



**ADR**  
CHAMBERS

Integrity Commissioner Office  
for the City of Brampton

February 12, 2014

Brampton City Council  
c/o Mr. Peter Fay  
City Clerk  
2 Wellington Street West  
Brampton, Ontario L6Y 4R2

**Re: BIC-057-0114**

**Complaint re. media article and public release of email conversation between  
a Regional Councillor and Mayor Susan Fennell  
&  
Inquiry and request for advice whether communications between individual  
Members of Council regarding Council's closed session business constitutes a  
contravention of the Code of Conduct**

You complained to me on December 20, 2013 of a media article dated November 26, 2013 and public release of email exchanges between a Regional Councillor and the Mayor dated October 1, 2013.

You also sought my advice whether communications between Members of Council regarding closed session business constitute a contravention of the Code of Conduct (the "Code").

**FACTS:**

During an email exchange on October 1, 2013 the Mayor and Councillor both mention a "lawsuit" in which the City was involved, the Mayor at 7:17 p.m. and the Councillor at 10:03 p.m. The Mayor responded at 10:24 p.m.:

"... There is no screw up. The lawsuit (Inzola) says there is. They need to prove it. If you feed the, Inzola position, you damage the public position. Enough in email..."

The Councillor released the string of emails to the Brampton Guardian, the Globe and Mail and the Toronto Star on or about Tuesday, November 26, 2013 at 8:05 a.m. alleging threats to him by the Mayor following political disputes over

surveillance cameras installed at the Councillor's home, a development and an earlier issue at the Toronto Regional Conservation Authority. He had earlier sent the emails to the Chief of Police and the Chair of the Region of Peel.

The Brampton Guardian published the five emails on November 26, 2013.

#### **RELATED LEGISLATION:**

I have read s. 2.3 of the Code "Conduct Respecting Confidential Information", s. 239 of the *Municipal Act* and ss. 6 to 15 of the *Municipal Freedom of Information and Protection of Privacy Act* ("MFIPPA").

#### **DISCUSSION:**

1. Council complains to me to determine if the Brampton Guardian article constitutes a contravention of the Code, including whether there was a breach of "Council's conduct" respecting confidential information.

The Code requires Members of Council to keep confidential litigation matters as allowed by s. 239(2)(e) of the *Municipal Act* and required by s. 2 of the Code and to respect the confidentiality rules of s. 11 of *MFIPPA*. It also requires Members of Council not to publicly disclose the content of any confidential matter or the substance of deliberations or in camera meetings until the information is released to the public as required by law or approval by Council.

The Councillor released the string of emails to the Chief of Police, the Chair of the Region, and later to the Brampton Guardian, Globe and Mail and Toronto Star but they disclosed only the name of a party to the lawsuit and that the burden of proof was on him, not the City.

The Councillor said he did so because of the Mayor's criticism of his spending on a personal security system and because of his perceived threat of harm from her in the emails, he refused to meet alone.

#### **CONCLUSION:**

It was not a breach of the Code for the Brampton Guardian to publish the emails. It is not subject to the Code.

The Councillor disclosed only the name of the party, Inzola, mentioned in the Mayor's email of 10:24 p.m. and the fact that the burden was on Inzola to prove its case. There was nothing more. They had also referred to the lawsuit in earlier emails at 7:17 and 10:03 p.m. It was obviously in relation to a closed session or in camera subject.

In my opinion, this was not a disclosure of confidential information. The public already knew, from public court records of the litigation, the name of the plaintiff and the fact that the onus was on the plaintiff to prove its case. Nothing else was disclosed by the emails.

2. Council also asks if communications between individual Members of Council regarding closed business sessions of Council, respecting confidential information, constitutes a contravention of the Code.

An oral communication, in confidence, by one member to another is not a breach of the Code.

An oral communication by a Member, if overheard by or disclosed to a member of the public, would constitute a breach of the Code by the Member who disclosed it.

A written communication, such as a letter or an email, by one Member to another, is not a breach of the Code. However, if it is disclosed to a person not authorized to receive it by a Member of Council, it would be a breach of the Code by the Member.

Written communications have an awkward habit of running amuck into unauthorized hands. Written communications on confidential matters should be avoided unless absolutely necessary.



The Honourable Donald R. Cameron, Q.C.  
Integrity Commissioner for the City of Brampton