

**TO THE MAYOR AND MEMBERS OF COUNCIL
OF THE CITY OF HAMILTON**

OCTOBER 3, 2017

**INTEGRITY COMMISSIONER REPORT RE: RESPONSE TO COMPLAINT
AGAINST A MEMBER OF COUNCIL - Clerk's ID #17-004**

INTRODUCTION

In my capacity as Integrity Commissioner to The City of Hamilton, I have received a letter of Complaint, dated May 9, 2017, by the president of a developer company, with respect to alleged participation by a Member of Council during proceedings of the City Planning Committee meeting held on April 4th, 2017, at which the Committee had before it a development application by the company. The subject-matter of the Complaint includes reference to specific statements and comments said to have been made by the Member during the course of the debate on the merits of the proposed development, including “countless misrepresentations and serious allegations” against the character of the Complainant and the applicant company, to which it was not able to respond. The Complainant describes this conduct as “representative of political bullying at its worst” in respect of which the Member knew of the Member’s ‘immunity from factual response’.

Included in the Complaint is the allegation that as a result of the conduct of the Member, the Committee did not support the company’s application for planning approvals, which denial has been appealed to the Ontario Municipal Board.

MY DECISION

I have decided that this is not a matter which I should properly address as the City’s Integrity Commissioner, for the following reasons:

-the comments, if they were made, were made with respect to a planning application, at a meeting of a City Committee during the course of debate, by a Member arguably in the course of the performance of duties and responsibilities as a Member of Council and of the Committee, and I do not believe that it is in the nature and intent of the Council in appointing me as its Integrity Commissioner, or properly within the performance of my responsibilities as such, to monitor or interfere with the conduct by Members in the course of their participation in debate arguably relevant to matters under consideration by a municipal political body;

-the conduct of proceedings of a City committee in such circumstances is within the jurisdiction of the Member chairing the meeting, of the committee itself, and ultimately of the Council, and possibly other bodies, to govern proceedings in planning matters, and it is to these functionaries that the Complainant should address concerns with respect to the City's decision-making process;

-the City's disposition of the planning application has been appealed to the Ontario Municipal Board, which may have before it a tape/transcript of the committee and Council debate on the issue, and all relevant documentation, which the appellant, the City, and any other parties with standing at the appeal, may properly place before that Board, and I do not believe that it is proper at this time for me to review the Complaint against one Member of Council, or become involved in fact-finding and issues of credibility, which may properly be part of the planning process and the proceedings before the Board itself;

-the comments complained of are so inter-connected with the proceedings and deliberations of the Committee, and of Council itself, and the merits of planning decisions considered or made, that my involvement in reviewing or commenting upon the conduct of one of the Members would inevitably involve, or could be seized upon, as questioning the decision-making of the body or bodies in question, and the merits of the planning issues. As a result, it would not be appropriate for me to become involved at this time in examining and commenting upon the statements of individual Members during the course of debate.

CONCLUSION

For the above reasons, I have decided not to conduct an inquiry into the above Complaint.

George Rust-D'Eye, Integrity Commissioner to The City of Hamilton

