



INTEGRITY COMMISSIONER'S REPORT FOR ACTION

Report Regarding the Conduct of Former Councillor Justin Di Ciano

Date: July 9, 2019

To: City Council

From: Valerie Jepson, Integrity Commissioner

Wards: All

SUMMARY

The Integrity Commissioner has jurisdiction to conduct inquiries pursuant to the authorities in the *City of Toronto Act, 2006* and Chapter 3 of the Toronto Municipal Code. Section 4.4(H) of Chapter 3 of the Toronto Municipal Code requires the Integrity Commissioner to report to City Council when a complaint is sustained in whole or in part.

This Report for Action transmits to City Council the Commissioner's investigation report regarding a complaint made by a member of the public alleging that former Councillor Justin Di Ciano contravened Article VII (Election Campaign Work) of the Code of Conduct.

After an investigation, the Integrity Commissioner has concluded that the former Councillor contravened Articles VI (Use of City Property, Services and Other Resources and VII (Election Campaign Work)). The Commissioner recommends that City Council receive this report for information and impose no penalty or remedial action.

RECOMMENDATIONS

The Integrity Commissioner recommends that:

1. City Council receive this report for information.

FINANCIAL IMPACT

This report has no financial impact.

DECISION HISTORY

City Council has not previously considered this matter.

COMMENTS

On October 31, 2018, a member of the public filed a formal complaint, alleging that former Councillor Justin Di Ciano contravened the *Code of Conduct for Members of Council* (the “Code of Conduct”) for his alleged misuse of a constituency mailing list for election-related purposes. The Complainant says that it was contrary to Article VII (Election Campaign Work) to use his email address to send the October 20 campaign email. The complaint required consideration of whether it also contravened Articles VI (Use of City Property, Services and Other Resources) and XV (Failure to Adhere to Council Policies and Procedures).

Councillor Di Ciano’s overall response to this complaint is that he obtained the Complainant’s email address from a source other than his constituency office. The Integrity Commissioner concluded otherwise. The reason why the Complainant received the October 20 campaign email was because his email address was included in a constituency newsletter mailing list maintained by the Councillor. The issue is whether it was contrary to the Code of Conduct for Councillor Di Ciano to have re-purposed the Complainant’s email address in the way that he did.

In consideration of the principles, the prior clear guidance on the very conduct at issue, the fact that City resources were used to establish and manage the contact list that was re-purposed to send the October 20 campaign email, and the clear obligations in the Code of Conduct to use City resources for City business only, the Integrity Commissioner concludes that that Councillor Di Ciano contravened Articles VI and VII of the Code of Conduct.

This is not to say that the Complainant’s email address was “converted” to City property. Had Councillor Di Ciano been able to demonstrate that the Complainant’s email address was provided to him through other means, the Integrity Commissioner would have come to a different conclusion. Campaign contact lists and constituency contact lists will inevitably have common email addresses and contact information. To meet the standards in the Code of Conduct, members of Council must take care to maintain a clear separation between their campaign and City work.

The Integrity Commissioner recommends that City Council impose no penalty or remedial action in this case. It is clearly not possible to suspend a former member of Council’s pay. While it may be within the authority of Council to reprimand a former member, it is the Integrity Commissioner’s view that imposing a reprimand on a person who is no longer a colleague of the Council members responsible for issuing the reprimand would serve no purpose.

Furthermore, it is the Integrity Commissioner’s view that no penalty or remedial action would have been warranted in this case. Although he defended against the complaint, the Councillor did not take issue with main point that there should be a separation

between campaign activities and City work. Indeed, the evidence shows that he tried to maintain that separation by refraining from using City IT infrastructure to send the October 20 email.

The Integrity Commissioner has included only the information in the investigation report that is necessary to understand the findings. In making decisions about what information to include, the Integrity Commissioner has been guided by the duties set out in sub-sections 161(1) and 162(2) of the *City of Toronto Act, 2006*. Members of Council are also reminded that City Council has assigned to the Integrity Commissioner the duty to independently conduct inquiries in response to requests and that the Integrity Commissioner is bound by the statutory framework to perform appropriately thorough investigations in an independent manner.

CONTACT

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SIGNATURE

Valerie Jepson
Integrity Commissioner

ATTACHMENTS

Attachment 1: Integrity Commissioner Report Regarding the Conduct of Former Councillor Justin Di Ciano (12 pages)