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Integrity Commissioner Office
for the Town of Niagara-on-the-Lake

EDWARD T. MCDERMOTT
Integrity Commissioner
Town of Niagara-on-the-Lake
integrity@adr.ca

August 4, 2022

SENT BY EMAIL TO:

Ms. Victoria Steele
Acting Clerk
Town of Niagara-on-the-Lake
victoria.steele@notl.com

Re: IC- 15282-1021 (Telfer/ Lord Mayor Disero)

Dear Ms. Steele:

I am attaching herewith a copy of my letter to Mr. Telfer and the Lord Mayor as well as a copy of my Report dated March 15, 2022 with respect to the above noted matter.

Would you please have these documents placed on the Pubic Agenda for Council at the next available opportunity.

Yours very truly,

Edward T. McDermott
Integrity Commissioner, Niagara-on-the-Lake



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for the Town of Niagara-on-the-Lake

EDWARD T. MCDERMOTT
Integrity Commissioner
Town of Niagara-on-the-Lake
integrity@adr.ca

August 4, 2022

SENT BY EMAIL TO:

Lord Mayor Disero betty.disero@notl.com
Mr. Colin Telfer colin@eskoot.com

Re: IC- 15282-1021 (Telfer/ Lord Mayor Disero)

Dear Lord Mayor Disero and Mr. Telfer:

As you are aware, I am in receipt of a request from the Lord Mayor to make my Report in this matter public.

I have considered this request as well as Mr. Telfer's Response to it which vigorously opposed the request of the Lord Mayor. I have also reviewed the contents of an open letter to Council (by Jennifer Elliott dated July 15, 2022) which relates to many of the matters which were the subject matter of my investigation and decision in response to Mr. Telfer's original Complaint against the Lord Mayor that she had acted in contravention of the Town's Code of Conduct. In addition, I am aware that these matters have now become the subject of public scrutiny and discourse.

It should be noted that by letter dated March 15, 2022, the Town Clerk was notified of the completion of a Complaint (and Investigation) by Mr. Telfer against the Lord Mayor and was informed of my finding that “no contravention of the Town’s Code of Conduct was committed by the Lord Mayor with respect to the matters raised in the Complaint”. The Clerk was not provided with the Report itself as the Town’s Investigation Protocol did not require it.

In view of these developments, it is accordingly my view that it is in the public interest to deliver this Report to Council by placing it on the Public Agenda so that all interested parties are aware of the extensive investigation which was undertaken by my office in response to Mr. Telfer’s Complaint and the decision that was arrived at as a result of that review. Hopefully this will bring this aspect of the dispute between the parties to the knowledge of Council and the public and therefore avoid further Complaints or Investigations under the Code relative to the matters canvassed in the Report.

In my view, there is nothing in the Code of Conduct, the Town’s Investigation Protocol or the applicable statutes which precludes the release of this Report in the manner described and, by copy of this letter, I am accordingly requesting the Town Clerk to place this letter and the Report (attached separately) on the Public Agenda of Council at the earliest available opportunity.

Yours very truly,



Edward T. McDermott
Integrity Commissioner, Niagara-on-the-Lake

cc Victoria Steele, Acting Clerk, Town of Niagara-on-the-Lake



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Integrity Commissioner Office
for the Town of Niagara-on-the-Lake

EDWARD. T. MCDERMOTT

Integrity Commissioner

Niagara-on-the-Lake

E-mail: emcdermott@adr.ca

AND:

MICHAEL L. MAYNARD

Investigator

Office of the Integrity Commissioner

E-mail: mmaynard@adr.ca

March 15, 2022

SENT BY EMAIL TO:

Mr. Colin Telfer

AND

Lord Mayor Betty Disero

Re: Complaint Reference Number IC-15282-1021
Telfer re: Disero

Dear Mr. Telfer and Lord Mayor Disero:

1.0 - Delegation of Investigative Powers

Pursuant to a written delegation of powers dated October 15, 2021, Edward T. McDermott ("Mr. McDermott" or the "Integrity Commissioner"), in his capacity as Integrity Commissioner for the Town of Niagara-on-the-Lake ("Niagara-on-the-Lake", "NOTL", or the "Town"), delegated to Mr. Michael Maynard, pursuant to section 223.3(3) of the *Municipal Act, 2001*, certain of his powers and duties as Integrity Commissioner to inquire into, investigate, and prepare a

report (concurrently with him and subject to his review and approval) with respect to the Complaint described herein.

2.0 - The Investigation Process

Our investigation included a review of written statements and evidence provided by the Complainant and the Respondent. Interviews were conducted with several third-party witnesses, including:

- Marnie Cluckie, CAO of the Town ("Ms. Cluckie" or the "CAO")
- Terry Hill, the Town's Solicitor ("Mr. Hill")
- Craig Larmour, the Town's Chief Planner (now retired) ("Mr. Larmour")
- Henry Boese, a By-law Officer of the Town (now employed by another municipality) ("Officer Boese")

The Complainant declined an interview (as his lengthy and detailed formal submissions were sufficient to determine his position in any event). The Lord Mayor was likewise not interviewed as her written formal response was sufficient to understand her perspectives on this matter.

3.0 - The Complaint

The complaint (the "Complaint"), dated October 7, 2021, was made against the Lord Mayor Betty Disero ("Lord Mayor" or "Respondent") by Niagara-on-the-Lake resident and small business owner, Mr. Colin Telfer ("Mr. Telfer" or the "Complainant").

On May 28, 2021, several months prior to the Complaint being submitted, the Complainant wrote to the Integrity Commissioner and informed him that a "possible" contravention of the Town's Code of Conduct ("*Code*") had been committed by unknown Member(s) of Council and he enclosed a copy of a letter from his lawyer to the Niagara Regional Police requesting that they undertake an investigation into a violation of section 430(1)(d) of the Criminal Code as they had become victims of the offense of "mischief".

As the Integrity Commissioner had no actual Complaint against a specific Member of Council and the Police had been requested to investigate the matter, the Complainant was advised that the Integrity Commissioner had no

jurisdiction to consider the matter and that Mr. Telfer's letter would accordingly be retained for information only.

Some four months later, further correspondence was forwarded by Mr. Telfer to the Integrity Commissioner (in October 2021) advising that he now believed the Lord Mayor was involved in the matter. Soon thereafter, this Complaint was formally filed.

The basis for the Complaint is summarized as follows:

In or around late June 2020, Mr. Telfer, who operates a Bed and Breakfast business in Niagara-on-the-Lake with his partner, Jennifer Elliott ("Ms. Elliott"), was informed by a Town By-law Officer ("Officer Boese") that an anonymous complaint ("By-law Complaint") had been filed with the Town respecting the Telfer/Elliott property at 468 Dorchester Street, NOTL. The By-law Complaint asserted that someone was "living in their garage". Mr. Telfer advises that this By-law Complaint was based on an incorrect assertion and that no one was, in fact, living in the garage – a fact which he and Ms. Elliott communicated to Officer Boese at the time.

During the same time period, Mr. Telfer and Ms. Elliott were in the process of filing a B&B licence renewal application before the Town, which process includes an inspection of any property used for the business. They were suspicious that this By-law Complaint was intended to impede their application. Accordingly, they determined to only accede to any By-law investigation of the garage (which was not part of their Bed and Breakfast space) unless it was actually required by law (i.e., to do it "by the book" as per Mr. Telfer's submissions). They therefore declined to provide consent to Officer Boese to search their garage, resulting in what Mr. Telfer described as a threat by Officer Boese to charge him with "Obstruction" of an Officer under the Provincial Offences Act ("POA"). They told Officer Boese to obtain a POA warrant if he wanted to search the garage. As of the date of this IC Complaint, Officer Boese had not obtained or brought forward an application for such a warrant, and no POA charges have been laid against Mr. Telfer or Ms. Elliott.

Mr. Telfer and Ms. Elliott contacted the Town's By-law department by email on several occasions to follow up on this matter but received no further clarity on the situation. However, they were informed that because there was an open

(unresolved) By-law investigation, the Town had the authority to withhold the B&B licence. The Complainant and Ms. Elliott then consulted a lawyer.

In or around August 2020, Ms. Elliott sent a letter to Council Members (including the Lord Mayor, who acknowledged receipt) requesting assistance or advice on the situation, including, in particular, the actions of the By-law Enforcement department of the Town. In the letter, she made note of a previous legal issue she had with a next-door neighbour (not the Respondent) regarding a disputed hedge, and also expressed that she appeared to be having another neighbour-related issue with the same individual(s) now. She requested the assistance of Council to resolve the hedge matter and the By-law Complaint / B&B Licence issues. No responses from Council Members were forthcoming.

Sometime in early 2021, David Marshall, the lawyer for the Complainant and Ms. Elliott, wrote to the Town advising that six months had passed without a charge and the Town needed to either issue a charge or close the investigation and issue the B&B licence. Several weeks later, their lawyer received correspondence from the Town's solicitor, Terry Hill, stating that there "was never a neighbour complaint" and that the inspection by the By-law Officer was part of the B&B licence renewal process. This confused the Complainant and Ms. Elliott, as they believed they had already undergone a By-law inspection relative to the B&B licence renewal and this second inspection (of the garage) was a totally separate affair, which they had already been informed was the result of a By-law Complaint by an "anonymous neighbour". They grew suspicious that someone who "possessed a great amount of authority" was targeting them.

In or around May 2021, the Complainant and Ms. Elliott filed a police complaint. This process was, according to the Complainant, successful in "...forcing the Town's solicitor to admit that there was in fact a complaint," though who was behind the By-Law Complaint remained a mystery.

A Superior Court Application had also been commenced by Ms. Elliott against the Town in April 2021 in an attempt to get the matter resolved. In or around July 2021, the Town filed materials including an affidavit of Mr. Larmour, the Town's (now retired) Chief Planner, which included the information that the By-law Complaint to the Town was filed by Dan Williams, the spouse of the Lord Mayor – both of whom reside in a property to the rear of and abutting the Telfer/Elliott property. The affidavit also revealed that there was never a complaint about someone "living in the garage" but rather that the garage was

“being converted into living space”. Mr. Telfer asserts that, in his view, this activity (construction of space) is not a violation of the law on its own, and that it should not have triggered a By-law investigation. Moreover, he has denied that this activity (creating “living space”) was taking place in any event as the space was created to be a paint / craft studio area for Ms. Elliott, and not a dwelling.

Mr. Telfer also recalled in his materials a “casual conversation” with an unspecified neighbour in which it was expressed that the Lord Mayor had complained, a year or so prior, about the construction of the garage in question on the Telfer/Elliott property, stating that it had “absolutely ruined” her backyard. Of note, the garage is a fairly large structure with three vehicle bays, and it sits close to the property line with the Lord Mayor’s property.

Given all of the above, Mr. Telfer is of the view that the Lord Mayor has interceded and abused her authority to have By-law enforcement improperly involved in investigating a false complaint by her own spouse, and consequently (whether directly or indirectly) resulting in the non-renewal of their B&B licence.

The Complainant cited Articles 10.1 and 10.2 of the *Code* as the provisions he alleges were breached by the Lord Mayor.

4.0 - The Lord Mayor’s Response

The Lord Mayor’s Response, dated November 2, 2021, is summarized as follows:

The Respondent noted that she was contacted by the Town’s CAO, Ms. Cluckie, and the Town’s Solicitor, Mr. Hill, on June 23, 2021. Mr. Hill inquired whether the Lord Mayor had submitted a By-law Complaint to the Town concerning the property at 468 Dorchester (which is the municipal address of the Telfer / Elliott property) with respect to the garage being used for habitation. She advised that she had not submitted any such By-law Complaint.

Later the same day, the Lord Mayor was provided with a photograph which was appended to the By-law Complaint. The shadow of the individual taking the photo appeared to be that of Dan Williams, the Lord Mayor’s spouse. She accordingly then inquired of Mr. Williams whether he made the By-law Complaint, which he confirmed he did due to information he had seen on a Facebook post by Ms. Elliot indicating that part of the garage would be used for “living space”. The Lord Mayor advised that she herself does not have a

Facebook account and had no knowledge of this Complaint by Mr. Williams prior to this time.

During the same telephone call (i.e., on June 23, 2021) the Lord Mayor was asked by Mr. Hill whether she had contacted any employees of the Town about “people living in a garage”. She advised that she had not done so and was then informed by Mr. Hill that certain staff questioned by him had also already confirmed this (though she is not aware of which staff were asked).

Regarding the August 2020 letter from Ms. Elliott (in which she requested assistance from Council members, as noted above on page 4) the Lord Mayor advised that she believed this was related to a dispute between Ms. Elliott and another neighbour regarding a hedge (something which the Lord Mayor had discussed with Ms. Elliott the previous year, but not since).

5.0 – Mr. Telfer’s Reply and Further Submissions

Mr. Telfer provided a Reply to the Respondent on November 18, 2021. The Reply is summarized as follows:

Mr. Telfer expressed incredulity at the information contained in the Lord Mayor’s Response. He expressed it being “beyond the realm of believability that a seemingly competent Chief Executive Officer would claim not to be aware of a complaint made by her own husband, with whom she lives and presumably has daily communication, to the very corporation she leads, until one year after the complaint was made...”

Mr. Telfer additionally pointed out that:

- i. Ms. Elliott had sent correspondence in August 2020 describing the complaint and investigation;
- ii. a Superior Court Application had been filed in the matter;
- iii. a police investigation had been commenced and completed;
- iv. the Lord Mayor was interviewed by a local newspaper about the matter in an article¹ published on June 10, 2021; and,
- v. the garage is only metres from the Lord Mayor’s property.

¹ [Couple looking for answers over denial of B&B licence \(notllocal.com\)](https://www.notllocal.com/couple-looks-for-answers-over-denial-of-b&b-licence/)

Mr. Telfer asserted that “someone...attempted to hide the existence of the Williams / Disero’s involvement” in the matter. He accordingly asserted his view that the Respondent “...used her position of authority to influence Town employees in the investigation of her husband’s complaint against our property.”

5.1 – Further Correspondence from the Complainant

Mr. Telfer later wrote to the Integrity Commissioner on December 8, 2021 to advise that an anonymous individual (who wished to remain anonymous) had advised him that the Lord Mayor had spoken about the Complaint and had said that it had been filed by Mr. Williams and her on behalf of their son, one Jason Williams, who lives next door to the Telfer/Elliott property on land also owned by the Lord Mayor and her spouse. Mr. Telfer asked if this source could remain anonymous.

The Integrity Commissioner provided a written response to Mr. Telfer advising that the source would have to be identified if their evidence was to be considered and the information received from such source would have to be put to the Respondent.

No further information about this was forthcoming from the Complainant.

6.0 – Additional Interviews and Evidence

Mr. Maynard conducted several interviews with a number of witnesses at the Town.

Their evidence is as follows:

6.1 – Evidence of Ms. Cluckie

Ms. Cluckie recalled meeting with Mr. Hill and the Lord Mayor about this matter in or around June 2021. She noted that Mr. Hill was representing the Town in the civil and criminal matter relative to the Telfer / Elliott property (i.e., the aforementioned police complaint and Superior Court Application).

Mr. Hill asked the Lord Mayor whether she had submitted a By-law Complaint to the Town, and she advised she had not. Sometime later, it was determined that Dan Williams had submitted the request.

Mr. Hill suggested that this information ought to be disclosed “in good faith” to Mr. Telfer and Ms. Elliott. Such information (i.e., the identity of someone who submits a By-law Complaint) is not normally divulged to the responding party, but in this case, because of the dispute and because it involved a family member of the Lord Mayor, it was determined that revealing such information was an appropriate course of action. The Lord Mayor told Mr. Hill to speak with Dan Williams about divulging such information, as it was his By-law Complaint. When Mr. Hill approached him, Mr. Williams was quite agreeable to this proposal.

Mr. Hill also advised that he had inquired of the Lord Mayor about whether she had spoken to anyone on staff about the By-law Complaint. She advised him that she had not had any conversations with staff about the matter.

Ms. Cluckie also indicated that she herself had asked a number of staff members (including Messrs. Boese and Larmour) whether they had been contacted by the Lord Mayor about this issue, and they all advised that they had not been contacted by or spoken to her about it.

According to Ms. Cluckie, staff would have followed the normal procedure for such a By-law Complaint regardless of who submitted it. She also stated that if entry to a premises is denied such that safety and By-law compliance cannot be established, the normal result of such a scenario (irrespective of who is involved) would be the withholding of any licence application connected to the property in question.

6.2 – Evidence of Terry Hill

Mr. Hill provided a detailed background of events, and specific information concerning his discussion with the Lord Mayor and Town staff about the By-law Complaint. His comments are summarized as follows:

Mr. Hill was involved in defending the Town in response to the Superior Court Application brought by Mr. Telfer and Ms. Elliott. During this process, he determined that it would be prudent to disclose, in the affidavit of Mr. Larmour, the identity of Mr. Dan Williams as the individual who submitted the By-law Complaint about the Telfer / Elliott garage.

In addition to his involvement with the court Application, Mr. Hill also spoke to Niagara Regional Police about this matter on behalf of the Town when it was brought forward through the route of a criminal investigation initiated by Mr. Telfer and Ms. Elliott.

The investigation of the By-law Complaint occurred because of a Facebook post by Ms. Elliott (provided to the Town by the By-law complainant, Mr. Williams) in which she noted there was additional “living space” in the garage. In the view of Town staff, this acknowledgement on social media of there being “living space” in the garage represented a potential breach of the Town’s By-laws, and as a result, no B&B licence would be issued while the (potential) breach remained ongoing. The purpose of the visit from Officer Boese (who was following up on this information) was to determine whether there was a breach of the Town’s By-laws – again, all of which was based on the Facebook post by Ms. Elliott identifying that the garage contained “living space” as per the By-law Complaint of Mr. Williams.

The Facebook post in question is appended as Exhibit A to this Report.

According to Mr. Hill, the Short Term Rental By-law provides for various inspections that can take place during the licence application process. In this case, the Town believed (based on the Facebook post) that an inspection was justified. As it was refused, the result was the withholding of the B&B licence until such time as Mr. Telfer and Ms. Elliott proved compliance. This was done by staff on Mr. Hill’s advice.

Mr. Hill further noted that the attempted inspection by Mr. Boese (following up on the Facebook post which was submitted to the Town via Mr. Williams’ By-law Complaint) was a totally different process from that carried out by By-law Officer Erin Dean, who carried out her own routine inspection of the property / dwelling as part of the B&B licence application process.

Mr. Hill was asked about his communications to Mr. Marshall in which, according to the Complainant, he stated that there was “no complaint” (i.e., no By-law Complaint). Mr. Hill clarified that he intended to communicate that there was no “anonymous complaint” not that there was no complaint at all. In that regard, he noted that the Complainant’s Superior Court Application Record makes reference to an “anonymous” complaint. Mr. Hill was aware of Ms.

Elliott's Facebook post about "living space" being known to the Town and was under the impression that that was the root of the issue.

Upon request, Mr. Hill provided a copy of the email which appears to have led to some confusion on all sides of this issue. The email, sent to David Marshall on February 5, 2021, (and which was also in the Complainant's Application Record) reads as follows:

"Hi David, it strikes me that the issue of the 'whether to issue a licence or not' can either escalate or de-escalate. I would prefer de-escalation. You raised the concern that your client thought this issue resulted as a result of a complaint from a disgruntled neighbour. I am advised that that is not the case. The issue arose as a result of your client indicating that part of the garage would be used as additional open living space. My assumption, based on our discussion, is that what was meant to be said is that she was going to use part of the garage for a paint studio. I would ask that you review the Short-Term Rental By-law that sets out in a number of locations the authority for the Town to have inspections occur as a condition of obtaining/maintaining a licence. Pursuant to the By-law the Town would like to carry out its inspections. If everything is in order then a licence will be issued. My client is prepared to litigate the issue but I hope your client reflects upon the language of the by-law and allows an inspection to occur. I am authorized to accept service of your Application if that is the route that client wishes to pursue. I await you (sic) advice. Terry"

In this regard, Mr. Hill acknowledged, in an email sent to Mr. Maynard on February 7, 2022, that the above noted email to Mr. Marshall was perhaps a source of confusion, stating:

"At that time I hadn't reviewed the complaint process with staff in detail. I did say 'not a disgruntled neighbour' which was a bad choice of words. The complaint from the neighbour (disgruntled or not) was based on the posting of Ms. Elliott."

Regarding the handling of the By-law complaint, Mr. Hill explained that the request would have been received by the Town and sent to the appropriate

department - in this case, the Building and Planning Department. From there, it would have been assigned to a By-law officer – in this case, Officer Henry Boese, who attempted, unsuccessfully, to inspect the garage.

Mr. Hill then described his investigation into whether the Lord Mayor had intervened on behalf of Mr. Williams regarding his By-law Complaint. He noted that he spoke with a number of staff, including Ms. Cluckie, Mr. Larmour, Colleen Hutt (now the Deputy Clerk, then Acting Clerk), Mr. Boese and By-law Officer Erin Dean. They each advised that the Lord Mayor had not intervened or communicated with them about the issue.

Mr. Hill advised that his job is to protect the interests of the Town, not the Lord Mayor personally, and that, in his view, he did his due diligence to ensure that nothing improper had happened in regard to Mr. Williams' By-law Complaint. After interviewing staff and the Lord Mayor, he felt comfortable, as the Town's solicitor, that "there was no interference" by the Lord Mayor. In his view, Town staff handled the matter as they would any other, because Mr. Williams (irrespective of the fact that he is married to the Lord Mayor) is a resident of the Town and has the same rights as any other resident. What cannot be permitted, Mr. Hill asserted, is for the Lord Mayor to "take up his cause". Mr. Hill expressed his confidence that this did not occur, and that Mr. Williams By-law Complaint was handled routinely and without intervention by the Lord Mayor.

6.3 – Evidence of Craig Larmour

Mr. Larmour confirmed that the Lord Mayor resides at a property which abuts the Telfer / Elliott property. He noted that some time in the recent past, Mr. Telfer and Ms. Elliott erected a large accessory building (garage) on the property. At the time this was erected, he recalled that the Lord Mayor inquired of him whether the proper permits were in place for the building, and he confirmed that they were. They had no further conversations about it.

Around the same time as the Telfer / Elliott Short Term Rental Application (i.e., the B&B licence renewal application) was being processed, the Town also received a By-law Complaint from Dan Williams about the use of the accessory building – although Mr. Larmour notes that he was not even aware that it was Mr. Williams who submitted the By-law Complaint at the time it was made (a fact he only became aware of later).

Mr. Larmour confirmed that the Lord Mayor never communicated to him about the Williams By-law Complaint. He also never spoke to Mr. Williams about it. Moreover, none of his staff expressed any concern to him about political interference by the Lord Mayor. In Mr. Larmour's view, Mr. Boese was simply responding to the By-law Complaint as would normally occur in such circumstances. Mr. Larmour further stated that there is no evidence of the Lord Mayor interjecting herself into this matter.

6.4 – Evidence of Henry Boese

Henry Boese (who is no longer employed by the Town) confirmed the details of his involvement as a By-law Enforcement Officer. He advised that he received the By-law Complaint and followed up because of the information it contained (i.e., that it included evidence of a Facebook post by Ms. Elliott that there was "living space" in the garage).

Mr. Boese confirmed that Mr. Rolf Wiens was the manager in charge of building related issues, and that Mr. Wiens did not request any special information or make any particular requests or comments about this matter – in other words, there was no special attention paid to this matter compared to any others. Mr. Wiens has been and remains absent from the Town for unrelated personal reasons and was consequently not available to be interviewed.

Mr. Boese advised that he was totally unaware (until he was informed during the interview with Mr. Maynard) that Dan Williams is the Lord Mayor's spouse. He said he was not up to date on the Lord Mayor's private life and noted that Mr. Williams and the Lord Mayor have different surnames, so he did not even put it together that they were related.

Mr. Boese confirmed that there was no interference from anyone, including the Lord Mayor, respecting his investigation, which was a routine matter under his regular purview. Mr. Boese advised that he had nothing to do with the B&B licence application process, confirming that any decisions in that regard would have been made by senior staff and likely with the advice Mr. Hill.

7.0 – Analysis

The question to be determined in this matter is whether the Lord Mayor Betty Disero improperly used the influence of her office to impact upon the Telfer /

Elliott property by way of Mr. Boese's attempted inspection of their property and/or the withholding of their B&B licence as a result of the By-law Complaint.

Sections 10.1 and 10.2 of the Code deal with the improper use of influence by a Member of Council and were cited by the Complainant in his Complaint.

Those sections state as follows:

10.1 Members shall not use the influence of their office or appointment for any purpose other than the exercise of his or her official duties in the public interest.

10.2 Members shall not use the status of their position to influence the decision of another person to the private advantage or non-pecuniary interest of themselves, their parents, children or grandchildren, spouse, or friends or associates, or for the purpose of creating a disadvantage to another person or for providing an advantage to themselves.

Mr. Telfer advanced the theory that the Lord Mayor intervened in this case. However, aside from the Complainant's speculation, there is no evidence that any such interference actually occurred.

Mr. Telfer's allegation against the Lord Mayor is largely founded on conjecture and has not been substantiated by any evidence. In fact, the evidence we have obtained supports the Lord Mayor's position that she had absolutely no involvement in the filing or processing of the By-law Complaint or the Application for the renewal of the Complainant's B&B licence.

The staff we interviewed advised that, to the best of their knowledge, the Lord Mayor did not interfere with the Williams By-law Complaint to the Town. In fact, it appears that the Lord Mayor may not even have known about the specifics of the By-law Complaint (in particular that Mr. Williams was involved) until it was raised with her by Mr. Hill and Ms. Cluckie on or around June 23, 2021 – this was confirmed by Ms. Cluckie and Mr. Hill in their respective interviews.

The individual who carried out the By-law Enforcement investigation (Mr. Boese) was totally unaware that the matter was potentially connected to the

Mayor and confirmed there was no pressure placed upon him by anyone to conduct the investigation, which was, in his view, a routine follow-up on the basis of evidence contained in the By-law Complaint received by the Town.

The decision to withhold the B&B licence is, according to all third-party witnesses with knowledge of such decision, a direct result of the evidence that Ms. Elliott noted in a Facebook post that there was “living space” in the garage, and the Town’s subsequent inability to ascertain what exactly “living space” in that context meant and whether it represented a potential breach of the Town’s By-laws. Moreover, senior Town staff, including Mr. Hill, are of the view that Mr. Telfer and Ms. Elliott’s refusal to comply with a legitimate inspection request about something which appeared, on the surface, to be a potential By-law compliance issue, is what prompted the withholding of the B&B licence. It had nothing to do with the Lord Mayor whatsoever.

The current status of the B&B licence Application and the Superior Court Application are unknown to the Office of the Integrity Commissioner, and such information is, in any event, beyond the scope of this investigation which is concerned solely with the Mayor’s conduct and whether she breached the *Code*.

8.0 - Conclusion

There is no evidence of the Lord Mayor improperly using her influence as alleged. To the contrary, all evidence appears to indicate that she did not interfere in any way. Accordingly, the Complaint put forward by Mr. Telfer that the Mayor breached ss. 10.1 and 10.2 of the *Code* has not been substantiated.

The Complaint is accordingly dismissed.

9.0 - Endorsement and Issuance of Report by the Integrity Commissioner

As the Integrity Commissioner for the Town of Niagara-on-the-Lake, I confirm that I have fully reviewed the process of the investigation conducted by my delegated investigator, Mr. Maynard, as detailed in this Report. He and I have jointly prepared this Report, including its findings and conclusions, with which we both agree.

Accordingly, as the Integrity Commissioner for Niagara Region, I hereby issue this Report and Decision to the Parties in conclusion of this matter.

9.1 - Investigation and Report to Remain Confidential

The Parties are also hereby advised that, as no findings of a contravention of the *Code* have been found to have occurred, this investigation and Report shall remain confidential pursuant to ss. 223.5(1) and 223.6(2) of the *Municipal Act*, section 8.6 of the *Code of Conduct* (in relation to the Lord Mayor) and the *Consent and Confidentiality Agreement* signed by the Complainant at the outset of this investigation process.

This Report shall also accordingly not be released to Council or published in any manner, pursuant to ss. 223.5(1) and 223.6(2) of the *Municipal Act* and Articles 5(II) and 10(III) of the Town's *Complaint Protocol*, unless the Integrity Commissioner subsequently determines it necessary to do so, or as required by law.

Yours very truly,



Edward T. McDermott
Integrity Commissioner,
Niagara-on-the-Lake



Michael L. Maynard
Investigator,
Office of the Integrity Commissioner

EXHIBIT A

LOOKS awesome and everyone is alive. 😄

Like · Reply · 1y



How is it that you need a shed when you've just build a huge barn?

Like · Reply · 1y



Jennifer Elliott

Well... it's like this; there are 3 bays but only one is for a car. Everything else is/will be open concept living space. Car and tools go in the one bay and the lawn mower and all the gardening equipment live in the shed. 😊

Like · Reply · 1y



Colin Telfer

; When are you and James going to drop by for the "tour" ? 😊.

Like · Reply · 1y



Jennifer Elliott building the Cooper empire again.

Like · Reply · 1y



Jennifer Elliott

😏 if only.