



# **City of Hamilton Integrity Commissioner Contract Introductory Presentation**

## **Hamilton General Issues Committee Meeting**

**David G. Boghosian  
Boghosian + Allen LLP**

**December 6, 2023**

# Proposed Team Members



David G. Boghosian  
Managing Partner  
(Integrity Commissioner)



Avril Allen  
Partner



Christina Wang  
Associate



Steven Bedford  
Law Clerk

# Presentation Overview

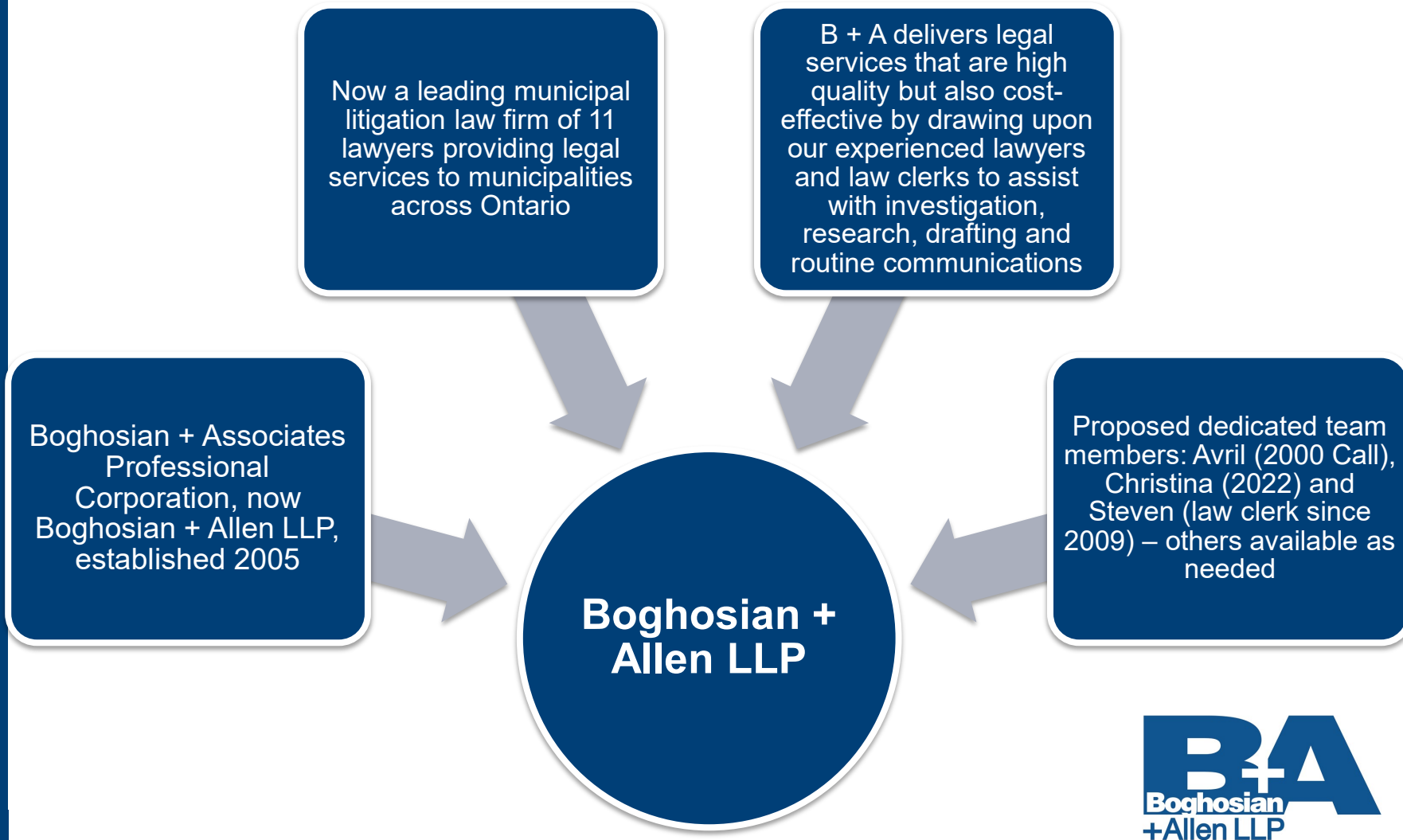
- Who We Are – Profile and Overview of Qualifications
- What We Do
  - Investigation and Adjudication
  - Ontario Municipal Law and Municipal Law Advice
  - Reviewing and Amending Codes of Conduct
- Education and Reporting – Our Approach
- Questions/Comments

# Profile and Qualifications

## David Boghosian

- David Boghosian has acted for Ontario municipalities, their elected officials and staff in countless matters, spanning myriad contexts, for over 30 years
- JD (Silver Medalist), University of Toronto, LL.M. (Constitutional Law), University of Michigan, called to Ontario Bar 1988
- Deep practical experience combined with knowledge acquired through decades of academic research, teaching and writing and involvement in municipal sector associations
- Holds Integrity Commissioner appointments for the Town of Pelham, the Town of Fort Frances, the City of Greater Sudbury and the Town of Caledon

# Profile and Qualifications



# Investigation and Adjudication

**The skillset of an experienced litigation lawyer is ideally suited to the role of Integrity Commissioner**



Determining facts capable of being proven to a legal standard



Determining applicable law



Providing legal opinions – law applied to facts



Making practical recommendations

# Investigation and Adjudication



Having conducted over 80 trials and over 60 appeals, David has an intimate grasp of the basic tenets of fairness, impartiality, neutrality and fundamental justice, and basic evidentiary principles



David is certified as a specialist in civil litigation by the Law Society of Ontario



Members of the firm are highly experienced in providing legal services to municipalities

# Investigation Experience - Examples

David has conducted *Municipal Conflict of Interest Act* investigations for numerous municipalities, e.g., councillor's dealing with staff regarding development proposals

David routinely conducts Code of Conduct investigations, e.g., propriety of statements made in the media regarding political rivals

David conducted an extensive investigation into legal response of the City of Ottawa to the Freedom Convoy Protest in his capacity as Legal Subject Matter Expert to the Office of the Auditor-General (Ottawa)

David has been retained by municipalities to investigate recount matters under the *Municipal Elections Act*

David has extensive investigation experience regarding campaign finance violations under the *Municipal Elections Act*, e.g., defended Barbara Hall against charges instigated by a rival candidate (*Jakobek v. Hall*, [2003] O.J. No. 3613 (S.C.J.))

Ontario Office of the Ombudsman (student) – learned conciliatory approach



# Adjudication Experience - Examples

David issued rulings on Code of Conduct (dealing with treatment of staff and treatment of members of the public) and conflict of interest complaints in his capacity as Integrity Commissioner for several municipalities

David has made factual findings and recommendations at the request of municipalities who had not previously appointed an integrity commissioner

For example, he advised a city solicitor and counsel regarding the lawfulness of the city funding the defence of a defamation lawsuit against a councillor along with the councillor's counterclaim, also grounded in defamation

David has advised municipalities with respect to councillor dealings with staff in respect of development proposals

David acted as a compliance audit adjudicator in *Municipal Elections Act* challenges to campaign finance expenditures

David has advised municipalities on the entitlement of elected officials to be reimbursed for legal expenses under indemnification bylaws

David has acted for municipal clerks in election recount proceedings, advising the clerk as to the law regarding the counting of particular ballots and other issues

# Ontario Municipal Law and Municipal Law Advice

David Boghosian is a nationally recognized municipal law advisor

He has over 150 reported decisions, most of which relate to trials and appeals on behalf of municipalities and other local public authorities

## Knowledge and Experience

Many of the cases David has been involved in have set important precedents in areas of law of concern to municipalities, e.g., *Buck v. Morris*, [2013] O.J. No. 5656 (S.C.J.) related to the role of a municipal integrity commissioner; *Hill v. Hamilton-Wentworth Regional Police Services Board*, 2007 SCC 41 (leading negligent investigation case)

David co-authored *The Law of Municipal Liability in Canada* and authored *The Canadian Law of First Responder Liability*

# Ontario Municipal Law and Municipal Law Advice

## Additional Examples

David is the Regional Vice-President (Canada), International Municipal Lawyers' Association – past recipient of IMLA's Bruce Noble Award for contributions to the municipal sector

David is the co-creator and Director of Osgoode Hall Law School's part-time LL.M in Municipal Law – instructor for Municipal Liability and Introduction to Municipal Government courses

David has extensive knowledge and experience regarding:

- Municipal government and the role of a municipal councilor
- The role of a municipal integrity commissioner
- Practices, procedures, methods and mandates related to the municipal sector


David and other B + A lawyers are routinely retained by municipalities to provide municipal law advice

## Reviewing and Recommending Amendments to the Code of Conduct

Extensive familiarity with Codes of Conduct across the province



Most Codes of Conduct are homogenous across Ontario and do not require amendment



In one case, a Code of Conduct provided for the integrity commissioner to have jurisdiction over councillor conduct during Council and committee meetings

- It has been recommended that this provision be eliminated to align with the provisions of other municipal codes of conduct
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In the case of a Lobbyist Registrar by-law, David recommended that the by-law be clarified to exclude from the definition of lobbying situations where the interests being advanced are those of residents generally

# Education and Reporting



Routinely appear before municipal councils in capacity as integrity commissioner and external litigation counsel



Experience with high profile issues and media

- E.g., prior advisor to AMO re joint and several liability



Highly experienced legal education developer/presenter

- Council, International Municipal Lawyers Association, Osgoode municipal law LL.M. program director/instructor, etc.



Routinely available between 8:00 a.m. and 9:00 p.m. to respond to requests for advice



Routinely advises members of council regarding potential conflict of interest concerns



Committed to Code of Conduct timeframes regarding formal complaints



Experienced in managing staff to provide high quality legal services on a cost-effective basis



# QUESTIONS?

**THANK YOU!**

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