



INTEGRITY COMMISSIONER REPORT FOR ACTION

Investigation Report Regarding Conduct of Councillor Mark Grimes

Date: July 5, 2016
To: City Council
From: Valerie Jepson, Integrity Commissioner
Wards: All
Reference:

SUMMARY

A member of the public (the "Complainant") filed a complaint alleging that Councillor Mark Grimes contravened the Code of Conduct for Members of Council (the "Code of Conduct" or the "Code"). The Complaint raised concerns about two entirely separate sets of circumstances: the Councillor's role in relation to an agreement for section 37 funds between the City and Davies Smith Developments (DSD); and, the Councillor's role in relation to a promotional video for Empire Communities (EC).

After an investigation, I have concluded that the Councillor contravened the Code of Conduct. The Councillor cooperated fully with this investigation. He has apologized in relation to his misconduct with respect to the agreement for section 37 funds, and he has agreed to follow advice about future dealings with EC. I therefore recommend that Council adopt a finding that the Code has been contravened but recommend no penalty or further remedial action.

This investigation and the report caused Councillor Grimes to review his actions and to commit himself to improving his conduct in the future. The Integrity Commissioner urges all members of Council to review this report and confirm that their practices are in line with City policies and the Code of Conduct.

The issues in this report reinforce the need for members of Council to ensure that all of their dealings with real estate development companies are confined to the guidelines and parameters of City policies and to use extra caution to avoid any appearance otherwise.

RECOMMENDATIONS

The Integrity Commissioner recommends that:

1. City Council find that Councillor Grimes contravened Articles VIII (Improper Use of Influence) and XV (Failure to Adhere to Council Policies and Procedures) of the Code of Conduct.
2. In consideration of Councillor Grimes' acceptance of the findings, his apology, and agreement to certain remedial actions advised by the Integrity Commissioner, City Council impose no penalty or further remedial action on Councillor Grimes.

FINANCIAL IMPACT

This report has no financial impact.

DECISION HISTORY

Councillor Grimes rose on a point of personal privilege at City Council's February 10, 11, 2015 meeting to inform Council that he made a request to the Office of the Integrity Commissioner to investigate part of the complaint. Councillor Grimes' statement is recorded in the meeting minutes available at <http://app.toronto.ca/tmmis/viewPublishedReport.do?function=getCouncilMinutesReport&meetingId=9688>. A complaint was also filed. The Councillor's request was therefore subsumed by the Complaint.

COMMENTS

A member of the public (the "Complainant") filed a complaint alleging that Councillor Mark Grimes contravened the Code of Conduct for Members of Council ("the Code of Conduct" or the "Code"). The Complainant raised concerns about the Councillor's role in relation to two entirely separate sets of circumstances. The investigation was, and therefore the attached report is, divided into two parts.

The Councillor's Conduct with Respect to the Section 37 Funds

First, the report examines the Councillor's role, including the statements he made to City Council, in relation to an agreement between Davies Smith Developments (DSD) and the City of Toronto pursuant to section 37 of the Planning Act pertaining to a condominium project known as "Eleven Superior." The Complainant alleged that the Councillor misled City Council when he moved to amend the amount of section 37 funds payable by DSD to the City.

The attached report outlines the findings, conclusions and rationale for the recommendation that Council adopt a finding that Councillor Grimes contravened Article

XV (Failure to Adhere to Council Policies and Procedures) of the Code of Conduct when he engaged in discussions with DSD for community benefits outside the confines of the section 37 agreement, discussions which were contrary to the City of Toronto's "Donations to the City of Toronto for Community Benefits Policy." With respect to his statements to Council, I have concluded that although Councillor Grimes could have been clearer, he did not intentionally mislead his Council colleagues or misrepresent staff's views and accordingly did not contravene the Code of Conduct.

The Councillor has accepted the findings and apologized for his conduct in relation to the section 37 agreement. I therefore recommend that City Council adopt my findings and impose no further remedial action or sanction on Councillor Grimes.

The Councillor's Conduct with Respect to the Promotional Video and other Dealings with EC

Second, the report examines the Councillor's participation in a promotional video for a condominium project developed by Empire Communities (EC) and known as "Eau Du Soleil" (EDS). The Complainant alleged that it was improper for the Councillor to appear in the promotional video.

The attached report outlines the findings, conclusions and rationale for the recommendation that Council adopt a finding that Councillor Grimes contravened Article VIII of the Code of Conduct when he appeared in the promotional video for the benefit of EC because he used his title and the influence of his office for a purpose other than City business. Due to the role that members of Council have in relation to planning matters, members must not use the influence of their office to promote, or appear to promote, particular development proponents outside the confines of the development application process.

In the course of the investigation, I became aware of other interactions between the Councillor and EC that gave rise to Code of Conduct concerns:

- the Councillor's arrangement of charitable donations to be made by EC to two charitable organizations (unrelated to the City or the Councillor); and,
- the Councillor's arrangement of an introductory meeting between his personal friend and a principal of EC.

Accordingly, the attached report outlines the findings, conclusions and rationale for the recommendation that Council adopt a finding that the Councillor improperly used his influence when he facilitated donations from EC and arranged a meeting for his friend. Although he stood to gain no financial advantage – and I find that no actual benefit accrued to EC – the Councillor's actions were improper uses of his authority. The long-standing advice of this Office is that it is not permissible for members of Council to be involved in soliciting donations, particularly from City stakeholders. The Councillor's decision to introduce his friend to the Principal of EC was an improper use of his influence and improperly blurred the lines between his private and public life.

The Councillor did not object to the principles underlying the findings and has agreed to refrain from private meetings with EC about the EDS project indefinitely. He has also

agreed to seek advice from this office prior to engaging in private meetings with EC on any matter for the remainder of the Council term. I therefore recommend that Council adopt the finding that Councillor Grimes' actions contravened Article VIII and impose no further sanction or remedial action on Councillor Grimes.

The Role of Councillors in Planning Matters

This investigation required review and analysis of councillors' role in planning matters to address the reasonable perception that a member may be too close to real estate developers. The Code of Conduct recognizes that the perception of improper influence can cause harm to public confidence in Council equal to actual improper influence. It encourages members to avoid the improper use of influence of their office as conflicts of interest, both apparent and real. It also provides that members are expected to perform their public duties and arrange their private affairs in a manner that inspires confidence.

This case should act as a refresher and a reminder for all members of Council that they must act with due care when interacting with real estate development companies. As noted throughout this report, members of Council exercise significant authority and influence over the planning application process.

CONTACT

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SIGNATURE

Valerie Jepson, Integrity Commissioner

ATTACHMENTS

Attachment 1: Integrity Commissioner Report Regarding the Conduct of Councillor Mark Grimes (44 pages)