

ROBERT J. SWAYZE

BARRISTER & SOLICITOR

CERTIFIED BY THE LAW SOCIETY OF UPPER CANADA AS A SPECIALIST IN
MUNICIPAL LAW - LOCAL GOVERNMENT/LAND USE PLANNING AND DEVELOPMENT

TELE: (519) 942-0070

FAX: (519) 942-1233

E-mail: robert.swayze@sympatico.ca



20736 Mississauga Road
CALEDON, ONTARIO
L7K 1M7

Report City Council

The Corporation of the City of Brampton

Report from the Integrity Commissioner

Date: October 22, 2015
File: L05 IN
Subject: Complaint against Councillor Sprovieri
Contact: Robert Swayze, Integrity Commissioner

Overview:

- The Integrity Commissioner received a complaint from Mayor Jeffrey against Councillor Sprovieri that he contravened the *Code of Conduct for Members of Council*, (the “Code”) in three E-mails she received from him, which were also copied to the media. The Complaint alleged that the Councillor made disclosures which were detrimental to the City’s interest in defending the Inzola lawsuit and directly contrary to legal advice given to all members of Council.
- The Councillor was served with the complaint and responded by claiming that some of his disclosures did not relate to the lawsuit and others had less of an impact on the matter than certain actions by members of staff.
- The Integrity Commissioner, as part of his investigation, requested and obtained an opinion from external counsel on the lawsuit as to the impact of the disclosures by Councillor Sprovieri on the defense of the litigation.
- The Integrity Commissioner found that the disclosures by Councillor Sprovieri were contrary to the Code of Conduct. He recommended that his remuneration from the City be suspended for 60 days.

Recommendations:

1. That the report from Robert Swayze, Integrity Commissioner, dated October 22, 2015, to a closed session of City Council held on October 28, 2015 re: **Complaint against Councillor John Sprovieri**, finding that Councillor Sprovieri contravened the Code of Conduct for Members of Council, be received and
2. That the remuneration paid to Councillor Sprovieri by the City for his services as a member of council, be suspended for a period of 60 days beginning with his next pay period and that such amount be added to general funds.

Background:

I received by E-mail a complaint from Mayor Jeffrey against Councillor Sprovieri that he breached the Code of Conduct by publicly disclosing confidential information and other information which may harm the City's position in significant ongoing litigation, namely the Inzola legal action. She attached three E-mails which were copied by him to San Grewal of the Toronto Star and Peter Criscione of the Brampton Guardian. The three E-mails copied to the media by the Councillor are as follows:

1. Re: 8 Nelson Street: This a string of E-mails ending on August 22, 2015, between Councillor Sprovieri and Julian Patteson, Chief Public Services Officer for the City, inquiring as to why all employees are not being accommodated in the City Hall addition (the "SWQ") and suggesting that the surviving lease at 8 Nelson Street was being kept secret by staff.
2. Re: Closed Session Matters: This is a confidential E-mail from the acting CAO addressed to all members of Council and senior staff which is notice to all members of Council that, on the advice of counsel, she has ordered all staff not to respond to Councillor inquiries on the SWQ.
3. Re: Closed Session Matters: This is a continuation of the E-mail number 2 string, where the Mayor, in obvious desperation, warned Councillor Sprovieri that she intended to complain to the Integrity Commissioner.

The complaint also included links to two articles in the Brampton Guardian which reported on the conduct of Councillor Sprovieri at two Council meetings as follows:

1. *Final bill for Rust-D'Eye investigation*: The Councillor is quoted as saying "There are still many questions that need answers" and the article refers to his proposal to form a special committee to look at issues not addressed in the auditor's report.
2. *City's chief bureaucrat issues gag order*: This article was written as a direct result of the Councillor's disclosure of a confidential memorandum to the reporter. (E-mail 2 above)

I served Councillor Sprovieri with the complaint on August 31, 2015 and asked him to respond by September 11, 2015. He was out of the country on vacation and requested additional time to respond which I granted to him. He responded officially on September 13, 2015 and continued with several additional E-mails containing information for me. I had a lengthy interview with him at City Hall on October 14, 2015. I offered to him the opportunity to bring a lawyer but we met alone.

I decided that my investigation would be aided by requesting comments on the impact of Councillor Sprovieri's public disclosures from external Counsel representing the City. I received an opinion from Steiber Berlach LLP on October 3, 2015.

Corporate Implications:

The Code of Conduct

Section 2.3 of the Code provides that "members of Council agree to respect confidentiality requirements for information received in a closed session of Council." I am advised that all members of Council were cautioned by staff to avoid discussing in public anything related to the Inzola matter. The following rule, also in Section 2.3, requires that: "Members have a responsibility to keep such {litigation} information confidential to safeguard the Corporation's interest and reputation and **to uphold disclosure rules**".

I am not able to include in my report details concerning the opinion of external counsel which is privileged and confidential because the City is required by Section 223.6 (3) of the Municipal Act to make any report to Council from me available to the public. Subject to the advice of the City Solicitor, Council may choose to consider the opinion in camera to assist them in the consideration of this report.

Conclusion

I have been assisted by the opinion of Steiber Berlach LLP as to the impact on the litigation. I also find that Councillor Sprovieri knew or ought to have known that copying the three E-mails to the media would be detrimental to the interests of the City of Brampton in the lawsuit. Like other members of council, he was advised not to discuss the Inzola matter in public. I find that he did not uphold disclosure rules as required by the Code and accordingly was in contravention of it.

My impression of Councillor Sprovieri in our meeting was that he is a very experienced member of Brampton Council, articulate and seemingly intelligent. I cannot excuse his conduct as a result of being confused, but it is his first offence in violating the Code. Accordingly, I allow the complaint and recommend to Council that his remuneration be suspended for 60 days instead of the 90 days which is the maximum permitted under the *Municipal Act*.



Robert Swayze
Integrity Commissioner

Appendices: None

Report authored by: Robert Swayze, Integrity Commissioner