

Report Regarding the Conduct of Former Councillor Jim Karygiannis

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Integrity Commissioner**

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ICT

OFFICE OF THE
**INTEGRITY
COMMISSIONER**
TORONTO

A. Introduction

This report describes my investigation of allegations that Mr. Jim Karygiannis, a former member of Council, breached the *Code of Conduct for Members of Council* (the “Code of Conduct”), in investigating and reporting suspected bylaw infractions before he was removed from office on September 24, 2020.

These allegations came to light as the result of two news stories. On February 8 and 11, 2020 the Toronto Star published articles alleging Councillor Jim Karygiannis improperly used his influence to shield his political supporters from bylaw enforcement measures or wrongfully reported his political opponents as political payback. Reporter Jennifer Pagliaro had interviewed a former employee/campaign worker of his and obtained an audio-recording of a conversation the two had while they toured Ward 22, Scarborough-Agincourt on November 12, 2018.

The story on February 11, 2020 quoted a former City official, Mark Sraga, the former Director, Investigation Services, Municipal Licensing and Standards (“MLS”), who stated that Mr. Karygiannis had improperly entered constituents’ properties for purposes of determining whether they were illegal rooming houses.

Mr. Karygiannis was interviewed for, and quoted in, these articles.

At almost the same time as the publication of these stories, I received three complaints about these allegations.

Although Mr. Karygiannis was removed from office in 2020, I completed my investigation of these complaints. As noted in a December 6, 2016 report to Council regarding a former member of Council¹, the Office of the Integrity Commissioner may retain jurisdiction over a former member where:

- a complaint was filed while the respondent was on Council;
- the conduct at issue took place during that person’s tenure on Council; and
- the allegations relate to that person’s performance of their official duties.

In this case, the three complaints were made while Mr. Karygiannis was in office and related to his activities as a member of Council.

My findings and recommendations for Council are set out below.

¹ Report Regarding the Conduct of Former Councillor Doug Ford (December 6, 2016): see <https://www.toronto.ca/legdocs/mmis/2016/cc/bgrd/backgroundfile-99042.pdf>

B. The Allegations of Misconduct and Mr. Karygiannis' Reply

Following the publication of the Toronto Star stories, my Office received separate complaints from Kevin Haynes (February 12, 2020), Duff Conacher (February 11, 2020), and a member of the public (February 10, 2020).

1. The Allegations of Misconduct

The complaints all alleged that Mr. Karygiannis had breached:

- Article VIII (Improper Use of Influence)
- Article XIV (Discreditable Conduct)

While not the usual practice of the Office of the integrity Commissioner, I have identified Mr. Haynes as he is quoted in the articles from the Toronto Star, has publicly posted his surreptitiously-recorded conversation with Mr. Karygiannis and has publicly stated he complained to my Office. I have identified Mr. Conacher as he also has publicly stated he complained to my Office.

Mr. Conacher and the member of the public who complained had no direct knowledge of the events described in the Toronto Star articles. Mr. Haynes did and his complaint referred to the February 11, 2020 article and included a copy of the recording from November 12, 2018.

Once a complaint is received, it is reviewed to determine if it is within the jurisdiction of the Integrity Commissioner and whether there are sufficient grounds to begin an investigation.

On July 17, 2020, I wrote to Mr. Karygiannis to provide him copies of the complaints and to inform him of my decision to investigate them together. I advised him my Office would be investigating these allegations as potential breaches of Article VIII (Improper Use of Influence) and Article XIV (Discreditable Conduct). He was advised that if additional issues arose during the investigation, I would consider them, and give him an opportunity to respond. His response to the complaints was delayed while he attended to some personal matters. During this time, Mr. Karygiannis also retained a lawyer to assist him with this matter.

I received Mr. Karygiannis' initial response to the complaints on January 19, 2021. Before submitting this report to Council, I provided Mr. Karygiannis a statement outlining my proposed findings and recommended penalties. I received Mr. Karygiannis' submissions on June 30, 2021 and address his points in this report.

2. Mr. Karygiannis' Response

Mr. Karygiannis has acknowledged his conversation with Mr. Haynes on November 12, 2018 was recorded (but without his knowledge or consent). His initial response noted that his

“colourful language” should be considered as “some tough talk shared in private” and should not be the subject of investigation under the Code of Conduct.

3. Additional Ground of Misconduct

The conversation in the recording is profane, unprofessional and disrespectful and raised a question of whether Mr. Karygiannis’ training session was consistent with the Human Resources Management and Ethical Framework for Members’ Staff (the “Ethical Framework”).

In the questions we put to Mr. Karygiannis in March 2021, we noted that this conversation was recorded while Mr. Karygiannis was training Mr. Haynes to work in his office. We also put to Mr. Karygiannis that this activity would be governed by the Ethical Framework.

The Ethical Framework is a Council policy, and as such, compliance with its requirements can also be examined under Article XV (Failure to Adhere to Council Policies and Procedures) of the Code of Conduct. For that reason, Mr. Karygiannis’ conduct can be assessed under this additional ground. Mr. Karygiannis was put on notice that this additional ground could be considered as a basis for a finding of misconduct and was provided an opportunity to respond.

C. Summary of Investigation

In addition to obtaining answers under oath from Mr. Karygiannis, my Office interviewed Mr. Haynes, current and former City officials with MLS, and staff in the City Clerk’s Office.

We also:

- Obtained and reviewed City records relating to the subject matter of the complaint.
- Retained forensic expertise to examine the recording.
- Retained communication and translation expertise to perform a scan of Chinese-language media.

I delayed the evidence-gathering phase of the investigation at the outset of the COVID-19 pandemic as City officials were occupied with emergency matters and, periodically at the request of Mr. Karygiannis, as he attended to personal and legal issues.

Having reviewed the evidence we obtained, I find that Mr. Karygiannis did not breach Article VIII (Improper Use of Influence).

However, I do find that Mr. Karygiannis breached Article XIV (Discreditable Conduct) and Article XV (Failure to Adhere to Council Policies and Procedures).

I am not recommending to Council that Mr. Karygiannis be subject to any penalty or other remedial action. However, as described in my conclusion, I believe it is in the public interest to have completed the investigation and to report my findings.

D. Findings

When making the findings below, I applied the test that integrity commissioners use to decide if someone has breached the Code of Conduct. The test is the “balance of probabilities.” Proving something on a balance of probabilities means proving that it is more likely than not to have happened. In applying this standard, I have also objectively considered the evidence. In doing so, I reviewed it applying the test of how an objective observer, apprised of the circumstances, would draw reasonable conclusions.

1. Article VIII (Improper Use of Influence)

Partisan-Political Treatment of Constituents

Article VIII (Improper Use of Influence) of the Code of Conduct prohibits members of Council from using the influence of their office for any purpose other than for the exercise of their official duties. It prohibits preferential treatment, i.e. those activities beyond which members normally engage on behalf of their constituents. Depending on the circumstances, vindictive or preferential treatment for solely partisan-political reasons, could be a violation of this rule.

The complaints, relying on the Toronto Star article from February 8, 2020, allege that Mr. Karygiannis shielded his political supporters from being reported for bylaw infractions but maliciously reported his political opponents for political payback.

We obtained a copy of the full recording between Mr. Karygiannis (JK) and Mr. Haynes (KH), had it transcribed, and provided both to Mr. Karygiannis. We asked him questions about portions of the conversation relevant to this issue.

At one point in the conversation, Mr. Karygiannis described that he would not “bother” the houses of his political supporters and contributors:

JK: ... Alright, we never bothered these houses here.

KH: Why?

JK: Because they’re friendly. There’s houses that we bother, houses that we don’t bother. This guy, definitely, a rooming house.

KH: Well, like constitutes –

JK: What constitutes that we don’t bother them? They vote for us, they’re volunteers and they donate money. So you have a conversation with them or I do and then we just, you know –

We asked Mr. Karygiannis if he had ever interfered with a City official's investigation or tried to dissuade a City official from engaging in enforcement activity in respect of a political supporter or contributor. He denied doing so.

In another part of the conversation, Mr. Karygiannis describes how he would treat some constituents who did not vote for him, by reporting bylaw violations to City officials:

JK: All this parking is for rooming houses. They're going to get f*cked over. I should be parked. Took the sh*t out. I mean, we don't go out of our way to nail everybody. On the Southside, we go out of our way to nail everybody that didn't vote for us.

To reconcile his answer and these words, I would have to accept Mr. Karygiannis' assertion that this was "political talk." Put another way, I would have to accept it was political bluster.

It is also important to understand the political context in which the statement was made. Ward 22, Scarborough-Agincourt was amalgamated for the 2018 municipal election by joining Ward 39 (the ward represented by Mr. Karygiannis since 2014) with the neighbouring ward to the south, Ward 40, where former Councillor Norm Kelly had been the incumbent. The latter ran in the 2018 general election and was defeated by Mr. Karygiannis. Thus, the reference to the "Southside" in this quote shortly after the 2018 municipal election presumably refers to the neighbourhoods formerly represented by former Councillor Kelly, Mr. Karygiannis' recent political opponent.

We asked Mr. Karygiannis if he had ever falsely reported a possible bylaw infraction or tried to persuade a City official to wrongly engage in enforcement activity because someone had not voted for him. He stated he had not, and commented, "All reporting gets done through 311 and it is up to City Officials to investigate. I have no control over the investigation. I only reported either what I observed or what was conveyed to me by my constituents."

In another part of the conversation, Mr. Karygiannis says that, depending on how he felt, he might report some constituents operating restaurants for possible bylaw infractions:

KH: Do we touch commercial areas, I guess?

JK: If we have to, yes. But if we don't have to, we don't. If someone calls with a complaint, yes. I go to a restaurant, I don't like what's in the back, f*ck them. [Laughs] This is how I feel. If I feel like an assh*le, f*ck them. If I don't feel like an assh*le, yeah, talk to them and "Hey listen, you don't do that conversation".

In relation to this excerpt, we asked Mr. Karygiannis if he had ever falsely reported a possible bylaw infraction or tried to persuade a City official to wrongly engage in enforcement activity simply because he did not like someone. Mr. Karygiannis stated he had not.

In the conversation, Mr. Karygiannis comments on specific properties, but the addresses are not mentioned. Mr. Haynes, who we interviewed, was unable to tell us what addresses were being referred to. Thus, we were unable pinpoint any addresses about which he was commenting or check whether his office had actually made a request for bylaw inspections at those addresses.

We interviewed Tracey Cook², Mark Sruga and Peter Hardisty³, who were senior officials at MLS at the times relevant to the allegations in the complaints, and asked if they knew of any instances when Mr. Karygiannis had, for no apparent reason, reported a matter or ever tried to dissuade them from investigating a bylaw infraction in his ward. They were asked if they had ever heard of that happening as they oversaw and regularly dealt with the high volume of bylaw complaints Mr. Karygiannis' made to MLS and 311. They said that they had never seen or heard of Mr. Karygiannis asking City officials to do so.

The Constituency Database

In the recording, Mr. Karygiannis referred to a database of constituent information he maintained. We asked whether he or his staff recorded in it whether constituents:

- Told Mr. Karygiannis (or people working/campaigning for Mr. Karygiannis) that they voted for Mr. Karygiannis in the 2014 and 2018 municipal elections.
- Volunteered for his campaign in the 2014 and 2018 municipal elections.
- Made a financial or goods and services contribution to his campaign in the 2014 and 2018 municipal elections.
- Were his political supporters.
- Volunteered for another candidate in the 2014 and 2018 municipal elections.
- Made a financial or goods and services contribution to another candidate in the 2014 and 2018 municipal elections.
- Were his political opponents.

He claimed that neither he nor any of his staff ever recorded such information in a database. This answer is inconsistent with the statement made by Mr. Karygiannis on November 12, 2018 that his database would be used to see if someone had voted for him before that person was reported to MLS.

We asked Mr. Haynes about the database. He said that he did not have access to it during his time as a campaign volunteer or in his brief tenure as constituency staff. He could not provide details about its contents. He explained that Mr. Karygiannis told him to send the addresses and

² Executive Director of MLS from 2012 to 2019.

³ Manager, Investigation Services, MLS while Mr. Karygiannis was in office.

details of possible bylaw violations to Mr. Karygiannis, who would then have them cross-referenced with the database before contacting 311 to report a violation.

We were unable to locate and review Mr. Karygiannis' constituent database on any City IT system. The City Clerk's Office provides IT services to members of Council. We asked them if they could access the database, and they explained that Mr. Karygiannis had a separate IT system from the City system.

Staff with the City Clerk's Office, however, have seen the database. They explained that Mr. Karygiannis kept the database on his personal computer, not owned by the City, using an old DOS system, "FoxPro" from his time as a Member of Parliament and worked on the database using a remote desktop tool called "TeamViewer." Staff from City Clerk's IT initially installed TeamViewer for Mr. Karygiannis and his staff on their City laptops to maintain the database. After 2017, the City flagged the software as a security risk and directed that TeamViewer and the database be removed from the City's IT system.

The City Clerk's Office understood in 2017 that Mr. Karygiannis had moved his constituency database from his City-issued laptop and onto his personal one, and that it would have been in Mr. Karygiannis' possession when he left office in 2020. The Clerk's Office did not destroy, save or otherwise dispose of his database, as they did not have access to it.

We asked Mr. Karygiannis for any information he had for five properties. We focused on these properties as these were the only instances from City records where we were able to establish that Mr. Karygiannis had contacted a City official about concerns he had about a property on the suspicion it was an illegal rooming house. At the time Mr. Karygiannis visited these properties, they were all in Ward 39.

In response to each of these requests, he explained, "The database is no longer available to me as I no longer hold political office."

Following his removal from office on September 24, 2020, a by-election was held, and Mr. Karygiannis' former chief of staff, Nick Mantas, was elected in his place in Ward 22, Scarborough-Agincourt. We issued a summons to Councillor Mantas requesting this same information and were advised that he had no information regarding these properties and did not have access to Mr. Karygiannis' database or the information in it.

Findings on this Issue

In our investigation, we found no actual instances where Mr. Karygiannis materially preferred some constituents, or acted vindictively towards other constituents, for solely partisan-political reasons. The only properties for which we were able to find any information were in the northern half of Ward 22, Scarborough-Agincourt (i.e. the former Ward 39). In these circumstances, it is unwise to put great evidentiary weight on his statements about treating the northern and

southern parts differently. Mr. Karygiannis claims the statements were “tough talk” and that he treated all his constituents fairly, and trusted City officials to act independently. In the circumstances, it is reasonable to conclude these statements were simply political bluster and meant to impress Mr. Haynes.

Apart from what Mr. Karygiannis said in this conversation, Mr. Haynes had no personal knowledge of any constituent who was subjected to such treatment. Although he never had access to Mr. Karygiannis’ database, Mr. Haynes had no knowledge of any specific instances of this from working in Mr. Karygiannis’ office or from going door-to-door with him in the 2018 municipal election.

We are not sure whether or not Mr. Karygiannis’ database of constituent information still exists. He maintained it privately so his answer that he no longer has access to it since leaving office does not accord with the information we have. I provided Mr. Karygiannis with an opportunity to clarify this in response to my proposed findings but he did not do so. As Mr. Karygiannis was cautioned, if he failed to provide a substantive response to a question I could draw an adverse inference in any report I make to Council. On this aspect of my investigation, I find Mr. Karygiannis was evasive.

In any event, the senior MLS staff dealing with Mr. Karygiannis’ requests for inspection each said that they knew of no cases where he had tried to derail enforcement activity in his ward or, without reason, reported a compliance issue to City staff. They uniformly describe that Mr. Karygiannis had serious concerns about the operation of illegal rooming houses in his ward. A member of Council is not required to report bylaw infractions. They can choose to report all violations, some, or none. A Code of Conduct violation would occur if a member either falsely reported and asked officials to find a violation where there was none, or asked officials to ignore a legitimate violation on which they would have otherwise taken enforcement action.

We have not found clear and cogent evidence supporting this allegation against Mr. Karygiannis. For these reasons, I do not find that Mr. Karygiannis violated Article VIII (Improper Use of Influence) of the Code of Conduct.

2. Article XIV (Discreditable Conduct)

Improper Entry – Suspected Illegal Rooming Houses

As noted above, the issue of whether Mr. Karygiannis had improperly entered homes that he suspected were illegal rooming houses was raised in the February 11, 2020 Toronto Star article referenced in Mr. Haynes’ complaint.

In that article, Mr. Sruga is quoted as saying that Mr. Karygiannis had been “barging into people’s houses and taking pictures inside” when he suspected the home was an illegal rooming house. Mr. Sruga said that staff had to caution Mr. Karygiannis about this behavior.

Cautions from Staff

We interviewed Tracey Cook and she told us that Mr. Karygiannis was concerned about illegal rooming houses operating in his ward and that he had several communications (including telephone calls, emails, and in-person conversations) with her and City staff regarding this topic while in office. Mr. Karygiannis confirmed this.

She recalled that, after the end of a committee meeting Mr. Karygiannis attended, the two spoke in-person about illegal rooming houses in Ward 39. She did not remember the exact date, but she was certain it was before the 2018 municipal election and probably around January 2015.

In this conversation, Ms. Cook says Mr. Karygiannis advised that he was gaining access to some houses by providing misleading information, for example by telling residents he “wanted to make sure the Hydro was working in their building to gain entry to their residences.” She said he did so to investigate if the property was an illegal rooming house. She said she told Mr. Karygiannis to stop doing this as it was not a legal way to investigate these concerns for reporting to MLS. She could not produce any note or record of this conversation from over four years before. Mr. Karygiannis did not recall such a conversation.

As we advised Mr. Karygiannis, we interviewed Mr. Sraga who had said to the Toronto Star that Mr. Karygiannis would barge into homes. He understood Mr. Karygiannis was acting under “false pretences” and that Mr. Karygiannis told Mr. Sraga in conversation more than once that he was gaining access to people’s houses by telling them he was “there to look at their electrical panel to look at if it was safe.” Mr. Sraga does not remember precisely when Mr. Karygiannis told him this but says that he cautioned him to stop doing this. He could not remember making any note or record of this conversation and we did not find one. Mr. Karygiannis did not recall such a conversation. Mr. Hardisty said staff were told by some people in homes Mr. Karygiannis reported as suspected illegal rooming houses that, if they did not let him enter, he would come back with MLS and the Police.

While Mr. Karygiannis may not remember these conversations, we do have a record of him expressing displeasure that MLS investigations were not diligent. On October 24, 2017 he complained to MLS staff they were not effective in exercising “rights of entry” when investigating suspected illegal rooming houses. When the substantive requirements for a warrant were given to him, he replied “I am still failing to see where it says that you have to tell them you are seeking entrance and under what grounds.”

Generally, Mr. Karygiannis stated that he had not provided misleading information to owners or residents to obtain entry and inspect the properties he thought were illegal rooming houses. He stated that he had never told owners or residents that he had a right to enter because he was a City Councillor. He said that he “never entered any property without being invited inside by the resident.”

These reported cautions and concerns from staff are serious, but they were not contemporaneously documented or formally reported to anyone. Some are double hearsay. Given the passage of time, staff names, precise dates, and particulars of the properties in question could not be provided to us.

Documented Property Concerns

As we advised Mr. Karygiannis, we obtained some documents from City records, documenting the concerns that Mr. Karygiannis had with properties he visited in Ward 39.

We put to Mr. Karygiannis the documents we obtained in the course of our investigation regarding five properties where we had evidence he contacted City staff with his concerns, presumably as a result of his visiting the property. Documentation for a sixth property was obtained and disclosed, but it did not reflect that any visit had taken place. The precise addresses were provided to Mr. Karygiannis to aid his recollection but have been anonymized in this report to protect the privacy of the owners/residents.

Property #1

On May 1, 2015, Mr. Karygiannis emailed City officials to report this property as he suspected it was operating as an illegal rooming house. Appended to his email were several photographs of its interior, two of which include an Asian woman who Mr. Karygiannis said in his email was the mother of the owner of the house. One is taken at a distance and shows her, alone, looking to the left near an interior doorway. The second was taken with her standing facing the camera, from the waist up, at the foot of some stairs. She is not smiling and, in the background, there is a grey-haired man in pyjamas and slippers, with his back turned, walking away.

When asked about his email and the photographs he attached to it, Mr. Karygiannis said that he did not know or did not remember:

- Who entered, inspected, and took the photographs.
- If the owner/resident was told that it was suspected it was an illegal rooming house that would be reported to MLS.

Having seen the email and the photographs we provided to refresh his memory, Mr. Karygiannis said he did not know or remember why he knew the woman photographed was the owner's mother, if she had consented to the photographs, or why he sent them to City staff.

In answer to our questions about this property, Mr. Karygiannis answered that he never entered a house unless he was invited in.

Property #2

On May 1, 2015, Mr. Karygiannis also emailed City officials to report this property as he suspected it was operating as an illegal rooming house. Along with attached interior photographs of the home, Mr. Karygiannis' email stated the house was "wide open" and the "central door" was not locked.

When asked about this visit, Mr. Karygiannis said that he did not know or did not remember:

- Who entered, inspected, and took the photographs.
- If the owner/resident was told that it was suspected it was an illegal rooming house that would be reported to MLS.

In answer to our questions about this property, Mr. Karygiannis was certain that he never entered a house unless he was invited in.

Property #3

On May 18, 2015, Mr. Karygiannis emailed City officials to report this property as he suspected it was operating as an illegal rooming house. Appended to the email were several pictures of its exterior and interior. In the email, Mr. Karygiannis wrote, "Student tenants living downstairs. No relation to the owner when asked advised me that they are students from mainland china and they are tenants." From this we know that Mr. Karygiannis was himself present for this visit.

One photograph shows three people in a room. In the background, one person is beside a desk, slightly bent over, with their back to camera and another person is shown walking to the side. In the foreground, a young Asian male is photographed from the waist up facing the camera. His arms are at his sides, his mouth is half open and his eyebrows are raised. He looks alarmed; it is clear he was upset that he was being photographed.

Having seen the email and the photographs we provided to refresh his memory, Mr. Karygiannis said that he did not know or did not remember:

- Who entered, inspected, and took the photographs
- If the owner/resident was told that it was suspected it was an illegal rooming house that would be reported to MLS

Having seen the email and the photographs, he said he didn't know or remember if consent had been obtained from the people photographed, or why he sent them to City staff.

In answer to our questions about this property, Mr. Karygiannis answered that he never entered a house unless he was invited in.

Property #4

On October 27, 2015, Mr. Karygiannis emailed Ms. Cook taking issue with advice from City officials that speaking with someone at the door is not sufficient evidence that a property is an illegal rooming house. He also stated, “please tell me that your officer can act on a request and he does not want me to do his work.”

Property #5

On June 26, 2018, Mr. Sraga wrote to other City officials stating that he had just got off the phone with Mr. Karygiannis.

The email is a contemporaneous account that Mr. Karygiannis had called to report serious concerns he had about the state of this property, which he had earlier expressed concerns about as a possible illegal rooming house. Mr. Karygiannis had said he had “been inside” the property and that there were “10 students living in the house sleeping on the floors and that the ceiling in the front hallway and kitchen have collapsed due to water leaks from the upstairs washrooms and there are many bags of garbage on the floor in the kitchen.”

Mr. Karygiannis followed up about this property with City officials on September 4, 2018 expressing frustration and said unless his concerns were acted on, he would take matters in his own hands, which could “cause him grief.”

When asked about this visit, Mr. Karygiannis said that he did not know or did not remember:

- Who entered and inspected.
- If the owner/resident was told that it was suspected it was an illegal rooming house that would be reported to MLS.

In answer to our questions about this property, Mr. Karygiannis was certain that he never entered a house unless he was invited in.

Additional Evidence

We tried but were unable to obtain any direct evidence from any owner or resident of a property who had been present when Mr. Karygiannis visited a property.

As noted above, Mr. Karygiannis was evasive in answering questions about information in his personal database.

We were able, however, to find some contemporaneous media accounts of Mr. Karygiannis’ visits. This was in Chinese-language news coverage, which we obtained and had translated.

When he visited Property #2, Mr. Karygiannis advised City officials by email that he had a translator with him. He told us he did not know or did not remember who that was. We believe that translator may have been the reporter for a Chinese-language newspaper who contacted Ms. Cook on May 1, 2015 to say they were looking for information on rooming houses and seniors' homes as they had been visiting properties with Mr. Karygiannis. Mr. Karygiannis submitted this as just a "guess" but provides no other plausible explanation. However, it is a reasonable and objective conclusion because we know (as evidenced below), that Mr. Karygiannis was supplying information and photographs to a reporter at this time and was only accompanied by a reporter.

Newspaper articles appeared in Sing Tao Daily, Toronto Edition on April 28 and May 10, 2015 that included photographs of properties supplied by Mr. Karygiannis. The reporter who wrote the latter article described their tour with him.

The Chinese-language media stories verify that Mr. Karygiannis visited and entered many properties throughout his ward and shared photographs of these properties with reporters.

They describe that Mr. Karygiannis knew he was not supposed to enter properties without permission. In an article from Sing Tao Daily, Toronto Edition on April 28, 2015, about a public forum Mr. Karygiannis attended, it says (translated): "He told residents to call him directly, and he would contact the fire department. Only the fire department could enter a residence for a check-up without a permit for inspection in order to find out the real conditions of illegal rooming houses."

These stories show Mr. Karygiannis was actively advising property owners about safety concerns.

In an article from Sing Tao Daily, Toronto Edition on May 10, 2015, it says he visited a property and urged the owner to install ceiling sprinklers. The property manager was interviewed and was reported as saying he didn't think a City Councillor should be coming to his door and asking him to install sprinklers when his property had already been inspected by the fire department. That same article describes that Mr. Karygiannis was concerned about exposed electrical wiring that he said he saw at a property "when he knocked on the door and entered the house with permission."

An article from Ming Pao Daily, Eastern Canada Edition on June 26, 2018, references visits to properties, which the evidence we obtained points to it being Property #5. It says:

Based on the weekly report received from the residents, Jim Karygiannis would drive there by himself for the preliminary investigations. He would then report to the City of Toronto after obtaining enough evidences (sic).

The Ming Pao reporter went along with Jim Karygiannis to walk around in several neighborhoods yesterday, and witnessed in real-time how he investigate (sic) the rooming houses, although most of the time no one answered when Jim Karygiannis knocked on the doors. A few times the windows upstairs were open, but no one answered the door.

The reporter met up with Jim Karygiannis at a parking lot at Kennedy Rd. and Passmore Avenue, and started their visit in the neighborhood from there.

The first rooming house they spotted was located on [street name deleted]. Total 4 vehicles were parked in the garage and on the driveway. There was another one parked across the street.

When Jim Karygiannis knocked on the door vigorously, the door was opened.... When Jim and the reporter walked into the living room, they saw water all over the floor.

It also described visiting another property, which I will refer to as Property #6, and that:

During the inspection, we did see the paint peeling off the garage door of a house and the backyard fence was damaged. Although it looks like this house has been abandoned, you can walk directly to the backyard from the damaged fence. The backdoor of the house was also locked. There are clothes hanging on the rack, and there seemed to be quite a few residents.

In this instance, it does not appear permission was obtained to be on the property. Despite this, the same article also generally described Mr. Karygiannis' manner of investigating properties:

Jim Karygiannis said, there is a section on his website where residents can report suspicious rooming houses. The personal profile of the person who reported will be kept confidential. He would then take time to do the initial verifications.

The first step of verification is to knock on those doors. The two single houses mentioned earlier were knocked on the doors directly as witnessed.

Most people in the house wouldn't answer the door. He would then knock on their neighbors' doors.

We provided these stories, and their translations, to Mr. Karygiannis. He suggested I should have interviewed the reporters to see if their stories were true. This was unnecessary for a number of reasons. Mr. Karygiannis was actively seeking favourable media coverage. He invited reporters to join him on his visits and supplied them information. The reporting is balanced, and Mr. Karygiannis did not say anything else in the coverage is inaccurate. More importantly, the articles provided contemporaneous and objective accounts of his visits to

suspected rooming houses. I gave this evidence the appropriate weight and considered it together with the corroborating information obtained from emails around the same time.

Findings on this Issue

It is clear that Mr. Karygiannis personally visited a number of properties he suspected were operating as illegal rooming houses. He sent photographs of their exteriors and interiors to City staff. Some of these photographs included people inside these homes. Given the fact that Mr. Karygiannis personally conducted these visits, objectively it is more likely than not that Mr. Karygiannis took the photographs he was attaching to his emails. He has provided no alternative explanation.

I accept that Mr. Karygiannis was concerned about fire safety, but it is fair to say that he was frequently not satisfied with the efforts of City staff to address the concerns he had about the operation of illegal rooming houses.

Article XIV (Discreditable Conduct) requires members of Council to treat members of the public appropriately, without abuse, bullying or intimidation. This is informed by the principle that members should adhere to high standards of ethical conduct. To find a breach of this provision, I need to find on a balance of probabilities, based on clear and cogent evidence, that these requirements have not been followed.

It would be contrary to Article XIV (Discreditable Conduct) for a member of Council to lie about their authority, or what they were entitled to do, to gain entry to a constituent's home. That would be abusive, bullying and intimidating. It would not be ethical conduct.

Although it is alleged that Mr. Karygiannis provided misleading information to enter properties, I cannot put great weight on the evidence that we obtained. The alleged statements made by Mr. Karygiannis are a few years old and their particulars were not documented or reported. I cannot discount the possibility that this was simply another example of bluster on the part of Mr. Karygiannis stemming from his frustration with City staff.

Similarly, it would be contrary to Article XIV (Discreditable Conduct) for a member of Council to enter a constituent's home, without invitation, for purposes of determining if they were compliant with City bylaws. That is disrespectful and abusive, and it is not ethical to do so. There are comprehensive enforcement mechanisms in place that members must respect.

There is evidence establishing that Mr. Karygiannis accessed properties without invitation, when he knew it was wrong to do so.

In respect of Property #2, it is evident that Mr. Karygiannis personally visited the property. As was reported in the media, his practice was to receive reports of properties and then visit them personally. While he said he never entered a property without an invitation, he reported in an

email to City staff on May 1, 2015 that this home's door was unlocked and the house was wide open, attaching several interior photographs as proof. Clearly, this evidence shows that Mr. Karygiannis entered this home without invitation. He said he did not remember or did not know if he visited this property, which I accept as a credible answer given the passage of time and the great number of properties he visited. But that is not the same as a denial he visited it.

In respect of property #6, which Mr. Karygiannis visited with a reporter on or about June 26, 2018, it is contemporaneously reported that he and a reporter entered a yard through a broken fence and found the back door locked. It is clear from the report they entered the yard without invitation. There is no mention of whether or not they knocked on the back door, but they certainly had to try to open it without permission if they found out for themselves it was locked.

In these two cases, the evidence is clear and cogent that Mr. Karygiannis did not get the invitation he said he always had.

It would also be contrary to Article XIV (Discreditable Conduct) for a member of Council to take pictures of people inside their homes, with or without their consent, for purposes of determining if it is an illegal rooming house. Councillors are not compliance officers and taking pictures of people for reporting a suspected bylaw infraction may be abusive, bullying and intimidating. This is especially the case where the people being photographed are members of historically excluded groups. That could be abusive, bullying and intimidating. It would not be ethical conduct.

Mr. Karygiannis' counsel submitted that:

"The website of every politician in the country, likely the world, is filled with photographs taken with their constituents."

"People have been taking pictures with politicians since time immemorial."

"As a popular politician, members of the public also flocked to have their pictures taken with him."

"Members of Council take pictures of people inside their homes with their consent all the time."

I agree that people have wanted to be photographed with their elected representatives since the advent of photography, but that is beside the point. The photographs from Property #1 and Property #3 including people in their homes do not actually include Mr. Karygiannis in the photographs. If anything, Mr. Karygiannis' statements implicitly acknowledge that it is more likely than not that he was personally present and took these photographs.

There is also no evidence that Mr. Karygiannis obtained consent from people to photograph them for purposes of reporting their presence to MLS, which was the intent behind these photographs, even though it was irrelevant for follow up by MLS.

There is no reasonable explanation why, when he visited Property #1 on May 1, 2015, he needed to take and send to City officials photographs of an Asian woman and someone walking away from him in their pyjamas and slippers. There was also no reasonable explanation why, when he visited Property #3 on May 18, 2015, he needed to take and send to City officials a photograph taken by surprise of a young Asian male. In these circumstances, it is reasonable to find that Mr. Karygiannis' conduct was abusive, bullying and intimidating.

In conclusion, there is clear and cogent evidence that Mr. Karygiannis:

- a. Photographed residents, for no appropriate reason, at Property #1 on May 1, 2015.
- b. Entered Property #2 without invitation on May 1, 2015.
- c. Photographed residents, for no appropriate reason, at Property #3 on May 18, 2015.
- d. Entered the yard at a house with an unspecified address in his ward, Property #6, without invitation on or about June 26, 2018.

Based on this evidence, on a balance of probabilities, I find that Mr. Karygiannis violated Article XIV (Discreditable Conduct) of the Code of Conduct.

3. Article XV (Failure to Adhere to Council Policies and Procedures)

Staff Training

Mr. Karygiannis has previously been found to have acted discreditably towards constituents when alleging they were not complying with City bylaws. As former Integrity Commissioner Valerie Jepson noted in her 2016 report to Council about Mr. Karygiannis activities ("Parking Enforcement" May 31, 2016)⁴:

Without encroaching on enforcement activities, Councillors can play a helpful role with respect to encouraging bylaw compliance. For example, Councillors can carry out informal "ward tours" to help identify bylaw violations and other problems by *reporting* information, including photos, to parking enforcement or MLS. Councillors can have discussions with constituents about bylaws and can provide information to the public about bylaws in ward newsletters and in local newspapers.

⁴ Report Regarding the Conduct of Councillor Jim Karygiannis (Parking Enforcement) (May 31, 2016): see <https://www.toronto.ca/legdocs/mmis/2016/cc/bgrd/backgroundfile-93880.pdf>

In that case concerning his investigation of alleged parking infractions, his vigorous pursuit of the issue with his constituents was of serious concern and led to the reasonable impression that he had more authority to penalize the Complainant's family than he, in fact, had.

Mr. Karygiannis took Mr. Haynes on a tour of Ward 22, Scarborough-Agincourt in his personal vehicle, and, in their conversation, describes activities and properties he thought might not be compliant with City bylaws. The conversation took place on November 12, 2018, and Mr. Haynes was hired in December 2018 to work in Mr. Karygiannis' office.

We asked Mr. Karygiannis if he agreed that the conversation occurred while he was training Mr. Haynes how to identify and report possible bylaw infractions for the purposes of working in his office. Essentially Mr. Karygiannis did agree, even though for some reason he did not accept the basis of the question. He replied that:

The conversation was private. The question pre-supposes an incorrect purpose of the training. Mr. Haynes was being assessed (sic) to see how he would perform in his duties and respond to constituent requests. He was being trained to observe infractions so that he could better understand constituent complaints and concerns and how to respond to them.

Mr. Karygiannis answered the use of rude language while training Mr. Haynes to spot bylaw infractions was a way of testing how he would respond to rude language from constituents.

They also speak about the duties Mr. Haynes would have while working in his office, and the opportunity for promotion.

KH: I guess a better question is what am I working towards?

JK: You know, it depends how much you can handle. What you're working towards is probably a promotion. Yeah, we're going to have some promotions. What you're working towards is four years down the line, do I run as a mayor? If I run as a mayor, well, you know, it'll get you somewhere else. But, where does it lead you? It leads you to a learning curve, which is very, very exponential and you have a lot of learning to do.

In reference to Mr. Haynes, Mr. Karygiannis says in the recording to someone on the street he stops to speak to: "Brand new guy, so we're training him."

I am satisfied from this evidence that this ward tour was a training session for a person Mr. Karygiannis intended to hire as an employee.

Audio-Recording

Mr. Karygiannis submitted that Mr. Haynes' surreptitious recording of their conversation was contrary to the Ethical Framework. At the time the recording was made, the relationship

between Mr. Karygiannis had not fractured, but it certainly had by February 2020 when the articles appeared in the Toronto Star. I have taken this into account when considering the testimony of Mr. Haynes.

Beyond what was captured in the recording, my Office obtained no additional material details from Mr. Haynes demonstrating that Mr. Karygiannis had improperly used his influence or engaged in discreditable conduct. Some allegations made by Mr. Haynes were either speculative or beyond the scope of my jurisdiction. In fairness to Mr. Haynes, he also noted that his recall of specific events and details from the year before had diminished.

However, when the recording was made in November 2018, the relationship between Mr. Karygiannis and Mr. Haynes had not broken down. Four days after this training session, on November 16, 2018, Mr. Karygiannis paid a \$5,000 honorarium to Mr. Haynes, which Mr. Karygiannis told my Office was for “assisting and providing logistical support to wrap up the campaign and transition to the new ward.” He then hired Mr. Haynes to work in his office. I have applied no weight to Mr. Haynes’ speculative testimony as the content of the recording speaks for itself. The content is relevant and there is no reason why I cannot consider it after assessing the reliability of the recording.

To assess the reliability of the recording, I retained a forensic expert. The analysis found that there was no indication the file had been edited, altered or otherwise tampered with, and that there was no indication that the copy was not a true copy.

Language Used in this Conversation

Mr. Karygiannis’ language was consistently profane, unprofessional and disrespectful.

Mr. Karygiannis’ initial response to the three complaints was that his language in the conversation was “political,” “colourful” and “tough talk.” In our questions to him, we provided Mr. Karygiannis with a tally of the profane and/or unprofessional words he used over the course of the 105-minute recording:

- “f*ck” (in various forms) 115 times
- “sh*t” 31 times
- “assh*le” 12 times
- “b*tch” (in various forms) 4 times
- “chick” 2 times
- “clown” 1 time
- “idiot” 2 times
- “bastard” 1 time
- “pissing” 1 time

We asked Mr. Karygiannis to acknowledge that this language was inconsistent with maintaining a professional atmosphere that promotes decorum and respect for the public. He explained this was a private conversation and that he was assessing a potential employee. He again claimed he wanted to see Mr. Haynes' reaction to the vocabulary to see if he would "fit into the office structure" because such language was "often used by constituents in voicing their frustrations and complaints to my office."

We asked Mr. Karygiannis about the fact that on four occasions in the 105-minute recording, he stated it was appropriate to show some constituents "no mercy." For example:

JK: ... This f*cker, no mercy. If this is a rooming house. Boom. Three cars, f*ck him. [unintelligible]. Now this guy over here, I'd say [unintelligible], you see. I told him once, I told him twice, he finally started listening.

We asked Mr. Karygiannis if this language was consistent with maintaining a professional atmosphere that promotes decorum and respect for the public. He repeated that this was a private conversation.

In the conversation, Mr. Karygiannis and Mr. Haynes refer to some of the Ward 22, Scarborough-Agincourt constituents as "assh*les" and "idiots":

KH: So we actually go through the database and see who are assh*les?

JK: No. I know where the assh*les are, but you go through the database. Take the pictures. Bring them in, but before you send them off, take a look through it. If they voted for us, when we see that they're constant idiots, we send it in. They didn't vote for us. [Laughs] We send it in, twice the pleasure. OK.

We asked Mr. Karygiannis again if this language was consistent with maintaining a professional atmosphere that promotes decorum and respect for the public. He stated, "If this language were to be used in public, I agree with your assumption. However, this language was used in a private conversation in weighing whether Mr. Haynes was going to be a good fit for my office."

Mr. Karygiannis told us that some of Mr. Haynes' questions to Mr. Karygiannis were "leading", such as the above quote, "So we actually go through the database and see who are assh*les?" We asked why, if Mr. Haynes initiated this type of speech, Mr. Karygiannis did not stop and caution him that this was not a professional and respectful way to speak about constituents. Again Mr. Karygiannis said that Mr. Haynes was being assessed as a prospective employee. In any case, there are only one or two instances where Mr. Haynes used inappropriate language that got a corresponding reply.

We asked Mr. Karygiannis the same question about a disparaging personal remark he made about someone they saw on the ward tour:

JK: This f*cker over here. You won't f*cking believe that old man.

KH: You what?

JK: I want to do in the old man.

KH: You want to do in?

JK: F*ck, I want to do him. Do him in. Told me something once. Said I'm a bunch of Greeks and I said "Old man, go f*ck yourself". He said "You go f*ck yourself". I said "Old man, you couldn't get it up even if I gave you Viagra". He was an assh*le anyways.

Mr. Karygiannis repeated that this was said in a private conversation to assess Mr. Haynes for "fit."

The Human Resources Management and Ethical Framework

Article XV (Failure to Adhere to Council Policies and Procedures) is broken where members of Council fail to follow Council policies and procedures. One of these policies is the Ethical Framework.

Mr. Karygiannis acknowledged to us that he knew he was required to observe the requirements of both the Ethical Framework and Code of Conduct while in office.

In section 5, "Context and Principles" the Ethical Framework states:

Respect

Members' staff will act with decorum and respect the Office the Member holds. Members' staff will treat the public, the Toronto Public Service and each other with respect at all times.

Section 6(1), "Roles and Responsibilities: Members" explains that "Members have the responsibility to manage their office and staff in accordance with the Human Resources Management and Ethical Framework for Members' Staff..."

Findings on this Issue

Mr. Karygiannis agrees he was required to manage his office and staff according to the Ethical Framework, which requires staff to act with decorum and to treat the public, the Toronto Public Service and each other with respect at all times.

When we asked him how his statements to Mr. Haynes aligned with these requirements, Mr. Karygiannis distinguished them as occurring within a private conversation. However, this was

not a conversation in a social or campaign setting as the election had ended three weeks before.

This was a conversation between an employer and a prospective employee. This was a training session about how to work in a councillor's office. The training was delivered individually, but it was not "private" because it was wholly work-related. If this was an assessment of Mr. Haynes for "fit" with the Ward 22, Scarborough-Agincourt constituency office, he presumably passed the test. Mr. Karygiannis hired him and he started working in the office on December 3, 2018.

The Ethical Framework applies to staff interactions with others in the office, City staff, and members of the public. Even if Mr. Karygiannis was using this inappropriate language solely to assess Mr. Haynes reactions, this premise seems implausible given the actual conversation and Mr. Karygiannis' position that such "tough talk" is an integral part of working in a councillor's office.

We also have no evidence Mr. Karygiannis warned or dissuaded Mr. Haynes from using such language in the course of performing his work duties after the training exercise. Simply put, consistent use of profane, unprofessional and disrespectful language like this is not appropriate. It does not promote a culture of respect in the workplace and may result in a poisoned work environment. I acknowledge that people may occasionally and inadvertently use inappropriate language, but this was not the case here. Training to familiarize Mr. Haynes with Ward 22, Scarborough-Agincourt geographically also had to be consistent with the highest standards of ethical conduct and respect for others. This was not.

Accordingly, I find that Mr. Karygiannis contravened Article XV (Failure to Adhere to Council Policies and Procedures) by failing to adhere to the Ethical Framework. The training he gave Mr. Haynes was not consistent with his duty as the employer in his office to promote respect and decorum.

4. Summary of Findings

Based on the evidence and analysis set out above, I do not find that Mr. Karygiannis breached Article VIII (Improper Use of Influence). However, I find that Mr. Karygiannis breached Article XIV (Discreditable Conduct) and Article XV (Failure to Adhere to Council Policies and Procedures).

E. Recommended Penalty and Remedial Actions

I do not recommend any penalty or remedial measures. While the Code of Conduct and *City of Toronto Act, 2006* grant me authority to recommend a reprimand or a suspension of pay for up to 90 days, there is no authority to retrospectively suspend a member of Council's pay and issuing a reprimand would serve no practical purpose. In any event, Mr. Karygiannis was removed from office in 2020 for non-compliance with the *Municipal Elections Act, 1996*.

There was a two-fold public purpose served by investigating these complaints. Complainants and others affected by misconduct have a right to have a member of Council held to public account. Conversely, someone publicly accused of misconduct must have the opportunity to clear their name. The allegations made against Mr. Karygiannis were serious, widely publicized, and warranted investigation. Ultimately, the complaint that he improperly exercised his influence has been dismissed on the basis of insufficient evidence. Similarly, the allegation that he entered homes under false pretenses has been dismissed on the basis of insufficient evidence. However, I do find that some allegations of discreditable conduct and violation of City policies were proven. It is important that these findings be reported as appropriate workplace behaviour is an important issue, and this is the first time where a member of Council has been found to be in violation of the Ethical Framework in respect of managing their office.

In conclusion, I am concerned about the delay in these matters being brought to the attention of the Office of the Integrity Commissioner. These matters came to public attention as a result of two newspaper articles. Some allegations concerned events immediately following the last municipal election and were thus over a year old. Other allegations concerned events at least four years old. The failure to report something in a timely manner to this Office has a serious and detrimental effect upon any investigation we conduct. It is difficult to investigate events years later as people's memories fade. While electronic discovery tools may assist in the research of old records, the relevant facts still need to have been documented in order to discover relevant information. Such investigations may consequently take longer and require more resources.

More importantly, the delay in bringing a matter to the attention of the Integrity Commissioner may do a disservice to Torontonians.

Whatever personal reasons Mr. Haynes had for the delay in submitting his complaint, it did not assist the public. It can be difficult to report misconduct by a member of City Council. This is especially true if you are a public servant. However, staff are obligated by the Toronto Public Service By-law, (Toronto Municipal Code Ch.192-31(B)) to disclose wrongdoing. They are also protected from reprisal from doing so by Article XII (Conduct Respecting Staff) and Article XVI (Reprisals and Obstruction).

At about the same time that Mr. Karygiannis was pursuing illegal rooming houses in Ward 39, he was the subject of two investigations and reports⁵ concerning his vigorous pursuit of other suspected bylaw infractions in his ward. Maybe it was thought those reports were sufficient enough to address Mr. Karygiannis' behaviour. If so, that was an incorrect assessment as his

⁵ Report Regarding the Conduct of Councillor Jim Karygiannis (Parking Enforcement) (May 31, 2016): see <https://www.toronto.ca/legdocs/mmis/2016/cc/bgrd/backgroundfile-93880.pdf> ; Report Regarding Conduct of Councillor Jim Karygiannis (Uber Driver) (May 31, 2016): see <https://www.toronto.ca/legdocs/mmis/2016/cc/bgrd/backgroundfile-93858.pdf>.

vigorous pursuit of illegal rooming houses continued into at least June 2018, two years after he was reprimanded.

I acknowledge that City staff said they did not ignore Mr. Karygiannis' behaviour, and attempted to address it themselves, but this clearly did not succeed. When this became apparent to them, these matters should have been reported to the Integrity Commissioner, the accountability officer responsible for advising members of Council and informally and formally resolving matters involving complaints about their conduct. While the delay in having these matters reported unfortunately affected the investigation, it more significantly resulted in the bullying of some of Mr. Karygiannis' constituents to continue unchecked. I hope, even though it is some time after the fact, that this report will serve as a public acknowledgement that they were subjected to inappropriate conduct.

For these reasons, I believe it is in the public interest to have investigated these complaints and reported my findings to Council.

Respectfully submitted,

Jonathan Batty
Integrity Commissioner

July 7, 2021