




INFORMATION REPORT

TO:	Mayor and Members General Issues Committee
COMMITTEE DATE:	February 15, 2023
SUBJECT/REPORT NO:	City Auditor Reporting of Serious Matters to Council (Case #60492 Employee Corruption Allegation) (AUD23004) (City Wide)
WARD(S) AFFECTED:	City Wide
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COUNCIL DIRECTION

On June 24, 2020, Council directed the City Auditor to implement a policy on Reporting of Serious Matters to Council. The policy outlines specific situations that require the City Auditor to make a report to Audit, Finance and Administration Committee in order to proactively inform Council about serious matters uncovered through investigations launched under the Fraud, Waste and Whistleblower process or in the course of audits or other engagements.

INFORMATION

This Information Report contains information about allegations of fraud, waste and/or corruption in the provision of Plans Examination for the City of Hamilton within the City's Building Division. Upon further review by the Office of the City Auditor (OCA), additional risks and concerns have been identified.

HISTORICAL BACKGROUND

On June 24, 2020, Council directed the City Auditor to implement a policy on City Auditor Reporting of Serious Matters to Council. Under this policy, timely disclosure to Council is called for in situations that:

- Pose a security threat (e.g. cybersecurity exposure) to the organization's information systems/hardware/software applications or involves major privacy breach
- Threaten public safety
- Involve potential fraud over \$100,000
- Could have a significant adverse impact on the City's vulnerable populations
- Result in investigation by OCA and referral to the Police
- In the judgement of the City Auditor are deemed to be of a significant risk to the Corporation.

This report of a serious matter is the ninth serious matter reported that implements this policy. The criterion being applied is that this matter, in the judgement of the City Auditor is deemed to be of a significant risk to the Corporation due to the fact that criminal charges have been laid by Police that involve an employee and their duties. In addition, OCA has begun its own preliminary investigation of the matter.

INFORMATION REPORT SUMMARY

This Information Report contains information about allegations of fraud against an employee in the Plans Examination area of the Building Division in the Planning and Economic Development Department.

In late November 2022, the OCA received information from Corporate Communications very shortly before it became public knowledge via an article in the Hamilton Spectator (<https://www.thespec.com/news/hamilton-region/2022/11/25/opp-charges-city-of-hamilton-staffer-after-probe-into-alleged-development-permit-fraud.html>) containing information about a City employee that had been charged with two counts of breach of trust, including allegations that fraud had been committed by "entering false information on City of Hamilton documentation and depriving (the city) of fees owed".

Investigation by City Auditor

An investigation of the city employee was initiated by Police, who reached out directly to the program area for information and made them aware of their investigation. Relying on the request of Police to maintain confidentiality of the matter whilst providing support to Police, management from the Planning and Economic Development Department did not report the allegations of Fraud to the Office of the City Auditor as required per the City's Council-approved Fraud Policy and Protocol. Hence very little information about the matter has been available to the OCA to date. Accordingly, the OCA decided to carefully review the matter in order to determine the extent of the issue and determine a scope of investigation that is feasible and warranted, and whether an audit of applicable administration and business practices should also be considered. In addition, it is our intention to review the Fraud Policy and Protocol with senior management to ensure there are protocols in place that cover situations where matters are brought to the City by Police.

OCA has conducted some initial fact finding and obtained court document details via the Legal Services and Risk Management Division, and various documents from the Building Division. Some City assets have also since been recovered by the OCA.

Per our review of the court documents, two charges were laid against a City employee. Both charges were: "being an official with the City of Hamilton, a Plans Examiner did commit Fraud in connection with the duties of his office by entering false information on City of Hamilton documentation and depriving the City of Hamilton fees owed to it contrary to Section 122 of the Criminal Code". The charges have not yet been proven in court.

Ultimately the OCA is looking to understand the full extent of what happened, how it happened, and what lessons, if any, can be learned.

Next Steps

A summary of this matter and the outcome of the work overseen by the OCA will be included in the next Fraud and Waste Annual Report, which will be presented in Q4 2023 for the 12-month period of July 2022 to June 2023.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report AUD23004 – City of Hamilton Fraud Policy and Protocol