeting notes with either the ombudsman or the integrity commissioner. I would also point out that I have yet to have an integrity commissioner complaint succeed as I don't lie, I don't need to, especially when the facts are on my side.

Wishing you all the best on your trip to Mexico and good luck with your complaint filings.

On July 25, 2018, prior to filing the complaint, the Complainant emailed Councillor Quirk, copying all those included in the initial email exchange (*supra*) and requested an apology by the end of the following day in exchange for the withdrawal of the complaint. Councillor Quirk quickly declined.

### **Councillor Quirk's Response**

Councillor Quirk provided a written response dated August 10, 2018 and provided a supplementary verbal response during our interview on August 29, 2018.

In his written response, Councillor Quirk raised an issue of confidentiality regarding the Complainant's July 25, 2018 apology request email, stating:

I am disappointed that, despite understanding the confidentiality of the process, Mr. Mouradian has already violated this requirement by sending the complaint via email to full Council and demanding an apology or else he would complain. This was a direct attempt to circumvent the process and engage in public shaming, the very conduct Mr. Mouradian is complaining about.



Commenting generally on the Code and the nature of the Complaint, Councillor Quirk suggested that while the Code exists to compel Councillors "to act in a respectful manner", it does not require him to "respect an individual", nor is it "in place to limit public debate, deny Councillors the right to hold opinions and share them with the public." He also points out that the Code does not "compel [him] to respond in a manner that [the Complainant] wishes."

Councillor Quirk then went on to list a number of reasons he does not personally respect the Complainant, the details of which he also shared with me verbally during our interview. I do not find it necessary to enumerate his several grievances here.

*Response re: Scope of the Code of Conduct*

In his response to this aspect of the complaint, Councillor Quirk maintains that he acted "with restraint and courtesy." He pointed out that the Complainant "...provide[d] a 'suggested' response based on his years of experience", but that he "...is under no obligation to respond how [the Complainant] would wish me to respond." He stated that the Complainant did not earn even the level of courtesy extended "...based on the fact the initial correspondence from [the Complainant] was a call for a public servant to be tried, judged and executed based solely on a newspaper article." Councillor Quirk explained to me that he saw the Complainant's emails as self-righteous and hypocritical.

Councillor Quirk told of his own history with the Complainant regarding a December 7, 2016 meeting between them with respect to the third-party lawsuit referenced and explained in his 8:21 p.m. reply email (*supra* at page 5). Councillor Quirk attended this meeting with the Complainant in his capacity as a Member of the Board for the public agency that was suing a member of the public (the "Third-Party Lawsuit"). Councillor Quirk believes the Complainant attended the meeting under false pretenses, representing his position as a benevolent peacemaker but concealing his association with one of the parties in the Third-Party Lawsuit and his own distribution of the "false, misleading and forged documentation" at the heart of the matter. Said "documentation" disparaged the CAO of the public agency, who is now the Region's CAO. This, along with a number of statements and published articles by the Complainant, has led Councillor Quirk to the conclusion that the Complainant has an agenda against the CAO. He thus endorsed his own words, including his remark "I don't think your students will be well served" and his references to the parties' December 7, 2016 meeting as an appropriate response in defence of a public servant (the CAO) who has no recourse to defend himself from the disparaging remarks of a "cry-bully". Councillor Quirk also dismissed the notion that the meeting was

"confidential" or even "private" as it was arranged via social media and expensed by him which would show up on the public accounts.

*Response re: Foster Respect for Decision-making Process*

Councillor Quirk disagrees with the Complainant's assessment with respect to the "illegal recording device" mentioned in the complaint. His view is that a recording device was left on in a closed session of Council contrary to law - whether intentional or otherwise - which makes it illegal. Calling it such does not equate to calling it *criminal*. According to Councillor Quirk:

...my description of the recording as "illegal" is both accurate AND does not contradict any finding or decision of Council. At no time, has Council ever publicly confirmed via statement or resolution that recording was legitimate or not illegal.

*Response re: Respect, Truth, Honesty and Integrity*

Councillor Quirk denied imposing his own moral views on the Complainant by referring to and criticizing the Complainant's use of profanity, and indeed, he acknowledges being quite proficient in profanity himself. He was, in his view, attempting to "...point out the hypocrisy of someone who believes quoting Ghandi (sic) while acting in the manner he has repeatedly demonstrated to me in private and to the world in public."

*Response re: Conduct*

Councillor Quirk denies the Complainant's charge that he bullied or intimidated his fellow councillors by commenting "I look forward to testifying in [the CAO's] wrong dismissal suit". He stated, "this is a consideration in any contract dispute", which his fellow councillors would know and would thus not be intimidated by such a comment. He stated his response was directed solely at the Complainant for his "bullying of our CAO" by calling for the termination of his employment following the Ontario Ombudsman's report into the "illegal recording device".

He further denies using "...'indecent, abusive or insulting words' except as quoted to point out [the Complainant's] actions that are incompatible with the teachings of Ghandi (sic) he insists of (sic) quoting..."

Councillor Quirk's "bring it on" comment regarding the Complainant's remarks about filing a complaint were demonstrative of his own feelings that he would

not be intimidated by a citizen who had regularly criticized his colleagues and, that he was prepared to back up his comments made in defence of the CAO.

### **Additional Response by the Complainant**

The Complainant acknowledged that the "false, misleading and forged documentation" received by him and forwarded to others (*supra* at page 3) did indeed contain falsehoods, and that he had forwarded it to others. However, he points out that many people forwarded the document, as it was a matter of public interest, and that he received it and passed it along like anyone else. He argues that this is no reason to call his ethics and intelligence into question. He also dismissed Councillor Quirk's statement that he hid his true motives at the December 7, 2016 meeting, as both he and his politics are well known in the Region.

### **Analysis**

The questions to be addressed by this investigation are:

1. Did Councillor Quirk contravene the *Scope* clause of the Code by showing a lack of courtesy to the Complainant?
2. Did Councillor Quirk contravene the section of the Code requiring Members of Council to *Foster Respect for [the] Decision-making Process*?
3. Did Councillor Quirk contravene the section of the Code on *Respect, Truth, Honesty and Integrity*?
4. Did Councillor Quirk contravene the section of the Code on *Conduct*?

#### *1. Analysis re: Scope Clause*

*"...false, misleading and forged documentation", prior meeting and  
"ulterior motives"*

It is clear that Councillor Quirk intended to diminish the credibility of the Complainant's viewpoint in the eyes of other Members of Council. Indeed, Councillor Quirk acknowledged in our interview that he wanted all of Council to be well aware of the background behind what he sees as a long-standing campaign against the CAO by the Complainant and others. He further

acknowledged that he made specific references to the December 7, 2016 meeting and the "false, misleading and forged documentation" to give other Members of Council the context around the Complainant's call to fire the CAO, believing that the Complainant's most recent correspondence referencing the Ontario Ombudsman's report (*supra* at page 3) was not born of genuine concern but merely the latest salvo in a war being waged by the Complainant and others against a public servant who cannot defend himself.

I do not find fault with Councillor Quirk voicing his concerns about the Complainant's motives, nor referencing their prior meeting, nor even his mentioning the Complainant's role in spreading the "false, misleading and forged documentation" as each of these are related to political activities relative to the Complainant's various condemnations of the CAO and thus open to debate and criticism. The Complainant states they are irrelevant to the topic at hand. As an outside observer, however, I see them as contextually related.

Generally, the Complainant's ongoing self-inclusion in political discourse opens him up to legitimate criticism and debate regarding his views and intentions. The Complainant advised he has made bids for political office, sat on committees, and published his opinions. Whether the Complainant had or has "ulterior motives" (in this case an alleged predominant desire to challenge the legitimacy of the CAO in any way possible) is open to political discourse and debate.

*"...students [not] well served"*

However, I do find that in one instance, Councillor Quirk crossed a line. Insulting the quality of the Complainant's professional work as a university instructor by voicing his opinion that the Complainant's students will "[not] be well served [by his tutelage]", comes across as needlessly and intentionally demeaning and discourteous. While Councillor Quirk is entitled to disagree with the Complainant - even reasonably forcefully in the heat of debate - that does not give him license to be disagreeable to the point of making such a personal insult. I find his comment in this regard to be discourteous and unwarranted.

There is a question, however, as to whether the *Scope* clause can be breached, or whether its existence is intended to add a contextual foundation on which the more specific directive and/or prohibitive rules governing the conduct of Members of Council stand. Given my findings regarding the "false, misleading and forged documentation" comments (*supra* at page 10) and my findings under the *Conduct* section of the Code (*infra* at page 13) relative to the "...students [not] well served" comment, I do not need to further consider whether the *Scope* clause can be, or indeed was, breached at this time, as each issue in the complaint has been otherwise addressed.

2. *Analysis re: Foster Respect for [the] Decision-making Process*

*"Testifying"*

I agree with Councillor Quirk's assessment of his comments regarding "testifying on behalf of [the CAO] in his wrongful dismissal suit". The Complainant stated his belief that this comment is contrary to both the *Foster Respect for Decision-making Process* and *Conduct* sections of the Code. Dealing here with the former, I do not find these comments harm the legitimacy of the decision-making process, nor would they likely diminish public confidence in Council should they be made publicly. Politicians disagree, and dissent is recognized as part of a healthy democracy. Litigation is a common occurrence in politics and in employment matters. In any event, my reading of this section of the Code is that it relates specifically to Councillors being forthright in communicating decisions of Council after they are made. I do not find this aspect of the Complaint to be relevant to this section of the Code.

*"Illegal Recording Device"*

Councillor Quirk explained, adequately in my view, his meaning behind the words "illegal recording device". I have reviewed several news articles and the Ontario Ombudsman's report regarding this issue. That the device was left recording a closed session of council is not up for debate. Whether it was done intentionally has no bearing on whether recording a closed session is contrary to law. Section 239 of the *Municipal Act, 2001* authorizes Municipal Councils to have in-camera sessions free from public view. Recording a closed session, whether intentionally or not, infringes on this statutory right of Council to have a meeting closed to the public. Whether the response by Council, the Chair, the CAO or any other public or authority figure was proper or proportionate has no bearing on whether the device was recording contrary to the law. Calling it an "illegal recording device" may be overly broad from a semantic point of view, but it does not impute improper motives (i.e. criminality) or misstate the facts in any way that would undermine public confidence or respect for Council or its *decision-making process*.

3. *Analysis re: Respect, Truth, Honesty and Integrity provision of the Code*

*"Illegal Recording Device"*

Just as I did not find these comments to be in contrast with the *Foster Respect for [the] Decision-making Process* section of the Code, I likewise do not find them to be contrary to the *Respect, Truth, Honesty and Integrity* section of the Code. Having heard Councillor Quirk's explanation regarding his use of the word "illegal" (i.e.

the intended connotation was that the device was recording a closed session contrary to law) I am not satisfied that he was misrepresenting the truth. As already noted, this appears to a disagreement rooted in semantics.

#### *Prior Meeting*

The Complainant takes the position that Councillor Quirk's references to their December 7, 2016 meeting about the Third-Party Lawsuit misrepresented the true nature of the meeting. Councillor Quirk expressed that at the time he attended the meeting, he believed the Complainant attended as a neutral citizen with conflict resolution experience, and not as an associate of the Defendant in the Third-Party Lawsuit. Councillor Quirk expressed his surprise when he learned that the Complainant had the same agenda as the Third-Party against the CAO and had distributed (along with many others) the "false, misleading and forged documentation". The Complainant's dismissal of this notion by stating "It is no surprise [to Council] who Ted Mouradian is" makes the assumption that Councillor Quirk ought to have known the Complainant was not neutral. However, Councillor Quirk's responses suggest to me he was not fully aware of the Complainant's position or intentions at that time.

#### *Profanity and Gandhi*

By Councillor Quirk's own admission, he is quite adept at using profanity and it does not personally offend him. He claims he was not therefore "impos[ing] personal [or] moral...standards" on the Complainant; rather, he claims he was commenting on the contradiction in moral standards the Complainant was imposing on him: Expounding on pacifistic philosophy on one hand while using hostile and profane language on the other. Whether the use of profanity to aggressively make a point in debate or as a reaction in anger is internally consistent with a life philosophy inspired by parables of Gandhi's teachings is an arguable point. The initial comments by Councillor Quirk could be viewed as political theatrics, but to suggest they are contrary to the Code is a stretch. I do not find the discussion of profanity in the exchange represents a real or intended imposition of personal moral standards on the Complainant by Councillor Quirk.

#### *4. Analysis re: Conduct provision of the Code*

##### *General Context, Motives*

As per my analysis regarding the *Scope* of the Code, I do not find the bulk of Councillor's Quirks comments to be particularly egregious in their proper context. The cut and thrust of political debate can be sharp and unsympathetic at times. Both the Complainant and Councillor Quirk recognize that the

Complainant is no ordinary citizen speaking on one issue; he has published articles, written letters, appeared before council, and engaged in meetings and other political activities with regular frequency. It is fair to say he is today a well-known critic of the CAO. The Complainant chooses to engage in political debate, expresses strong views and argues his points with vigour. In the Complainant's own words: "It is no surprise [to Council] who Ted Mouradian is". Most of Councillor Quirk's responses to the Complainant must be viewed in this context.

*"...students [not] well served"*

The personal insult from Councillor Quirk regarding the Complainant's professional work as a university instructor is clearly inappropriate. The *Conduct* section of the Code states: "...every member of Council has the duty and responsibility to treat members of the public...appropriately and without abuse." It is inappropriate and abusive to impugn the capability and character of the Complainant as it relates to his work. This is true irrespective of whether the Complainant raised the topic of his work himself in a bid to bolster his own credibility. I find the comments "I don't think your students will be well served" to be incompatible with the behavioural expectations set out in the *Conduct* section of the Code.

*"Testifying"*

I do not find these comments to be intimidating or intended to intimidate other Members of Council. Again, political opposition is a necessary function of governing in a liberal democracy.

*"Bring it on, Ted"*

I do not find the comment "Bring it on, Ted" to be intimidating or otherwise contrary to the *Conduct* section of the Code. Councillor Quirk is entitled to assertively defend himself, including expressing his self-confidence in facing down any challenge based on his past experience. Though "bring it on" is a phrase found in common parlance, it is perhaps somewhat less cordial than one might expect from a councillor. However, despite its proximity to abrasiveness, I do not find that in these circumstances it was particularly intimidating or intended to intimidate.

*Additional Issue - Councillor Quirk's Response re: Confidentiality*

I do note that the Complainant emailed Councillor Quirk, copying all parties to the initial email exchange, on July 25, 2018, at 1:03 p.m. requesting an apology by 5:00 p.m. the following day (July 26) in exchange for the withdrawal of the

complaint. This email was sent prior to the Integrity Commissioner's Office forwarding to the Complainant a copy of its Consent and Confidentiality Agreement (i.e. prior to the complaint process commencing).

This email was copied to all of Council which is consistent with the original email exchange, also copied to all of Council. I do not find Councillor Quirk to be prejudiced by this July 25 email, nor do I find it an intentional violation of the Integrity Commissioner's investigative process.

### **Conclusion**

Pursuant to the foregoing, I find Councillor Tony Quirk to be in contravention of the *Conduct* section of the Code specifically as it relates to his comments: "I don't think your students will be well served." I find those comments to be discourteous, inappropriate and abusive.

Placed in their proper context, I do not find the balance of Councillor Quirk's comments to be in contravention of the Code.

I therefore recommend Council issue a reprimand to Councillor Quirk in accordance with Section 223.4(5)(1) of the *Municipal Act, 2001*.

I note that an earlier version of this report was sent to the Complainant and Councillor Quirk for their review and comment. Their comments were received and considered in the attached Addendum. No revisions were made to the report.

Yours truly,  
ADR CHAMBERS INC.

A handwritten signature in black ink, appearing to read 'Michael L. Maynard', with a stylized flourish at the end.

Michael L. Maynard  
Office of the Integrity Commissioner

Encl.



Addendum to Report  
Responses to the Draft Report

**Councillor Quirk's Response**

In response to receiving a draft of this report in accordance with the Complaint and Investigation Protocol, Councillor Quirk asserted that his reference to “students [not] well served” (see page 5 of the report) referred to members of Council who supported the Complainant's views and not to the students the Complainant would be personally teaching in Mexico. In support of this view, Councillor Quirk pointed to the Complainant's email from the initial exchange between them which made reference to the Complainant saying: “...when the student is ready the teacher arrives.” His comment was therefore, according to the Councillor, meant as a political, not a personal comment.

Viewed from an objective perspective, I do not agree that the Councillor's position in this respect is a correct interpretation of what the documentation submitted by the Complainant discloses on its face. It was also never raised by the Councillor during the course of this investigation either in written form or verbally during the personal interview with him. By way of example, I noted that in his complaint, the Complainant specifically commented that Councillor Quirk “attacked my work ethic with a current client, Tec de Monterrey”. The Councillor never refuted this interpretation at all in his written response to the complaint and when I interviewed him I specifically asked about this quote. The Councillor did not contest or deny anything said in the quote but rather responded that he wanted to point out the hypocrisy of the Complainant's email. When asked about making a negative statement about the Complainant's professional life, Councillor Quirk responded that “self-righteous hypocrites need to be called out”, further noting that the Complainant was “...attacking an unelected public servant [the CAO] who can't fight back. I was defending him.”

There is no question that Mr. Mouradian took the comment as a personal attack on his professional reputation. If, as the Councillor suggests, the comment had a different meaning to it, the Councillor had ample notice of the meaning the Complainant (and I) took from the words used and the context in which they were framed. He never denied that this was the correct interpretation of his meaning.

I am accordingly not persuaded that the Complainant misinterpreted the Councillor's comments in this respect.

**The Complainant's Response**

The Complainant also provided a response to the draft report in which he raised a concern as to whether the report might create two classes of citizens – those who engage in politics vigorously and those who do not. He questioned whether the findings set out in the report concluded that if he were a political neophyte rather than a long-time political activist, the conclusion may have been different. He asked whether the report creates a license for Members of Council to “disparage prominent citizens simply because they take the time and effort to be engaged.”

This concern of the Complainant is not well-founded. The conclusions of this report were not reached in a vacuum. The question is not one of an either/or nature (i.e. is a complainant politically engaged or not politically engaged). In this case, the Complainant has publicly made provocative political comments in the past regarding the Regional Chair and CAO. For example, these statements include the use of a metaphor (“the fish rots from the head”) to describe the Regional Chair and CAO in a published Op-Ed. This complaint itself arises from an email exchange initiated by the Complainant calling upon Council to terminate the employment of the CAO and sanction the Regional Chair. Therefore, the historical context,

character and tone of the Complainant's political statements related to the individuals and matters at issue were properly and fully considered in weighing the responding statements of Councillor Quirk.

The Office of the Integrity Commissioner has advised the Councillor and the Complainant that the report as drafted and submitted to the parties would be referred to Council without amendment, as the issues raised by each of them in response to the draft report have been considered and determined in this Addendum to the report, all of which has been reviewed and approved by the Integrity Commissioner.

A handwritten signature in black ink, appearing to read 'Michael L. Maynard', with a stylized flourish at the end.

Michael L. Maynard  
Office of the Integrity Commissioner