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CHAMBERS

Integrity Commissioner Office
for the City of Richmond Hill

Sent via Email

June 30, 2022

Catherine Treacy, Director, Human Resources
Regional Councillor Carmine Perrelli
cc: Gavin J. Tighe, Gardiner Roberts LLP

Dear Ms. Treacy and Regional Councillor Perrelli:

Re: Final Investigation Report for Complaint IC-13702-0521

This is the final investigation report of the Integrity Commissioner Office concerning a complaint brought by Catherine Treacy against Deputy Mayor Carmine Perrelli¹ under the Richmond Hill Council Code of Conduct (“Code of Conduct”). Pursuant to Section 223.3(1) of the *Municipal Act, 2001*, the Integrity Commissioner is responsible for the application of the Code of Conduct and for determining, when requested, whether a Member of Council has contravened the Code of Conduct.

Pursuant to a delegation dated August 12, 2021, made under section 223.3(3) of the *Municipal Act, 2001*, Charles A. Harnick delegated his powers and duties as Integrity Commissioner to Ellen Fry to inquire into, co-investigate and, if warranted, prepare a report thereon subject to his review and approval in relation to the above-noted complaint.

A. The Complaint

Ms. Treacy filed a written complaint under the Code of Conduct dated May 6, 2021. This complaint alleges that Deputy Mayor Perrelli breached the Code of Conduct itself as well as Richmond Hill’s *Respect in the Workplace Policy* as referenced in section 10 of the Code of Conduct.

On September 22, 2021, in response to a written request from the Integrity Commissioner’s Office, Ms. Treacy filed more specific information concerning the complaint allegations. In an Interim Report dated October 13, 2021 we stated that in accordance with the timeframes in the Code of Conduct and *Respect in the Workplace Policy*, we determined that we would:

¹ Mr. Perrelli was Deputy Mayor on the date the complaint was filed. His current position is Regional Councillor.

- investigate allegations in the complaint that the Code of Conduct itself was contravened only if such allegations are based on events that occurred on or after March 25, 2021; and
- investigate allegations in the complaint that the *Respect in the Workplace Policy* was contravened only if such allegations are based on events that occurred on or after May 6, 2020.

The Interim Report stated that we had determined that we would not investigate certain allegations that the *Respect in the Workplace Policy* and/or the Code of Conduct itself was contravened, would not investigate certain allegations that the Code of Conduct itself was contravened, and would not investigate an allegation concerning an event that occurred after the complaint was filed. This eliminated 9 allegations.

In a Second Interim Report dated December 7, 2021, we determined that after obtaining further information from the persons who were the sources of the remaining allegations, there were two additional allegations that we would not investigate. One of the allegations was outside of the timeframes for filing complaints. The second allegation was unsupported by the information available.

The Second Interim Report listed the allegations that we would be investigating and set out further information about the allegations being investigated in the interview notes and associated documentation attached as Annex A to the Second Interim Report.

In a letter dated April 4, 2022, Mr. Perrelli's counsel submitted that the Integrity Commissioner's Office should immediately cease this investigation on the grounds that in his view the complaint was not made in good faith as demonstrated by the issuance of a Statement of Claim by Mary-Anne Dempster on March 25, 2022. After considering the written submissions of the parties, we concluded that we should continue the investigation.

This is the report on the outcome of our investigation of the allegations listed in the Second Interim report. The allegations are addressed individually below using the same numbering as in the Second Interim Report.

Our conclusions are based on the information obtained in our investigation and a determination made with respect to each allegation on the balance of probabilities.

On June 9, 2022 we sent the draft version of this report to Ms. Treacy and Mr. Perrelli for comment by close of business on June 20, 2022, in accordance with section 6.24 of the Richmond Hill Integrity Commissioner Procedures. The Addendum to this report responds to the written comments received from Ms. Treacy and Mr. Perrelli's counsel. As noted in the Addendum, changes have also been made to the main body of this report where appropriate to respond to the comments.

B. Investigation Process

The following were the key procedural events in the investigation process:

- May 6, 2021** - Code of Conduct complaint filed by and through Ms. Treacy, incorporating a Respect in the Workplace Complaint dated May 3, 2021
- May 16, 2021** - Response from Mr. Perrelli to the complaint
- June 30, 2021** - Response from Mr. Perrelli's counsel to the complaint
- July 29, 2021** - Reply by Ms. Treacy to the June 30, 2021 response
- August 5, 2021** - Correspondence from Mr. Perrelli's counsel
- August 27, 2021** - Request by the Integrity Commissioner to Ms. Treacy for more specific information concerning the complaint allegations
- September 22, 2021** - Response from Ms. Treacy providing more specific information concerning the complaint allegations
- October 13, 2021** - First Interim Report concerning the investigation
- December 7, 2021** - Second Interim Report concerning the investigation
- January 31, 2022** - Response from Mr. Perrelli's counsel to the Second Interim Report
- March 7, 2022** - Reply by Ms. Treacy to the January 31, 2022 response from Mr. Perrelli's counsel
- March 9, 2022** - Response by Mr. Perrelli's counsel to Ms. Treacy's March 7, 2022 reply
- March 11, 2022** - Response by Ms. Treacy to the March 9, 2022 response by Mr. Perrelli's counsel
- April 4, 2022** - Submission by Mr. Perrelli's counsel that the investigation should cease
- April 14, 2022** - Response to the April 4 submission by Ms. Treacy
- April 27, 2022** - Reply by Mr. Perrelli's counsel to Ms. Treacy's response
- May 9, 2022** - Decision to continue with the investigation
- June 9, 2022** - Draft version of the report sent to Ms. Treacy and Mr. Perrelli for comment
- June 17, 2022** - Written comments on the draft report received from Ms. Treacy
- June 20, 2022** - Written comments on the draft report received from Mr. Perrelli's counsel

In addition to the documentation referred to above, the documentation we reviewed included

- Notes made by Ms. Treacy from initial fact finding discussions with persons making complaint allegations
- Richmond Hill Council Code of Conduct
- Richmond Hill Integrity Commissioner Procedures
- Richmond Hill Respect in the Workplace Policy
- Richmond Hill Respect in the Workplace Complaints and Response Procedures

We conducted telephone interviews with the following employees of Richmond Hill:

Sherry Adams, Commissioner Corporate and Financial Services
Ryan Ban, Deputy City Clerk
Mary-Anne Dempster, City Manager as of the date the complaint was filed
Antonio Dimilta, City Solicitor

Stephen Huycke, Director Legislative Services/City Clerk
Darlene Joslin, Commissioner Community Services as of the date the complaint was filed
Nadim Khan, Director Building division and Chief Building Official
Kelvin Kwan, Commissioner Planning and Infrastructure Department
Jeff Stewart, Director Public Works Operations

We conducted a Zoom interview with Regional Councillor Perrelli, with the participation of his counsel.

C. Analysis of Complaint Allegations

1. Allegation that, starting in March 2021, Mr. Perrelli behaved inappropriately in relation to the termination of employment of Mike Makrigiorgos, contrary to the *Respect in the Workplace Policy* and/or the Code of Conduct

Mr. Makrigiorgos was Mr. Perrelli's Chief of Staff. His employment was terminated on March 12, 2021. Mr. Perrelli objected to his termination and there was significant discussion between Mr. Perrelli and staff concerning Mr. Perrelli's desire to rehire Mr. Makrigiorgos. Mr. Makrigiorgos was rehired some months later.

Ms. Dempster and Ms. Adams allege that Mr. Perrelli told them he had consulted three lawyers and that if Mr. Makrigiorgos's termination went forward they could be liable personally. They viewed this alleged statement as intimidation. Mr. Perrelli states that he did consult three lawyers but did not express the view to staff that they could be liable or attempt to intimidate staff.

In a voicemail left by Mr. Perrelli for Mr. Dimilta in the spring of 2021, Mr. Perrelli expressed significant concerns relating to the termination of Mr. Makrigiorgos. However, in that voicemail Mr. Perrelli did not express the view that staff could be liable. Given the fact that Mr. Dimilta was the City's legal counsel, if Mr. Perrelli had wished to communicate the view that staff could be liable, he would reasonably have been expected to include that view in the concerns expressed in his voicemail. We also note that the tone of the voicemail does not indicate an attempt to intimidate.

Accordingly, considering the above factors, the information available is not sufficient to support the conclusion that Mr. Perrelli communicated inappropriately concerning the termination of Mr. Makrigiorgos. We therefore dismiss this complaint allegation.

It is also alleged that during the period when Mr. Makrigiorgos was not an employee, Mr. Perrelli inappropriately arranged for Mr. Makrigiorgos to have access to Richmond Hill premises. The substance of this allegation, concerning a specific date, was the subject of a previous complaint investigated by the Integrity Commissioner. Given the fact that the Integrity Commissioner has previously investigated the substance of this allegation, it is not appropriate to investigate this allegation as part of this complaint.

2. Allegation that, starting in March 2021, Mr. Perrelli falsely told staff that Mary-Anne Dempster, the City Manager, had a list of staff that she intended to make things difficult for, so that they would resign, contrary to the *Respect in the Workplace Policy* and/or the Code of Conduct

Mr. Perrelli states that Ms. Dempster told him she had such a list, and acknowledges that he communicated this to staff. Ms. Dempster denies that she had such a list.

The information available is insufficient to reach a reasonable conclusion on whether Ms. Dempster had such a list. Accordingly, we dismiss this complaint allegation.

3. Allegation that after Ms Dempster directed, on March 26, 2021, that communications between Mr. Perrelli and staff were to be only in writing, Mr. Perrelli communicated inappropriately with staff, contrary to the *Respect in the Workplace Policy* and/or the Code of Conduct

On March 26, 2021, Ms. Dempster sent the following email to Mr. Perrelli:

We have received multiple complaints from staff regarding phone call and in-person meetings with you where they felt intimidated, threatened and/or badgered. I have an obligation to provide a safe work environment for staff. As such, effective immediately all staff communication with you and your office will be conducted in writing only. This includes senior management and my office. I am including the Acting Mayor as the head of Council so he is aware of how we are proceeding.

Mr. Perrelli states that he considered the directive in Ms. Dempster's March 26 email to be illegal. On March 30, he sent a standard form email to some staff members asking the following questions concerning the directive:

1. Did you receive communication from someone advising you not to speak to me?
2. If you did receive such advice, could you please advise from whom you received it?
3. Was that advice given to you in writing? If it was, could you please forward me the written communication for clarity?
4. If it was verbal advice, please advise what specifically you were advised.
5. If you were given a reason as to why you were given this advice, could you please forward the reason you were given?
6. Can you tell me if the advice you were given applies to me and my office only or does it apply to all Members of Council and their staff?

Two staff members, Mr. Stewart and Mr. Huycke, state that they received voicemails from Mr. Perrelli expressing the view that Ms. Dempster's directive was illegal and that they should not follow the directive.

Ms. Dempster and Ms. Joslin also indicate that other staff told them they had received voicemails from Mr. Perrelli saying they should ignore the directive. However, those other staff members did not come forward, so it is not reasonably possible to assess the accuracy of those sources of potential information.

Mr. Perrelli indicates that he does not recall whether he told staff not to follow the directive.

However, by making continuous attempts to communicate orally with staff, including the voicemails described by Mr. Stewart and Mr. Huycke, and by continuing to communicate orally with some staff, Mr. Perrelli made it clear to staff that he did not consider they should follow the directive. In addition, Mr. Perrelli's email of questions to staff would reasonably be interpreted as an attempt to gather information to use in challenging the directive.

Subsection 7.4(c) of the Code of Conduct provides as follows:

Members shall

...

(c) respect the administrative structure and direct any Staff performance concerns through appropriate supervisory Staff.

The City's administrative structure required staff to follow the directive given by Ms. Dempster. Mr. Perrelli's course of action would reasonably be interpreted as an attempt to undermine the directive, thereby failing to respect the City's administrative structure.

In addition, Mr. Perrelli's view that the directive was illegal constituted a significant concern about Ms. Dempster's performance. Mr. Perrelli should reasonably have been expected to direct this concern to Council, given the fact that Ms. Dempster was not supervised by any supervisory City staff.

Accordingly, we conclude that Mr. Perrelli contravened subsection 7.4(c) of the Code of Conduct. We recommend that Council reprimand Mr. Perrelli for this contravention.

4. Allegation that in January 2021 Mr. Perrelli threatened the job of Mary-Anne Dempster, the City Manager, contrary to the *Respect in the Workplace Policy*

It is alleged that Mr. Perrelli told Ms. Dempster, Ms. Joslin and Ms. Adams that he wanted to remove all authority except financial authority from Ms. Dempster and give the remaining authority to a second City Manager. It is clear that such a proposal would have threatened Ms. Dempster's job.

Ms. Dempster states that she received a call from Mr. Perrelli to this effect on an unspecified date in January 2021. According to her recollection, Mr. Perrelli also asked her who she would recommend for the second City Manager, and she declined to comment.

Ms. Adams states that she received a call from Mr. Perrelli to this effect at the end of October, 2020. She states that from her knowledge as Director of Human Resources, she believed that this would constitute constructive dismissal, and she told Mr. Perrelli so.

Ms. Joslin states that on January 25, 2021 she received a call from Mr. Perrelli saying he was going to the next Council meeting to terminate Ms. Dempster. His proposal as recalled by Ms. Joslin was to do this by removing all authority except financial authority from Ms. Dempster, and giving the remaining authority to Ms. Joslin. Ms. Joslin recalls telling Mr. Perrelli that this would constitute constructive dismissal, and proposing an alternative approach to Mr. Perrelli. She recalls that Mr. Perrelli asked her to keep the discussion confidential and call him back the next day concerning his proposal.

Ms. Joslin states that on January 26, 2021 she called Mr. Perrelli back to reject his proposal.

Mr. Perrelli denies having these conversations with Ms. Adams and Ms. Joslin. When asked whether there was a motion to Council to fire Ms. Dempster, Mr. Perrelli stated that he was not able to talk about anything that Council did in camera.

As outlined above, three different employees recall speaking to Mr. Perrelli, on four different occasions, concerning a proposal by Mr. Perrelli to remove all authority except financial authority from Ms. Dempster. As outlined above, one of these employees, Ms. Joslin, has a detailed recollection of discussion on two different occasions concerning this proposal, including a possible alternative approach.

This makes it probable that, although he may not recollect doing so, Mr. Perrelli did communicate to staff a proposal to remove all authority except financial authority from Ms. Dempster, which was a threat to Ms. Dempster's job.

However, that being said, the fact that Mr. Perrelli put forward a proposal to change Ms. Dempster's job description does not contravene the *Respect in the Workplace Policy*. Council was the authority that had the power to hire and fire City Managers. As a member of Council, Mr. Perrelli was entitled to put forward such a proposal.

Accordingly, we dismiss this ground of complaint.

We note that Mr. Perrelli may have acted inappropriately in speaking about his proposal to Ms. Adams and Ms. Joslin. This would have put them in an awkward position because both reported to Ms. Dempster and because of the possibility of revealing to them confidential information to be discussed by Council in camera. However, Mr. Perrelli's conduct in speaking to Ms. Adams and Ms. Joslin about his proposal is not the subject of this complaint.

5. Allegation that in January 2021 Mr. Perrelli threatened the job of Antonio Dimilta, the City Solicitor, and told the City Manager that the City Manager was to fire him, contrary to the *Respect in the Workplace Policy*

On January 26, 2021 Mr. Dimilta had a telephone conversation with Mr. Perrelli. In that telephone conversation, according to the recollection of both Mr. Dimilta and Mr. Perrelli, Mr. Perrelli gave Mr. Dimilta advance notice that Mr. Dimilta's employment could be terminated.

According to Mr. Dimilta's recollection, Mr. Perrelli told him this was because he disagreed with Mr. Dimilta's legal advice on various matters. Mr. Perrelli acknowledges that he had concerns about Mr. Dimilta's work and felt that Mr. Dimilta should be replaced.

Mr. Dimilta felt that Mr. Perrelli was genuinely threatening his employment. He was sufficiently disturbed by the conversation to send notes about the call the same day to Ms. Dempster and Ms. Adams, and to speak to Ms. Dempster about the call. Ms. Dempster describes Mr. Dimilta as "very distraught" when she spoke to him. Notes made by Ms. Adams three days later, on January 29, indicate that Mr. Dimilta told her the call made him feel insecure about his job and as a result in need of some financial protection.

Mr. Dimilta was aware that Mr. Perrelli did not have the power to terminate Mr. Dimilta's employment. The person who had the power to do so was Mr. Dimilta's supervisor, who was Ms. Dempster. However, Mr. Dimilta believed there was a possibility that Council could have given a direction in an in camera session to fire him.

Mr. Perrelli indicates that the conversation was not intended to threaten, bully or intimidate Mr. Dimilta. In support of this, in his interview Mr. Perrelli read the text of a voicemail that Mr. Perrelli left for Mr. Dimilta, a recording of which was provided by Ms. Treacy. However, this voicemail cited by Mr. Perrelli did not relate to the call by Mr. Perrelli that is the subject of this complaint allegation. Rather, it concerned Mr. Perrelli's desire to rehire Mr. Makrigiorgos. Neither Mr. Perrelli nor Ms. Treacy has provided a recording of the call that is the subject of this complaint allegation.

Ms. Dempster states that Mr. Perrelli told her that she was to fire Mr. Dimilta. Mr. Perrelli does not confirm this. Regardless of whether Mr. Perrelli did direct Ms. Dempster to fire Mr. Dimilta, there is no information to indicate that any action was taken in this regard other than the possible direction to Ms. Dempster.

Under the heading "Responsibilities for Members of Council", the *Respect in the Workplace Policy* provides as follows: "All members of Council have a responsibility to treat staff appropriately and to refrain from engaging in workplace harassment, workplace sexual harassment, abusive conduct, discrimination and workplace violence."

The *Respect in the Workplace Policy* defines “abusive conduct” as follows:

“Abusive Conduct” means unwarranted and unjustified aggressive and/or provoking comment(s), threats, purposeful and persistent ignoring, coercion, persistent criticism or condemnation, public humiliation and acts of physical and verbal aggression. Such comments or conduct may: (a) be methodical, planned, sudden, irrational or unpredictable; and/or (b) include the improper use of power and/or authority inherent in a position held by an individual.

Given the fact that Mr. Perrelli did not personally have the power to terminate Mr. Dimilta’s employment, Mr. Perrelli did not treat Mr. Dimilta appropriately when he called Mr. Dimilta to tell him that his employment could be terminated.

In addition, making a call with the purpose of telling Mr. Dimilta that his employment could be terminated can reasonably be viewed as a threat, and hence as “abusive conduct” as defined in the *Respect in the Workplace Policy*. Although Mr. Perrelli states that he did not intend the call to be threatening, and Mr. Dimilta knew that Mr. Perrelli did not personally have the power to terminate his employment, Mr. Dimilta’s actions in response to the call, as outlined above, lead reasonably to the conclusion that Mr. Dimilta felt threatened. Accordingly, based on the information available, it is reasonable to conclude that Mr. Perrelli engaged in abusive conduct in his call to Mr. Dimilta from Mr. Dimilta’s perspective.

Making a call with the purpose of telling Mr. Dimilta that his employment could be terminated can also reasonably be viewed as the improper use of power and/or authority from Mr. Dimilta’s perspective, given that Mr. Perrelli was an elected member of Richmond Hill Council, Deputy Mayor of Richmond Hill and a Regional Councillor.

Taking these factors into account, it is reasonable to conclude that Mr. Perrelli contravened the *Respect in the Workplace Policy* in his January 26, 2021 call to Mr. Dimilta. We recommend that Council reprimand Mr. Perrelli for this action.

6. Allegation that in October 2020 Mr. Perrelli acted inappropriately in relation to a concern from a resident about an intersection, contrary to the *Respect in the Workplace Policy*

In October 2020 Mr. Perrelli emailed Ms. Joslin to ask for action concerning complaints from residents about the corner of Regent and Ellsworth. Ms. Joslin responded that she would follow up on this issue. In our view, the email communication from Mr. Perrelli to Ms. Joslin does not contain anything inappropriate.

We therefore dismiss this complaint allegation.

7(a) Allegation that Mr. Perrelli challenged the recommendations made by staff in an attempt to contravene their professional expertise and the City's corporate objectives, contrary to the *Respect in the Workplace Policy*

This general allegation does not have sufficient specifics to be appropriately investigated. Allegations concerning specific interactions between Mr. Perrelli and staff are addressed elsewhere in this report.

7(b) Allegation that Mr. Perrelli attempted to influence, intimidate, harass and coerce staff and interfere in their ability to carry out their duties, contrary to the *Respect in the Workplace Policy*

This allegation involves three specific allegations.

First, it is alleged by Ms. Joslin that on March 15, 2021 Mr. Perrelli called her to say that she did not need to carry out a planned termination of the employment of the Director of Public Works, if this was the result of Ms. Dempster pressuring Ms. Joslin. Ms. Joslin alleges that Mr. Perrelli told her that if she did not terminate the Director's employment he would be her biggest advocate. Mr. Perrelli states that he does not recall this conversation.

There is insufficient information available to support a reasonable conclusion on whether such a conversation took place. Accordingly, we dismiss this allegation.

Second, it is alleged by Mr. Stewart that in a meeting in the fall of 2020 Mr. Perrelli questioned the licensing requirements for staff and stated "We will conquer the union". Mr. Perrelli states that he does not recall such a conversation.

There is insufficient information available to support a reasonable conclusion on whether such a conversation took place. Accordingly, we dismiss this allegation.

Third, it is alleged by Mr. Stewart that in the fall of 2020 Mr. Perrelli arrived on his bike at a location near Mill Pond where staff had done some sodding. Mr. Stewart alleges that although he had assessed the quality of the sodding as good, Mr. Perrelli criticized the work, going so far as to lift up the sod.

Mr. Perrelli denies that such an incident took place and states that he has never been to the location where Mr. Stewart alleges the incident occurred.

We attempted to obtain additional information concerning this alleged incident, but did not receive any response to our request that other employees who were present come forward.

There is insufficient information available to support a reasonable conclusion on whether the alleged incident took place. Accordingly, we dismiss this allegation.

7 (c) Allegation that in the spring and fall of 2020 Mr. Perrelli inappropriately expressed his views to Ms. Dempster on an Integrity Commissioner complaint against a fellow Councillor, contrary to the *Respect in the Workplace Policy*

Ms. Dempster alleges that Mr. Perrelli inappropriately expressed his views to her concerning Councillor Cilevitz. Councillor Cilevitz was charged with fraud in the fall of 2021. Ms. Dempster states that when this occurred "Mr. Perrelli was excited and laughing".

Mr. Perrelli states that he does not recall specific conversations concerning this, but indicates that Councillor Cilevitz often opposed and heavily criticized him.

There is insufficient information to determine whether the recollection of Ms. Dempster or of Mr. Perrelli is correct. We therefore dismiss this complaint allegation.

7(d) Allegation that in the fall of 2020 Mr. Perrelli inappropriately told Ms. Dempster that one of the Commissioners should receive an increase in salary, contrary to the *Respect in the Workplace Policy*

Ms. Dempster alleges that in the fall of 2020 Mr. Perrelli inappropriately told her that in his view one of the Commissioners should receive an increase in salary. Mr. Kwan indicates that Mr. Perrelli told him he felt Mr. Kwan should receive an increase in salary due to his "responsibilities". Ms. Joslin and Ms. Adams allege that in November 2020 they were on a call with Mr. Perrelli in which Mr. Perrelli asked if Ms. Joslin wanted a salary increase.

Mr. Perrelli states that these recollections by staff are incorrect, because he wanted to prevent any salary increases for Commissioners.

Given the fact that no fewer than four employees recall that Mr. Perrelli was advocating a salary increase for a Commissioner, whether for Ms. Joslin or for Mr. Kwan, it is likely that it is correct that Mr. Perrelli was advocating a salary increase.

However, that being said, we do not consider that Mr. Perrelli was contravening the *Respect in the Workplace Policy* by merely expressing such a point of view. Accordingly, we dismiss this complaint allegation.

7(e) Allegation that Mr. Perrelli communicated to staff inappropriately in a meeting on February 3, 2021 concerning Richmond Hill communications, contrary to the *Respect in the Workplace Policy*

Ms. Dempster indicates that in this meeting Mr. Perrelli asked Communications staff to coordinate with his staff before they responded to media requests. She indicates that her response was that Communications staff would not coordinate but would refer media requests directly to Mr. Perrelli's office.

Ms. Dempster considers that Mr. Perrelli's request was inappropriate. Mr. Perrelli responds that he raised the issue appropriately as a matter of corporate governance.

We do not consider that there was anything inappropriate for Mr. Perrelli to raise this issue as a matter of corporate governance. We therefore dismiss this complaint allegation.

7(f) Allegation that in a Budget meeting on January 26, 2021, Councillor Perrelli inappropriately had his staff instruct that Ms. Dempster's camera be turned off when she was not speaking, which was inappropriate given that he was not chairing the meeting, contrary to the *Respect in the Workplace Policy*

Deputy Clerk Ryan Ban was responsible for the technology aspects of this meeting, which was held by Zoom. He indicates that he received a call from Councillor Perrelli's assistant making this request.

This request was consistent with the general practice in Zoom meetings that video of staff members only be turned on when they are being addressed, bearing in mind that if all Councillors and staff members were shown at once, that would mean a considerable number of individuals shown on the screen. Mr. Ban notes that although Councillor Perrelli was not chairing the meeting, he was the Deputy Mayor at that time.

Mr. Ban complied with the request. He indicates that it is the only such request he has ever received. He texted Ms. Dempster to advise her of what had occurred. Ms. Dempster's reply was as follows, indicating that she did not consider it to be a significant problem at the time: "It's the mayors meeting and you should only be taking direction from him. No problem though. Not something to worry about pushing back on".

Taking the above factors into account, we dismiss this complaint allegation.

7(g) Allegation that in a Council meeting in the spring of 2021, Mr. Perrelli spoke dismissively to Ms. Dempster, contrary to the *Respect in the Workplace Policy*

Ms. Dempster has provided time references for Council meetings on March 10, 2021 and April 14, 2021 when she believes this occurred. We have reviewed the video for these timeframes and do not consider that in these timeframes Mr. Perrelli spoke inappropriately to Ms. Dempster. This complaint allegation is therefore dismissed.

7(h) Allegation that in the timeframe July 2020 to January 2021, Mr. Perrelli inappropriately communicated expectations to Ms. Dempster about an issue concerning use of a truck by the Director of Public Works, contrary to the *Respect in the Workplace Policy*

Mr. Perrelli denies that this occurred. The information available is not sufficient to reach a reasonable conclusion on whether the recollection of Ms. Dempster or Mr. Perrelli is correct. Therefore we dismiss the complaint allegation.

7 (i) Allegation that Mr. Perrelli inappropriately directed the Director of Public Works to hire two people, one of whom was Mr. Perrelli's nephew, who had not passed the normal interview and testing requirements, contrary to the *Respect in the Workplace Policy*

Ms. Dempster indicates that she was aware of this alleged situation prior to her appointment as Interim City Manager in February 2020. Accordingly, the alleged situation arose outside the timeframe covered by this investigation and we dismiss the complaint allegation.

While we are dismissing this allegation as out of time, we note that Mr. Perrelli strongly denies this allegation. Mr. Perrelli stated in both his written submissions and his interview that he has two nephews, one of whom is currently 15 years old and the second of whom is 30 years old; that neither has worked for Richmond Hill and that he has never attempted to get them jobs at the City. No information to the contrary has been presented by Ms. Treacy.

8. Allegation that Mr. Perrelli indicated to staff that his conversations were recorded, in an effort to intimidate staff, contrary to the *Respect in the Workplace Policy*

Mr. Perrelli has confirmed that he records his calls. He expresses the view that recording calls is a common practice and denies any intent to intimidate staff by doing so.

Recording calls is not in itself a violation of the Code of Conduct or the *Respect in the Workplace Policy*. The only information available concerning Mr. Perrelli's intent in doing so is his statement that he did not intend to intimidate staff. Accordingly, we dismiss this complaint allegation.

9. Allegation that in early 2021, Mr. Perrelli inappropriately told Nadim Khan, Director Building Division and Chief Building Official, that Mr. Khan should not exercise his legislated function of issuing orders against properties where appropriate, contrary to the *Respect in the Workplace Policy*

Mr. Khan states that this occurred in a call from Mr. Perrelli. Mr. Khan was unable to provide a specific date when this call occurred, but indicates that it occurred in 2021 prior to March 26.

According to Mr. Khan, Mr. Perrelli expressed the view that Mr. Khan should never issue any orders concerning a construction site, and then hung up the phone before Mr. Khan had

a chance to respond. Mr. Khan indicates that he found this surprising and shocking, since his legal mandate required him to act independently to issue orders when appropriate.

Mr. Perrelli denies expressing this view.

There is insufficient information to confirm whether Mr. Khan's recollection of the call is correct. Accordingly, we dismiss this complaint allegation.

10. Allegation that in April 2021 Mr. Perrelli acted inappropriately concerning a stop work order that Mr. Khan had issued concerning a property where construction had occurred without a building permit, contrary to the *Respect in the Workplace Policy* and/or the Code of Conduct

Mr. Khan is the Chief Building Official of Richmond Hill. As such, he has legal responsibilities under the Ontario *Building Code Act, 1992* that he is required to exercise independently.

The *Building Code Act, 1992* provides the statutory framework to regulate building design and construction. Among other things, it provides that builders are not to commence construction without a building permit. As Chief Building Official, Mr. Khan is responsible for the issuance of building permits. Mr. Khan and his staff have the discretion to issue orders concerning contravention of the Act. Pursuant to paragraph 1.1(6) of the Act, Mr. Khan is required exercise his powers and duties as Chief Building Official "in an independent manner".

Mr. Khan issued a stop work order against a property that had reached an advanced stage of construction without a building permit. At that point the builder had not filed an application for a building permit. The builder was not yet in a position to file an application, because the builder did not yet have planning approval or a legal address, both of which were legally required for a building permit application.

On April 6, 2022 The builder wrote to Mr. Khan, the City Manager and Members of Council to protest the stop work order. Mr. Khan then responded to the builder, City Manager and Members of Council to explain the municipality's responsibilities and the process to resolve the situation. The builder then wrote again to Mr. Khan, with copies to the City Manager and Members of Council to protest the stop work order.

Mr. Perrelli then sent an email to Mr. Khan and the builder, with copies to the City Manager and members of Council as follows:

Mr. CBO,

I am hopeful that we can get [the builder] his addresses in a day or so and his permits approved at the same time.

May I suggest that you consider his generous offer of paying for a staff member to work overtime for extra pay in order to help him meet his commitment of home occupancy to those 4 families?

Might I also suggest that you accept his building permit application now, so that it will be ready for approval when the addresses are in place.

Lastly, if what [the builder] is saying is true as it pertains to safety and financial liability for the City, specifically that there are no safety concerns or liability to the City and that this is simply an administrative delay, I would ask that the stop work order be reversed and that he be allowed to continue with the project while awaiting his administrative permissions.

When you can be anything in this world, be kind, is a slogan I've seen before.

Under the heading "Responsibilities for Members of Council", the *Respect in the Workplace Policy* provides as follows: "All members of Council have a responsibility to treat staff appropriately and to refrain from engaging in workplace harassment, workplace sexual harassment, abusive conduct, discrimination and workplace violence."

The *Respect in the Workplace Policy* defines "abusive conduct" as follows:

"Abusive Conduct" means unwarranted and unjustified aggressive and/or provoking comment(s), threats, purposeful and persistent ignoring, coercion, persistent criticism or condemnation, public humiliation and acts of physical and verbal aggression. Such comments or conduct may: (a) be methodical, planned, sudden, irrational or unpredictable; and/or (b) include the improper use of power and/or authority inherent in a position held by an individual

Mr. Perrelli states that in this communication he was acting appropriately in that he was merely expressing a view, making suggestions to staff and responding to a citizen's complaint that the citizen was not being treated appropriately by staff.

Mr. Perrelli's communication goes beyond merely expressing a view, making suggestions to staff and responding to a citizen's complaint.

Mr. Perrelli set out a roadmap for staff action prefaced by "I am hopeful...", "May I suggest...", "Might I also suggest..." and "I would ask...". Given Mr. Perrelli's position as elected member of Richmond Hill Council, Deputy Mayor of Richmond Hill and a Regional Councillor, communicating in this way would reasonably be interpreted as an attempt by Mr. Perrelli to use his inherent power to pressure staff to take specific action.

The fact that Mr. Perrelli copied the builder and Council members on this communication to Mr. Khan would also reasonably be interpreted as an attempt to exert pressure on staff to take specific action.

Given Mr. Khan's legislated function, Mr. Perrelli's communication would reasonably be interpreted as using Mr. Perrelli's authority or influence to improperly interfere in the lawful, independent, exercise of duties of Mr. Khan under the *Building Code Act 1992*. This would reasonably be interpreted as treating Mr. Khan inappropriately and trying to coerce Mr. Khan into taking the action Mr. Perrelli was proposing, contrary to the *Respect in the Workplace Policy*.

Mr. Perrelli's communication was also a violation of subsection 7.5(c) of the Code of Conduct, which provides as follows:

No Member shall:

...

(c) use their authority or influence to threaten, intimidate, or coerce Staff or improperly interfere in the lawful exercise of duties of Staff

In comments on the draft report, Mr. Perrelli's counsel submitted that Mr. Perrelli was acting appropriately by simply replying to all the parties written to by the builder. It would have been appropriate for Mr. Perrelli to reply to all the parties if the content of his reply had been appropriate. However, as indicated above, the content of Mr. Perrelli's reply was inappropriate.

We note the following principle stated in the case of *Greatrix v. Williams*², a decision of Integrity Commissioner Giorno:

139. While politicians must respect the independence of law enforcement officers, there are many aspects of law enforcement on which they can and do engage. Accountability, for example, is not incompatible with independence. Accountability of law enforcement covers a range of topics (including policy, efficiency, finances, administration, use of authority and ethics) all of which elected officials may properly address....

140. While (at a "micro" level) a Council Member must not try to influence the disposition of a specific by-law enforcement case, a Council Member (at the "macro" level) is entitled to engage on policy, on accountability, and of course on the legislative process of making the by-laws that actually get enforced.

141. Thus, the fact that a Council Member is communicating about a by-law enforcement matter does not necessarily mean that the Council Member has overstepped his or her role. The answer depends on whether the Council Member is impermissibly interfering on a specific case or is properly engaged on general concerns.

While this case concerned the enforcement of by-laws rather than the actions for which Mr. Khan was given responsibility under the *Building Code Act, 1992*, the principle is relevant.

² 2018 ONMIC6

In this instance, Mr. Perrelli was not engaging at the “macro” level on general concerns relating to policy or accountability. He was impermissibly interfering on the specific case being dealt with by Mr. Khan.

In the written response to the draft report, Mr. Perrelli’s counsel cited paragraphs 132 and 133 the *Greatrix v. Williams* decision:

Council Members are elected to office. The democratic nature of the office means that Council Members have political and representatives roles. In addition to their legislative (law-making) role. The Courts have confirmed that Municipal Councillors have hybrid political and legislative functions, that they are representatives of the communities that elect them, and that Members of the public have the right to address their municipal representatives on issues of concern. The *Municipal Act* confirms that a role of the Council is “to represent the public”.

It is part of the role of a Council Member to communicate with members of the public about municipal issues. This includes both initiating communication and responding to communication initiated by Members of the public. In doing so, a Council Member is not limited to explaining and defending what the Municipality is already doing. As part of the political process, a Council Member is entitled to form views, to hold views, to express views and, once in office, give effect to those views...[T]he Courts have clearly stated that as an elected representative of the public a Municipal Councillor is entitled to take “an open leadership role” on an issue.

Mr. Perrelli’s counsel submits that Mr. Perrelli was “responding to communication initiated by Members of the public” and taking an “open leadership role” as contemplated by these paragraphs, and thereby acting appropriately. However, paragraphs 132 and 133 must be read in conjunction with paragraphs 139 to 141, which sets out a key principle applicable to such communication and leadership. As indicated above, Mr. Perrelli did not act appropriately in accordance with this principle.

In addition, Mr. Perrelli's statement concerning kindness was inappropriate. Mr. Perrelli indicates that in making this statement he was simply citing a statement that he had heard. However, Mr. Perrelli's statement would reasonably be interpreted as communicating that Mr. Khan's handling of the situation, in his view, was unkind. In making this personal attack on Mr. Khan, Mr. Perrelli was not treating Mr. Khan appropriately, and was subjecting Mr. Khan to public humiliation, contrary to the *Respect in the Workplace Policy*.

Section 7.6 of the Code of Conduct provides that "The content of any Member's communications, regardless of method of communication, shall be accurate, honest and respectful of other persons, including other Members, Staff and the Public. “ In making the statement concerning kindness, Mr. Perrelli was not communicating in a way that was respectful, contrary to section 7.6 of the Code of Conduct.

Accordingly, in his April 6, 2021 email Mr. Perrelli contravened *the Respect in the Workplace Policy* and subsection 7.5(c) and section 7.6 of the Code of Conduct.

Mr. Perrelli's counsel submits that if Mr. Perrelli's conduct was contrary to the Code of Conduct, other Councillors who were copied on Mr. Perrelli's email would have complained. However, the mandate of the Integrity Commissioner is to reach a determination concerning the appropriateness of Mr. Perrelli's conduct that is independent of whatever views Councillors or others may hold. We note that Mr. Perrelli has not submitted any evidence concerning the views held by other Councillors.

We recommend that Council reprimand Mr. Perrelli for this action.

11. Allegation that in the fall of 2020 when Mr. Perrelli visited the Operations Centre, where staff were setting up a tent, he called staff names, contrary to the *Respect in the Workplace Policy*

According to the recollection of Mr. Stewart, Mr. Perrelli inappropriately said the following on that occasion: "Here are four City dog fuckers putting the tent up. I want to get a picture of this, the four doggers out there".

According to the recollection of Mr. Perrelli, Mr. Perrelli said "here are four dogfuckers setting up a tent" and then got off his bike and said "Would you like the help of a fifth dogfucker to put up the tent".

Mr. Perrelli states that he did not intend to offend and understood at the time that his comment was accepted as a joke. However, he expresses the view that in hindsight what he said may not have been the most professional.

When requested, Mr. Stewart did not provide a response to Mr. Perrelli's recollection of what occurred. We also requested Mr. Stewart to determine if any employee other than Mr. Stewart who was present at the incident was willing to come forward to provide information concerning this complaint allegation. No such employee came forward. As a result, there is insufficient information to reach a reasonable conclusion on whether Mr. Perrelli's recollection is correct.

Accordingly, we dismiss this ground of complaint.

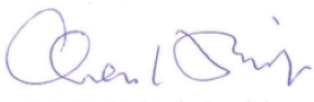
D. Summary of Conclusions and Recommendations

As stated above, we have concluded that three of the complaint allegations are valid. We have dismissed the remainder of the complaint allegations. The three complaint allegations that we have found to be valid are as follows:

- Allegation that after Ms Dempster directed, on March 26, 2021, that communications between Mr. Perrelli and staff were to be only in writing, Mr. Perrelli communicated inappropriately with staff. This contravened subsection 7.4(c) of the Code of Conduct.
- Allegation that in January 2021 Mr. Perrelli threatened the job of Antonio Dimilta, the City Solicitor. This contravened the *Respect in the Workplace Policy*.
- Allegation that in April 2021 Mr. Perrelli acted inappropriately concerning a stop work order that Mr. Khan had issued concerning a property where construction had occurred without a building permit. This contravened the *Respect in the Workplace Policy* and subsection 7.5(c) and section 7.6 of the Code of Conduct.

We recommend that Council reprimand Mr. Perrelli for these contraventions. We believe that this penalty will have a rehabilitative effect on Mr. Perrelli and act as a deterrent to such behaviour more broadly.

Dated this 30th day of June, 2022



Charles Harnick, Integrity Commissioner for the City of Richmond Hill



Ellen Fry, Co-Investigator, Office of the Integrity Commissioner

ADDENDUM

On June 9, 2022, the Integrity Commissioner sent the draft version of this report to Ms. Treacy and Mr. Perrelli for written comment by close of business on June 20, 2022, in accordance with section 6.24 of the Richmond Hill Integrity Commissioner Procedures.

This Addendum to the report responds to the written comments received from Ms. Treacy and Mr. Perrelli's counsel. The allegations that are the subject of comments are numbered below using the numbers given to the allegations in the main body of the report.

Comments from Ms. Treacy

Ms. Treacy expresses the view concerning the draft report generally that "the complaint raised the concern that [Mr. Perrelli's] behaviour had been escalating and systemic" but that in reviewing each allegation on its own merits "the pattern of behaviour was missed".

In order to conduct a fair investigation, we needed to review each complaint allegation on its own merits. The three complaint allegations that we found to be valid were not sufficient to demonstrate a pattern of behaviour such as is alleged by Ms. Treacy.

1. Allegation that, starting in March 2021, Mr. Perrelli behaved inappropriately in relation to the termination of employment of Mike Makrigiorgos, contrary to the *Respect in the Workplace Policy* and/or the Code of Conduct

Ms. Treacy states that it is not correct to refer to Mr. Makrigiorgos as Chief of Staff for Regional and Local Council", because Mr. Makrigiorgos was Chief of Staff to one or more Councillors but not all of Council. We have changed the wording in the report to refer to Mr. Makrigiorgos as Mr. Perrelli's Chief of Staff, as indicated in written submissions by Mr. Perrelli's counsel in response to the Second Interim Investigation Report and correspondence from Mr. Perrelli's counsel dated June 30, 2021.

4. Allegation that in January 2021 Mr. Perrelli threatened the job of Mary-Anne Dempster, the City Manager, contrary to the *Respect in the Workplace Policy*

Ms. Treacy is of the view that Mr. Perrelli's behaviour met the definition of "abusive conduct" under the *Respect in the Workplace Policy*. She believes that Mr. Perrelli should have submitted such a proposal to Council as a whole, rather than to potentially affected staff. She states the view that "Sharing such a proposal of this nature where someone's livelihood could be negatively affected and where there is an imbalance of power ought reasonably [to] be seen as threatening and intimidating. Further given [that Mr. Perrelli] offered Ms. Dempster's job to a subordinate would also reasonably lead Ms. Dempster to the conclusion that the behaviour was threatening and intimidating".

Although Mr. Perrelli's behaviour may have caused Ms. Dempster to feel threatened, we do not agree that it contravened the *Respect in the Workplace Policy*. Council was the authority that had the power to hire and fire City Managers. As a member of Council, Mr. Perrelli was entitled to put forward such a proposal. If he had such a proposal, it was reasonable for him to discuss it with staff before putting it before Council.

8. Allegation that Mr. Perrelli indicated to staff that his conversations were recorded, in an effort to intimidate staff, contrary to the *Respect in the Workplace Policy*

Ms. Treacy agrees that recording calls is not in itself a violation of the *Respect in the Workplace Policy*, but expresses the view that "this wasn't necessarily about the message but rather the manner in which the message was delivered given the imbalance of power".

In this report we have addressed all specific allegations about the manner in which Mr. Perrelli communicated.

Comments from Mr. Perrelli's Counsel

Mr. Perrelli's counsel requested that this final investigation report indicate why we determined in the Second Interim Report that we would not investigate two allegations. We have added wording in the report to respond to this request.

5. Allegation that in January 2021 Mr. Perrelli threatened the job of Antonio Dimilta, the City Solicitor, and told the City Manager that the City Manager was to fire him, contrary to the *Respect in the Workplace Policy*

Mr. Perrelli's counsel identified a factual error in a reference in the report to the text of a voicemail left by Mr. Perrelli for Mr. Dimilta. This has been corrected.

Mr. Perrelli's counsel states that in a conversation with counsel's office Mr. Dimilta indicated that he has never made a complaint to the Integrity Commissioner about this allegation, or submitted a *Respect in the Workplace* complaint form. Mr. Perrelli's counsel expresses the view that this is an "exculpatory fact".

As required by the *Respect in the Workplace Complaints & Response Procedures* (under "Complaints Involving a Member of Council"), the *Respect in the Workplace* complaint was referred to the Integrity Commissioner for investigation by Ms. Treacy, as the Director of Human Resources. Ms. Treacy was the person who formally submitted the complaint to the Integrity Commissioner, which was appropriate under the *Respect in the Workplace Complaints & Response Procedures*. The complaint made through Ms. Treacy was initiated by Ms. Dempster and indicates it is made "on behalf of herself and 17 other staff". Mr. Dimilta is one of the other staff referred to by Ms. Dempster.

Mr. Dimilta has come forward to provide the specifics of the allegation concerning Mr. Perrelli's behaviour towards him. These specifics were provided to Mr. Perrelli as part of the Second Interim Investigation Report, to ensure that Mr. Perrelli had a fair opportunity to respond.

There is no requirement that the person who formally files a complaint be the employee who experienced the behaviour being complained of, in this instance Mr. Dimilta. On the contrary, the *Respect in the Workplace Complaints & Response Procedures* (under "Initiating Complaints") and the Code of Conduct (section 12.1) provide that "any employee" and "any individual", respectively, may initiate a complaint.

We note that section 4.4 of the Code of Conduct provides that "To ensure the highest standards of conduct by Council and Members, the Code is to be given broad, liberal interpretation in accordance with applicable legislation and the definitions set out herein."

We also note that, although he did not raise this issue in his comments on the draft report, Mr. Perrelli's counsel in correspondence dated June 6, 2022 alleged that Mr. Dimilta has a "systemic conflict of interest" arising from his role in reviewing the accounts of Mr. Perrelli's counsel concerning Integrity Commissioner complaints. Mr. Perrelli's counsel cited this as a factor supporting his conclusion that Mr. Dimilta's allegation was not properly before the Integrity Commissioner. It is not the Integrity Commissioner's role to judge whether Mr. Dimilta has a conflict of interest, and if so, how it should be dealt with. If Mr. Perrelli's counsel has such a concern, he should raise it in the proper forum.

10. Allegation that in April 2021 Mr. Perrelli acted inappropriately concerning a stop work order that Mr. Khan had issued concerning a property where construction had occurred without a building permit, contrary to the *Respect in the Workplace Policy* and/or the Code of Conduct

Mr. Perrelli's counsel submits that the report should contain more information concerning the context of Mr. Perrelli's behaviour in this situation. In response to this submission, we have added more information to the report concerning the context.

Mr. Perrelli's counsel submits that Mr. Perrelli was acting appropriately by simply replying to all of the parties involved in the chain of email communication. We address this argument in the main body of the report.

Mr. Perrelli's counsel submits that if Mr. Perrelli's conduct was contrary to the Code of Conduct, other Councillors who were copied on Mr. Perrelli's email would have complained. We address this argument in the main body of the report.

Mr. Perrelli's counsel submits that Mr. Perrelli was denied the opportunity to make submissions about the decision of *Greatrix v. Williams*, which we cited in the report. In his view this alleged denial was "a breach of basic principles of procedural fairness". This submission is incorrect. Mr. Perrelli was given the opportunity to make submissions about

the *Greatrix v. Williams* decision in his written comments concerning the draft report, and his counsel has in fact made such submissions. We note that on the one hand Mr. Perrelli's counsel has submitted that *Greatrix v. Williams* is "completely distinguishable" and on the other hand has submitted that Mr. Perrelli has acted in accordance with principles referred to in the *Greatrix v. Williams* decision. This submission is addressed further in the main body of the report.

Mr. Perrelli's counsel submits that "Tethering the reprimand [recommended by the Integrity Commissioner] to the fact that RBC Perrelli replied to everyone is contrary to sound democratic principles and places a chill on RC Perrelli's freedom of expression, in violation of section 2 of the Canadian Charter of Rights and Freedoms". We do not believe that this is correct.

Mr. Perrelli's counsel has identified a typographical error. This has been corrected.

Other Submissions

Mr. Perrelli's counsel made a number of other submissions prior to submitting comments on the draft report. We wish to address several of the issues raised in these submissions, although these issues were not raised in the comments on the draft report.

In correspondence dated May 31, 2022, Mr. Perrelli's counsel submits that "it has been entirely inappropriate for Ms. Treacy to be involved in either interviewing City Staff and advocating, using City letterhead, on behalf of City Staff in connection with allegations made and organized by Ms. Mary-Anne Dempster".

As indicated above under Allegation 5, Ms. Treacy's role in filing the complaint has been appropriate. As the person who filed the complaint, it was entirely appropriate for her to interview the staff who were the source of the allegations against Mr. Perrelli in order to provide specifics of their allegations and to advocate on behalf of those staff.

In correspondence dated May 26, 2022, Mr. Perrelli's counsel submits that the City's statement of defence in the court action commenced by Ms. Dempster "confirms our position that Ms. Dempster's Respect in the Workplace complaint, which form[s] the basis of Ms. Treacy's complaint, is or has become frivolous and vexatious and is an abuse of Integrity Commissioner process". We issued our decision on this issue on May 9, 2022. The information and argument in the correspondence of May 26, 2022 do not raise anything to cause this decision to change.

In correspondence dated May 31, 2022, Mr. Perrelli's counsel submits that the allegations of staff persons other than Ms. Dempster "are not properly before [the Integrity Commissioner] and are beyond [the Integrity Commissioner's] jurisdiction. As indicated under Allegation 5, this is incorrect.

In correspondence dated June 20, 2022, Mr. Perrelli's counsel states that "We have raised concerns that [the Integrity Commissioner's] Office is being improperly "weaponized" for political purposes". It is not the mandate of the Integrity Commissioner's Office to judge the motivations of either the Richmond Hill staff involved in the complaint or of Mr. Perrelli. It is the mandate of the Integrity Commissioner's Office to follow a fair process to make an independent and objective determination of the validity of the complaint allegations, based on the information available. This has been done.