



OFFICE OF THE INTEGRITY COMMISSIONER

REPORT REGARDING THE CONDUCT OF FORMER COUNCILLOR DOUG FORD

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Integrity Commissioner
December 6, 2016**

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INTRODUCTION

Between May and July 2014, three members of the public filed complaints alleging that then Councillor Doug Ford contravened various provisions of the *Code of Conduct for Members of Council* (the "Code of Conduct" or the "Code"). All of the complaints raised concerns about the now former Councillor's interactions with City of Toronto officials in relation to two companies: Apollo Health and Beauty Care, Inc. ("Apollo"), and Moore Canada, Inc., d.b.a. R.R. Donnelley and Sons ("Donnelley"). Both companies are clients of the Councillor's family's printing company, Deco Labels and Tags Ltd., Deco Adhesive Products (1985) Ltd., and/or Doug Ford Holdings Inc. (collectively, "Deco").

For the reasons set out below, I find that Councillor Ford contravened Articles IV (Gifts and Benefits) and VIII (Improper Use of Influence) of the Code of Conduct. Councillor Ford contravened Article IV when he accepted dinner and tickets to a Rogers Cup tennis match from Apollo; and, he contravened Article VIII when he made inquiries and arranged meetings with City Staff on behalf of each of Apollo and Donnelley on separate occasions.

PROCEDURAL BACKGROUND

The complaints were filed on May 26, June 25, and July 2, 2014. I began my term as Integrity Commissioner on September 8, 2014. In accordance with the *Code of Conduct Complaint Protocol for Members of Council* (the "Complaint Protocol"), Councillor Ford was provided with copies of the complaints and an opportunity to respond. He provided responses to two out of the three complaints.

The issues in the complaints all related to the same set of circumstances. Accordingly, I conducted a single investigation and this report addresses all of the complaints. All of the complaints alleged that Councillor Ford had contravened Article VIII (Use of Improper Influence) of the Code of Conduct. One of the three complaints alleged that Councillor Ford contravened Article V (Confidential Information), Article XI (Business Relations) and Article XIII (Conduct Respecting Lobbyists). In reviewing the circumstances alleged, I considered all of the articles of the Code of Conduct.

Following the investigation, on November 16, 2016, as required by the Complaint Protocol, I provided former Councillor Ford with a statement of proposed findings and an opportunity to make submissions. Councillor Ford did not make any submissions.

Time Taken to Conclude this File

This case took more than two years to conclude. This length of time is well outside of the average time it ordinarily takes my Office to complete cases on the basis of current resources. The reason this case took so long to conclude is the result of a number of factors including: a backlog of cases in place at the time of the transition from a part-

time to a full-time commissioner, the complexity of the case and the workload of the Office. Faced with limited resources and a steady case load, I placed a priority on resolving cases that dealt with current conduct and members.

With the completion of this investigation, the Office has completed work on all complaints filed prior to January 2016. This means that all cases filed in 2014 and 2015 have been closed. Based on current case load and resources, the Commissioner does not foresee similar delays in relation to any open cases.

JURISDICTION OVER COUNCILLOR FORD

While Councillor Ford is no longer a member of Toronto City Council, the complaints were filed while he was a Council member, and the conduct at issue took place during his tenure on Council and was related to his position on Council. In these circumstances, this Office maintains jurisdiction to conclude an investigation, make findings of fact, and to make a report to Council in the event of a finding that a former member's conduct contravenes the Code.

INVESTIGATION STEPS

To investigate this matter, the following records were reviewed:

- extensive submissions filed by both the complainants and the Councillor;
- a high volume of records obtained through the powers conferred on this Office in section 160 of the *City of Toronto Act, 2006*, including records summonsed from third parties; and,
- evidence (including a transcript of an interview conducted with Councillor Ford) obtained by the Office of the Lobbyist Registrar ("OLR") in the course of a concurrent investigation into the same circumstances.¹

The following individuals were interviewed:

- Leonard Rudner, a former executive at Deco and a veteran of the label and printing industry;
- officials from the City's division of Economic Development and Culture (Mike Williams, the General Manager and Rebecca Condon, the Senior Business Development Officer in the office of Business Retention & Expansion);
- City Councillor Anthony Perruzza;
- Deputy City Manager John Livey;
- Barry Waddick, a senior officer at Donnelley;

¹ This information was shared with this Office in accordance with the Memorandum of Understanding between the Offices. The issues investigated by the OLR overlapped with those that are the subject of this investigation.

- Lou Pagano, the City of Toronto's Director of Purchasing from 1998 through 2011; and,
- Allen Pinkerton, Manager of the Signs and Markings Unit, in the City's Transportation Services Division.

Third Party Records

Apollo

I issued a summons for records from Apollo. In response to the summons, Apollo provided this Office with its confidential submissions, records, and a sworn statement filed with the OLR in response to that Office's investigation of Apollo's conduct. Apollo refused to provide any specific information about the value of business it carried out with Deco.

Donnelley

I issued a summons for records from Donnelly. Donnelley responded fully to the summons and provided all requested records to assist this Office in verifying its business relationship with Deco. The otherwise confidential details of the business relationship are not described in detail in this statement as they are not necessary for the purposes of disposing of the complaints.

Deco

I issued a summons for records from Deco. At the time of the summons, Councillor Doug Ford and Deco were jointly represented by legal counsel. Legal counsel initially objected to the scope and validity of the summonses. Before these issues were resolved, Councillor Doug Ford and Deco ceased to be represented by counsel. Deco has not responded to the summons issued.

Councillor Doug Ford

As noted, Councillor Ford was initially represented by legal counsel in relation to this matter. As noted, his counsel filed comprehensive submissions in response to two of the three complaints.² Councillor Ford participated in an interview in the context of the concurrent OLR investigation into the matters related to Apollo.

There is no dispute that Councillor Ford is, and was at all relevant times, a shareholder of Deco and that he maintained duties in relation to Deco after he was elected to City Council. Councillor Ford maintained a Deco email address, continued to conduct Deco business, and used the office facilities at Deco.

² Councillor Ford was provided with copies of all three complaints after they were filed and classified as being within this Office's jurisdiction.

I requested that Councillor Ford provide information about the value of the business relationships between Deco and Apollo; and, Deco and Donnelley. After initially agreeing to provide this information, Councillor Ford subsequently failed to do so, despite repeated follow up requests.

I obtained from court files a sworn witness statement filed by Councillor Ford in civil proceedings that describes his ownership interest in Deco and Deco's business relationship with Apollo. The statement does not disclose the value of the business relationship or how it changed (if at all) over the relevant time period.

THE COMPLAINTS AND THE RESPONSES

In Relation to Donnelley

The complaints alleged that Councillor Ford attempted to secure preferential treatment at the City for Donnelley, a large printing company and Deco client, when he arranged meetings between City staff and representatives of Donnelley.

The complaints alleged that the Councillor arranged for Donnelley officials to meet with City staff to discuss whether Donnelley could provide the City with printing services. The complaints alleged that this was an improper use of influence because the Councillor was helping Donnelley gain access to City officials while Donnelley had a business relationship with Deco, and that the Councillor failed to disclose the business relationship to City staff.

The Councillor responded that he was carrying out his official duties as a councillor in his meetings with Donnelley and in arranging meetings for Donnelley officials with City staff. He explained that part of his role was to represent constituents and to ensure their views are considered in City decision-making processes. He also stated that councillors' work includes City-wide issues and not just matters in their wards. Further, he stated that he agreed with the premise behind Donnelley's proposal to outsource City printing processes to create efficiencies. This was a policy position he took to promote the City's interests.

The Councillor further responded that Deco and Donnelley's business relationship did not materially change while he was a councillor, and that he had only spoken to Donnelley officials a few times while he was a councillor. He stated that he did not personally gain anything by meeting with Donnelley while he was a councillor, or in arranging meetings for Donnelley with City staff.

In Relation to Apollo

The complaints alleged that the Councillor inappropriately, and in contravention of Article VIII of the Code, repeatedly intervened to facilitate contacts and meetings with

City staff on Apollo's behalf over the course of 2011 and 2012. The interventions were improper, the complaints alleged, because Apollo was Deco's client. The complaints raise concerns with the Councillor's facilitation of meetings and prioritization of particular matters and suggest that the interventions led to substantive results that would otherwise not have been awarded to Apollo. Two complainants suggest that the reason for the intervention was that the business flowing from Apollo to Deco increased over the relevant time period, although the complainants provided no information to support this allegation.

The Councillor responded that contacting staff and arranging meetings on Apollo's behalf was not an improper use of his influence because he did not direct or persuade staff to make any decisions and he never had a complaint from staff. In other words, he responded that he was just a point of contact for Apollo, connecting a concerned business to appropriate City staff. Further, he stated that setting up meetings with constituents is a regular part of councillors' duties, and that he was fulfilling his constituency role. He stated that councillors work on issues City-wide and that as a councillor he helped everyone who approached him. The Councillor denied any suggestion that he arranged meetings for Apollo for any personal gain for himself or for Deco.

The complaints also raised concerns about the Councillor's failure to disclose his interest in Deco to City staff. The Councillor responded that he was under no legal obligation to do so.

FINDINGS

Evidence and Standard of Proof

In making findings of fact, I adhere to the standard of proof for fact-finders in civil cases identified by the Supreme Court of Canada, a balance of the probabilities.³ The balance of probabilities standard requires a fact finder to "scrutinize the relevant evidence with care to determine whether it is more likely than not that an alleged event occurred."⁴ Accordingly, the findings of fact throughout the following analyses are based on whether it is more likely than not that alleged events occurred.

³ *F.H. v. McDougall*, [2008] 3 SCR 41, 61; 2008 SCC 53 (SCC), available at <http://canlii.ca/t/20xm8> (internal citations omitted).

⁴ *Ibid.* at 61.

Findings in Relation to Donnelley

Relationship between Deco and Donnelley

In 2011, at the time the conduct at issue in the complaints took place, Deco and Donnelley had a long-standing business relationship. Donnelley, an international printing company, had subcontracted or outsourced work to Deco for more than 20 years. Donnelley also had a pre-existing business relationship with the City of Toronto.

For the time period that the Councillor was in office, 2010 to 2014, the amount of business between Deco and Donnelley remained relatively constant, annually. Donnelley provided this Office with original business records to support this conclusion. The specific value of the business is intentionally not disclosed in this report as it is commercially sensitive.

Deco's business with Donnelley was *responsive* to Donnelley's needs. That is, Donnelley sourced work from Deco when its clients ordered products that it could not produce. I form this conclusion on the basis of the records provided by Donnelly and the testimony of Mr. Waddick, Donnelley's Director of Sourcing.

As of May 2011, several months after being elected as a City councillor, Councillor Ford continued to communicate with Donnelley in his capacity as a Deco representative. It is the Councillor's dual roles, that of Deco representative and City official, that give rise to the issues in the complaints.

As part of this investigation, I interviewed Leonard Rudner, a former senior executive with Deco. Mr. Rudner was employed at Deco during the 2010 election and for the relevant time period in this investigation. He provided first hand observations of some of the events but he was not able to provide, nor did he have possession of, any particular information about the business relationships between Donnelley and Deco or Apollo and Deco. From Mr. Rudner's perspective, the fact that the Councillor and the Mayor (at the time, Councillor Ford's brother, Rob Ford) were elected was a significant event for Deco. It was Mr. Rudner's general view that having the Councillor and the Mayor at City Hall could mean more business for Deco.

Mr. Rudner had no specific knowledge of the Apollo account. However, he was aware of and involved in some of the events relating to Donnelley.

Mr. Rudner recalled one discussion with Randy Ford, another Deco principal with responsibility for operations, that suggested that business could flow to Deco as a result of the Mayor and Councillor's election; however, he had no similar discussion with Councillor Ford.

May 3, 2011 – The Councillor and Mr. Waddick (Donnelley) Meet at the Donnelley Facility

On May 3, 2011, the Councillor attended at Donnelley's office in his capacity as an officer of Deco to deliver a quote from Deco to Donnelley. Mr. Waddick received that quote on behalf of Donnelley and testified that during the meeting, he and Councillor Ford discussed Donnelley's business model generally, and how Donnelley provided a variety of services to large corporations, including reviewing and streamlining their printing processes, to save them money. During the meeting, the Councillor's recent election came up in conversation. Mr. Waddick testified that Councillor Ford stated that the City was "like a large corporation" and raised the possibility of a meeting between Donnelley and the Mayor. The May 3 meeting is recorded on the Toronto Lobbyist Registry. Mr. Waddick subsequently spoke to Donnelley's president about a possible meeting with the Mayor and Councillor and characterized the president as happy about the opportunity. He testified that Donnelley viewed the City as a significant opportunity.

June 9, 2011 – the Councillor, the Mayor Mr. Waddick and Donnelley's President Meet at the Donnelley Printing Plant

On June 9, 2011, another meeting took place at a Donnelley printing plant, attended by Donnelley's president, the Mayor and the Councillor. At the meeting, Donnelley officials spoke to the Mayor and Councillor about Donnelley and its services. Mr. Waddick testified that during the June 9 meeting, Mayor Ford made a phone call to arrange a meeting at the City with procurement officials and mentioned the possibility that Donnelley could save the City money. The meeting with the City's procurement officials was scheduled for June 15, 2011.

June 15, 2011 – Donnelley Officials, the Mayor, the Councillor and Mr. Pagano (City Staff) Meet in the Mayor's Office

On June 15, 2011, representatives of Donnelly met with the Mayor, Councillor Ford and Mr. Pagano, at the time the City's director of purchasing, in the Mayor's Office. Mr. Pagano attended the meeting at the request of the Mayor's Office. His understanding was that the meeting was with representatives of a company that wanted to know more about the City's procurement processes.

At the June 15 meeting, Donnelley representatives talked generally about ideas for printing efficiencies at the City and did not discuss a specific proposal for services. At the meeting, the Mayor asked Mr. Pagano to set up a meeting with Donnelly and the City's printing unit (part of the City Clerk's office) because City departments are knowledgeable about their own needs for goods and services and because the printing unit had its own, unique, procurement process. Mr. Waddick testified that he thought

the meeting and the Mayor's request to Mr. Pagano were significant for Donnelley because they were dealing with the Mayor of the largest city in Canada.

The same day, Mr. Pagano contacted the City Clerk's office to notify them that Donnelley representatives wanted to meet with City staff. In his emails, he indicated both that the meeting was at the Mayor's request and that under the City's procurement policies City staff could not entertain any unsolicited proposals or quotations from Donnelley.

The meeting was scheduled for June 30, 2011. In advance of the meeting, Mr. Waddick and his colleagues prepared for the meeting as they would prepare for a sales pitch. Mr. Waddick ensured that appropriately senior Donnelley officials attended the meeting with the prospect that it could lead to significant work for Donnelley.

June 27, 2011 – Donnelley Officials, the Mayor, the Councillor, other Deco Officers (including Mr. Rudner) Meet at the Deco facility (No City Business Discussed)

On June 27, 2011 Donnelley officials, including Mr. Waddick, attended the Deco facilities for a "plant tour." Based on the evidence of Mr. Waddick and Mr. Rudner, I find that this meeting was in furtherance of the business relationship between Deco and Donnelley and flowed from the personal attendance of Councillor Ford at the Donnelley facility on May 3. Mr. Waddick indicated that it was a fairly routine thing for him to visit the site of vendors providing service to Donnelley to have up to date information about services offered. There had not been a site visit from Donnelley to Deco for a couple of years. The evidence of Mr. Waddick is that no City business was conducted at this meeting. Mr. Rudner recalled the visit and from his perspective, he understood that it was part of Deco's efforts to impress Donnelley with the Deco facilities and capacities.

June 30, 2011 – Donnelley Officials Meet with City Staff (Not the Councillor or the Mayor) at City Hall

On June 30, 2011, Donnelley representatives, Mr. Pagano, and staff from the City's printing unit met at City Hall. Mr. Waddick and his colleagues began their sales pitch by explaining that Donnelley could review the City's printing processes to identify efficiencies. Shortly after the Donnelley presentation began, Mr. Pagano realized that it was a sales pitch for services. He accordingly interrupted Donnelley, asked them to stop making their presentation and informed them that City officials could not accept unsolicited proposals for services at a meeting and that the City had a separate process for reviewing such proposals.

Mr. Pagano's interruption took Mr. Waddick and his colleagues by surprise. The Donnelley officials were not aware of the unsolicited proposal policy and, as noted, intended to make a sales pitch for their services that day. Confronted with the

newfound knowledge that the process initiated by Councillor Ford was not the ordinary process, Donnelley officials took steps to learn the proper procedure. Donnelley wished only to comply with the City's policies.

The Donnelley representatives agreed to review the policy for unsolicited proposals before taking any further steps. Donnelley did, in fact, review the policy. The policy stipulates that if a vendor wishes to make an unsolicited proposal, the vendor will be prohibited from bidding and the proposal will be advertised to allow others to make competing bids. Donnelly decided that it did not wish to participate in such a process and ceased all efforts flowing from the series of meetings stemming from the initial discussion with Councillor Ford on May 3.

Mr. Pagano testified that it was not unusual for a vendor to meet with City staff or to propose doing business with the City after meeting with a member of Council. He also explained that there was no suggestion at the June 15 or June 30 meetings that the City should or would circumvent its normal process. He explained that it was staff's job to rein-in companies eager to do business with the City.

Observations

The May 3, 2011 meeting between Councillor Ford and Mr. Waddick set off two sequences of events: one that led to the truncated sales pitch meeting between Donnelley officials and City staff; and another that refreshed the business relationship between Donnelley and Deco, causing Donnelley to tour Deco's facilities. I am satisfied that the interactions led to no different business relationship or volume of work between Donnelley and Deco based on the evidence provided by Donnelley.

I will now turn to the factual findings in relation to Apollo before analyzing the events in relation to both Donnelley and Apollo in the context of the Code of Conduct.

Findings in Relation to Apollo

Relationship between Deco and Apollo

According to a sworn statement given by Doug Ford in a civil proceeding, Apollo was a customer of Deco's that did a "large volume of business with Deco year-after-year over the course of many years." I am not able to make a finding about any changes in the value of the business between Apollo and Deco during the relevant time period. Apollo declined to provide this information; Deco did not respond to the summons; and, Councillor Ford refused to provide this information.

Councillor Ford's Awareness that Apollo Was a Client of Deco

Councillor Ford had a long standing awareness of the business relationship between Apollo and Deco. Further, Councillor Ford's staff were aware that Apollo was a client of

Deco and, according to records reviewed, demonstrated awareness of when Apollo jobs were on production at Deco's facilities.

Apollo Moves to Toronto

In 2009, prior to Councillor Ford's election to office, Apollo began working with the City to move its existing facilities to a new facility in Toronto. The City was involved because Apollo applied and qualified for a program administered by the City's Economic Development division that offered incentives to businesses willing to move to Toronto, the Imagination, Manufacturing, Innovation and Technology (IMIT) program. Under the program, Apollo received a Tax Increment Equivalent Grant, known as a "TIEG".

Apollo built a new facility in Toronto for its business. From the perspective of the Economic Development division, Apollo's decision to move to Toronto is an important success story of the City's efforts to attract business to Toronto. Officials in Economic Development were motivated to ensure that the IMIT program was a success and, as part of the program, were available to Apollo and its agents to assist.

Apollo encountered issues in the course of the development of the facility between 2009 and 2012, and other environmental issues after its opening in 2012. Apollo required assistance from City staff to resolve these issues. For a number of these issues, the Councillor and his staff intervened with City staff.

Councillor Perruzza

Councillor Anthony Perruzza was the local Councillor in the ward where the new Apollo facility was being constructed. In response to this complaint, Councillor Ford stated that Apollo officials had indicated to him that the local councillor was unhelpful. Apollo also made this allegation in its response to the Lobbyist Registrar's investigation.

I interviewed Councillor Perruzza. Councillor Perruzza was aware of Apollo's move to Toronto and the issues encountered because he was notified by City staff as part of their protocols to notify local councillors of action within their wards. Councillor Peruzza spoke with a representative of Apollo in relation to the naming of the street that would lead to Apollo's facility – a decision of which he was supportive – but he was not contacted by Apollo or its agents in any other way. Councillor Peruzza found it strange that he was not contacted. He was supportive of Apollo's move, believing it to be a good news story for his ward. He did not follow up to become more involved because he presumed that Apollo had the assistance it needed.

On a balance of probabilities, I find that Councillor Peruzza was available to assist Apollo and did not at any time refuse to assist the company with its efforts.

Apollo's Request for an Increase in its Tax Increment Grant

In the spring of 2011, Apollo was seeking to increase the amount of the grant (i.e. the TIEG) for its new facility. Although Apollo had relationships with officials within Economic Development, it made its request through the offices of newly-elected Councillor Ford and the newly-elected Mayor, Rob Ford. On April 9, 2011, the Mayor and Councillor met with Apollo's owners. The following day, one of Apollo's co-owners wrote a thank you note to the Mayor and Councillor, stating in part:

Richard and I specifically appreciate your assistance relative to our pending facility expansion in Toronto. We remain dedicated to this significant project and to the culture of continuously investing in our business and employee base in these distinctly challenging times. Your support is vital in helping us realize our joint goals which will contribute meaningful benefits to Toronto's landscape.

In late March or early April 2011, the economic development department received a request from the Mayor's Office, via City Manager Joe Pennachetti, inquiring about enhancing Apollo's incentive under the IMIT program. City staff reviewed and denied Apollo's request to vary from the standard incentive precedent. Councillor Ford was copied on a letter from City staff to Apollo's co-owner and executive vice president, advising that the City would not vary its standard grant.

In response to the letter, Apollo's co-owner contacted the Mayor and Councillor by email, indicating surprise that the City would not vary the grant terms. The email to Councillor Ford stated:

Dear Rob and Doug,

This response is very unexpected given our conversations and we are quite disappointed in the result. TIEG is a creature of Bylaws and site-specific Bylaws are strongly supported by precedent. Joe's submission is not reflective of the reality that our site alone is greenfield and LEED Silver and possessed [sic] of 400,000 sq ft and offers the City 450 jobs. Our needs and wants and possibilities ought not to be measured against small projects or those not impacting the City in so positive a fashion as is the case with our project.

Please assist us to progress this matter. The precedent creation issue is irrelevant and clarifies the fact that the Bylaw is overly simplistic and ill-conceived so as to increment small investments in Toronto and relatively discriminate against large-scale investments in our City.

I await your next advice and a solution to the roll number matter which inappropriately sets this 21 acre redevelopment on the same roll number

as its neighbouring properties despite its greenfield status decades following the acquisition and development of its neighbouring sites. This matter precludes us from technically executing the TIEG when it does modify to suit our needs.

I thank you, as always, for your dedicated service to improving our Toronto.

R.

An Apollo consultant subsequently contacted the City Manager about the grant terms, and Apollo's co-owner met with the City Manager, Mayor, and Councillor on May 24, 2011.

In May 2011, City staff again reviewed the issue and decided not to vary the grant terms. City staff agreed to recognize a settlement at the provincial Assessment Review Board affecting the property tax assessment on the land, which was beneficial to Apollo. However, I have found no evidence to suggest that the Councillor's interventions led to this decision or that the City's decision to recognize the settlement was out of the ordinary.

Building Permits

Throughout the construction and development of the new facility, Apollo ran into multiple issues with building permits. By way of background, as part of the IMIT program, the Apollo development was entitled to receive the City's "Gold Star" service. Under this designation, the City assigns an economic development officer to help new businesses moving to the City, by coordinating different City departments, permits, and approvals that the new business will need.

While Apollo worked with appropriate City staff to obtain the building permits it needed to construct its facility, it also escalated matters to Councillor Ford and contacted Councillor Ford's office in the first instance.

For example, in October 2011, after a request by Apollo's co-owner, Richard Wachsberg, for assistance with building permits, Councillor Ford's office scheduled a meeting with Mr. Wachsberg, the Councillor, the head of the City's building department, and a City economic development official. Similarly, in late May and early June 2012, when Apollo needed a new (or revised) permit, it contacted Councillor Ford first.

This approach resulted in significant confusion for City staff. For example, in June 2012, City staff discovered that Apollo had sent proposed changes to the Councillor's office rather than to the City's building department and so they had not been processed.

Site Plan Changes

After the City approved the site plan for its new facility, Apollo sought changes to the site plan to address parking requirements. Rather than using its contacts within Economic Development (i.e. the Gold Star program) or other City divisions, Apollo escalated concerns to Councillor Ford's office and the Mayor's office.

For example, in response to Apollo's contacts with the Mayor and Councillor, in June 2011, the Mayor's Executive Assistant set up a meeting for representatives of the City's Planning Department, Transportation, and Real Estate Services to meet with the Mayor and an Apollo representative regarding parking spaces on Apollo Place.

Similarly, in December 2011, Richard Wachsberg, the Apollo co-owner, emailed Councillor Ford two days before a meeting with City officials about an amended site plan expressing his concerns about delays, concluding the email by asking the Councillor to "[p]lease do what can be done here." The Councillor forwarded the email to his Executive Assistant. Several weeks later, the Executive Assistant followed up with the City's Chief Building Official regarding Apollo's site plan. Around that time, the Councillor's Executive Assistant also repeatedly followed up with City staff on the scheduling of a planning meeting between Apollo and the City's Planning Director.

Emails from City staff show that the City was already working to review the changes to Apollo's site plan, the Councillor's staff was aware of that, and they contacted multiple other staff members when they knew that individual planners working on the file could not be reached. Additional emails from City Planning and Transportation Services show that City staff were working through traffic studies for the new site, but the Councillor's intervention disrupted the normal process by which City staff notifies the local ward councillor of traffic studies and recommendations.

After planning staff and Apollo met in January, 2012, the planning manager updated the Councillor's Executive Assistant, the ward councillor (Councillor Perruzza), and City staff that the revised plans did not raise any issues under the City's zoning bylaw, meaning that the plans could be approved. Apollo's developer partner would subsequently submit new applications in accordance with those plans.

Street Sign

Apollo wanted specific street signage to permit visitors to find their way to their new facility, and again directed its requests for signs through the Councillor rather than City staff. In response to these inquiries, the Councillor's Executive Assistant contacted the appropriate City departments and a month later, in February 2012, a permanent advisory sign, like the one Apollo had requested, was installed.

Apollo was not satisfied with the look of the sign installed, and made further inquiries to the Councillor's office. As a result of these inquiries on May 22, 2012, Transportation

Services installed a unique advisory sign, replacing the previous, standard advisory sign. In this investigation, the Deputy City Manager characterized the actions as a reasonable exercise of discretion on the part of Transportation Services staff to address a unique situation.

Wastewater Spill

A number of issues with the City's water department arose shortly after Apollo's facility opened on June 15, 2012. The Councillor was again involved in Apollo's interactions with City staff in relation to those issues.

Beginning on August 1, 2012, the City's water department responded to reports of foam emerging from the City's sewer system. The water department investigated and concluded a spill could have come from the Apollo facility. The water department met with Apollo officials, had them fill out a spills report for additional foam in the catch basins on the site and went through normal steps to address the spill, monitor Apollo's wastewater, and prevent future spills. After this initial contact with staff about the spill, many of Apollo's contacts, which in other circumstances may have been solely with City staff, also involved the Mayor and the Councillor's offices.

After an initial meeting, the City's water bylaw officer and a Ministry of Environment representative arranged a follow-up meeting with Apollo. In response to Apollo's contacts to the Mayor's and Councillor's offices, the Mayor's chief of staff requested a meeting with the Deputy City Manager and the head of the City's water department to discuss Apollo's concern that it was being threatened with large fines by City staff.

That meeting ultimately took place at Apollo's facility on August 15, 2012, and was attended by a by-law officer, Apollo representatives, several water department officials, the Deputy City Manager, officials from the Ministry, the Councillor and the Mayor. During the meeting, the attendees discussed further monitoring and testing of Apollo's wastewater and the City's programs for manufacturing facilities including surcharges for wastewater, discounted rates, and applicable rebates.

Following the meeting, Apollo continued to work with City staff, and staff continued to follow up with Apollo. The majority of these contacts did not involve the Mayor or the Councillor, but City staff also provided updates to the Councillor, Mayor and City Manager's Office.

The water department continued to monitor Apollo's wastewater, approved a new compliance plan on October 31, 2013, and received required updates from Apollo on March 31, 2014. Internal City documents show that the water department was prepared to issue a Notice of Violation to Apollo if it did not enter into a compliance plan with the City, including extensive violations and fines.

Observations about the Role of Councillor Ford

In reviewing the interactions described above, I was alert to the issue of whether City staff were being asked or directed by Councillor Ford and his staff to cause any particular substantive outcome. I found no evidence of such activity. I was initially concerned that the Councillor's intervention in relation to the alternate street sign was an example of him directing a particular outcome. I reviewed these circumstances in greater detail after interviews with relevant staff and senior officials, and concluded that the decision to provide the alternate sign was unique and the Councillor was persistent, but the ultimate decision resolved a genuine concern and was within a range of outcomes that were within the discretion of City staff.

Councillor Ford defended these complaints by stating that he respected the role of City staff and that he did not intend to interfere with staff's decision making responsibilities. As relates to Apollo and the interactions reviewed in this case, I find that Councillor Ford did not purport to interfere with staff's decision making on substantive matters.

However, the conduct of Councillor Ford and his office staff caused confusion and, in my view, wasted effort and time on the part of City staff. Had Apollo accessed City services through the Gold Star program (or even through the office of the ward councillor), as it could and should have, it would have received the same results. Ironically for Apollo, the interventions of the Councillor's office may have, in fact, been a hindrance to the smooth functioning of the City program.

The evidence is also clear that there was a desire on the Councillor's part to be responsive to Apollo and to escalate its concerns throughout the City. The Councillor and his staff used persistent efforts to escalate matters within City Hall that are not dissimilar from other efforts that members of Council routinely use to escalate constituent concerns. The Councillor has suggested that because Apollo was bringing a significant amount of business to the City it was within the scope of his mandate to act as an advocate for Apollo within the City, even though the business was not located within his ward.

The problem with the Councillor's conduct, however, is that Apollo was also a client of the Councillor's family business. The Councillor and Apollo deny that the business relationship between Deco and Apollo was related in any way to the Councillor's advocacy efforts. I will return to this issue in the analysis section below.

Gifts and Benefits

During the course of this investigation, the records I reviewed indicated that the Councillor may have received a gift or benefit from Apollo, in contravention of the Code. I have concluded that only one of the several incidents I identified, involving tickets to a tennis match and an invitation to dinner, was a gift.

In her 2015 report, the Lobbyist Registrar made the following finding that I adopt for the purpose of this report as it relates to the Councillor:

On June 16, 2012, the president of [Apollo] wrote to the then-mayor, inviting him to attend a tennis match [the Rogers Cup]. The invitation was extended to [Councillor Ford] and his mother on July 30, 2012. On August 8, 2012, the then-councillor [Councillor Ford] and his mother attended dinner and the tennis match with the officers of [Apollo].

The day after the Mayor and the Councillor attended the opening of Apollo's new facility in the City, Charles Wachsberg, Apollo's co-owner, invited the Mayor and the Councillor to the tennis match by email:

Good morning Rob,

So spectacular of you to grace our opening of 1 Apollo Place yesterday, along with Doug. Our event and indeed our project are a tribute to your great contributions and your tremendous support.

Richard and I are blessed and privileged to enjoy our cherished friendship. We look forward to many more moments in your company. To the point, please join us along with Doug at the tennis matches during the week of August 6th. We have great box seats and Nadal will be in attendance and will be amongst the favourites to win. I suspect that his first match will occur on the Wednesday, August the 8th, in the evening and as such, please plan on this day and/or any other from the 8th onwards through the week and we'll enjoy your company then. We can grab lunch and/or dinner on site. Evening matches are typically the feature matches so Nadal will likely be on court on the night schedule. I look forward to your confirmation of best times and dates during the event.

Many thanks once again, Rob. Richard and I are so grateful and appreciative of your kindnesses towards us.

Hugs,
Charles Wachsberg
President
Apollo Health and Beauty Care
[Emphasis added.]

ANALYSIS

Relevant Provisions of the Code of Conduct

The Preamble, Articles IV (Gifts and Benefits), VIII (Improper use of Influence) and XIII (Conduct Respecting Lobbyists) of the Code of Conduct are engaged by the Councillor's conduct. These articles are reproduced in their entirety in Appendix A to this report.

The Preamble contains key statements of principle that are said to "underline" the Code of Conduct. The statements of principle are an important part of the Code of Conduct that help members to understand the high standards of conduct expected of them and are of assistance when interpreting the balance of the Code of Conduct.

Article IV prohibits members from accepting gifts. There are limited exceptions, set out in the Code. Gifts to a member's family are prohibited if they are connected to the performance of the member's official duties and the member knows about them. Further, members may not accept gifts from lobbyists.

Article VIII requires that members use the influence of their office exclusively for their official duties. Article VIII recognizes that in some cases members of Council can use their influence to lead to a benefit of general application. What is prohibited is for members to *improperly* use the influence of their office to the private advantage of themselves or others. Improper influence can include attempts to secure preferential treatment with City staff.

Article XIII requires members of Council to be familiar with the Lobbying Bylaw. Specifically, members should be aware of registration requirements for lobbyists and are not permitted to "knowingly communicate with a registered lobbyist who is acting in violation of" the Lobbying Bylaw. If a member of Council becomes aware that a person is acting in violation of the Bylaw, the member is required to refuse to deal with the person or to refer the person to the obligations set out in the Lobbying Bylaw.

I will discuss Article IV, then Article XIII and conclude with a discussion about Article VIII.

Article IV (Gifts and Benefits)

I find that the Councillor contravened Article IV by accepting the tennis tournament and dinner invitation from Apollo. The invitation to the tennis event was received at the City, in the same manner as all of the other inquiries incoming with respect to Apollo's concerns. The invitation to the event came in an email that also included thanks for assistance provided in relation to the new Apollo facility. There is no evidence that this gift was a personal gift. Article IV prohibits members of Council from accepting *all* gifts,

except for those types of gifts specifically listed in the Code. As noted, it was subsequently determined that Apollo was a "lobbyist" within the meaning of the Lobbying Bylaw. Members of Council are expressly prohibited from receiving any gift or benefit (of any value) from any lobbyist with the City.

In this case, in consideration of the circumstances, none of the exemptions in Article IV applied; and, the, Councillor was not permitted to accept any gifts from Apollo or its co-owners.

Article XIII (Conduct Respecting Lobbyists)

Both Donnelley and Apollo were the subject of investigations by the Toronto Lobbyist Registrar and both were required to make retroactive registrations on the City's Lobbyist Registry. There is no evidence that Councillor Ford or his staff referred Apollo or Donnelley to the Office of the Lobbyist Registrar for advice about the Lobbying Bylaw. Based on the investigation reports by the Office of the Lobbyist Registrar, there was no effort on the part of Apollo or Donnelley to avoid registration or the Lobbying Bylaw.

Certainly, Councillor Ford should have done a better job informing Apollo and Donnelley about the Lobbying Bylaw, but I found no evidence of an intention to communicate with a lobbyist who is not registered. Further, Councillor Ford was transparent within the City about his communications with Apollo and Donnelley – there was no effort to conceal contact that would have been disclosed had it been contemporaneously included on the lobbyist registry.

I decline to make any finding about Councillor's Ford's obligations in relation to Article XIII other than to observe that members of Council should draw a lesson from this case that those with whom they deal would likely rather be told about the Lobbying Bylaw in order to assist them with compliance than be the subject of an investigation by the Lobbyist Registrar after the fact – or that members themselves might be subject to an investigation about their own conduct after the fact.

Article VIII (Improper Use of Influence) – the Councillor Wore Two Hats

Councillor Ford's conduct in relation to Donnelley and Apollo was contrary to Article VIII of the Code of Conduct.

Donnelley

When the Councillor attended the Donnelley facility on May 3, 2011, he was there to conduct business for Deco. The meeting was in furtherance of the business relationship between Deco and Donnelley. It was an opportunity for Mr. Waddick and the Councillor to reacquaint themselves, and it led to a site visit at Deco, an opportunity for Deco to showcase its services to a current client.

The May 3 meeting also began a series of events that led to meetings with City officials. Donnelley's representatives saw the eventual meetings with City officials as a significant business "lead" to pursue new business activity.

If the Councillor had not made the sales call on May 3, 2011 on behalf of Deco, the June meetings with City staff would not have occurred. Looking at the sequence of events in their totality, it is impossible to delineate when Councillor Ford was acting as a public official or acting as a representative of Deco.

The Councillor says that any role he had in relation to the meetings between Donnelley and the City was motivated by his wish to benefit the City by identifying a cost savings opportunity. He also says that he would have done the same thing for any business regardless of whether it was a client of Deco.

Even if I accept that Councillor Ford was motivated by advancing the greater good of the City or that his actions were no different than they would have been for another corporation, this does not absolve Councillor Ford from his duty not to use the influence of his office to his or Deco's private advantage. He failed to do so.

In the realm of public sector ethics, public officials must take proactive steps to ensure that there is no risk that their influence is actually or apparently used for private gain. One leading ethics advisor⁵ has described the obligation to take proactive steps in the context of conflict of interest as follows:

There are many ways in which conflicts of interest arise. Many simply exist, and become relevant only when a matter involving a family member or business associate comes before an official. For example, an official's law firm represents a contractor. This is okay until the official has to deal with, or is in a position to influence, a contract the contractor has or wants. As soon as this happens, there is what I refer to as a "conflict situation," and the official has to deal responsibly with the situation by following the procedures required by her local government's ethics program. This usually involves disclosure of the conflict of interest and withdrawal from participation in the contract matter, that is, letting someone else, or the rest of the board, deal with the contract.

This is a lot easier than dealing with our everyday conflict situations...

.... In government, however, you have a paramount responsibility to the public. It is your duty not to work on the specifications of a contract (or talk

⁵ Robert Wechsler, Local Government Ethics Programs: A resource for ethics commission members, local officials, attorneys, journalists, and students, and a Manual for Ethics Reform. (City Ethics, Inc.: 2013); See also the discussion in The Report on the Mississauga Judicial Inquiry: Updating the Ethical Framework, The Honourable J. Douglas Cunningham, Commissioner (2011) at pp. 146-149.

to someone working on the specs) that might go to a contractor represented by your law firm, not because you can't be trusted doing an honest job (how can anyone know this?), but because you owe it to the public to disclose the conflict of interest and deal with it responsibly, that is, in a manner that will preserve the public's trust in a fair government that is not being used by officials to enrich their family or business associates.

Dealing responsibly with conflict situations is the central act in government ethics. The rest of a government ethics program revolves around this: training and advising officials how to deal responsibly with conflict situations, requiring the disclosure of information relevant to conflicts of interest, and enforcing the ethics code when officials do not deal responsibly with their conflict situations.

[Emphasis added.]

The consequences of failing to deal properly with private interests was addressed by The Honourable Justice Denise Bellamy in the *Report into the Toronto Computer Leasing Inquiry and the Toronto External Contracts Inquiry* (2005), as follows:

Conflicts of interest confuse decision-makers and distract them from their duty to make decisions in the best interests of the public, which can result in harm to the community.

The driving consideration behind conflict of interest rules is the public good. In this context, a conflict of interest is essentially a conflict between public and private interests. ... The core concern in a conflict is the presumption that bias and a lack of impartial judgement will lead a decision-maker in public service to prefer his or her own personal interests over the public good.

Having a conflict of interest is not in itself a sign of dishonesty. Honest people can and do find themselves in conflicts of interest. For example, a councillor deserves absolutely no condemnation because her enterprising nephew with his freshly minted computer science degree has started up an IT company that is bidding on a municipal contract. But that councillor has a conflict of interest and should not vote with Council on the decision to award the contract. Conflict itself may have nothing to do with unethical behaviour. The individual's actions when faced with a conflict of interest are what matters.⁶

[Emphasis added.]

⁶ Toronto Computer Leasing Inquiry; Toronto External Contracts Inquiry, Good Government (Volume 2), The Honourable Madam Justice Denise E. Bellamy (2005) at pp. 38-39.

In the *Mississauga Judicial Inquiry* (2011), The Honourable Justice Cunningham also reminded us that the existence of outside interests is "not the issue but, rather, what the official in a position of conflict of interest does in the face of conflict."⁷

The duty to avoid conflict of interest is similar to the duty to avoid improperly using the influence of one's office as required by Article VIII of the Code of Conduct. Article VIII requires that members of Council use the influence of their office only for City business. As noted, the key statements of principle set out in the Preamble to the Code of Conduct are of assistance when interpreting the substantive provisions of the Code. The Preamble to the Code of Conduct states that members of Council "are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny" and that members of Council "shall seek to serve the public interest by upholding both the letter and the spirit of the laws of the Federal Parliament and Ontario Legislature, and the laws and policies adopted by City Council."

The only reason that the June 30 meeting occurred between City officials and Donnelley was because of the series of events that began to unfold when Councillor Ford attended at the Donnelley facility on May 3 for a sales call. I accept that Councillor Ford genuinely believed that Donnelley could provide a cost savings opportunity for the City and he believed that he could be helpful by "connecting" a company that he knew to be qualified with the City. The problem is that Councillor Ford only knew about Donnelley and its qualifications because of the business relationship between Deco and Donnelley. Further, the genesis of the idea occurred *while* Councillor Ford was conducting business on behalf of Deco.

The Councillor wore two hats during the series of meetings in May and June 2011. It is not now possible to tell when Councillor Ford was wearing his Deco hat or his councillor hat. It would only be possible to do this if he had taken steps to separate his activities in relation to each function. He failed to do so. It was an improper use of Councillor Ford's authority as a member of Council for him to facilitate meetings between Donnelley and City officials because Donnelley was a client of Deco and Councillor Ford was actively involved in developing the Donnelley and Deco relationship at the very same time that he was advancing Donnelley's interests within the City.

Apollo

As it relates to Apollo, Councillor Ford's office became a point of first contact when other contact points were available: the ward councillor and officials in Economic Development. Apollo preferred the support provided by Councillor Ford and his office, although there is no evidence that support was unavailable from either the ward councillor or the City division. Representatives of Apollo expressed their appreciation of

⁷ Mississauga Judicial Inquiry, *Ibid* at p. 149.

Councillor Ford's (and the Mayor's) assistance with respect to their move and treated the Councillor and his family to dinner and tickets to a tennis match.

The investigation has established that through his office, Councillor Ford provided persistent advocacy on behalf of Apollo. There is no evidence that Councillor Ford directed or coerced the outcome of any City decision-making processes. Although unnecessary time and energy were expended, the institution of the Toronto public service was able to respond to the Councillor without compromising its role or the administration of City programs.

Councillor Ford answers this complaint, in part, by stating the he was respectful of staff and urged no particular outcome. The investigation supports his contention. However, the Councillor's response downplays the true scope of influence that members of Council have.

The ability of members of Council to arrange meetings and make inquiries to City staff is an exercise of a councillor's influence. Members of Council occupy a unique role and reasonably expect City staff to be responsive to their requests for assistance on behalf of residents.⁸

There are only 45 people in the City of Toronto who wield this kind of influence: the members of Toronto City Council. When requesting updates, escalating concerns, or arranging meetings between residents and City staff, members of Council exercise a unique and privileged authority and it must be carried out in accordance with the Code of Conduct.

Unlike the evidence in relation to Donnelley, there is no evidence that Councillor Ford was actively involved in the business relationship between Apollo and Deco at the time of the interventions at the City. However, the evidence is that Councillor Ford had awareness of the ongoing nature of the business relationship and its magnitude and that Apollo is a customer that "has done a large volume of business with Deco year-after-year over the course of many years."

Councillor Ford denies that the assistance he provided to Apollo was related to the business relationship between Apollo and Deco, states that he believed that the success of Apollo's move to Toronto was of benefit to the City as a whole, and also states that he sought only to advance that objective.

As described above, in the realm of public sector ethics, public officials who engage in outside activities that could conflict with their public duties must take steps to ensure that there is no confusion between the fulfillment of the public duties and the fulfillment of their outside activities. Councillor Ford took no steps to establish clear lines of

⁸ Consider the Staff Protocol for Councillor Requests (December 2004), which highlights the special influence that members of Council have to make inquiries and request staff involvement in matters.

separation between his responsibilities as a member of Council and his duties as a principal of Deco.

While members of Council may have private, business interests and even jobs outside of their roles as City councillors, they must "arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny."⁹ Article VIII requires that members of Council use the influence of their office exclusively for the work of the City and not for their own private advantage or that of others.

In consideration of the significance of the client relationship between Deco and Apollo, and the fact that no credible explanation has been identified for why Councillor Ford became the point of first contact for Apollo, I find that the reason for his interventions was, in part, due to the fact that Apollo was a long standing client of Deco. It was accordingly contrary to Article VIII for Councillor Ford to use the influence of his office to make inquiries and arrange meetings with City staff for Apollo.

CONCLUSION

For the reasons stated above, I find that Councillor Ford contravened Articles IV (Gifts and Benefits) and VIII (Improper Use of Influence) of the Code of Conduct and I recommend that City Council adopt this finding. When City Council adopts a finding that a member of Council contravened the Code of Conduct it expresses its commitment to the Code of Conduct and in particular its key statements of principle. The findings and City Council's consideration of them form part of the public record and are of consequence to the member found to have contravened the Code.

In this case, I do not recommend any remedial measure or penalty. The Code of Conduct and the *City of Toronto Act, 2006* contemplate that contraventions may require remedial actions or sanctions. Remedial actions require participation of the member in question and are geared at correcting behaviour as a member of Council in the future. The penalties available to Council are suspension of a member's pay or a reprimand of the member. It is clearly not possible to suspend a former member of Council's pay. While it may be within the authority of Council to reprimand a former member, it is my view that imposing a reprimand on a person who is no longer a colleague of the Council members responsible for issuing the reprimand would serve no purpose.

OBSERVATIONS

I encourage members of Council to review the circumstances in this case and consider their own outside activities to confirm that necessary steps have been taken to arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny.

⁹ *Code of Conduct for Members of Council*, Preamble.

Members of Council should avoid attempting to self-determine how best to manage these issues. In the realm of public sector ethics, diligence and transparency is required to deal with such issues in a proactive manner. Members must not only meet the very high standards required of them, but also be seen to meet those standards.

I am available to members of Council to provide advice and guidance about how best to ensure that members act with appropriate care to ensure that their outside activities and private interests are kept separate from their public duties to avoid any confusion on the part of reasonable observers about when a member is acting in a personal capacity and when a member is acting as a councillor on behalf of the City of Toronto.

Valerie Jepson
Integrity Commissioner
December 6, 2016

APPENDIX A

Preamble

Improving the quality of public administration and governance can be achieved by encouraging high standards of conduct on the part of all government officials. In particular, the public is entitled to expect the highest standards of conduct from the members that it elects to local government. In turn, adherence to these standards will protect and maintain the City of Toronto's reputation and integrity.

To these ends, during its first term as a unified City, the City of Toronto, as one of several initiatives, adopted a Code of Conduct for Members of Council. Subsection 157(1) of the City of Toronto Act, 2006 now requires the City to establish codes of conduct for members of Council. In response to this requirement, the City has revised and updated the original Code of Conduct. It is intended to supplement and be compatible with the laws governing the conduct of members.

The key statements of principle that underline the Code of Conduct are as follows:

- Members of Council shall serve and be seen to serve their constituents in a conscientious and diligent manner;
- Members of Council should be committed to performing their functions with integrity and to avoiding the improper use of the influence of their office, and conflicts of interest, both apparent and real;
- Members of Council are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny; and
- Members of Council shall seek to serve the public interest by upholding both the letter and the spirit of the laws of the Federal Parliament and Ontario Legislature, and the laws and policies adopted by City Council.

IV. Gifts and Benefits

No member shall accept a fee, advance, gift or personal benefit that is connected directly or indirectly with the performance of his or her duties of office, unless permitted by the exceptions listed below.

For these purposes, a fee or advance paid to or a gift or benefit provided with the member's knowledge to a member's spouse, child, or parent, or to a member's staff that is connected directly or indirectly to the performance of the member's duties is deemed to be a gift to that member.

The following are recognized as exceptions:

- a. compensation authorized by law;

- b. such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
- c. a political contribution otherwise reported by law, in the case of members running for office;
- d. services provided without compensation by persons volunteering their time;
- e. a suitable memento of a function honouring the member;
- f. food, lodging, transportation and entertainment provided by provincial, regional and local governments or political subdivisions of them, by the Federal government or by a foreign government within a foreign country, or by a conference, seminar or event organizer where the member is either speaking or attending in an official capacity;
- g. food and beverages consumed at banquets, receptions or similar events, if:
 - 1. attendance serves a legitimate business purpose;
 - 2. the person extending the invitation or a representative of the organization is in attendance; and
 - 3. the value is reasonable and the invitations infrequent;
- h. communication to the offices of a member, including subscriptions to newspapers and periodicals; and
- i. sponsorships and donations for community events organized or run by a member or a third party on behalf of a member, subject to the limitations set out in the Policy on Council Member-Organized Community Events.

Except for category (c) (political contributions allowable by law), these exceptions do not apply where such gifts or benefits are provided by lobbyists or their clients or employers (as defined or described in Municipal Code Chapter 140, Lobbying). For these purposes, a lobbyist is an individual, organization or business that:

- i. is lobbying or causing the lobbying of any public office holder at the City, a local board (restricted definition) or the board of health;
- ii. the member knows is intending to lobby, having submitted or intending to submit a registration to the Lobbyist Registrar for approval to communicate on a subject matter; or
- iii. is maintaining an active lobbyist registration with the City even though not having a current active subject matter registered with the lobbyist registry.

In the case of categories (b), (e), (f), (g), (h) and (i), if the value of the gift or benefit exceeds \$300, or if the total value received from any one source during the course of a calendar year exceeds \$300, the member shall within 30 days of receipt of the gift or reaching the annual limit, file a disclosure statement with the Integrity Commissioner.

The disclosure statement must indicate:

- 1. the nature of the gift or benefit;

2. its source and date of receipt;
3. the circumstances under which it was given or received;
4. its estimated value;
5. what the recipient intends to do with any gift; and
6. whether any gift will at any point be left with the City.

Any disclosure statement will be a matter of public record.

On receiving a disclosure statement, the Integrity Commissioner shall examine it to ascertain whether the receipt of the gift or benefit might, in her or his opinion, create a conflict between a private interest and the public duty of the member. In the event that the Integrity Commissioner makes that preliminary determination, he or she shall call upon the member to justify receipt of the gift or benefit.

Should the Integrity Commissioner determine that receipt was inappropriate, he or she may direct the member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, or forfeit the gift or remit the value of any gift or benefit already consumed to the City.

Except in the case of categories (a), (c), (f) and (i), a member may not accept a gift or benefit worth in excess of \$500 or gifts and benefits from one source during a calendar year worth in excess of \$500.

VIII. Improper Use of Influence

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.

XIII. Conduct Respecting Lobbyists

Lobbying of public office holders is a permissible but regulated activity in the City of Toronto. Lobbying is defined and regulated by Municipal Code Chapter 140, Lobbying (the City's lobbying by-law inclusive of the Lobbyist Code of Conduct).

Members of Council and their staff are public office holders. As a matter of general principle, as public office holders, members of Council should be familiar with the terms of this lobbying by-law inclusive of the Lobbyist Code of Conduct (Chapter 140).

Specifically, members of Council should not engage knowingly in communications in respect of the list of subject matters contained in the definition of "Lobby", as set out in Chapter 140, with a person who is not registered as required by Chapter 140. Members of Council should also not knowingly communicate with a registered lobbyist who is acting in violation of Chapter 140.

If a member of Council is or at any time becomes aware that a person is in violation of Chapter 140, the member should either refuse to deal with the lobbyist or, where appropriate, either terminate the communication with the lobbyist at once or, if in the member's judgment it is appropriate to continue the communication, at the end of the communication, draw that person's attention to the obligations imposed by Chapter 140.

A member should report any such violation or attempted violation of Chapter 140 to the Lobbyist Registrar unless the member believes in good faith that the violation in communicating or attempting to communicate with the member was inadvertent or insignificant.