

KEEPING CURRENT

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Wrong for City Councillor to have entered residential properties without permission

By Stephen Thiele

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Politicians occupy an important position in our democracy. They are elected to represent all individuals and to make well-reasoned decisions that, among other things, steer and guide the economy, impose necessary limits on behaviour and put into place a social safety net that takes care of the most vulnerable in our society. However, politicians are not above the law and are required to carry out their duties and responsibilities ethically. Politicians must behave with integrity at all times. To ensure that this occurs, governments at various levels have, in general, enacted codes of conduct to ensure that politicians do not overstep their ethical boundaries. When they do, complaints about their conduct can be made and investigations can be launched into their behaviour.

Recently, the City of Toronto's Integrity Commissioner was required to investigate three complaints made against former City Councillor Jimmy Karygiannis ([Report Regarding the Conduct of Former Councillor Jim Karygiannis, July 7, 2021](#) and [Integrity Commissioner's Report for](#)

[Action, July 7, 2021](#)). The complaints alleged that Mr. Karygiannis had breached Article VIII (Improper Use of Influence) and Article XIV (Discreditable Conduct) of the [City of Toronto's Code of Conduct for Members of Council](#).

More specifically, Article VIII provides as follows:

No member of Council shall use the influence of her or his office for any purpose other than for the exercise of her or his official duties.

Examples of prohibited conduct are the use of one's status as a member of Council to improperly influence the decision of another person to the private advantage of oneself, or one's parents, children or spouse, staff members, friends, or associates, business or otherwise. This would include attempts to secure preferential

treatment beyond activities in which members normally engage on behalf of their constituents as part of their official duties. Also prohibited is the holding out of the prospect or promise of future advantage through a member's supposed influence within Council in return for present actions or inaction.

For the purposes of this provision, "private advantage" does not include a matter:

- (a) that is of general application;
- (b) that affects a member of Council, his or her parents, children or spouse, staff members, friends, or associates, business or otherwise as one of a broad class of persons; or
- (c) that concerns the remuneration or benefits of a member of Council.

Article XIV provides:

All members of Council have a duty to treat members of the public, one another, and staff appropriately and without abuse, bullying or intimidation, and to ensure that their work environment is free from discrimination and harassment. The *Ontario Human Rights Code* applies and if applicable, the *City's Human Rights and Anti-harassment Policy*, and *Hate Activity Policy*.

The complaint against Mr. Karygiannis about Improper Use of Influence was based on general comments in a surreptitious audio recording

made by a former employee and campaign worker of Mr. Karygiannis. It was alleged that Mr. Karygiannis had also maintained a personal database that contained information about shielding political supporters and reporting political opponents. However, the complainant had no personal knowledge in connection with the allegations and senior Municipal Licensing and Standards staff found no cases where Mr. Karygiannis had tried to interfere with enforcement activities in his ward or, without reason, report a compliance issue to the City. Accordingly, the Integrity Commissioner was unable to find that Mr. Karygiannis had breached Article VIII of the Code.

The complaint about discreditable conduct alleged that Mr. Karygiannis had entered residential homes under false pretences. Media articles reported that a former City official had accused Mr. Karygiannis of "barging into people's houses and taking pictures inside" when he believed the home was being operated as an illegal rooming house.

Although some evidence was based on hearsay and double hearsay, and statements made in regard to various incidents were not documented contemporaneously, evidence revealed that Mr. Karygiannis had personally visited a number of properties he suspected were operating illegal rooming houses and that he had sent photographs of their exteriors and interiors to City staff. In two instances, individuals were photographed in their homes. Emails and newspaper accounts also described that on two occasions Mr. Karygiannis entered properties without permission.

The Integrity Commissioner found that the entry into the homes without permission and



the photographing of people therein constituted bullying. Accordingly, Mr. Karygiannis breached Article XIV of the Code.

Lastly, the Integrity Commissioner also found that Mr. Karygiannis violated Article XV of the Code. This provision is entitled Failure to Adhere to Council Policies and Procedures and states as follows:

A number of the provisions of this *Code of Conduct* incorporate policies and procedures adopted by Council. More generally, members of Council are required to observe the terms of all policies and procedures established by City Council.

This provision does not prevent a member of Council from requesting that Council grant an exemption for a policy.

The surreptitious recording detailed a training session about how to identify and report by-law infractions. In the recording, Mr. Karygiannis consistently used profane, unprofessional and disrespectful language. The Integrity Commissioner ruled that the language used was inappropriate because it did not promote a culture of respect in the workplace and was contrary to the Human Resources Management and Ethical Framework for Members' Staff, which required staff to act with decorum and treat the public, the Toronto Public Service and each other with respect at all times. The Integrity Commissioner found that Mr. Karygiannis was obligated to manage and train his staff according to this Framework.

Mr. Karygiannis is no longer a member of City Council. Accordingly, the Integrity Commissioner recommended no penalty.

As can be seen, City Councillors must behave within their City's respective Code of Conduct and policies, otherwise they can be held accountable by a City's Integrity Commissioner. However, what we have experienced in respect to acting for politicians before Integrity Commissioners is that the complaint process is too often being used as a weapon for frivolous, vexatious and bad faith complaints. In Mr. Karygiannis' case, some of the allegations had an insufficient evidentiary foundation and therefore fall within this category. Nevertheless, Mr. Karygiannis was obligated to respond to those allegations. This takes time away from an elected politician's ability to deal with the issues of the day and more importantly also comes at a cost, which ultimately gets borne by the taxpayer in terms of the resources that must be devoted to staffing Integrity Commissioner offices and the expenses that a politician might be able to claim for legal costs in defending complaints. Although there is good reason to ensure that there is a mechanism in place to hold politicians accountable for their unethical conduct while in office, perhaps it is time to revisit the complaint process to ensure that those who bring frivolous, vexatious and bad faith complaints are held financially accountable for the costs that those complaints cause the taxpayer to bear.

Contact us

If you have a litigation matter and are in need of legal advice, please do not hesitate to contact the Chair of our dispute resolution group, **Stephen Thiele**, at 416.865.6651 or via email at sthiele@grllp.com.

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