
TOWNSHIP OF RYERSON INTEGRITY COMMISSIONER, H.G. ELSTON

Citation : Complaint against Councillor Finley
Date: October 14, 2020

**REPORT ON THE MATTER OF A COMPLAINT
AGAINST COUNCILLOR FINLEY**

Notice: Municipal Integrity Commissioners conduct inquiries and provide reports on their findings to their respective municipal councils. They may make recommendations for the imposition of a penalty or other remedial action to the municipal council. Reference should be made to the minutes of the municipal council meeting where the Commissioner's report was presented, to obtain information about council's consideration of each report. When possible, a link to the relevant municipal council minutes is provided.

[Link to Council Decision]

BACKGROUND AND EVIDENCE

1. Rosalind Hall is a long-time resident of Ryerson Township and a former member of Council, now retired from a long career in business. Ms. Hall attended the February 18, 2020 meeting of Ryerson Council to address what she saw as the serious safety hazard on Royston Road along the frontage of Councillor Finley's property, created by the snow clearing/snowmobile deterring methods adopted by the Finley household.

2. Ms. Hall's attendance that evening was, however, not well received by two Members of Council, and she was appalled by the reception she received from Councillor Finley and Councillor Brandt. She makes this complaint to me, under Council's Code of Conduct. This report should be read in conjunction with my report on Ms. Hall's complaint against Councillor Brandt, of this same date.

3. In essence, the complaint alleges that Councillor Finley failed to disclose a conflict of interest in a matter before Council and chose to participate in the discussion, belittling Ms. Hall in front of staff and the public, in the process.

4. Both Rosalind Hall and Councillor Finley live on Royston Road, in a rural part of the Township, where there is much snowmobile activity during the winter months. There are designated trails and even a groomer to tend to them. Ms. Hall alleges that the Finleys have purposely established large snowbanks at the end of their driveway and ploughed snow onto the road and road allowance along the long frontage of their property, such that the snowmobiles are forced onto the road. She reports incidents of harassment of herself and of the groomer driver, to the point that she now avoids passing the Finley residence and, instead, takes the long way home.

5. Concerned about the Finley's use of snow to create an impediment to snowmobilers and believing it was something that the Township should address, Ms. Hall chose to take her complaints directly to Council, reading from notes that she had prepared in advance. Her attendance, however, left her feeling humiliated.

6. While Ms. Hall acknowledges that Councillor Finley did not raise her voice towards her, Councillor Brandt was yelling at her and directing condescending comments towards her. The message from the two councillors was that her concerns had all been addressed in a report from the Township's roads superintendent.

7. I received a written response from Councillor Finely, on March 11, 2020. In summary, Councillor Finely makes the following submissions:

- 1) She does not have a conflict of interest and relies on the advice that I gave her that she was representing a broad section of ratepayers and not simply her personal interests, in supporting those ratepayers who had serious concerns about snowmobilers using the Township road allowances.
- 2) Ms. Hall was unaware of the report and complaint protocol which had been made in November of 2019.
- 3) Ms. Hall had not consulted the snowmobile club or the Public Works Supervisor about her complaint and was unaware that the snowmobile club had moved the trail and installed fencing, not her. Ms. Finley's only comment to Ms. Hall was to read the report and to inform her that as a result of her objection, she had requested a box in the community mailbox and removed their roadside mailbox.
- 4) The Mayor had told Ms. Hall when she presented that she had ten minutes to speak but allowed her to go on for half an hour. Ms. Hall became very agitated, because she felt she was not receiving a positive response from other Council members. After half an hour, she and the other councillors complained to the Mayor that Ms. Hall's time had expired. She was never rude to Ms. Hall and did not belittler her in any way whatsoever.
- 5) During her presentation, Ms. Hall was discussing issues which were not within Council's purview, but that of the Ontario Provincial Police.

8. Councillor Finley also provided me with a copy of the statement she made to Council to council on February 18, 2019. The statement reads:

First, I would like to thank Judy and staff for the very professional way in which this complaint was handled. I had no knowledge of this complaint until I received my council agenda late Friday afternoon. Staff very properly kept me completely in the dark, until they had completed their investigation.

Second, I would like to commend Lloyd van Dusen, the Public Works Supervisor, for his excellent report. It was professional, methodical and meticulous, and answered every point raised by Ms. Hall.

I assume Ms. Hall was completely uninformed of the work that staff and this council have spent on this file and with the snowmobile club to develop a conflict resolution protocol acceptable to all stakeholders, to finally bring a fair settlement of these issues. In particular, the Public Works Supervisor has spent hours of his valuable time to resolve these matters and I refer you to him for further information.

*Finally, I do hope this contentious issue of interaction between snowmobilers and property owners, who just want protection from personal liability for the reckless actions of trespassers, can finally be put to rest. **I was elected to address the serious issues of reliable rural healthcare, affordable housing, and sustainable economic development, and that is the focus of my efforts as a councillor.***

9. I spoke with Councillor Finley on May 14, 2020. In her opinion, Ms. Hall was treated fairly and with respect and dignity by everyone. She was agitated and did not seem to know that the issue had been resolved.

10. Councillor Finley did take the opportunity to share with me her opinion that there are two camps when it comes to snowmobiling; for and against. Councillor Finley is in the later camp. She believes that by using her property snowmobilers were creating a dangerous situation.

11. The snowmobile trail has, apparently, been moved onto the road, laying jurisdiction with the O.P.P., which, according to Councillor Finley, is where Ms. Hall should have gone with her complaint. Councillor Finley believes that Ms. Hall views this arrangement as bestowing special treatment on her, Councillor Finley.

12. I was also able to speak to several witnesses, present that night. To a one, there is a consensus that Councillor Finley and Councillor Brandt are often aligned in their positions and their behaviour at meetings of Council. Specifically, I was told they are often discourteous, loud, and disrespectful. This is apparently standard behaviour for both these Councillors and, as a result, fewer people attend Council meetings and a chill has been cast upon the expression of views counter to the two Councillors.

13. One observer remarked that she was appalled at the lack of professionalism and shocked at the treatment afforded to Ms. Hall at the meeting. She felt that Ms. Hall was being attacked and that it was personal. She felt that Councillors Finley and Brandt were way out of line. In this person's view, Councillor Brandt directly attacked Ms. Hall, while Councillor Finley had a supporting role.

THE CONFLICT OF INTEREST

14. Conflicts of interest can arise when a Member has either a pecuniary interest in a matter before Council, in which case the conflict is considered under the provisions of the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50, as amended (the "MCIA"), or a personal or private interest, which is reviewed against Section 13 of the Township's Code of Conduct – "No Improper Use of Influence".

15. The matter before Council on February 18, 2020 was a complaint from Ms. Hall about the Finleys alleged practice of ploughing snow from their frontage on Royston Road onto the road and road allowance. Presumably, Ms. Hall's delegation was intended to elicit a response from the Township, directed at the Finleys.

16. While clearly having a stake in the allegation of an unsafe ploughing practice, I do not see that Councillor Finley had a pecuniary interest in the matter and, accordingly, there was no breach of the MCIA. If I am wrong about that, I find that any pecuniary

interest that may have arisen would be so remote or insignificant, such as to qualify as an exception to the requirements of section 5 of the MCI Act.

17. At the same time, Councillor Finley clearly had a personal or private interest in the matter, and her participation could be seen to be seeking to dissuade Council from imposing any restrictions on her.

18. The regulation against improper use of the office of a Councillor, is set out in section 13 of the Code:

13. *No Improper Use of Influence*

13.1 *No Member shall use the influence of his or her office for any purpose other than for the lawful exercise of his or her official duties and for municipal purposes.*

13.2 *No Member shall use his or her office or position to influence or attempt to influence the decision of any other person, for the Member's private advantage, the private advantage of the Member's parent, child, spouse, staff member, friend or associate, business or otherwise or the disadvantage of others. No Member shall attempt to secure preferential treatment beyond activities in which Members normally engage on behalf of their constituents as part of their official duties. No Member shall hold out the prospect or promise of future advantage through the Member's supposed influence within Council in return for any action or inaction.*

13.3 *For the purposes of this provision "private advantage" does not include a matter:*

- a) *That is an interest in common with electors generally as defined in the Municipal Conflict of Interest Act;*
- b) *that affects a Member, his or her parents/children or spouse, staff, friends or associates, business or otherwise, as one of a broad class of persons; or*
- c) *that concerns the remuneration or benefits of a Member.*

13.4 *This provision does not prevent a Member from requesting that Council grant a lawful exemption from a policy.*

19. While I am reluctant to disclose any confidential advice I have given to Councillor Finley, in order to address her suggestion that I have given her my blessing to speak on the matter that Ms. Hall brought to Council, I will release that advice, as I am authorized to do under section 223.5 (2.2) of the *Municipal Act, 2001*, S.O. 1990, c. 25, as amended. On October 9, 2020 Councillor Finley posed the following question to me:

The snowmobile club has requested permission from our council to use Rights of Way on township roads [where] there are no trails. I am opposed to this and intend to vote against giving such permission. However, my husband was the head of a delegation of ratepayers who want the township to deny permission and have proposed that the club use the travelled portions of the road, as a compromise. Because of this I have informed council that as there may be a perception of bias in my case, I will seek guidance on this issue of voting. Since other councillors can also be said to have a perceived bias in favour of the club, I feel that I have just as much right to reflect the views of my constituents in my vote as they do, regardless of my husband's views or actions.

20. On October 22, 2019, I replied to Councillor Finley, as follows:

CONFIDENTIAL ADVICE

Dear Councillor Finley,

Thank you for your request for advice of Oct 9, 2019. I thought I would briefly touch on each of your three questions¹, perhaps with a more formal follow-up coming later.

1. *The Township's Code of Conduct provides in section 13 - "No Improper Use of Influence" - that "No Member shall use his or her office or position to influence or attempt to influence the decision of any other person, for the Member's private advantage, the private advantage of the Member's parent, child, spouse, staff member, friend or associate". Section 13.3 provides that "private advantage" does*

¹ Only question 1 is relevant to this inquiry and report.

not include a matter: a) that is an interest in common with electors generally as defined in the Municipal Conflict of Interest Act; or b) that affects a Member, his or her parents/children or spouse, staff, friends or associates, business or otherwise, as one of a broad class of persons.

In the circumstances, I believe that your interest may well qualify as either "an interest in common with electors generally (or a part thereof), or that the snowmobile vote will affect you and your husband, "as one of a broad class of persons" (users of Township roads and rights-of-way). I would, however, like to speak with you, before giving your participation my approval.

21. I have no record of, nor do I recall having, a follow-up call with Councillor Finley.

22. The question of the use of Township rights-of-way by snowmobiles and the nature of Councillor Finley's interest in that matter is, with respect, quite different from the nature of her interest in the matter brought before Council by Ms. Hall. Here, the interest is hers alone; there is no commonality with other electors and there is no broad class of persons to which she belongs. Accordingly, I do not believe that the advice I gave Councillor Finley on October 9th addresses or is determinative of the issue at hand.

23. Instead, I find that Councillor Finley had a personal or private interest in the matter before Council and should not have been participating in the discussion. By so doing, she breached section 13 of the Code.

CONDUCT

24. Although Ms. Hall's complaint referred to several sections of the Code, I believe that the actions she complains of are to be judged against the provisions of sections 6.1, 7.1 and 7.2 of the Code.

6. Conduct at Meetings

6.1 Every Member shall conduct himself or herself properly and in a civil and respectful manner at meetings, and in accordance with the provisions of the Procedural By-law, this Code of Conduct, and other applicable law.

7. *Conduct Respecting Others*

7.1 *Every Member has the duty and responsibility to treat members of the public, one another and staff appropriately and without abuse, bullying or intimidation, and to ensure that the municipal work environment is free from discrimination and harassment. The Member shall be familiar with, and comply with, the Municipality's Workplace Anti-Violence, Harassment and Sexual Harassment Policy.*

7.2 *A Member shall not use indecent, abusive or insulting words, tone or expressions toward any other Member, any municipal staff or any member of the public.*

25. Although I have heard testimony from several observers that Councillor Finley has, at times, displayed conduct that can be described as being disrespectful, I cannot say that I have been provided with sufficient evidence regarding her words or actions towards Rosalind Hall at the meeting of February 18, 2020, to establish that she has breached section 6 or 7 of the Code, and I make no such finding.

26. Accordingly, it is my recommendation to Council that Councillor Finley be reprimanded for failing to acknowledge that she had an interest in the matter brought before Council by Ms. Hall on February 18, 2020 and ought to have recused herself.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 14th day of October 2020.



H.G. Elston
Integrity Commissioner Ryerson Township