



**INTEGRITY
COMMISSIONER REPORT
ACTION REQUIRED**

Report on Violation of Code of Conduct

Date:	January 30, 2012
To:	City Council
From:	Integrity Commissioner
Wards:	All
Reference Number:	

SUMMARY

A citizen complained that on July 13, 2011, Councillor Doug Ford violated Article XIV of the *Code of Conduct for Members of Council* (the "*Code of Conduct*") by approaching the citizen in the Council Chamber and using intimidating language.

Following an investigation, it was determined that the incident had taken place as described in the complaint. An informal resolution was discussed with the complainant and with Councillor Ford in which Councillor Ford would provide a written apology and the formal complaint would be withdrawn.

Councillor Ford provided a letter to the complainant that did not apologize for the conduct that was the subject of the complaint. Instead, Councillor Ford wrote, "I believe there was a misunderstanding and apologize if you took anything I said the wrong way."

The complainant declined to accept the letter as an apology because Councillor Ford failed to acknowledge responsibility for his behaviour and suggested that the complainant was at fault for misinterpreting the words spoken.

The complainant requested that Councillor Ford reflect on his actions and provide a proper apology in order to complete the informal settlement.

Councillor Ford was provided with the complainant's response and asked to reply. No response was received. As a result, I am reporting this breach of Article XIV to City

Council in accordance with the Formal Complaint Procedure of the *Code of Conduct Complaint Protocol for Members of Council* (the "*Complaint Protocol*").

RECOMMENDATIONS

The Integrity Commissioner recommends that:

1. City Council adopt the recommendation that Councillor Ford violated the *Code of Conduct*;
2. City Council adopt the recommendation to request that Councillor Ford provide a written apology for his conduct to the complainant.

Financial Impact

This report will have no financial impact on the City of Toronto.

DECISION HISTORY

On July 15, 2011, a member of the public filed a complaint 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* that Councillor Doug Ford violated the *Code of Conduct*.

An investigation was conducted into the complaint. An informal resolution was discussed with the complainant and with the Councillor. This resolution was not completed to the satisfaction of the complainant.

This report is being brought to Council in accordance with the *Complaint Protocol* and section 162(3) of the *City of Toronto Act, 2006* which requires the Integrity Commissioner to report to Council where a formal complaint has been sustained, and where corrective action is being recommended.

ISSUE BACKGROUND

The Complaint

The complaint was brought on July 15, 2011. The complainant, a member of Fair Elections Toronto ("FET"), was present during the Council meeting on July 13, 2011. FET had made a series of compliance audit requests under the *Municipal Elections Act* concerning the election finances of Councillor Ford, other Councillors, a number of unelected candidates and the Mayor.

The complainant was in the council chamber during the afternoon portion of the meeting. As he was walking from the west elevators to the east elevator bank, the complainant was approached by Councillor Ford who said, "Hey, you're the guy with the audits." The complainant described Councillor Ford as speaking in a "slightly raised voice" with an "aggressive tone." Councillor Ford went on to say that he had all the evidence he needed and that the complainant ought to have "evidence" too. The complainant did not engage in a debate about the merits, because he hoped to de-escalate the situation. When the complainant did not engage with him, Councillor Ford stopped talking about the evidence, and asked the complainant to confirm his identity, which he did. At that point, the complainant reported that Councillor Ford said "what goes around comes around." The complainant asked Councillor Ford "[are you] threatening me?" The complainant said that when he asked this question, Councillor Ford "nervously turned around and walked away." The complainant provided the names of other persons in the immediate area who were able to hear the exchange.

The complainant alleged that this was a breach of Article XIV of the *Code of Conduct* which requires:

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 complainant wrote in the formal complaint that "Citizens should never be left feeling intimidated and bullied for holding their elected representatives accountable."

On July 18, 2011, a copy of the complaint was sent to Councillor Ford. A reply was requested on or before Tuesday August 2, 2011, in accordance with the *Complaint Protocol*. No reply was received and a second letter was sent on August 4, 2011 in which the Councillor was reminded that if he did not reply that the complaint would be unchallenged and that the investigation would move forward on that basis. No reply was received.

The Witnesses

I interviewed the witnesses identified by the complainant. The first witness described Councillor Ford as using a threatening tone of voice and recalled hearing the phrase, "what goes around, comes around." He was standing next to the complainant at the time, and was shocked by the tone of voice and what was said.

Another witness to the incident heard what sounded like a threatening comment from Councillor Ford and described his tone (of voice) as being "angry." This witness remembered one of the persons present said "that sounds like a threat."

A third witness who was passing by on the way to the exit heard part of the exchange in which Councillor Ford said, "Well buddy, (you) better make sure you get your facts right." That witness described Councillor Ford as sounding "angry" and "frustrated."

The Attempted Informal Resolution

I met with the complainant who confirmed his description of the incident in the affidavit attached to the complaint. During our meeting, the complainant discussed wanting to have an acknowledgement and letter of apology from Councillor Ford. The complainant was agreeable to withdrawing the formal complaint if such an apology was provided by Councillor Ford.

I met with Councillor Ford to discuss a resolution where he would provide a written apology to the complainant and the formal complaint would be withdrawn upon receipt of the apology. I confirmed my view that there had been a breach of the *Code of Conduct*. Councillor Ford agreed to consider an informal resolution and after our meeting, advised that he would provide an apology.

On October 24, 2011, I received a handwritten letter from the Councillor's office on plain paper which addressed the complainant by his first name and which said, "I am writing to you in regards to the events of July 15, 2011. I believe there was a misunderstanding and apologize if you took anything I said the wrong way."

I contacted the Councillor's office and advised that this apology was unlikely to be accepted as an appropriate resolution: I provided advice that it should be on proper letterhead, be addressed more formally and that the apology needed to be connected to the conduct which was the subject of the complaint. The formal aspects of the letter were corrected, but the wording of the apology remained the same. I provided additional advice that usually there is only once chance to apologize and that if this was not accepted, the matter would have to be dealt with formally and reported to Council. On November 8, 2011, I was advised that Councillor Ford would not revise the wording of the apology.

On November 21, 2011, the signed apology letter was provided to my office by Councillor Ford. On November 24, 2011, I sent it to the complainant. The complainant contacted my office on November 25, 2011 to say that he found the letter of apology unacceptable because it characterized the events in question as a "misunderstanding" and suggested that the complainant was the one at fault for misinterpreting the Councillor's words. The complainant asked that either Councillor Ford further reflect on his actions and provide a more appropriate response or that the matter be formally reported to council.

On November 29, 2011, I sent a copy of the complainant's request for an appropriate apology to Councillor Ford and requested a response by December 21, 2011. I received no response. On January 11, 2012, I contacted his office. No response was provided. I advised Councillor Ford that the matter would be reported to Council and offered to meet with Councillor Ford to discuss the report. I did not receive any response.

The Analysis

The unchallenged evidence of the complainant, supported by eyewitnesses, is that Councillor Ford approached him in the council chamber and in an angry tone of voice referred to the ongoing compliance audit litigation involving the complainant and said, "What goes around comes around." The complainant felt bullied and intimidated and complained to this office. The Councillor did not challenge the description of the event. I find in all of the circumstances that Councillor Ford breached Article XIV of the *Code of Conduct* which provides:

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 Preamble of the *Code of Conduct* states that "the public is entitled to expect the highest standards of conduct from the members it elects to local government." In behaving as he did during this incident, Councillor Ford departed from that standard. The complainant took this as an intimidating (albeit not physically intimidating) and bullying remark. Taking into account the tone of voice, the fact of the litigation, the approach by the Councillor and the words themselves, this was a reasonable conclusion.

This matter could have been resolved informally, with an apology. The apology proffered by Councillor Ford was not accepted because it did not truly apologize for his conduct.

The Ombudsman for New South Wales has published a guide to apologies and has spoken to public sector audiences about the benefit of full apologies:

Apologizing allows people to do "the right thing." It allows for relationships of mutual trust to be restored when an injured party sees someone else accept responsibility for a mistake and take proactive steps to put it right. It also allows those injured to express their needs and negotiations

towards settlement to be commenced in a non-adversarial setting.”¹

I recommend that council request that Councillor Ford to provide an apology to the complainant for his conduct. This action is available to Council under *Code of Conduct*, Article XVIII (Compliance With the Code of Conduct). Although it might be argued that an apology which is provided as a result of Council's motion is not as valuable as one freely offered, I recommend it in this case given the findings, the ongoing request of the complainant for an apology and what I submit to council is an appropriate case for an apology.

CONTACT

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SIGNATURE



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¹ “The Power of Apology: Remarks to 19th Annual SOCAP Symposium, Aug. 27, 2007, Chris Wheeler, Deputy NSW Ombudsman