

Town of Deep River Integrity Commissioner Files 2017-02, 2017-03, 2017-04

INTERIM REPORT ON COMPLAINTS

These three complaint files involve allegations that a Council Member contravened the *Municipal Conflict of Interest Act* and in so doing contravened the Council Code of Conduct.

Each complaint relates in part to the relationship between this Council Member and a company. After opening the three complaint files and assigning them numbers, I learned that some other lawyers in my firm provide legal services to this company. I personally do not but, through my colleagues, the law firm in which I am a partner does.

I have therefore decided to recuse myself from further involvement in these three complaints and to exercise my authority under the *Municipal Act* to appoint a delegate. Subsection 223.3(3) of the *Municipal Act* provides as follows:

The Commissioner may delegate in writing to any person, other than a member of council, any of the Commissioner's powers and duties under this Part.

I am delegating my powers and duties in relation to Files 2017-02, 2017-03 and 2017-04. The delegation will not affect other files (unless in the case of any new file in which the same need to recuse arises).

The delegate, who will serve as Acting Integrity Commissioner for these files, is Professor Emeritus David Mullan of Queen's University in Kingston.

The Acting Integrity Commissioner is an expert whose credentials and reputation are impeccable.

Professor Mullan is the first municipal Integrity Commissioner ever appointed in Canada. He served as the City of Toronto Integrity Commissioner from 2004 to 2008.

He is an expert in municipal conflict of interest and was part of the expert panel that advised the Mississauga conflict of interest inquiry (the Cunningham Inquiry) into Mayor Hazel McCallion.

Professor Mullan has been widely quoted on municipal integrity matters.

He is also recognized as one of Canada's foremost experts in administrative law.¹ According to one article, Court judgments "routinely cite Mullan's expertise as the gold standard."

¹ Administrative law is the body of law that includes, among other aspects, the processes, powers and functions of statutory officers such as integrity commissioners.

Chief Justice Beverley McLachlin of the Supreme Court of Canada has praised him, writing that:

Professor Mullan's scholarship cuts a broad swathe through most aspects of this Court's administrative law jurisprudence. His work has been formally referred to by the Supreme Court of Canada in at least eighteen decisions, and in several of those cases multiple works were cited.²

Though retired as a professor and as a member of the Law Society, Professor Mullan continues to write, to advise and to serve in a variety of capacities.

The terms of the delegation will provide that Acting Integrity Commissioner Mullan is to operate completely independently of me and my law firm. He will report directly to Council and will deal directly with Council and the CAO/Clerk. I will have no dealings with the delegated files.

Respectfully submitted,



Guy Giorno
Integrity Commissioner
Town of Deep River

October 16, 2017

² *Academe and the Courts: Professor Mullan's Contribution in Inside and Outside Canadian Administrative Law: Essays in Honour of David Mullan*, G. Huscroft and M. Taggart, eds., University of Toronto Press, 2006, at p. 21.