



**INTEGRITY
COMMISSIONER REPORT
ACTION REQUIRED**

**Report on Violation of Code of Conduct for Members of
Council: Councillor Maria Augimeri**

Date:	August 1, 2014
To:	City Council
From:	Integrity Commissioner
Wards:	All
Reference Number:	

SUMMARY

On March 24, 2014, a citizen filed a formal complaint with the Office of the Integrity Commissioner alleging that Councillor Maria Augimeri violated Article XIV (Discreditable Conduct) of the *Code of Conduct for Members of Council* (“*Code of Conduct*”) as a result of comments made about the citizen by Councillor Augimeri in the print and online edition of a Toronto-based Italian language daily newspaper.

The complaint was classified as being within the jurisdiction of this office. This report concludes that Councillor Augimeri breached Article XIV of the *Code of Conduct*.

Councillor Augimeri provided a retraction and apology for the comment to be published in the community newspaper. She also provided her apology to the complainant, via this office. No further sanction is recommended as a result of this remedial action.

RECOMMENDATIONS

The Integrity Commissioner recommends that:

1. Council adopt a finding that Councillor Augimeri breached Article XIV of the *Code of Conduct*.
2. Council adopt the recommendation that no sanction be imposed on Councillor Augimeri.

3. City Council authorize the use of the Council General Expense budget to reimburse the complainant for actual and reasonable costs up to a maximum of \$5,000 as provided in s. 11(2) of the Complaint Protocol.

Financial Impact

The outcome of this complaint, which is being reported to Council, may result in a financial impact to the City of Toronto to a maximum of \$5,000.

DECISION HISTORY

On March 24, 2014, a citizen filed a complaint with the Office of the Integrity Commissioner pursuant to the *Code of Conduct Complaint Protocol for Members of Council* (the "*Complaint Protocol*") and section 160 of the *City of Toronto Act, 2006*.

This is a report on the complaint in accordance with the *Complaint Protocol* and section 162(3) of the *City of Toronto Act, 2006*.

ISSUE BACKGROUND

The formal complaint alleged that an article published on February 21, 2014 in a Toronto Italian-language daily newspaper quoted Councillor Augimeri as saying, "*The people do not want to be represented by a criminal.*" This comment, which was translated from Italian into English by the complainant in his affidavit, referred to the complainant. The comment was made by during an interview with the Councillor after her appointment as Chair of the TTC. The article provided, among other things, background information about the Councillor, her political career and her history as a candidate running for Councillor for Ward 9 York Centre.

A copy of the complaint was provided to Councillor Augimeri on March 28, 2014. Councillor Augimeri did not challenge the substance of the complaint.

The complainant advised through his lawyer that he would be prepared to withdraw the complaint if an appropriate apology was made. Councillor Augimeri provided an apology for publication in the newspaper in which the offending comments were made. The newspaper decided not to publish the unqualified apology, but interviewed the Councillor again. During the course of that interview, the Councillor stated, "If I offended someone by using the term criminal against [the complainant], I am sorry." (translation). The article was received by the complainant who pointed out that he had requested an unqualified apology.

Councillor Augimeri subsequently provided a second apology for publication in the newspaper using the wording requested by the complainant. This apology read, "In the February 21st 2014 edition of this publication, I was quoted in referring to (the

complainant) as a “criminale.” This is completely untrue. I wish to retract the use of that word, and provide an unqualified apology to (the complainant) for using it.”

Councillor Augimeri also provided her unqualified apology to the complainant. The newspaper has advised that it will not be publishing the unqualified apology requested by Councillor Augimeri.

Investigation

The investigative steps taken in the matter were as follows:

- Review of affidavit and material filed in support;
- Review of independent translation of text referred to in the complaint affidavit from Italian into English;
- Meeting with Councillor Augimeri to discuss options for resolution;
- Correspondence and discussions with counsel for the complainant respecting options for resolution.

FINDINGS

Councillor Augimeri did not dispute that the reference to a person as a "criminale" in Italian ("criminal" in English) where that person does not have a criminal record, is false and defamatory, as contended by the complainant. The complainant does not have a criminal record. Through counsel, the complainant advised he was not seeking any civil remedy, but instead was seeking a retraction and an apology.

Article XIV of the *Code of Conduct* states:

All members of Council have a duty to treat members of the public, one another, and staff appropriately and without abuse, bullying or intimidation, and to ensure that their work environment is free from discrimination and harassment. The *Ontario Human Rights Code* applies and if applicable, the City's *Human Rights and Anti-harassment Policy*, and *Hate Activity Policy*.

The basis for the complaint is a form of public name-calling and the remedy requested and received was appropriate. The inaccurate word used in relation to the complainant by Councillor Augimeri was a breach of Article XIV (Discreditable Conduct) of the *Code of Conduct*.

Recommendation on Sanction

The complainant consistently requested an unqualified retraction and an apology. The offending comments were made in February and the complaint was filed in March, 2014. There was a delay in providing the apology on a relatively straightforward complaint in which the facts were not in dispute.

Councillor Augimeri provided an unqualified apology in the form requested by the complainant. The complainant has accepted the apology. The delays have led to the complainant requesting that the complaint be completed by way of a report to Council, with no further sanction necessary. Therefore, I recommend no further sanction be imposed.

Costs

The complainant, who was represented by counsel for the purposes of this complaint has advised of the intention to seek costs pursuant to s 11(2) of the Complaint Protocol. Costs are available to a complainant under the provision which reads:

A complainant and a member who are parties to a complaint under this procedure shall each be reimbursed for actual and reasonable legal and related expenses up to a maximum of:

- (a) \$5,000; or
- (b) [provisions relating to procedures under the Public Inquiries Act which are not in issue in this matter]

It is recommended that payment of costs come from the Council General Expense Budget because the *Complaint Protocol* is silent as to the source of the funds for payment of these costs. The Office of the City Solicitor is able to assist with confirming that the costs sought are "actual and reasonable."

SIGNATURE

(original signed)

Janet Leiper
Integrity Commissioner

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