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INTEGRITY COMMISSIONER REPORT CODE OF CONDUCT COMPLAINT 2025-02

THE CORPORATION OF THE CITY OF CAMBRIDGE

Aird & Berlis LLP

John Mascarin

April 30, 2025

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INTEGRITY COMMISSIONER REPORT CODE OF CONDUCT COMPLAINT 2025-02 AGAINST COUNCILLOR MIKE DEVINE

A. INTRODUCTION

1. Aird & Berlis LLP is the appointed Integrity Commissioner for The Corporation of the City of Cambridge (the “**City**”).
2. On February 3, 2025, a formal complaint (the “**Complaint**”) was filed with our office alleging that Councillor Mike Devine (the “**Councillor**”) contravened the City’s Code of Conduct for Members of Council (the “**Code**”).
3. This Report has been prepared in accordance with the Code and subsection 223.6(2) of the *Municipal Act, 2001*, and sets out the results of our investigation into the Complaint.

B. APPOINTMENT & AUTHORITY

4. Aird & Berlis LLP was appointed as the City’s Integrity Commissioner pursuant to subsection 223.3(1) of the *Municipal Act, 2001*. Council assigned to us all of the functions set out in subsection 223.3(1) of the *Municipal Act, 2001*.
5. The Integrity Commissioner is a statutory officer, established under Part V.1 of the *Municipal Act, 2001*. Municipal councils are required to establish codes of conduct for council members and are authorized to appoint integrity commissioners responsible for, among other duties, investigating and reporting to council on complaints respecting whether a member of council has breached the code of conduct.
6. As Integrity Commissioner, we are appointed to act independently in applying the Code and other applicable rules and procedures that govern the ethical conduct of members of Council. We are required to preserve confidentiality in all matters that come to our attention in the course of carrying out our duties. Pursuant to subsection 223.6(2) of the *Municipal Act, 2001*, we can disclose such matters as we consider appropriate in our reports to Council. Pursuant to subsection 223.6(3), the City is required to ensure that reports received from the Integrity Commissioner are made available to the public.
7. The principles of procedural fairness require us to provide reasons for our conclusions and recommendations, which we have done in this Report. Our investigation was conducted in accordance with the Code and with a process that was fair to all parties. We have assessed the evidence in an independent and neutral manner.
8. In accordance with the Complaint Resolution Process, the Councillor and the Complainants were provided with opportunities to respond to the allegations in the Complaint and to reply by way of affidavit. Both parties made submissions that were considered as part of our investigation. They were also given the opportunity to review our final draft report, including our preliminary findings and recommendations.

C. THE COMPLAINT

9. The Complaint alleges that the Councillor contravened Sections 4.1, 4.2, 8.1, and 9.2 of the Code with respect to his personal attendance and involvement in a property boundary dispute between residents, involving the Complainants and their neighbours on the street (the “**Neighbours**”).
10. It is alleged that the Councillor’s involvement in the dispute included attending at the properties on January 4, 2025, identifying himself as a City Councillor, and making inquiries about property boundaries, surveys, survey sticks, and easements.
11. The Complaint alleges that the Councillor’s conduct contributed to an intimidating atmosphere, and that references to his position, his name, and his business card made by others were perceived as an attempt to apply pressure or influence the outcome of the neighbourly dispute.
12. We reviewed the Complaint in accordance with our authority as Integrity Commissioner under the Complaint Resolution Process set out in Appendix “B” to the Code.
13. We determined that the Complaint was neither frivolous, vexatious, nor made in bad faith, and that it contained sufficient information to warrant an investigation. Accordingly, we exercised our discretion to investigate.
14. The Councillor was notified in writing of the Complaint on February 11, 2025. In accordance with the Complaint Resolution Process, we provided the Councillor a copy of the Complaint in full, along with a summary of the allegations and the relevant Code provisions, and requested that he provide us with a written response to the allegations set out in the Complaint.
15. The Councillor provided written submissions in response to the allegations set out in the Complaint on February 25, 2025 (the “**Councillor’s Response**”). In accordance with the Complaint Resolution Process, the Councillor’s Response was provided to the Complainants on the same day, and they were invited to respond.
16. On March 6, 2025, the Complainants submitted written reply submissions, accompanied by two video clips (the “**Complainants’ Reply**”).
17. The Complainants’ Reply and accompanying video evidence were provided to the Councillor on March 7, 2025. The Councillor submitted a written reply on March 14, 2025 (the “**Councillor’s Reply**”).

D. CODE OF CONDUCT PROVISIONS AT ISSUE

18. The Complaint alleges that the Councillor contravened Sections 4.1, 4.2, 8.1, and 9.2 of the Code which are reproduced in full below:

SECTION 4: CONDUCT OF MEMBERS

- 4.1 A Member shall at all times conduct themselves with decorum, courtesy, respect, propriety, decency and respect and with the understanding that all members of the public, other Members and staff are to be treated with dignity, courtesy and empathy, recognizing that a member is a representative of the City and of their elected office.
- 4.2 Such conduct shall also adhere to the provisions of applicable law including the Act and the Procedural By-Law.

SECTION 8: ABUSE OF ROLE

8.1 Improper Use of Influence

No Member shall use the influence of their office for any purpose other than for the exercise of their official duties.

As an elected official, Councillors are expected to perform their duties of office with integrity, accountability and transparency. A Members shall not use the status of their position to influence the decision of another individual to the private advantage of oneself, or one's parents, children or spouse, staff members, friends, associates, business or otherwise.

In the same manner, and as outlined in the *Provincial Offences Act – Conflict of Interest Policy*, Members shall not attempt to influence or interfere, either directly or indirectly, financially, politically or otherwise with employees, officers or other persons performing duties under the *Provincial Offences Act*.

For the purposes of this section "private advantage" does not include a matter that:

- a) is of general application;
- b) affects a Member, their Family members, City employees [sic] friends, or associates, business or otherwise, as one of a broad class of persons;
- c) or that concerns the remuneration or benefits of a Member.

SECTION 9: HARASSMENT

- 9.2 Members will abide by the Corporate Values and Behaviours as guiding principles and are attached as Appendix A.
19. Following our initial review of the Complaint, we exercised our discretion under the Complaint Resolution Process not to investigate the alleged contravention of Section 4.2 of the Code, as the Complaint did not disclose sufficient grounds to warrant an investigation on that basis and the City's Procedure By-law is not applicable in the context of the Complaint.

20. We communicated this decision to the Complainants on February 11, 2025, advising that while we would not be investigating the alleged contravention of Section 4.2, we determined that an investigation was warranted with respect to the alleged contraventions of Sections 4.1, 8.1, and 9.2 of the Code and that we would proceed with our investigation on those grounds.

E. REVIEW OF MATERIALS AND INVESTIGATION

21. To undertake our investigation and prepare this Report, we reviewed and considered the following materials:

- The Complaint and supporting evidence, filed on February 3, 2025;
- The Councillor's Response, filed on February 25, 2025;
- The Complainants' Reply and accompanying video evidence, filed on March 6, 2025; and
- The Councillor's Reply, filed on March 14, 2025.

We have also reviewed, considered, and had recourse to such applicable jurisprudence and secondary source materials that we believe to be pertinent to the allegations.

F. ANALYSIS

(a) Standard of Proof

22. In assessing the ethical conduct of a Member, the Integrity Commissioner is required to apply the relevant provisions of the Code to the facts established through the investigation and to determine, on the civil standard of a balance of probabilities, whether a breach of the Code has occurred.

(b) Background and Allegations

23. Below, we set out the relevant background, the allegations contained in the Complaint, the Councillor's responses, and our determinations as to whether, on a balance of probabilities, the Councillor contravened Sections 4.1, 8.1, and 9.2 of the Code.
24. As noted above, the Complaint alleges that the Councillor contravened the Code by involving himself in a property boundary dispute between the Complainants and their Neighbours.
25. The Complainants have resided in their home for approximately six years. The Neighbours live immediately adjacent to them on the street. The Complainants asserts that they have experienced ongoing issues with the Neighbours since their first year living in their home.
26. During that time, the Complainants requested that the Neighbours cease using the Complainants' driveway, citing property damage and the accumulation of scrap metal and other debris on their property.

27. According to the Complaint, the Complainants later found the Councillor's business card affixed to an old neighbourhood plot distribution sheet, which had been left in their mailbox by the Neighbours who allegedly told the Complainants that the Councillor was a close friend who had confirmed that the end of the Complainants' driveway was actually part of their property.
28. The Complaint further alleges that the Neighbours repeatedly invoked their relationship with the Councillor during interactions with the Complainants and urged them to contact him to confirm the location of the property line.
29. The Complaint asserts that in the summer of 2024, the Neighbours continued to reference their relationship with the Councillor, making comments such as:

Mike Dvine (sic) is our best friend, you don't want to piss us off! (...) Call him, he'll tell ya – he's a good friend of ours (...) Keep it up and we'll sue you, Mike Devine's a good friend of ours!
30. The Complaint also asserts that, on January 4, 2025, the Councillor attended the Complainants' property with one of the Neighbours to inquire about the property line, surveys, survey stakes, and easements. The Complainants recorded video footage of the Councillor's attendance, which we address later in this Report.
31. The Complainants assert their belief that the Councillor attended in his official capacity as a representative of the City, noting that he allegedly identified himself multiple times by stating, "I'm Mike Devine, City Councilman." They further assert that his presence created an intimidating atmosphere, given the Councillor's position as an authority figure in the City. This sense of intimidation, they allege, was compounded by years of the Neighbours threatening them with the Councillor's name and business card.
32. In summary, the Complaint alleges that the Councillor's involvement in the dispute—including his personal attendance at the Complainants' property—contributed to an intimidating atmosphere. Repeated references to the Councillor's position, name, and business card by others were perceived as attempts to exert pressure over or influence the outcome of the dispute between the Complainants and the Neighbours.

(c) Councillor's Response and Reply

33. The Councillor's Response and Reply (collectively, the "**Submissions**") deny any contravention of the Code. In particular, he describes the situation as follows:

I feel that I have been set-up by [the Neighbours] by them waving my business card around for them to manipulate their situation with their neighbours. I am in the habit of giving Ward 2 residents my business card as it has my cell phone number and email address on it. I would never use my position as a councillor to intimidate or pursue any reprisals against any residents of Cambridge or allow them to make gains through me. I feel quite disturbed that this has happened, and I feel as though I have been manipulated.

34. The Councillor asserts that he is in fact not well acquainted with the Neighbours, although he acknowledges having been invited to—and attending—their wedding in June 2024. He notes that he was surprised to receive the invitation but chose to attend given that it had been extended. In reflecting on the situation, the Councillor expressed his belief that the invitation may have been part of an effort by the Neighbours to involve him in their ongoing dispute with the Complainants.
35. The Councillor also stated that, aside from his attendance at the Complainants' property on January 4, 2025, his only other experience being driven by one of the Neighbours was when he asked one of them—given their involvement in the junk removal business—to collect an old appliance from the Councillor's home. The Councillor noted that, following a stroke in October 2022, he no longer holds a valid driver's licence and cannot drive himself.
36. The Councillor asserts that his visit to the Complainants' property was unplanned, as he was driven there by one of the Neighbours after visiting the home of the Neighbour's stepdaughter—at the Neighbour's request—regarding an unrelated parking issue that she was experiencing at her residence in another ward of the City.
37. The Councillor acknowledges having met the Complainants and introducing himself as "Mike Devine, City Councillor." He also recalls having previously spoken with one of the Complainants by phone about the boundary dispute, describing the conversation as a "pleasant" one.
38. In the Councillor's Reply, he maintains that this has been a "huge misunderstanding." He denies being close friends with the Neighbours and expresses concern that they have exaggerated their relationship with him. The Councillor further states that he was unaware that he was being recorded during his visit to the Complainants' property and expresses frustration at being accused of dishonesty.

(d) Complainants' Reply

39. As noted above, in accordance with the Complaint Resolution Process, the Councillor's Submissions were provided to the Complainants, who were given an opportunity to reply.
40. In their reply, the Complainants expressed their belief that the Councillor was downplaying his relationship with the Neighbours and questioned the credibility of his account. They reiterated that they had repeatedly asked the Councillor why he attended their property and why he was involving himself in the dispute. According to the Complainants, the Councillor declined to answer but continued to ask them questions about the property's boundaries. They maintain that his conduct was inappropriate and constituted a misuse of his position as a City Councillor.
41. The Complainants reject the Councillor's suggestion that he was manipulated into involvement. Their reply references phone calls with the Councillor in August 2024, during which they believe he became fully aware of the nature of the dispute. In their view, once the Councillor recognized where one of the Neighbours had taken him, he ought to have declined to participate further.

(e) Determination

42. Having reviewed the submissions of both parties, as well as the video and documentary evidence provided by the Complainants, we find that the Councillor's conduct does not amount to a contravention of the Code. While the Councillor's decision to attend the Complainants' property may have been ill-advised, the evidence does not support a conclusion that his conduct rose to the level of a breach. Our reasons are set out below.
43. Both videos submitted in support of the Complaint show the Councillor standing on the sidewalk in front of the Complainants' property on January 4, 2025, asking questions about the property boundaries. At one point, he asks, "is there an easement here for this, for the utilities? Do you know?" The Complainants respond that they would not be discussing that information publicly, to which the Councillor replies, "Okay, that's fine, no problem," and thanks them for their time. He then continues walking along the sidewalk with one of the Neighbours in the direction of their property.
44. We accept that the Complainants may have genuinely perceived this line of questioning by the Councillor as being intrusive or even intimidating. However, there is nothing in the videos to suggest that the Councillor acted with improper intent or engaged in disrespectful or aggressive behavior. Taken in its full context, the exchange appears to be an ill-considered effort to understand or help clarify an ongoing neighbourly dispute, rather than an attempt to exert any improper influence.
45. Although the videos appear to capture the interaction from the moment the Councillor arrived at the Complainants' property, we understand from the Complainants' evidence that they are "partial footage of the end of the conversation". They do not show the Councillor introducing himself by his name and title. However, we accept that it is likely that the Councillor introduced himself as such. Even so, we do not find that the Councillor's introduction of himself by his representative title was an attempt to use his status of office to influence a decision, or apply pressure on the Complainants.
46. Section 8.1 of the Code prohibits Members from using the status of their position to influence others for private advantage. The Councillor's actions do not cross this threshold.
47. Regarding the broader context of intimidation and harassment alleged in the Complaint, the evidence indicates that any perceived pressure or misconduct stemmed primarily from the Neighbours' actions – not the Councillor's actions.
48. The evidence confirms that it was the Neighbours who invoked the Councillor's name and shared his business card in an effort to gain leverage in the ongoing neighbour dispute.
49. This conclusion is supported by the telephone call notes submitted with the Complaint. On August 9, 2024, one of the Complainants spoke with the Councillor, who explained that he had originally provided his business card to the Neighbours at a local Tim Hortons.
50. According to the notes, the Councillor stated that he did not support the Neighbours' actions, describing them as "illegal" and acknowledging that they had no need to access the Complainants' driveway to cut their grass. The notes also record that the Councillor said he was "not going to come get [the Complainants]," despite the Neighbours' repeated threats.

51. In other words, according to the Complainants' own notes of the conversation with the Councillor, he expressly distanced himself from the Neighbours' conduct and denied any involvement in their attempts to intimidate the Complainants.
52. There was another telephone call between one of the Complainants and the Councillor on August 26, 2024. The note taken and submitted with the Complaint reads as follows:

Mike Devine called me @ 11:10am. Said he was checking old messages and wanted to make sure I'd called you back. "What were the names of the guys who're throwing my name, my business card around again?" I said "we only know them as [the Neighbours]" MD: "Oh, I know them, I know these guys." Me: "Like I said before, I was raised to go to the source instead of believing somebody about somebody else." MD: "That's good, I appreciate that. Well if you need anything just call me."

53. These notes suggest that the Councillor was neither coordinating with the Neighbours nor endorsing their use of his name and title. Both the call notes and the video footage depict the Councillor acting calmly and respectfully. We did not discern that the Councillor ever appeared rude, aggressive or dismissive toward the Complainants.
54. Based on our review of the evidence, we find that the Councillor did not contravene Sections 4.1, 8.1, or 9.2 of the Code. While his decision to become personally involved in a neighbour dispute was not necessarily wise, it was not ill-intentioned. The evidentiary record does not support a conclusion that he misused his position, behaved in a harassing or intimidating manner, or sought to influence the outcome for the private advantage of any persons, including the Neighbours.

(f) Councillor's Comments on the Draft Report

55. As set out above, and pursuant to the requirements of the Complaint Resolution Process, we provided the Councillor with a copy of our draft report on April 14, 2025, so that he could provide final comments on our findings, conclusions, and recommendations.
56. We did not receive comments from the Councillor on our draft report. Accordingly, on April 25, 2025, we advised the Councillor that we would be proceeding to finalize the report in accordance with the Complaint Resolution Process.

(g) Complainants' Comments on the Draft Report

57. Also in accordance with the requirements of the Complaint Resolution Process, we provided the Complainants with a copy of our draft report on April 14, 2025 so that they could provide final comments on our findings, conclusions, and recommendations.
58. We also did not receive comments from the Complainants on our draft report. Accordingly, on April 25, 2025, we advised the Complainants that we would be proceeding to finalize the report in accordance with the Complaint Resolution Process.

G. CONCLUSIONS

59. For the reasons set out above, we have determined on a balance of probabilities that the Councillor's conduct does not amount to a contravention of the Code.
60. That said, the Councillor's attendance at the Complainants' property reflected an error in judgment. While his conduct did not rise to the level of a contravention, the situation highlights the importance of maintaining appropriate boundaries when engaging with constituents involved in private disputes.
61. Notwithstanding our determination that the Councillor's conduct does not amount to a breach of the Code, the Complaint Resolution Process directs us as follows under such circumstances:

If the Integrity Commissioner determines that there has been no contravention of the Code of Conduct or that a contravention occurred although the member took all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence or error of judgment made in good faith, the Integrity Commissioner shall so state in the report and shall recommend that no penalty be imposed.

62. We urge all members of Council to carefully consider the implications of attending at the site of a dispute between neighbours. The on-site attendance of a member of Council gives rise to a perception of official municipal involvement – which is not the case as a member has no official role in enforcing by-laws or any private disputes. As an elected official, even well-intentioned actions can carry unintended consequences, particularly where there is a risk of being seen to take sides in a private dispute. From the Councillor's own submissions, it is apparent that he now recognizes he made an error in judgment in attending at the properties and that he should not have become involved in the matter.
63. Having regard to the nature of his conduct and the context in which it occurred, we have determined that there is no contravention of the Code and accordingly we have no authority to recommend, nor does Council have any power to impose, a penalty pursuant to subsection 223.4(5) of the *Municipal Act, 2001*.
64. This Report has been prepared for and is forwarded to Council for information in accordance with the Complaint Resolution Process. Subsection 223.6(3) of the *Municipal Act, 2001* provides that this Report be made public.

Respectfully submitted,

AIRD & BERLIS LLP



John Mascarin

Dated this 30th day of April, 2025

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