

Expertise for Municipalities (E4m)
Non-Profit Association
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Integrity Commissioner for the
Municipality of Oliver Paipoonge



INQUIRY

REPORT/DECISION

**ALLEGATIONS: CONTRAVENTION OF THE MUNICIPALITY
OF OLIVER PAIPOONGE CODE OF CONDUCT &
THE MUNICIPAL CONFLICT OF INTEREST ACT**

BY: LORNA VEAL, COMMITTEE OF ADJUSTMENT - CHAIR

I. REQUEST FOR INQUIRY

- [1] Expertise for Municipalities (“E4m”) as Integrity Commissioner (“IC”) received a request for inquiry (“Request”) that alleged Lorna Veal (“Ms. Veal” “Respondent”), a member and Chair of the Oliver Paipoonge Committee of Adjustment (“CoA”), contravened the Oliver Paipoonge Code of Conduct (“Code of Conduct”) and the Municipal Conflict of Interest Act (“MCIA”) when she involved herself in an application in which she has a pecuniary interest and when she overstepped her role as a Committee of Adjustment member on a number of occasions.

Municipal Conflict of Interest Act

- [2] The Requestor alleged that Ms. Veal contravened **the MCIA** by:
- a) **not declaring a pecuniary interest to the Secretary-Treasurer or Clerk as soon as she realised she had one;**
 - b) **involving herself in an application to the Committee of Adjustment in which she had a direct pecuniary interest; and,**
 - c) **attempting to use her position to delay the application coming to the CoA for her own personal benefit.**

Code of Conduct

- [3] A contravention of the MCIA is automatically a contravention of the Code of Conduct. In addition to the above, it was alleged the **Code of Conduct** was also breached by Ms. Veal when she:
- a) **interfered in the day-to-day work of municipal staff (“Staff”) by telling them what to do in their jobs contrary to the role of a committee member;**
 - b) **constantly questioned the advice and decisions of Staff and Council with respect to land use planning matters before the CoA and Council; and,**
 - c) **forwarded an email chain to the CoA members in which she noted her disagreement with the opinion of the Secretary-Treasurer.**

II. FINDINGS/CONCLUSION

- [4] **With respect to the MCIA allegations, we find the following:**

With respect to the allegations set out in [2]a) Ms. Veal did not contravene the MCIA when she did not formally declare a pecuniary interest in a consent application prior to it coming before the CoA. Members are required to declare their pecuniary interest when an application comes to a meeting. A meeting had not yet occurred when this allegation was made.

With respect to the allegations set out in [2]b) Ms. Veal contravened the MCIA when she emailed the members of the CoA, about an application she had a direct pecuniary interest in.

With respect to the allegations set out in [2]c) we find that Ms. Veal’s actions in sending the email to the CoA members, while a contravention of the MCIA, were not premediated acts. It is evident that Ms. Veal did not strategize to influence the decision of the CoA. While Ms. Veal received training on the MCIA and her obligations thereunder, her actions appear to be inadvertent and an error in judgement made in good faith.

[5] **Penalties for Contravention - MCIA**

If a contravention of Section 5 of the MCIA is determined to have taken place, the Integrity Commissioner may apply to a judge for final ruling and penalties. The municipality is responsible for the costs.

The following penalties may be imposed upon a member (by a judge) who has been determined to have contravened the MCIA:

- reprimand
- suspension of remuneration for up to 90 days
- removal from office
- disqualification for up to seven years; and/or
- restitution of any financial gain

The MCIA sets out matters that the judge may consider in imposing a penalty, as follows:

- ***did the member take reasonable measures to prevent the contravention?***
- ***did the member disclose the potential pecuniary interest to an Integrity Commissioner and obtain advice? If so, was the advice followed?***
- ***was the contravention committed through inadvertence or by reason of an error in judgement made in good faith?***

[6] We find that Ms. Veal's actions, while a contravention of the MCIA would most likely result in a finding of inadvertence by a judge and result in a reprimand. We will not be making an application to a judge regarding her contravention of the MCIA.

[7] **With respect to the Code of Conduct allegations, we find the following:**

With respect to the allegations set out in [3]a) Ms. Veal contravened sections 1.2h), 5.1, 8.3 and 8.5 of the Code of Conduct and her duties as Committee Chair, when she interfered in the day-to-day work of Staff, by inappropriately directing their work.

With respect to the allegations set out in [3]c) Ms. Veal contravened Sections 5.1, 8.3 and 8.5 of the Code of Conduct as well as the *Guiding Principles* of the *Council Staff Relations Policy* through her repeated questioning of advice and decisions of Staff with respect to planning matters at both the Committee of Adjustment and Council tables. Members with complaints about Staff, for whatever reason, must follow the appropriate Complaint procedure laid out in the municipality's policy, which, in this case, is to speak confidentially with the CAO-Clerk.

In contravening the MCIA, Ms. Veal also automatically contravened Sections 1.2c), 1.2g), and 13.1 and 13.2 of the Code of Conduct with respect to avoiding "*conflicts of interest, both real and perceived*".

[8] **Recommended Penalties for Contravention – Code of Conduct**

Council is allowed to consider two forms of penalty, one being a reprimand and the other being the suspension of remuneration. Since Committee of Adjustment members are not remunerated for their duties, the option of suspending this benefit does not apply here. Council could consider one of the following reprimands contained in the Integrity Commissioner Protocol:

- a. Removal from membership of a Committee or Local Board;
- b. Removal as Chair of a Committee or Local Board;
- e. Request for an apology to Council, the Requestor or other relevant party;
- f. Revocation of travel or other budget;
- g. Request for resignation;
- h. Trespass Order restricting access except for Council (Committee) Meetings.

[9] In this circumstance, we considered that Ms. Veal has professional experience in land use planning and brings value to the CoA. However, it is clear she does not agree that constant questioning, of Staff's decisions and actions in public or in the office, is unwelcome and inappropriate.

[10] We highly encourage Ms. Veal to decide if it is more important for her to act as a resident and a voice for the people with respect to planning matters that come before Council or for her to sit as a member of the CoA. Also, as a member of the CoA, she must act within her role and must not interfere with municipal operations going forward.

[11] In determining an appropriate penalty, we recommend that Council take into consideration the actions of Ms. Veal in light of these findings:

a) If Ms. Veal **chooses not to acknowledge** her contraventions and/or wishes to continue voicing her opinion in Oliver Paipoonge planning matters at public hearings, in the media including social media, or at Council, she should resign her position as a member of the Committee of Adjustment. If she does not choose that course of action then it is recommended Council remove her from the Committee of Adjustment.

b) Alternatively, should Ms. Veal **choose to acknowledge** her contraventions and agree to stop voicing her opinion in Oliver Paipoonge planning matters at public hearings, in the media or at Council, as well as overstepping her role, then training should be mandatory in an attempt to address the member/staff relations issues noted herein.

[12] Should Ms. Veal remain on the CoA, we recommend additional training on the role and responsibilities of the Chair and committee members. Training, possibly through MMAH, would improve the functioning of the CoA. This would be to everyone's advantage.

III. INQUIRY PROCESS

- [13] Upon receipt of the Request, we completed an initial review of the accompanying material submitted by the Requestor and upon finding the Request properly considered by us, we conducted a preliminary review of the allegations to determine if there were sufficient grounds to conduct a full inquiry. We found there were sufficient grounds for a full inquiry.
- [14] We interviewed the Requestor, the Respondent and eleven Witnesses due to the importance of chronology and order of correspondence in this inquiry.
- [15] The conclusions arrived at with respect to this matter are based upon the standard of a balance of probabilities. As required, assessments of credibility have been made. These assessments are based on:
- Whether or not the individual has firsthand knowledge of the situation
 - Whether or not the individual had an opportunity to observe the events
 - Whether or not the individual may have bias or other motive
 - The individual's ability to clearly describe events
 - Consistency within the story
 - The attitude of the individual as they are participating
 - Any admission of dishonesty¹
- [16] After obtaining all the above evidence, the IC reviewed it along with the Requestor's, witnesses' and Respondent's statements. Each were assessed for their credibility.
- [17] The IC found the witnesses to be credible. They cooperated in the investigation, were straight forward and did not appear to attempt to deceive the Investigator. Additionally, they provided appropriate supporting evidence upon request.
- [18] Additionally, we reviewed by-laws, agendas, and other relevant documentation.
- [19] We reviewed the evidence before us and considered the following pertinent sections of Provincial legislation, municipal bylaws and policies.

1) Committee of Adjustment Procedural By-law No 15-2020

AND WHEREAS the Committee of Adjustment of the Municipality of Oliver Paipoonge is a 'local board' within the meaning of Section 55 of the Municipal Act'.

1 Faryna v. Chorny (1951), [1952] 2 D.L.R. 354 (B.C.C.A.), at Para 10, 11.

Alberta (Department of Children and Youth Services) v. A.U.P.A. (2009), 185 LAC (4th) 176 (Alta.Arb.)

6. *Conflict of Interest - The Committee of Adjustment is a “local board” for the purposes of the Municipal Conflict of Interest Act, and Committee members are bound by the provisions of that Act.*

10 b) *The Secretary shall prepare agendas of the Committee in consultation with the Chair.*

11. **Duties of the Chair** are the normal chairing duties of the meeting plus,

11. s) *To consult with the Secretary in setting the agenda of Committee meetings.*

12. Duties of the Secretary

a) *The secretary shall be appointed by Council. Should the Secretary be unable to carry out his or her duties, the Committee shall authorize another person to act as Secretary, which person shall have all the authority and responsibilities of the Secretary during the absence of the Secretary.*

b) *The Secretary’s duties shall include:*

i. Prepare the agenda for meetings of the Committee in consultation with the Chair, and distribute that agenda

ii. Provide notice of hearing for applications for consent and minor variance consistent with the requirements of the PlanriingAc1 and the regulations pursuant thereto; and any provisions contained herein;

iii. Provide notice of meetings in keeping with the provisions of this by-law;

iv. Attend all meetings of the Committee

v. To keep all applications submitted and all correspondence sent to and by the Committee

vi. Make available for inspection at any hearing signed, written comments received regarding the application(s) under consideration at the hearing; and

vii. Keep minutes of every Committee meeting and hearing;

viii. Keep on file minutes, records and decisions regarding all applications and other official business of the Committee.

2) Code of Conduct By-law No 12-2019

The following obligations are expected of members of Boards as well as members of Council:

1.2c) *Members must be committed to performing their functions with integrity, avoiding the improper use of the influence of their office, and conflicts of interest, both real and perceived;*

1.2g) *Members must not use the status of their position to inappropriately influence the decision of another individual or body. For example, to obtain a personal advantage for the Member, the Member’s parents, children, spouse, staff, friends, associates, business or otherwise; or to disadvantage another party.*

1.2h) *Members shall be respectful of the role of staff to provide advice with political neutrality and objectivity and without undue influence from a Member or Members.*

5.1 *Every Member shall observe and comply with every provision of this Code of Conduct, as well as all other policies and procedures adopted or established by Council.*

8.3 Every Member shall show respect for staff and Officers, and for their professional capacities and responsibilities.

8.5 No Member shall use or attempt to further his or her authority or influence by intimidating, threatening, coercing, commanding or improperly influencing any staff person or Officer or interfering with that person's duties, including the duty to disclose improper activity.

13.1 No Member shall use the influence of his or her office for any purpose other than for the lawful exercise of his or her official duties and for municipal purposes.

13.2 No Member shall use his or her office or position to influence or attempt to influence the decision of any other person, for the Member's private advantage, the private advantage of the Member's parent, child, spouse, staff member, friend or associate, business or otherwise or the disadvantage of others. No Member shall attempt to secure preferential treatment beyond activities in which Members normally engage on behalf of their constituents as part of their official duties. No Member shall hold out the prospect or promise of future advantage through the Member's supposed influence within Council (Committee) in return for any action or inaction.

3) Council / Staff Relations Policy By-Law No. 14-2019

5. Guiding Principles

1. Members of Council (Committee) are Public Figures, not Staff and Officers
2. All Members are Equal
3. Respect the Chain of Command

Members of Council (Committee) must understand they have no individual capacity to direct Staff to perform, or not perform functions or duties. The CAO-Clerk is responsible for Staff and Officers – **Members of Council (Committee) who need to engage with Staff and Officers must do so through the CAO-Clerk.** This would include both in person, verbal, written and electronic messages.

6. Complaints – **The Municipal Clerk shall be responsible for receiving complaints and / or concerns related to this policy.**

Handling of complaints shall be done in the manner set out in the applicable Code of Conduct or policy.

4) Municipal Act - Role of members of Council

a. Integrity Commissioner – Section 223.4 Inquiry by Commissioner

Inquiry by Commissioner

223.4 (1) This section applies if the Commissioner conducts an inquiry under this Part, (a) in respect of a request made by council, a member of council or a member of the public about whether a member of council or of a local board has contravened the code of conduct applicable to the member; or

(b) in respect of a request made by a local board or a member of a local board about whether a member of the local board has contravened the code of conduct applicable to the member. 2006, c. 32, Sched. A, s. 98.

Penalties

(5) The municipality may impose either of the following penalties on a member of council or of a local board if the Commissioner reports to the municipality that, in his or her opinion, the member has contravened the code of conduct:

- 1. A reprimand.*
- 2. Suspension of the remuneration paid to the member in respect of his or her services as a member of council or of the local board, as the case may be, for a period of up to 90 days. 2006, c. 32, Sched. A, s. 98.*

Same

(6) The local board may impose either of the penalties described in subsection (5) on its member if the Commissioner reports to the board that, in his or her opinion, the member has contravened the code of conduct, and if the municipality has not imposed a penalty on the member under subsection (5) in respect of the same contravention. 2006, c. 32, Sched. A, s. 98.

Section 223.4.1 MCIA

Completion

(15) Upon completion of the inquiry, the Commissioner may, if he or she considers it appropriate, apply to a judge under section 8 of the Municipal Conflict of Interest Act for a determination as to whether the member has contravened section 5, 5.1 or 5.2 of that Act. 2017, c. 10, Sched. 1, s. 21.

Report about conduct

Section 223.6 (2) If the Commissioner reports to the municipality or to a local board his or her opinion about whether a member of council or of the local board has contravened the applicable code of conduct, the Commissioner may disclose in the report such matters as in the Commissioner's opinion are necessary for the purposes of the report. 2006, c. 32, Sched. A, s. 98.

Publication of Reports

Section 223.6 (3) The municipality and each local board shall ensure that reports received from the Commissioner by the municipality or by the board, as the case may be, are made available to the public. 2006, c. 32, Sched. A, s. 98.

Section 224 provides that Council's role is as a governing body. The role of Council should be limited to creating policies and giving directions to staff (by resolution and at a Council meeting, not individually).

5) Committee of Adjustment Binder Table of Contents (training provided)

1. Procedural By-law 15-2020
2. Council & Committee By-law 93-2018
3. Code of Conduct By-law 12-2019
4. Planning Act Section 44 – Committee of Adjustment
5. Blank Consent Application
6. Blank Minor Variance Application
7. Site Visit Checklist for Consent
8. Site Visit Checklist for Minor Variance
9. Mileage Form
10. Procedures for Consent/Minor Variance Applications (Speaking Notes – Chair's Package only)

6) Municipal Conflict of Interest Act (MCIA)

1.1 The Province of Ontario endorses the following principles in relation to the duties of members of councils and of local boards under this Act:

3. Members are expected to perform their duties of office with integrity and impartiality in a manner that will bear the closest scrutiny.

When present at meeting at which the matter is considered.

5 (1) Where a member, either on his or her own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter and is present at a meeting of the council or local board at which the matter is the subject of consideration, the member,

- a) shall, prior to any consideration of the matter at the meeting, disclose the interest and the general nature thereof;
- b) shall not take part in the discussion of, or vote on any question in respect of the matter; and;
- c) shall not attempt in any way whether before, during or after the meeting to influence the voting on any such question.

Written statement re disclosure

5.1 At a meeting at which a member discloses an interest under section 5, or as soon as possible afterwards, the member shall file a written statement of the interest and its general nature with the clerk of the Municipality or the secretary of the committee or local board, as the case may be.

5.2 (1) Where a member, either on his or her own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter that is being considered by an officer or employee of the municipality or local board, or by a person or body to which the municipality or local board has delegated a power or duty, the member shall not use his or her office in any way to attempt to influence any decision or recommendation that results from consideration of the matter. 2017, c. 10, Sched. 3, s. 4.

Requirement to establish registry

- 6.1 (1)** Every municipality and local board shall establish and maintain a registry in which shall be kept,
- (a) a copy of each statement filed under section 5.1; and
 - (b) a copy of each declaration recorded under section 6. 2017, c. 10, Sched. 3, s. 5.

Access to registry

(2) The registry shall be available for public inspection in the manner and during the time that the municipality or local board, as the case may be, may determine. 2017, c. 10, Sched. 3, s. 5.

IV. FINDINGS OF FACT – The following facts are in chronological order where possible and are pertinent to this inquiry. To corroborate statements made by the Requestor and the Respondent, eleven additional people were interviewed as Witnesses. Where no bracket [] is used at the end of a statement, the fact derives from provincial legislation, Oliver Paipoonge by-laws and policies noted in the previous section or, documentary evidence.

- [20] Municipal Council has the power to delegate the authority to approve a consent to sever land to a Committee of Adjustment along with other powers outlined in the Planning Act, c1990. Council can determine to delegate some or all the powers allowed set out in the Act. In Oliver Paipoonge, the appointment of a Secretary-Treasurer for the Committee remains with Council. As an employee of the municipality the individual reports to the CAO-Clerk.
- [21] The five-member Committee of Adjustment, appointed by Council at the beginning of each term, has its own Procedural By-law No 15-2020.
- [22] The term of the Oliver Paipoonge members, none of whom are Council members, is the term of Council or until a successor is appointed.
- [23] Committee of Adjustment members must adhere to the municipality's Code of Conduct (By-law No 12-2019) which sets out the expected behavior of members as well as compliance with other local municipal by-laws and policies.
- [24] All applicable bylaws, policies and other required documents mentioned herein were provided to the CoA at the beginning of their term. [Witnesses]
- [25] Opportunities for basic online training outlining CoA operation, roles and responsibilities including basic Municipal Conflict of Interest Act (MCIA) training were afforded to all members. [Witnesses]
- [26] Ms. Veal has had an extensive career in land use planning until she retired in 2021. Her experience includes holding the position of a Planning Officer and more recently Secretary-Treasurer for a busy Committee of Adjustment. [Respondent, Witnesses]
- [27] Ms. Veal has lived in Oliver Paipoonge for over forty years and has worked for the municipality during that time. [Respondent, Witnesses]
- [28] This in her first term as a member of the Oliver Paipoonge CoA as opposed to working with the Committee as a municipal employee. She was elected as Chair by the Committee. [Respondent, Witnesses]
- [29] She has a penchant for detail and is not afraid to make statements publicly respecting Staff advice and Council decisions when in disagreement. [Respondent, Witnesses]
- [30] Ms. Veal has, in the past, provided comments as a resident during other planning processes and more recently while a member of the Committee of Adjustment. She has never provided her comments as anything other than a resident in her mind. [Respondent, Witnesses]

- [31] After she requested a letter be on an open Council agenda in July, Council responded, after taking the letter to Closed session, in summary as follows:
“Council feels that while Council and Committee Members are residents they are first and foremost in the public eye. Council and Committee Members need to ensure they are not committing improper use of the influence of their office or be perceived to be committing improper use of the influence of their office. Council requests that any improper use of the influence of your office “both perceived and real” be avoided.” [Witnesses]
- [32] On September 7th, an application to sever a piece of rural property was submitted to the Secretary-Treasurer of the CoA (Manager of Planning). The application involved two large pieces of property which appeared to be separate properties because they each had a roll number and were assessed by MPAC as two separate properties. When working with the agent of the Applicant it was learned that the two properties had merged on title and are legally a single lot. [Witnesses]
- [33] Ms. Veal and an immediate family member, both own properties abutting the lands in the subject application. [Respondent, Witnesses]
- [34] It was clear to Ms. Veal that she would have to declare a conflict at the CoA meeting when the application was to be heard. [Respondent]
- [35] The authorized agent for the applicant was identified in the application as the “buyer”, pending consent approval.
- [36] The agent had a legal offer to purchase on the property that was entered into in July and expired on September 29th. [Witnesses]
- [37] In accordance with the Planning Act notices were prepared by the Planning Department and sent out to the owners of land within 60 metres of the subject land on Sept 28th for a CoA meeting scheduled for Oct 12th, 2023. [Witnesses]
- [38] The large parcel, shown on the application sketch as a single parcel, was shown as two separate parcels with separate roll numbers on the most recent assessment roll and MPAC mapping. [Witnesses]
- [39] As a result, the required circulation notices were inadvertently not sent to all property owners within 60 metres of the subject land and more specifically the westerly parcel . These property owners should have been notified. This error was discovered on October 5th. [Respondent and Witnesses]
- [40] A representative of the agent picked up the required signage from the office and posted them as required on the property on September 28th, 2023, a legal requirement. [Witnesses]
- [41] The agent’s offer as “buyer” expired on September 29th. [Witnesses]

- [42] Ms. Veal's family member contacted the owner shortly after the signs were posted. [Witnesses]
- [43] On Saturday September 30th, 2023, the agent received a call from the owner and his legal representative to advise of interest in the land from other potential purchasers. Further that the owner wanted to revisit their agreement, which at that point had lapsed. [Witnesses]
- [44] Ms. Veal has never contacted the owner or his legal representative regarding either her or her family member's interest in the property. [Respondent, Witness]
- [45] On Oct 5th, 2023, the CoA Agenda for Oct 12th, including the subject consent Notice and Application, was circulated to CoA Members. [Witnesses]
- [46] On Oct 6th, 2023, the Council Agenda for the Oct 10th, 2023, Council meeting was circulated to Council. It also contained the Notice along with the application for Council comment. [Witnesses]
- [47] That same day, the Friday before the Thanksgiving long weekend, Ms. Veal attended the municipal office where she asked the Secretary-Treasurer's assistant to provide her with a copy of the circulation list that had been used for notices on the subject consent file that was on the CoA Agenda she had received the previous day. [Respondent, Witnesses]
- [48] The Secretary-Treasurer was on a day off. [Respondent, Witnesses]
- [49] After seeing the circulation list and confirming she and her neighbours were not on it, she attempted to explain the requirements of Notice under the legislation. She asked the assistant to pull up the map she used for the required 60m circulation so that the assistant could understand what she was trying to convey. She was not angry but felt she was taking the role of an educator by sharing her extensive knowledge of the process. [Respondent]
- [50] Ms. Veal then suggested they get the Secretary-Treasurer on the phone so that she could speak to her directly about her concerns with the circulation. [Respondent, Witness]
- [51] The Secretary-Treasurer was unavailable to speak with Ms. Veal but told her assistant to let Ms. Veal know she would deal with the matter upon her return the morning of October 10th, 2023 (Tuesday after Thanksgiving). [Respondent, Witnesses]
- [52] Upon the Secretary-Treasurer's return, she contacted the two neighbours who were not originally circulated with the Notice, by phone, to let them know about the Application. She did not contact the Veals by phone because at that point they were already aware of the application. [Witness]
- [53] Then at 1:53pm she emailed Ms. Veal and explained why the circulation error happened. In the email she also expressed that the application may not need to be deferred because everyone had now been notified with sufficient time to make comments. The Secretary-Treasurer also said that the CoA could make that decision on the 12th, 2023. The email was copied to CoA members as well as the CAO-Clerk. [Respondent, Witnesses]

- [54] Within an hour of receiving the email from the Secretary-Treasurer (at 2:36 pm), the Respondent replied to the Secretary-Treasurer, copied to the CAO-Clerk, starting with, *"I learned of the application because I am a Committee member."* She included a reference to O.Reg 197/96 and stated the need for both posting of notice on the property and circulation of the Notice. Ms. Veal insisted to Staff, *"The application needs recirculation."* [Respondent, Witnesses]
- [55] At 6:57pm Ms. Veal then circulated the two emails to the rest of the CoA members and the Secretary-Treasurer's Assistant after she realized she accidentally missed hitting "Reply All". [Respondent, Witnesses]
- [56] Council considered the Application on October 10, 2023, and provided no comments. [Witnesses]
- [57] The next day, October 11th, a decision was made by the Secretary-Treasurer, after receiving external professional planning advice, to pull the application from the CoA agenda and an email was sent to all CoA members and associated Staff that a new agenda would be available at the meeting. [Witnesses]
- [58] On October 12th, 2023, the Integrity Commissioner received the request to investigate the allegations.
- [59] The CoA was held October 12, 2023 at 5pm with a new revised hard copy Agenda provided at the member's places. The subject Application had been removed. [Respondent, Witnesses]
- [60] On October 23rd, 2023, the agent was contacted by the owner and his legal representative with a new offer that excluded land immediately adjacent the Veal's properties with the comment that the Veals wanted that piece. That together with some other new terms were not immediately amenable to the agent, as "buyer". [Witnesses]
- [61] Ms. Veal claims she is not party to any real estate deals, negotiations or discussions. [Respondent]
- [62] On October 25th, 2023, new Notice signs for the Application, without any amendments to the original, were posted on the subject property by the agent's representative with a new meeting date of November 9th, 2023. [Witnesses]
- [63] After receiving the CoA Agenda package on November 2, 2023, Ms. Veal formally declared her conflict of interest (her pecuniary interest) in the Application by email.
- [64] She did not attend the meeting at which the Application was considered as it was the only application on the agenda. [Respondent, Witness]

V. ANALYSIS

- [65] It is undeniable that Ms. Veal has a direct pecuniary interest in the subject consent application as an abutting property owner. Additionally, Ms. Veal has a deemed pecuniary interest as she was aware that a family member had expressed interest in a portion of the property to the owner/applicant.
- [66] Ms. Veal's actions, by stepping into the role of educator to Staff, resulted in the decision being deferred to a future meeting. This act, whether intentional or not, benefited her family member by allowing more days before the matter was debated at the CoA to attempt to negotiate a deal with the owner which they would not have otherwise had.
- [67] Of note is that, in the end, the Application was unchanged by the owner even though there was considerable interest in the property by other parties. Also, the CoA members would not have been aware of the actual amount of additional interest there was or any negotiations that may have occurred during this delay. Ms. Veal knew of her family member's interest but it is believable she was not party to any real estate deals, negotiations or discussions.
- [68] The MCI A requires a member to refrain from participating in a matter in which they have a pecuniary interest. Pecuniary interest is not defined in the MCI A. The Courts have determined that pecuniary interest is a financial interest and can be positive or negative. In this circumstance, Ms. Veal as an abutting property owner has a financial interest in the matter before the committee. Their decision could affect the value of Ms. Veal's property. Additionally, Ms. Veal has a deemed pecuniary interest because her family member has a financial interest in the decision.
- [69] When a member has a pecuniary interest in a matter, they must declare their interest in writing and not influence the decision before, during or after the meeting in which the decision is made. This includes influencing Staff.
- [70] Ms. Veal was aware that the matter was to be considered by the CoA. She did not declare her pecuniary interests in the matter until after the matter was deferred to another meeting date. This is not a contravention of the MCI A. It is not a legal requirement to complete the declaration as soon as you become aware you have a pecuniary interest it is however, a best practice.
- [71] There is no evidence indicating Ms. Veal's actions were malicious or done with ill intent.
- [72] Influence is not defined in the MCI A. The key question to answer is did Ms. Veal's actions amount to influencing the decision?
- [73] The delay that occurred in this matter would have allowed anyone who had shown interest in the property, before or after the signs had been posted, additional time to try and negotiate a new deal with the owner. In fact, there were more than two parties the owner conversed with about the potential sale of portions of his property.

- [74] Ms. Veal was clearly aware that she had a pecuniary interest in the matter before the CoA. She undoubtedly attempted to influence the Secretary-Treasurer when she found out about the circulation error and insisted Staff deal with it by re-circulating the Notice. Ms. Veal also made sure the remaining CoA members knew she felt strongly that recirculating the Notice was “*the right thing to do*”. She would have been aware that she could not participate in any related discussion or decision at the meeting should the Application remain on the Agenda they had received.
- [75] Considering Ms. Veal’s years of training and experience as a Secretary-Treasurer and her apparent concern generally with making sure things are done by the book, it would be very difficult to believe Ms. Veal would not be acutely aware of her own pecuniary interest and the need to declare it according to legislation, which directs what a member must do when either present at or absent from a meeting.
- [76] We considered if the act of sending an email, and/or the contents of an email could constitute influence. There is no defined legal test to determine whether a member with a pecuniary interest has influenced a decision. Additionally, the issue of “influencing” has not been interpreted in detail by the courts. Considering this, it is important to note that the fundamental purpose of the MCI is to prohibit members from engaging in the decision-making process when they have a pecuniary interest.
- [77] Influence and exercising influence should be interpreted broadly. Principle 3, set out in the preamble portion of the MCI, states “***Members are expected to perform their duties of office with integrity and impartiality in a manner that will bear the closest scrutiny***”.
- [78] Ms. Veal sent an email to Staff and CoA members. The Secretary-Treasurer removed the item from the meeting agenda and recirculated Notices. The Secretary-Treasurer’s decision to defer the Application to another meeting date was based on advice from other professionals, not as a direct result of Ms. Veal’s email or her influence.
- [79] Did Ms. Veal’s actions influence the CoA members? The deferral of the decision likely would not *influence the voting on any such question* when the Application was considered/debated at the CoA meeting.
- [80] The subject consent Application did not appear to be controversial. There were no comments from Council on the Application and no written comments were received from agencies or members of the public prior to the meeting.
- [81] It is evident that Ms. Veal’s involvement in this application, included telling Staff what to do in their jobs. It is not the role of a member of any committee to performance manage an employee. It is the role of their direct report or the CAO-Clerk. It is very evident that Ms. Veal acted outside of her role when she directed Staff. (Code of Conduct sections 1.2h), 5.1, 8.3 and 8.5)

- [82] Her frequent questioning of Staff and public disagreement with respect to their professional advice to Council and the CoA has created a difficult situation in the workplace that has resulted in internal stresses that should be dealt with and avoided in the future. Ms. Veal is not the Secretary-Treasurer's or her assistant's supervisor and should not be acting as one. Her actions are a contravention of the Council Staff Relations Policy (sections 5. and 6.) and the Code of Conduct (sections 5.1, 8.3 and 8.5)
- [83] Ms. Veal has, on occasion, taken a public stance on Council decisions related to planning. This is inappropriate for a CoA member. Ms. Veal as a member of a committee of Council should not be speaking negatively about Council decisions. This behaviour should not be tolerated in her role a member of the CoA.

Dated November 29, 2023