



OFFICE OF THE INTEGRITY COMMISSIONER

REPORT REGARDING THE CONDUCT OF COUNCILLOR JOHN FILION

Valerie Jepson
Integrity Commissioner
June 15, 2018

INTRODUCTION

On August 17, 2017, the Auditor General requested an inquiry into whether Councillor John Filion contravened Article VIII (Improper Use of Influence) of the Code of Conduct for Members of Council (the "Code of Conduct") on the basis of an anonymous letter her office received that alleged that the Councillor was involved in improperly referring matters to a particular development consultant.

I reviewed the Auditor's request, and determined that the matter could possibly give rise to a contravention of the Code of Conduct and that there were sufficient grounds to cause an inquiry.

Following an investigation, I have uncovered no evidence to support a finding that Councillor Filion has any business or referral relationship with the named consultant.

I am filing this report with City Council for two reasons. First, the anonymous letter that formed the basis of the Auditor's request raised serious allegations and was also received by many City councillors and City staff. Second, the concerns raised in the anonymous letter are similar to those raised by Councillor Thompson in defence of his own actions in a separate inquiry; I believe that City Council may reasonably wish to know this outcome and its reasons when considering my report and recommendations about Councillor Thompson.

THE REQUEST FOR AN INQUIRY

On August 17, 2017, Auditor-General Beverly Romeo-Beehler requested me to inquire into allegations that Councillor Filion contravened Article VIII (Improper Use of Influence) of the Code of Conduct because of an alleged "private relationship with a ratepayer named George Belza", and that this relationship has resulted in "extortion" of the development community. The anonymous letter that formed the basis for the Auditor's request alleged that Councillor Filion would "find fault" in development applications and "garnish support through ratepayer opposition", putting the development application in jeopardy to be resolved by retaining George Belza to act as an intermediary. Mr. Belza would then remove an "artificial block" that would result in both ratepayer and local councillor support. The letter alleged that Mr. Belza is well-compensated by this practice, and suggested there may be kickbacks to Councillor Filion.

This is the first request for an inquiry this Office has received from a fellow Accountability Officer. I followed the same procedure as I normally would, as set out in ss. 2 and 3 of the Code of Conduct Complaint Protocol for Members of Council (the "Complaint Protocol"), with necessary modifications. That is, I reviewed the request to determine first whether the allegations could possibly give rise to a Code of Conduct

issue. In addition to the information provided in the Auditor General's request, I considered the following other information:

- Entries on the Toronto Lobbyist Registry regarding lobbying activity of Mr. Belza; and
- That the anonymous allegations were also alleged in testimony given by a councillor and another witness during a distinct investigation.

I determined that the allegations were specific enough to warrant an inquiry into whether Councillor Filion contravened Article VIII (Improper Influence). Article VIII states:

No member of Council shall use the influence of her or his office for any purpose other than for the exercise of her or his official duties.

Examples of prohibited conduct are the use of one's status as a member of Council to improperly influence the decision of another person to the private advantage of oneself, or one's parents, children or spouse, staff members, friends, or associates, business or otherwise. This would include attempts to secure preferential treatment beyond activities in which members normally engage on behalf of their constituents as part of their official duties. Also prohibited is the holding out of the prospect or promise of future advantage through a member's supposed influence within Council in return for present actions or inaction.

For the purposes of this provision, "private advantage" does not include a matter:

- a. that is of general application;
- b. that affects a member of Council, his or her parents, children or spouse, staff members, friends, or associates, business or otherwise as one of a broad class of persons; or
- c. that concerns the remuneration or benefits of a member of Council.

INQUIRY PROCESS

On September 12, 2017, I notified Councillor Filion of my intention to commence an inquiry, and invited his submissions about the allegations and the procedure that led to the inquiry. In a response dated September 25, 2017, Councillor Filion denied the allegations, provided information about his dealings with Mr. Belza, and submitted that the complaint was groundless and part of an overall campaign to discredit him and smear his reputation. He made no procedural objection to me proceeding with the inquiry. (It should also be noted that when asked about these circumstances in the

context of the other investigation, he questioned the relevance to the other matter, but made no objection to my questions.)

In order to assess the allegations and Filion's response, I carried out the following activities:

- Detailed review of the Toronto lobbyist registry to understand Mr. Belza's activities in Councillor Filion's ward and elsewhere in the City.
- Obtained and reviewed thousands of emails from Councillor Filion's office obtained with the assistance of the Risk Management, Cyber Security & Compliance division of the City.
- Reviewed pleadings and discovery transcripts of an ongoing lawsuit filed by a developer against Councillor Filion.
- Interviewed, in some cases under oath, individuals who had direct dealings with Councillor Filion and Mr. Belza, including City staff (former and current), developers, and their representatives.
- Obtained evidence under oath from Mr. Belza.
- Obtained evidence under oath from Councillor Filion.

Unrelated to my inquiry activities, I became aware that the issue of the Councillor's dealings with Mr. Belza was referred to in materials filed by a deputant relating to a contentious matter in Councillor Filion's ward. The same deputant contacted my Office and was informed about the process to make a complaint, but no complaint was filed. Over the course of the inquiry, my office also received two "brown envelopes" containing substantially similar information to each other. They contained a wide range of questions and concerns about Councillor Filion that were similar to those raised by the noted deputant.

My office also received an unsolicited inquiry from an individual who had knowledge of the investigation (notwithstanding my standard request of all witnesses they refrain from speaking about inquiries). I pursued all of the inquirer's leads.

FINDINGS

Applying the relevant standard of proof for fact-finders in civil cases – a balance of probabilities – I make the following findings.

There have been rumours and questions about the relationship between Mr. Belza and Councillor Filion for many years. Mr. Belza has and continues to lobby on behalf of developers, predominantly (but not exclusively) in Councillor Filion's ward. But I was unable to find any evidence of any referral arrangement between Mr. Belza and

Councillor Filion. I have determined that Councillor Filion and Mr. Belza are not friends, nor do they have any business relationship.

Councillor Filion and Mr. Belza are both independently committed, in a general sense, to encouraging strict adherence to the applicable planning policies in North York. Mr. Belza lives in Councillor Filion's ward, and as is plain from a review of the Toronto Lobbyist Registry, represents applicants in land use planning matters. Mr. Belza had a role in drafting the North York Centre Secondary Plan, and is often the representative of record for an influential local ratepayer group. The consistent evidence is that Mr. Belza prioritizes his commitment to ensuring that developments meet applicable planning policies by including a standard term in his retainer agreement that he will resign from a file if the client's instructions are inconsistent with his view of the meaning of the planning policy.

Their commitment to adherence to the planning policies in North York has garnered both Mr. Belza and Councillor Filion reputations of being sometimes unreasonable sticklers for details. The evidence gathered established that the predominant connection between the two gentlemen is their mutual slavish commitment to the planning policies in North York. This shared characteristic has been revealed to be aggravating to both developers and City staff.

The evidence also demonstrated that the two men do not always agree, and on at least one occasion Mr. Belza was responsible for causing an organized campaign against the Councillor's actions relating to a local land use planning matter.

The evidence was also consistent – from multiple sources – that if Mr. Belza was retained on a file, that did not necessarily lead to concessions being gained from Councillor Filion.

I interviewed several individuals who could have, or were thought by others to have, information supporting the assertion that there was some kind of scheme or arrangement between Councillor Filion and Mr. Belza. The common thread through most of these individuals' testimonies was having had a negative experience or opinion about Councillor Filion. But when pressed, none of them could coherently describe the details, or indicated that their source was information from another person.

By some telling, is the scheme was a simple referral scheme. By others, it was an elaborate scheme to deflate property values for later payback by developers who could

purchase land at lower prices. In this latter version, Mr. Belza's role was unclear to me other than as a ruse for Councillor Filion.¹

On more than one occasion, when pressed for concrete information or evidence about the scheme, witnesses speculated that the proof of Councillor Filion's largesse was the fact that he owns a home in North York. I asked Councillor Filion about his home and (while under oath to tell the truth) he explained to me its cost (to purchase and build), the source of the funds to pay for it, and that it had appreciated over time.

A consistent refrain among those I spoke with was that Councillor Filion refused to meet with all developers. But the evidence established this is simply not true. The Toronto Lobbyist Registry, and the evidence gathered in this case and the related case are conclusive that Councillor Filion meets and has met with developers and their representatives. There are certainly developers (or representatives of developers) who, by his own admission, Councillor Filion does not engage or "get along" with. That fact gave me pause, as a matter of fairness, but ultimately the councillor can represent his ward interests as he sees fit.

At one time, Article XIV included the obligation that councillors treat the public fairly. The word "fairly" was removed in 2007 to specifically clarify that the Integrity Commissioner did not have jurisdiction over disputes arising because a councillor promoted the interests of one constituent over another (see Integrity Commissioner Annual Report, 2006). The rationale behind this change, with which I agree, is that these types of disputes are best left to the ballot box.

Based on the evidence I have obtained – many details of which I am intentionally refraining from including in this report in order to protect the identities of witnesses and to avoid aggravating the circumstances further – I find that the arrangement scheme rumour is sourced and circulated by campaign rivals or disgruntled stakeholders who have animus toward councillor Filion.²

I find, in summary, that there is no referral scheme or arrangement between Councillor Filion and Mr. Belza as suggested in the anonymous letter. I make this finding after considering the testimony of Councillor Filion, Mr. Belza, several individuals who had

¹ Remarkably, the author of one of the "brown envelopes" commented on a known public instance when Mr. Belza and Mr. Filion were at odds to suggest that this public disagreement was an intentional ruse to distract from their true relationship.

² I am exercising my discretion to only include information necessary to understand the report, informed by my duties under s. 162 of the *City of Toronto Act, 2006* and the Ontario Divisional Court's 2016 decision (*Michael Di Biase v. City of Vaughan and Integrity Commissioner of the City of Vaughan*, 2016 ONSC 5620 (CanLII)) respecting the identical reporting obligation in the *Municipal Act, 2001* (S.O. 2001, c. 25 – see particularly s. 223.6).

specific dealings with both men, correspondence exchanged between Mr. Belza, City staff, Councillor Filion and his staff.

There are no more reasonable or logical steps that I could take to pursue the possibility of such a relationship, and if I were to do so it would certainly be a fishing expedition that would not be a reasonable use of resources, warranted by the circumstances, or fair to those involved.

Anyone can avail themselves of my office's complaint process. In my view, the failure of several correspondents (and those circulating the rumour) to do so is because there is simply insufficient information to support such an assertion.

CONCLUSION

I have conducted an inquiry per the Auditor General's request. After a review, I have determined that there is no basis to support that there is any referral or other scheme between Councillor Filion and Mr. Belza.

Respectfully,



Valerie Jepson
Integrity Commissioner
June 15, 2018