

TOWN OF CALEDON INTEGRITY COMMISSIONER, DAVID G. BOGHOSIAN

Citation: Complaint re: Mayor's EA Harsadan Khattrra – DGB-CaledonICI-2024-04

Date: September 10, 2024

REPORT ON COMPLAINT

Introduction

[1] A Caledon resident (whose identity will not be disclosed to protect the identities of other private citizens concerned even though he did not request anonymity) has lodged a Complaint with me alleging that “the Mayor’s office” and, in particular, the Mayor’s Executive Assistant (whose title is now Specialist, Community Support), Harzadan Khattrra, breached the Code of Conduct for Members of Council and Local Boards (“the COC”) by interfering with an investigation of a Property Standards/Building Bylaw complaint the Complainant lodged against the owner of the property adjacent to him. He alleges that Mr. Khattrra attempted to improperly influence Town Building and Bylaw inspectors to give favourable treatment to his neighbour.

[2] Although I have ultimately decided to dismiss the Complaint for the reasons set out below, I am issuing a Report on the matter to educate Members of Council on my views of their responsibilities under the Code of Conduct for the actions of their staff and also with respect to their own involvement with Town staff on behalf of constituents.¹

Complaint

Original Submission

[3] The original Complaint stated as follows:

1. Property Inspections were carried out at our home, [redacted] and our neighbour’s home at [redacted] on February 2, 2024 at 2:00 PM and 3:00 PM respectively. The inspections were carried out by the following Town of Caledon Employees:
 - i. Daniel Walton, Supervisor of Municipal Law Enforcement
 - ii. David Falkanger, Supervisor of Building Inspections

¹ S. 15.9 of the Code of Conduct states: “If the Integrity Commissioner determines that there has been no contravention of the Code of Conduct or that a contravention occurred although the Member took all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence or an error of judgment made in good faith, the Integrity Commissioner *may* so state in the report and may make appropriate recommendations pursuant to the Municipal Act.”

iii. Ryan Fusco, Building Inspector

2. The property inspection of our neighbour included the same 3 Town employees from above, with the addition of Mayor Groves' Executive Assistant, Harzadan Khattra.
3. We had a meeting with the Town's Commissioner of Community and Human Services, Catherine Mclean, and her team on April 8, 2024. This was nine weeks after the date of the inspection. During that meeting we asked Commissioner McLean why a representative from the mayor's office was present at our neighbours property inspection? We were told his attendance was requested by the homeowner as Mr. Khattra was an "advocate" for the [neighbor – name redacted].
- ...
5. A meeting was on April 8, 2024, to discuss the outcome of the property inspection of our property. At that meeting we learned that previous Building and Bylaw complaints against our property were reopened. These previous complaints had been closed with "No Violations Found"
6. We were then issued a "Notice to Comply" for one of the reopened complaints...

Additional Information Provided

[4] I requested additional background information from the Complainant so I could better understand the context of this Complaint. I was then provided several pdf documents comprising Town Complaint files related to both his and the neighbour's property which the Complainant had apparently obtained from the Town through a MFIPPA request, as well as certain OPP documents which I presume were also obtained through an FOI request. What these documents demonstrate is a protracted series of complaints about property standards related bylaws and the Building Bylaw by the one neighbour against the other.

[5] The contents of these files the Complainant provided can be briefly summarized as follows:

- Ex. "A" – Complaint by Complainant against the Neighbour re: accumulation of debris/household items/derelect vehicles in the yard of the Neighbour's property, filed on November 19, 2018 – Inspected the same day, Notice to Comply issued on November 21, 2018; Notice found not satisfied and Certificate of Offence issued on December 7, 2018 (outcome of charges not disclosed);
- Ex. "B" – Complaint by Complainant against the Neighbour re: derelect vehicle and debris in yard of Neighbour's property, filed on November 3, 2022 – inspected on November 15, 2022 and Notice to Comply issued November 17, 2022; Notice found not satisfied and Offence Notice issued on December 5,

2022. Town directed clean-up of Neighbour's property on December 20, 2022 and resulting cost added to the tax roll of the Neighbour's property; Conviction reportedly registered on January 31, 2022;²

- Ex. "C" – Complaint by Neighbour against the Complainant re: deck/shed/gate built without building permits, filed on February 9, 2023 – closed on March 3, 2023 with notation of "no contravention;"
- Ex. "D" – Complaint by Neighbour against Complainant re debris in backyard, filed on January 5, 2023 – inspection made and complaint cleared on January 23, 2023 (no action taken by Town);
- Ex. "E" - Call by Complainant to OPP about verbal threatening/harassment on November 25, 2022 – occurrence cleared without further action being taken;
- Ex. "F" – Complaint by Complainant against Neighbour about construction of addition on rear of Neighbour's home (later identified as a separate outbuilding) without a building permit, filed on November 25, 2022; the file provided appears to show inspections on June 13 and November 30, 2023, with the file still open as of December 7, 2023;
- Ex. "G" – [irrelevant]
- Ex. "H" – Complaint by Complainant against Neighbour re: dog constantly barking filed on February 13, 2018; Inspections on February 15 and March 6, 2018; warning letter issued on March 7, 2018 and file closed on June 6, 2018; this file also documents an earlier complaint about a dog barking on the Neighbour's property filed in 2017 which resulted in a warning letter being sent on March 9, 2017 and a summons issued on February 4, 2018 (outcome of charge not disclosed).

[6] Upon further inquiry, I was told that the inspections held on February 2, 2024 concerned the following:

- Of the Neighbour's Property – this related to the complaint documented in the Ex. "F" file summarized above;
- Of the Complainant's Property – the Complainant says he learned that the inspection was about the complaint documented in the Ex. "C" file summarized above (which had previously been closed a year earlier but for some reason was re-opened) and a new complaint (Bylaw file # 2024-[redacted] filed January 26, 2024) about the same gate installation that was part of the subject-matter of the complaint documented in the Ex. "C" file made by the Neighbour against the Complainant that had previously been closed.

² This seems to be a remarkably quick result and I therefore suspect that this charge was rolled into the previous charge and convictions on both charges were registered at the same time on this date.

Investigation

Interview with Mayor Groves

[7] I met virtually with the Mayor on August 26th, 2024. She advised me that the matter of her EA's attendance on the inspection of the two properties at the request of the Neighbour was brought to her attention by Commissioner McLean following the Complainant's complaint to the Commissioner that her staff were being unduly influenced by the Mayor's office. This was in April 2024. Prior to that point, she had no knowledge that Mr. Khattra had attended on the inspection or even of the Neighbour's contact with him and/or her office regarding the matter that was the subject of the inspection. After she learned about the action on the part of Mr. Khattra from Commr. McLean, she immediately met with him and chastised him, telling him that he was never to attend on any inspections by Town staff given the negative appearances it created. She further indicated that had she known of Mr. Khattra's intention to attend on the site inspection beforehand, she would have directed him not to, however, she did not know about it before it took place.

[8] She also noted that the Complainant and his wife sent her several emails about the dispute with the Neighbour and that she ultimately met with them on January 9, 2024 (ie. almost a month before the February 2nd inspection). The concern the Complainant and his wife expressed was that they felt they were being discriminated against by Town staff in relation to dealings with their complaints about the Neighbour's property. The Mayor never had any personal contact with the Neighbour.

Interview with Daniel Walton

[9] I met with Mr. Walton, Supervisor, Municipal Law Enforcement, via Zoom on August 28, 2024. He confirmed he was one of 3 Town inspectors who attended to inspect the Neighbour's and Complainant's property on February 2, 2024 in relation to cross complaints by each neighbour against the other related to potential building bylaw infractions. He received a call from Mr. Khattra of the Mayor's office the day before, at which time Mr. Khattra simply alerted him that he would be present for the inspection of the Neighbour's property at the Neighbour's request. Mr. Khattra did not say anything else on that call and did not refer at all to the subject-matter of the complaints that had led to the inspections. Because the call was so brief, Mr. Walton did not have a chance to warn Mr. Khattra against attending on the inspection, although he has done so in the case of politicians and their staff in the past out of concern for the appearance of interference with a legal investigation. On the day of the inspection, Mr. Khattra did attend at the Neighbour's property. He had no interaction with any of the inspectors other than an initial greeting and did not try to raise the subject-matter of the inspection at all. From what Mr. Walton heard, Mr. Khattra's involvement with the Neighbour was quite limited as well and he did not hear Mr. Khattra speaking with them about the subject-matter of the inspection. During the inspection of the property, Mr. Khattra did not walk around the property with the inspectors but stayed back at the dwelling on the property. Mr. Khattra did not attend on the inspection of the Complainant's property.

Interview with Ryan Fusco

[10] I spoke with Mr. Fusco on August 30, 2024. He is a Building Inspector with the Town. He was a new building inspector at the time and only attended the properties on February 2, 2024 for

training purposes, to “shadow” his supervisor, David Falkanger. That was his one and only involvement with either the Complainant’s or Neighbour’s properties. He does not know or recall the name of the person from the Mayor’s office who attended. He had not dealt with him before. He learned from discussions between Mr. Falkanger and that individual that he was from the Mayor’s office. He had no discussions with the person from the Mayor’s office. He does not recall any discussions between that person and either Mr. Falkanger or Mr. Walton from Bylaw. He felt that the person from the Mayor’s office was just “shadowing” the inspectors, like he was. The man from the Mayor’s office only attended the one property and not the other, but he could not remember which he attended and which he did not.

Interview with Harzadan Singh Khattrra

[11] I met with Mr. Khattrra virtually on August 30, 2024. He is currently a Specialist, Community Support, working out of the Mayor’s office. As of February 2024, his position was Executive Assistant to the Mayor. At that time, he reported to the Mayor’s Chief of Staff.

[12] Mr. Khattrra believes a call from the Neighbour came to him through the 311 service. He passed the Neighbour’s concern about inaction on his complaint about the Complainant’s property to Building and Bylaw. He believes there was second contact which may have been in person with the Neighbour between the date of first contact and the date of the inspection where the Neighbour asked him to follow up with Building and Bylaw because they still had not heard anything. Shortly before February 2nd, 2024, the Neighbour called him advising him of the inspection and asking if he would attend as an observer as he distrusted Town Bylaw staff. Mr. Khattrra agreed and called Bylaw (Danial Walton) to advise he would be attending, which was not objected to. He arrived separately from any other Town staff at the Neighbour’s property on February 2nd (he did not recall the time of the inspection). He merely observed and did not speak with Town staff or even the Neighbour about the issues on the inspection, or about the substance of the charges or pending charges for bylaw violations. He started walking the Neighbour’s property with the inspectors but quickly realized he was not wearing appropriate footwear for the snowy/muddy conditions on the property so he just went back to the house on the property and waited for the inspectors to finish. He then left. He did not attend the inspection of the Complainant’s property because he had not been invited. He reiterated that at no time did he attempt to engage the inspectors in a discussion of the charges or potential charges against either the Neighbour or the Complainant.

[13] Sometime later, he was contacted by Commissioner McLean and told that the Complainant was unhappy that he had attended on the inspection of the Neighbour’s property and that he should no longer be involved as the Complainant felt that it made it look like the Mayor’s office was taking sides. He stressed to her and to me during the interview that he had attended on his own initiative, not at the direction of the Mayor or the Chief of Staff, and that neither of them knew about his involvement with the Neighbour or attendance on the inspection until after the fact. The Mayor and Chief of Staff also spoke to him after the Complainant complained and told him that he should not be attending on inspections by Town inspectors, as it created the appearance that they were interfering in legal investigations.

Interview with David Falkanger

[14] Mr. Falkanger is the Supervisor, Building Inspections, with the Town. I met with him virtually on September 9, 2024.

[15] He confirmed he attended on inspections of the Neighbour's and Complainant's property on February 2, 2024. Mr. Khattrra did attend the Neighbour's property prior to the inspection of that property, but not the inspection of the Complainant's property. Mr. Falkanger had no prior knowledge that Mr. Khattrra would be attending at all that day. His interaction with Mr. Khattrra consisted of introductory greetings and then farewell greetings at the beginning and end of their attendance at the Neighbour's property. There was no discussion of the issues underlying the attendance with Mr. Khattrra or any attempt on the part of Mr. Khattrra to raise any such issues. Mr. Khattrra did not follow him and the other two Town inspectors around during the inspection and stayed with the Neighbours at the house while the inspection of their property was taking place.

[16] He understands that the inspection of the Complainant's property was triggered by a new complaint made by the Neighbours about renovations and additions made without a permit which was made sometime just before Christmas 2023. He understands that complaint was made directly to Commissioner McLean. He does not believe that Mr. Khattrra or anyone else from the Mayor's office was involved. Although the complaint was essentially about the same issues that formed part of a prior complaint, it was decided to re-investigate it as none of the prior inspectors who had been involved were with the Town any longer and their notes about the earlier inspection were sparse and vague. Ultimately, he asserted, the new complaint about the Complainant's property was cleared without any action being taken on the part of the Town.³

Relevant Code of Conduct Provisions

[17] The relevant Code of Conduct provision is as follows:

5. Relations with Employees

5.3 Members shall acknowledge and respect the fact that Town employees carry out directions of Council as a whole and administer the policies of the Town. At all times carrying out the work of the Town, *Members shall refrain from using their position to improperly influence employees in their duties or functions to gain an advantage for themselves or others. [emphasis added]*

Findings

Preliminary Issue: Can a Member of Council be Found in Breach of the Code of Conduct on Account of the Actions of the Member's Staff?

[18] The title of the document I am retained to enforce is "Town of Caledon Code of Conduct For Members of Council And Designated Boards. [emphasis added] In Section 1 of the COC, "Member/Members" is defined as follows: "... persons elected to the position of Mayor or

³ I note this information appears to contradict what the Complainant told me. As the discrepancy is, in my view, irrelevant to the issues surrounding this Complaint, I will not resolve it in this Report.

Councillor and to all persons duly appointed by Council to the Town of Caledon's designated Committees, Boards and Task Forces, all of whom are hereinafter referred to as Member/Members." As can be seen, the Code definition of "Member/Members" is not extended to apply to the conduct of the staff of Members. Accordingly, I find that this means two things:

1. The staff person cannot be found in breach of the Members' Code of Conduct;⁴
2. A Member, cannot, per se, be found in breach of the COC merely because his or her staff person does something that, if he/she had been a Member, would violate the Code.

[19] Having said that, if it is found that the Member directed his/her staff person to engage in conduct that amounts to a violation of the Code, or was aware of the staff person's intent to engage in misconduct and failed to direct the staff person not to commit the misconduct, it is my opinion that the Member would be in breach of the Code as if the Member committed the violation him- or herself.

[20] In this case, therefore, in order to find a COC violation, I must not only find that the Mayor's staff person committed what would be a breach of the Code if he/she was a Member, but that the Mayor directed him to engage in the misconduct, or was aware of the staff person's intent to engage in misconduct and failed to direct the staff person not to do so.

Did the Mayor Direct or Turn a Blind Eye Toward Mr. Khattrra's Actions?

[21] Based on my interview with Mayor Groves I am satisfied that she did not direct Mr. Khattrra to attend the February 2, 2024 site inspection and was not even aware, before it took place, that he intended to attend on it. I therefore find no violation of the Code of Conduct on the part of Mayor Groves.

Did Mr. Khattrra Commit An Act That Would Constitute a Breach of the Code of Conduct?

[22] In my view, the provision in s. 5.3 of the COC that "Members shall refrain from using their position to improperly influence employees in their duties or functions to gain an advantage for themselves or others" suggests that Members should not become involved in advocating positions for constituents with staff on matters that are "live" or in progress. While Members are not prohibited from seeking out information from staff relating to a constituent's issue with the Town, they should be very careful about appearances when doing so. This is especially true in cases where there is a bilateral dispute, such as the subject-matter of this Complaint involving two feuding neighbours, because of the appearance of "taking sides" that this can create.

[23] In the present case, I am satisfied based on my interviews with Messrs. Khattrra, Walton, Falkanger and Fusco that Mr. Khattrra did not "us[e] their position to improperly influence employees in their duties or functions to gain an advantage for" the Complainant's neighbour. All four stated that Mr. Khattrra did not attempt to engage with them about the issues they were

⁴ Town employees have their own Code of Conduct which I do not enforce except in the case of a complaint about the CAO – see Bylaw # 2010-130.

investigating, did not participate in the inspection of the Neighbour's property and did not attend the Complainant's property at all. He simply appeared to be there to provide moral support to the Neighbours.

[24] I therefore conclude that even if Mayor Groves had directed or been aware of Mr. Khattrra's intention to attend on the site inspection and did nothing to prevent it, Mr. Khattrra's conduct did not amount to a violation of s. 5.3 of the Code, such that there was no violation that could flow through to the Mayor.

[25] The Complainant shared details with me regarding the particularly negative impact Mr. Khattrra's attendance has had on his wife because of a medical condition she has. While I sympathize with the inordinate strain the perception of interference has had on her, I have found that there is no objective basis for that concern in light of my investigation. I hope this Report will provide reassurance to her in this regard. I am also hopeful that Members of Council and their staff will be sensitive to the harm that appearances of political interference can have on members of the public going forward.

[26] This concludes my investigation.

Respectfully Submitted,



David G. Boghosian,
Integrity Commissioner,
Town of Caledon