

## **Integrity Commissioner for the Township of Horton**

### **Annual Report**

#### **1. Introduction**

On February 3, 2017, Township Council adopted Resolution No. 2017-32, reading as follows:

THAT Council appoints Guy Giorno partner with Fasken Martineau DuMoulin LLP as Integrity Commissioner and Closed Meeting Investigator for 2017-2018 calendar years.

That same month, following a competitive RFP process, I was appointed as Integrity Commissioner for the County of Renfrew until February 28, 2021.

It is a condition of my appointment by the County that, upon the request of any local municipality in Renfrew County, I must make integrity commissioner services available to that local municipality on terms identical to my arrangement with the County.

The responsibilities of an integrity commissioner include: providing information and advice to councils and members of council on codes of conduct and the issues arising under them; providing advice to councils on other policies and procedures that relate to the ethical behaviour of members; providing information to the public on codes of conduct and the obligations of members under the codes; submitting an annual report to each council; and conducting independent investigations of complaints alleging that a code of conduct has been contravened.

#### **2. Guidance and Advice**

While an integrity commissioner's independent investigative role is extremely important, it has been observed that the investigation of potential contraventions is a last resort. Ideally, councillors should act ethically and in compliance with codes so that a contravention never occurs. To this end, an integrity commissioner plays a vital "proactive" role, providing advice and guidance to promote ethical compliance by council members.

One of an integrity commissioner's roles is to provide confidential guidance to individual members of councils. While all members of councils are encouraged to reach out to their integrity commissioners, some seek guidance while others do not. During the term of my appointment in Horton I was not asked to provide guidance to any member of the Township's Council.

I also make myself available to provide education and training to municipalities that request it. During the term of my appointment in Horton I was not asked to conduct a training session.

### **3. Complaint and Investigation**

An important component of an integrity commissioner's role is to receive complaints (from councils, members of councils and members of the public) and to conduct independent investigations to determine whether contraventions have occurred. In the event of a contravention an integrity commissioner may make a penalty recommendation (reprimand or suspension of up to 90 days' pay) to council and council has sole responsibility to decide whether the penalty should be imposed.

Not all complaints are investigated. Some complaints relate to rules and laws (e.g., *Municipal Freedom of Information and Protection of Privacy Act*) other than a code of conduct. Some complaints fail to contain sufficient grounds to investigate. An integrity commissioner may also decline to investigate if a complaint appears to be frivolous, vexatious or made in bad faith.

During the term of my appointment in Horton I received one code of conduct complaint, to which I assigned File Number 2018-01. The December 31 report of my investigation into the matter was issued separately.

### **4. Independence**

The *Municipal Act* requires that the Integrity Commissioner is to operate independently.

Independence means, among other things, that the Integrity Commissioner's investigation of a code of conduct complaint must not be affected, or perceived to be affected, by concerns about the appointment or re-appointment process.

On December 4, Township Council received a staff report recommending that an RFP be issued to seek integrity commissioner services for a three-year term commencing March 1, 2019. Subsequently, the Township issued Request for Proposal ADMIN-2018-01. In principle there was nothing wrong with this step. A municipality may (but is not required by the *Municipal Act* to) issue an RFP, and Resolution No. 2017-32 made no provision for integrity commissioner services after 2018.

At the same time, the staff report did not inform Council of any of the following facts:

- That pursuant to section 77 of the *Legislation Act*, the municipality's power to appoint an integrity commissioner includes power to reappoint the integrity commissioner.
- That an investigation into a code of conduct complaint was currently ongoing and an RFP might be perceived to interfere with the independence of that investigation.
- That my agreement with Renfrew County (which resulted from a competitive RFP process) obliges me, upon the request of any local municipality in Renfrew, to make integrity commissioner services available to that local municipality on terms identical to my arrangement with the County.

I am the Integrity Commissioner for several Ontario municipalities, but this was the first occasion on which an RFP overlapped with an active investigation. This was therefore the first occasion when I had to consider the impact of an RFP (and related staff report) on my statutory independence.

To uphold the independence of the Integrity Commissioner position, to uphold the independence of the investigative process, and to ensure that it cannot possibly be perceived that the RFP or staff report influenced my handling of the recent complaint file, I will not be responding to RFP ADMIN-2018-01.

Indeed, under the circumstances I believe it would be improper for me to respond to the RFP.

Respectfully submitted,



Guy Giorno  
Integrity Commissioner  
Township of Horton

December 31, 2018