

FASKEN

Fasken Martineau DuMoulin LLP
Barristers and Solicitors
Patent and Trade-mark Agents

333 Bay Street, Suite 2400
P.O. Box 20
Toronto, Ontario M5H 2T6
Canada

T +1 416 366 8381
+1 800 268 8424
F +1 416 364 7813
fasken.com

MEMORANDUM

To: Council
Town of Orangeville

From: Guy Giorno
Integrity Commissioner

Date: April 26, 2021

Re: Special Report: End of Term as Orangeville Integrity Commissioner

On August 21, 2017, by resolution of Council, I was re-appointed as Integrity Commissioner for the Town of Orangeville for a four-year term expiring **July 31**, 2021. The resolution was adopted, ratified, and confirmed in By-law 069-2017.

In addition to serving as the Town's Integrity Commissioner, I have also served as Integrity Commissioner for the County of Dufferin since 2016. My term as Dufferin County Integrity Commissioner expires **July 1**, 2021.

Earlier this year the County issued an RFP for Integrity Commissioner services after July 1. I informed the County that I would not respond to that RFP, so the process continued without my participation.

My reasons for not participating in the RFP were as follows:

1. The Integrity Commissioner is appointed as an accountability officer of the municipality under the *Municipal Act*. In my opinion, the appointment of an accountability officer should not be decided on a commercial basis via Request for Proposals. Appointments of individuals to fill statutory offices should proceed according to an application and/or recruitment process.
2. Integrity Commissioners interpret provincial legislation and municipal by-laws. Integrity Commissioners also have the authority to recommend the imposition of penalties on council members, including a 90-suspension of pay. In my opinion, the power to wield this significant legal authority should not be decided by RFP.
3. The Province is currently consulting on reform of the Code of Conduct / Integrity Commissioner regime. Some stakeholders are advocating for a power to remove councillors from office – which essentially means overturning the results of a democratic election. While I do not believe that under any circumstance Integrity Commissioners should possess the power to unseat duly elected municipal councillors, I certainly do not believe this power should be awarded by RFP.

FASKEN

4. Various municipalities have started to abandon RFPs for Integrity Commissioners in favour of an application/recruitment process better suited to appointments of individuals to hold statutory office. Examples include Ottawa and Richmond Hill.

The new Integrity Commissioner of the County will be ADR Chambers Inc. This corporation, ADR Chambers Inc., will charge an hourly rate three times higher than the rate Orangeville has paid for my services (\$300 versus \$100). ADR Chambers Inc. will also charge an annual retainer of \$2000 (compared to \$90 presently for Orangeville).

The *Municipal Act* gives Town Council full authority to decide on the appointment of its own Integrity Commissioner. Council may wish to consolidate with the incoming County Integrity Commissioner. On the other hand, Town Council may opt to maintain its own independent Integrity Commissioner, and Town Council has the ability to extend my appointment.

Currently, however, I am seized of two, ongoing Code of Conduct proceedings here in Orangeville. It is essential that an Integrity Commissioner operate independently, and be seen to operate independently. These ongoing proceedings make it improper for me to allow my name to be considered after July 31. There must be no suggestion that the outcome of those cases is influenced in any manner by the prospect of an extension.

Consequently, I confirm that I do not wish to be considered for an extension after my appointment by Orangeville ends on July 31. Three options are available to the Town: to accept the County's selection; to recruit another qualified individual; or, under subsection 223.3 (1.1) of the *Municipal Act*, to make arrangements for responsibilities to be provided by an Integrity Commissioner of another municipality.

Respectfully submitted,



Guy Giorno
Integrity Commissioner