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# **2021-2022 ANNUAL REPORT OF THE INTEGRITY COMMISSIONER**

## **ONE JOINT INVESTMENT BOARD**

**John Mascarin**  
**Aird & Berlis LLP**

**May 25, 2022**

## INTEGRITY COMMISSIONER'S MESSAGE

Aird & Berlis LLP was originally appointed as Integrity Commissioner for ONE Joint Investment Board (“the Board”) pursuant to subsection 223.3(1) of the *Municipal Act, 2001* on May 19, 2020. We were very pleased to be re-appointed by the Board on May 19, 2021 for an additional five (5) year term.

This is the second annual report that we have prepared for the Board. This report encompasses the period from April 28, 2021 to May 24, 2022.

Since our appointment, we have had the opportunity to conduct educational training for members of the Board, and to provide advice to members and to the Board on inquiries with respect to the Code of Conduct and the *Municipal Conflict of Interest Act*.

To date, over our two (2) years as Integrity Commissioner, we have not received any complaints or applications and have accordingly conducted no investigations under the Code of Conduct or inquiries under the *Municipal Conflict of Interest Act*.

This report provides an executive summary of our activities undertaken in fulfilling our duties and responsibilities as the Integrity Commissioner for the Board.

## ROLE OF THE INTEGRITY COMMISSIONER

The Board has assigned to us all of the functions of an integrity commissioner that are listed in subsection 223.3(1) of the *Municipal Act, 2001*. These functions include the authority to independently apply the Code of Conduct, any procedures, rules and policies of the Board governing the ethical behaviour of members and the *Municipal Conflict of Interest Act*; to provide advice to members and the Board with respect to the foregoing; and to provide educational information to members and the public about the Code of Conduct and the *Municipal Conflict of Interest Act*.

The Ontario Divisional Court in *Kroetsch v. Integrity Commissioner for the City of Hamilton*, 2021 ONSC 7982, noted that the general powers of the *Municipal Act, 2001* empower a municipality to request its integrity commissioner to take on additional functions. We believe the reasoning would apply equally to a local board such as the Board. For example, there is express authority in subsection 223.3(1) for an integrity commissioner to provide written advice to a member but no corresponding provision that specific advice can be provided to a council or board as a whole. Many integrity commissioners have read in such an authority, or interpreted the “provisional of educational information” as providing for same, but it is welcome that that court has indicated that such additional functions or actions are permissible. There have been many instances where municipalities have empowered integrity commissioners with authority to carry out investigations or to provide advice on areas beyond the strictures of what is set out in subsection 223.3(1) of the *Municipal Act, 2001*.

## INVESTIGATIONS

We did not receive any complaints against members filed under the Code of Conduct or any applications under the *Municipal Conflict of Interest Act* that required us to conduct an investigation.

## ADVICE

One of the most important functions of the Integrity Commissioner is to provide specific written advice to members pertaining to their obligations under the Code of Conduct, other ethical policies, rules or procedures, and the *Municipal Conflict of Interest Act*. Our role in providing timely responses to members is very important. From time to time, board members seek written or verbal advice and interpretations of ethical policies.

The *Municipal Act, 2001* requires that requests for advice from members be in writing and that the advice provided by the Integrity Commissioner also be in writing. This is a statutory requirement and one that is put in place for good reason: to ensure certainty of the question and of the advice. We note that much of the ethical advice that we provide is quite fact-specific.

We provided advice to one member last year with respect to a question concerning whether a proposed external consulting project might create a conflict of interest with the member's responsibilities to the Board. We concluded that there was no nexus or connection between the proposed consulting work and the member's obligations to the Board under either the Code of Conduct or the *Municipal Conflict of Interest Act*.

We also received a request for advice from the Board's Nominating Committee with respect to its action to fill a vacancy on the Board. We provided our formal advice and recommended course of action on November 12, 2021.

## EDUCATION & TRAINING

Education and training was provided to the Board during our first year of our appointment. No additional training was provided during the 2021-2022 time period.

## MUNICIPAL INTEGRITY COMMISSIONERS OF ONTARIO

Our firm hosted the Fall Conference of the Municipal Integrity Commissioners of Ontario ("MICO") on November 4, 2021. Four of our lawyers made presentations at the Fall Conference. We also attended and presented a case law update respecting the *Municipal Conflict of Interest Act* at the MICO Spring Conference on June 16, 2021. There is no cost to the Board arising from our hosting and attendance at these conferences.

## CLOSING REMARKS

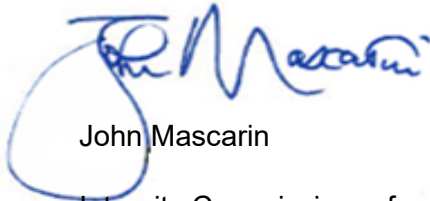
We commend the Board for its clean ethical report card over the past year. It is reassuring to see that the COVID-pandemic has not led to an increase in the filing of complaints (something that has happened in a number of municipalities).

We remain grateful for the trust that the Board has placed in us to be its Integrity Commissioner, as well as its Closed Meeting Investigator.

We again look forward to working with the Board and its members throughout the remainder of the year and into 2023.

Respectfully submitted,

AIRD & BERLIS LLP



John Mascarini

Integrity Commissioner for ONE Joint Investment Board

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