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# **INTEGRITY COMMISSIONER REPORT ON CODE OF CONDUCT COMPLAINT 2024-01**

## **THE CORPORATION OF THE CITY OF CAMBRIDGE**

**Aird & Berlis LLP**

**Meghan Cowan**

**July 31, 2024**



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## INTEGRITY COMMISSIONER REPORT CODE OF CONDUCT COMPLAINT 2024-01 AGAINST MAYOR JAN LIGGETT

### A. INTRODUCTION

1. A formal complaint (the “**Complaint**”) in accordance with the requirements set out in the Complaint Resolution Process for the Integrity Commissioner in Appendix B of the *Code of Conduct for Members of Council* (the “**Code**”) of The Corporation of the City of Cambridge (the “**City**”) was filed directly with our office on March 26, 2024.
2. The Complaint alleges that Mayor Jan Liggett (the “**Mayor**”) acted in contravention of Section 5.4 of the Code by virtue of her comments made in the City’s news release of February 13, 2024 titled “Cambridge City Council approves Budget & Business Plan for 2024” (the “**Budget Release**”) and the February 14, 2024 CTV News presentation titled “Cambridge tax increase less than inflation” and the Cambridge Today online article of February 13, 2024 titled “City passes 2024 budget with a 7.17 per cent tax hike” (collectively with the CTV News item, the “**Budget Reporting**”).
3. The Complaint alleges that the Mayor’s comments in the Budget Release and as reported in the Budget Reporting were intentionally misleading.

### B. APPOINTMENT & AUTHORITY

4. Aird & Berlis LLP is the appointed Integrity Commissioner for the City pursuant to subsection 223.3(1) of the *Municipal Act, 2001* and, as such, we have jurisdiction to review and investigate complaints made against members of Council pursuant to the Code. Our jurisdiction does not extend to reviewing the conduct of administrative staff.

### C. THE COMPLAINT

5. The Complaint alleges that the Mayor breached Section 5.4 of the Code by virtue of the comments she made in the Budget Release and as reported in the Budget Reporting. In particular, the Complaint alleges that:
  - i. the City increased taxes for 2024 by 7.17%, which is more than double the rate of inflation at the time of the February 2024 budget (3.4%);
  - ii. the Mayor made an intentionally misleading statement when she set out that the City’s budgetary increases were “less than inflation”; and
  - iii. the Mayor made a further intentionally misleading statement when she set out that the City had consistently been under the rate of inflation for the last ten years.
6. The Complaint also alleges that City staff, including the Chief Financial Officer, City Manager and Clerk also issued intentionally misleading statements with respect to commentary on the 2024 budget and/or attempted to intimidate the Complainant.

**D. CODE OF CONDUCT PROVISIONS AT ISSUE**

7. The Complaint alleges that the Mayor contravened Section 5.4 of the Code, which provides, in full, as follows:

5.4 Communications with the Public & Media Relations

When a member communicates with the public and/or media, they will accurately communicate the decisions of Council, even if the member did not support the decision. Individual members have the right to express their opinions; however, any discussion must be done in a manner that shows respect for and integrity in the decision making process of Council.

**E. REVIEW OF MATERIALS AND INVESTIGATION**

8. In order to undertake our inquiry into the Complaint and make a determination on the alleged contraventions of the Code, we have reviewed the following:

- the Complaint and all materials referred to therein including the Budget Release and Budget Reporting;
- the Mayor's Response dated April 17, 2024;
- the Complainant's Reply dated May 1, 2024;
- the Mayor's Second Response dated May 10, 2024; and
- the Complainant and Mayor's final comments on the draft report.

9. We have also reviewed, considered and had recourse to such applicable case law and secondary source material, including other integrity commissioner reports that we believed to be pertinent to the issues at hand.

**F. BACKGROUND**

10. The Budget Release sets out the following:

Striking the right balance between providing service to the community and setting Cambridge up for future growth is not an easy task," said Cambridge Mayor, Jan Liggett. "This is a fiscally responsible budget with a property tax bill increase of 2.58 per cent, which is below the rate of inflation of 3.4 per cent. This means an average of \$9.30 per month to a tax bill. Other than in 2021 during Covid, Cambridge City Council has consistently delivered a property tax bill increase under the rate of inflation over the last decade. I want to thank our staff that have worked tirelessly during this process for presenting a budget below Council direction - this achievement is deserving of accolades. Council balanced residents' financial concerns and needs for today while looking proactively to the future.

11. The article in *Cambridge Today*, entitled “City passes 2024 budget with a 7.17 per cent tax hike”, quoted the City’s Chief Financial Officer and the Mayor as stating:

...The city's chief financial officer Sheryl Ayres said the 7.17 per cent rate increase in the city's portion results in 2.58 per cent increase for the average homeowner on the overall tax bill. "It's below the rate of inflation of 3.4 per cent," she said...

...The revised budget, a jump from the 5.76 per cent increase in the draft version, includes the introduction of a 1.25 per cent infrastructure levy...

...Liggett said criticism of the budget has come with some "horrible misinformation about it being above the rate of inflation." She then asked the city's CFO to once again explain how, when the rate increase is applied to the city's share of the overall tax bill, it comes in below the rate of inflation...

#### **G. PRELIMINARY MATTER**

12. With respect to the Complaint’s allegations concerning the commentary and/or conduct of City staff, we note that as Integrity Commissioner we have no statutory jurisdiction to investigate the conduct of City staff. Our statutory authority as Integrity Commissioner only relates to members of Council or members of the City’s local boards. As such, we have no jurisdiction to investigate the Complaint’s allegations concerning the conduct of City staff in relation to the Budget Release or any interactions with the Complainant.

#### **H. FINDINGS**

13. As noted above, the Complaint asserts that the Mayor made misleading statements when she suggested that the City’s budgetary increases were “less than inflation” and had been so for the last ten years. In stating this, the Complaint contends that the Mayor was deliberately not being transparent. With respect to the Complaint’s allegations concerning the Mayor’s comments made in the Budget Release and reported in the Budget Reporting, we find that the comments do not contravene the Code for the reasons set out below.
14. In her Response submissions, the Mayor stated that it was her belief that the City’s *portion of the tax bill* increase was well below the rate of inflation; she maintained that she was always upfront in stating that the overall increase was 7.17%.
15. In her submissions, the Mayor also detailed the significant work she had undertaken in consulting with the City’s Chief Financial Officer and involving herself in the budget process so as to educate herself on the procedure and considerations.
16. We note that the Mayor’s statements in the Budget Release and Budget Reporting commented on a decision of Council (i.e. to pass the 7.17% increase to the City’s budget). Nothing in the Budget Release or Budget Reporting suggests or insinuates that the Mayor did not respect the decision-making process of Council or that her comments, in remarking on Council’s actions in of themselves, were inaccurate. Rather, the Mayor’s comments show that she was attempting to explain how the increases to the property tax bill would impact homeowners.

17. We find that the Mayor's comments were made in good faith and in reliance on the City professional staff. As the Mayor herself set out, the overall increase of 7.17% was prominently set out in the Budget Release and Budget Reporting. We therefore have determined that even if the Mayor's comments concerning the increase or past raises were inaccurate (which we expressly do not find), we consider them to have been made in good faith and in reliance of the advice of qualified and expert administrative staff. As such, we find no intent to deceive the public or make intentionally misleading statements. Accordingly, we find that there has been no contravention of Section 5.4 of the Code.

## I. DRAFT REPORT AND FURTHER SUBMISSIONS

18. In accordance with the Complaint Protocol, a draft of this Report was provided to the Mayor and the Complainant on June 21, 2024 to allow them to review and comment on the Report. The Mayor advised us on June 21, 2024 that she had no substantive comments on the Report other than to correct an administrative error. The Complainant provided significant submissions in response to the draft Report on July 5, 2024 (the "**Draft Report Submissions**").
19. In the Draft Report Submissions, the Complainant set out that the "...Mayor's conclusion that City's taxes increased less than inflation is patently false..." and proceeded to provide three detailed arguments and underlying calculations in support of the Complainant's position.
20. We carefully and thoroughly considered the Draft Report Submissions. We also arranged to interview the City's Chief Financial Officer ("**CFO**"). In our interview, the CFO explained the manner in which the City had detailed the City's 7.17 per cent 2024 tax levy increase and calculations showing the percentage impact of this on the average home owner's property tax bill (being a 2.58 percentage increase).
21. After our interview, the CFO provided us with a copy of the City's 2024 Approved Budget and Business Plan (the "**Budget**"). Page 17 of the City's Budget sets out:

...The property tax increase talked about in the news or in the municipal budgets is only for the City's or the Region's specific share of the property tax bill. The overall impact on total property taxes ends up being prorated. Since the City only makes up 26 per cent of the property tax bill, that means a 7.17 per cent increase in the City's taxes works out to  $7.17\% \times 36\% = 2.58\%$  increase on the overall tax bill...
22. The Complaint takes issues with the manner at which the figures set out in the Budget were determined. As we have found and set out in the Report above, in making the remarks reported in the Budget Release and Budget Reporting, the Mayor's comments did not contravene Section 5.4 of the Code. Section 5.4 requires that members accurately communicate the decisions of Council in a manner that shows respect for and integrity in the decision making process of Council. Nothing in the Complaint or the subsequent Draft Report Submissions have demonstrated how the Mayor's comments have inaccurately reflected what was set out in the Budget document and in relation to the 7.17 per cent levy. Our role as Integrity Commissioner is to consider and apply the Code, not to audit the City's accounting.

23. Moreover, and in any event, we note that the Mayor is not an accountant. The role of the Mayor is set out in sections 225 and 226.1 of the *Municipal Act, 2001*. The Mayor is entitled to rely on professional staff who are duly qualified and trained in various realms and areas of practice, including accounting and financial management. As such, and as set out above in the Report, even if the Mayor's comments are in any way inaccurate, they were based on the advice that City staff had provided for her and for Council.
24. There are two components to the obligations set out in Section 5.4 of the Code:
  - (i) members are to accurately communicate the decisions of Council; and
  - (ii) in doing so, members are to show respect for and integrity in the decision making process of Council.
25. We have not determined that the Mayor's comments were intentionally misleading nor that the Mayor inaccurately communicated the decisions of Council or failed to show respect for and integrity in the decision making of Council in contravention of Section 5.4 of the Code.

**J. CONCLUSIONS**

26. Based on our review of the entire evidentiary record and for the reasons set out above, it is our finding the Mayor has not contravened the Code as alleged. As such, there is no authority pursuant to subsection 223.4(5) of the *Municipal Act, 2001* for Council to impose a penalty.
27. The Mayor's comments, as set out in the Budget Release and Budget Reporting, were made in good faith and in reliance on the professional advice provided by City staff. The Complaint is not sustained and this matter is concluded.

Respectfully submitted,

AIRD & BERLIS LLP



Meghan Cowan

Integrity Commissioner for the City of Cambridge

Dated this 31<sup>st</sup> day of July 2024