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CITY OF NORTH BAY INTEGRITY COMMISSIONER, GUY GIORNO

**Citation:** Cassellholme Board of Management v. Lowery, 2026 ONMIC 1

**Date:** April 4, 2026

## REASONS FOR DECISION (MCIA) INQUIRY REPORT (CODE)

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## CONTEXT

1. Among their responsibilities, municipal Integrity Commissioners in Ontario conduct inquiries into applications alleging that council members and members of local boards have contravened the *Municipal Conflict of Interest Act* (MCIA). At the end of such an inquiry, the Integrity Commissioner shall decide whether to apply to a judge under section 8 of the MCIA for a determination as to whether the member has contravened section 5, 5.1 or 5.2 of that Act, and shall publish reasons for the decision. Such decision is not subject to approval of the municipal council and does not take the form of a recommendation to council. There is, therefore, no municipal council resolution necessary to give effect to the decision.

2. Integrity Commissioners also conduct inquiries into complaints that members of councils and local boards have contravened applicable codes of conduct.

## THE APPLICATION-COMPLAINT

3. This inquiry was initiated by correspondence that was both an application under section 224.4.1 of the *Municipal Act* and a complaint under the Code of Conduct for Members of Council for the Corporation of the City of North Bay and Certain Local Boards.<sup>1</sup> For convenience, I refer to the combined Application-Complaint as the Application.

4. Section 223.4.1 of the *Municipal Act* allows an elector or a person demonstrably acting in the public interest to apply in writing to the Integrity Commissioner for an inquiry concerning an alleged contravention of section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act* by a member of council or a member of a local board.

5. Article XIV of the Code allows a person who believes that a Council Member has contravened the Code to make a complaint to the Integrity Commissioner.

6. The Cassellholme Board of Management, formally known as the Board of Management for the District of Nipissing East<sup>2</sup> (Applicant) alleges that Councillor Jamie Lowery (Respondent):

- Contravened section 5 of the MCIA by failing to declare a pecuniary interest in relation to a matter and failing to withdraw from discussing and from voting on the matter at the September 2, 2025, meeting of Council.

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<sup>1</sup> City of North Bay, By-Law No. 2019-16, Schedule "A."

<sup>2</sup> O. Reg. 246/22, Sched. 3.

- Contravened Article XIII (Improper Use of Influence) of the Code by using his position on Council to influence other Council members to vote against the matter for his private advantage.

7. The Application was initially received October 7, 2025. I requested clarification which was submitted November 4. I assigned the Application File No. 2025-11A-MCIA.

## **DECISION UNDER THE MCIA**

8. Subsection 223.4.1 (15) of the Municipal Act states that, upon completion of an inquiry, the Integrity Commissioner may, if the Integrity Commissioner considers it appropriate, apply to a judge under section 8 of the MCIA for a determination whether the member has contravened section 5, 5.1, or 5.2 of that Act.

9. After considering all the evidence and the submissions of the parties, I have decided that I will not apply to a judge for a determination whether Councillor Lowery has contravened the MCIA.

10. Subsection 223.4.1 (17) of the *Municipal Act* requires me to publish written reasons for my decision. These are my reasons.

## **FINDING UNDER THE CODE**

11. Subsection 14.2 of the Code requires me to report to Council respecting the complaint. This is my report.

12. I am reporting to Council that Councillor Lowery did not contravene the Code.

## **BACKGROUND**

13. This inquiry arises from consideration of Res. # 2025-296 (the 2025 Motion) at the September 2 meeting of City Council. The 2025 Motion dealt with the governance structure of Castle Arms Non-Profit Apartment Corporation (Castle Arms), a non-profit housing corporation in the City.

14. Councillor Lowery did not declare a pecuniary interest. He participated in debate and voted on the 2025 Motion.

15. This is not the first time that Council has considered the governance structure of Castle Arms. There appears to be a complex history surrounding governance of Castle Arms and its connection to the legally distinct, though practically related, Cassellholme

Board, which operates East Nipissing Home for the Aged, known as Cassellholme, a provincially regulated long-term care home.

16. The Cassellholme Board is a statutory body composed of municipal and provincial appointees. The Board composition is set out in a regulation under the *Fixing Long-Term Care Act*<sup>3</sup> which establishes a municipally controlled Board, consisting of seven members appointed as follows:

- Three appointed by the City of North Bay (Area 1)
- One appointed jointly by the councils of Mattawa, South Algonquin, Calvin, and Papineau-Cameron (Area 2)
- One appointed jointly by the councils of Bonfield, Chisholm, East Ferris, and Mattawan (Area 3)
- Two appointed by the provincial Cabinet<sup>4</sup>

17. In 1986, the Cassellholme Board created Castle Arms as a non-profit seniors' apartment corporation for the primary purpose of providing housing to senior citizens on a rent-geared-to-income basis.

18. In contrast to Cassellholme, the City of North Bay has no statutory authority to appoint members of the board of directors of Castle Arms.

19. Ontario's *Not-for-Profit Corporations Act* sets qualifications for appointment to a non-profit corporation's board, such as that of Castle Arms.<sup>5</sup>

20. Historically, practice blurred what the law kept distinct. The Cassellholme Board exercised effective control over Castle Arms because of membership of the two boards significantly overlapped. The two boards' memberships were intertwined by practice rather than legal mandate.

21. Because of this practice, the governance of Castle Arms included municipal representatives serving on the Cassellholme Board by virtue of Ontario's long-term-care statute.

22. This governance convention changed in 2021 when the Castle Arms Board was advised that the Cassellholme and Castle Arms Boards must have different members. Acting on that advice, Castle Arms accepted the resignations of those directors who also

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<sup>3</sup> S.O. 2021, c. 39, Sched. 1.

<sup>4</sup> O. Reg. 246/22, Sched. 3.

<sup>5</sup> S.O. 2010, c. 15.

sat on the Cassellholme Board, producing a formal separation of governance. Whether the advice that prompted this break was correct has been a matter of disagreement.

23. North Bay City Council has taken a keen interest in the matter. In January 2023, Res. # 2023-65(a) (the 2023 Motion) appeared on the Council agenda. The 2023 Motion traced the history of the governance split and then proposed:

- That the Interim CAO retain appropriate advisors with legal and financial expertise to review the amendment of the Castle Arms Board by-law – including the requirement that the Castle Arms Board and the Cassellholme Board of Management have different board members – and make recommendations.
- That all member municipalities be sent the motion, invited to participate in the review, and kept appropriately updated.
- That the findings of the review be reported to City Council and member municipalities.

24. On January 31, 2023, Councillor Lowery declared a pecuniary interest in the 2023 Motion. His Declaration of Pecuniary Interest stated, “I am an employee of the Castle Arms Board.”

25. Council referred the 2023 Motion to General Committee.<sup>6</sup>

26. General Committee did not substantively consider the 2023 Motion. On May 23, 2023, it unanimously voted to recommend that the 2023 Motion remain before the Committee. There was no discussion of the substance of the motion itself. Councillor Lowery did not declare a pecuniary interest, and he voted in favour of keeping the motion before the committee.<sup>7</sup>

27. The 2023 Motion never appeared on the General Committee agenda again, and it was never substantively considered.

28. Participation in a procedural vote to keep a motion before a committee likely does not involve consideration of a matter under subsection 5 (1) of the MCI, and voting to keep a motion before committee does not affect anyone’s pecuniary interest.<sup>8</sup>

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<sup>6</sup> Minutes, Regular Meeting of City Council (January 31, 2023), Res. # 2023-65(b).

<sup>7</sup> YouTube, recording of North Bay Committee Meeting (May 23, 2023), online: <https://www.youtube.com/watch?v=OuaFZRnKw-o>

<sup>8</sup> *Lediard v. Clarke* (1997), 44 M.P.L.R. (2d) 82 (Ont. Gen. Div.), para. 18; *Rivett v. Braid*, 2018 ONSC 352 (CanLII), paras. 64, 67, 69; *McGee v. McLaren*, 2022 ONMIC 3 (CanLII), para. 72.

29. In any event, Councillor Lowery had requested my advice prior to that General Committee meeting, and I advised him that he did not have a pecuniary interest in the 2023 Motion.

30. One of an Integrity Commissioner's functions is to handle, "Requests from members of council ... for advice respecting their obligations under the *Municipal Conflict of Interest Act*."<sup>9</sup> A request for advice from the Integrity Commissioner must be made in writing,<sup>10</sup> and the Integrity Commissioner must respond in writing.<sup>11</sup>

31. Prior to the May 2023 General Committee meeting, Councillor Lowery made a written request for my advice on whether he had a pecuniary interest in the 2023 Motion.

32. On May 19, 2023, I gave him the following written advice:

Dear Councillor:

I have reviewed the materials that you sent, in particular, the January 23 motion that will be before Council at its upcoming meeting.

It is my advice that you do not have a pecuniary interest in the motion. This means that you are free to debate the motion, to vote on the motion, to move and vote on amendments to the motion, and to attempt to influence other Council Members concerning the motion.

The reasons for my advice are as follows:

I understand that you are currently the Chief Executive Officer and an employee of Castle Arms Non-Profit Apartment Corporation. You also receive compensation (a stipend and, on occasion, which to date has been once only, a fee for time spent) from a related not-for-profit corporation, Castle Arms Seniors Living Management Assistance Inc. Both corporations are established or continued under the *Ontario Not-for-profit Corporations Act*. While the motion in question refers simply to "Castle Arms," you have informed me that the motion applies to Castle Arms Non-Profit Apartment Corporation, your employer.

On matters affecting your employer, section 2 of the *Municipal Conflict of Interest Act* is clear: If your employer has a pecuniary interest in a matter, then you possess an indirect pecuniary interest in the matter.

In this case, however, I do not believe that Castle Arms Non-Profit Apartment Corporation has a pecuniary interest in the motion.

The Divisional Court has defined pecuniary interest as follows: "Generally, it is a financial interest, an interest related to or involving money."  
*Tuchenhagen v. Mondoux*, 2011 ONSC 5398 (CanLII) (Div. Ct.), at para. 31.

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<sup>9</sup> *Municipal Act*, subs. 223.1 (1), para. 6.

<sup>10</sup> *Municipal Act*, subs. 223.1 (2.1).

<sup>11</sup> *Municipal Act*, subs. 223.1 (2.2).

The motion does not relate to any financial interest of Castle Arms. It relates to governance. Specifically, it relates to who should be on the Castle Arms Board. Changes to a board (when they occur) do not change the assets, liabilities, debts, or financial entitlements of a corporation. The entire board of a corporation could be replaced, yet that alone would not affect the corporation's financial picture. In other words, there is no correlation between governance, in particular, membership on the board, and a corporation's pecuniary interests.

For this reason alone, the motion does not affect a pecuniary interest of Castle Arms.

I also note that the motion does not propose any particular change. It merely provides for a review of the situation, for participation in the review, and for reporting the results of the review. On numerous occasions, the Courts have confirmed that a motion to conduct a review or a study does not affect a pecuniary interest: *Duncan v. Hewitt*, 2021 ONSC 866 (CanLII), at para. 34; *Rivett v. Braid*, 2018 ONSC 352 (CanLII), at paras. 63-69; *Hervey v. Morris*, 2013 ONSC 956 (CanLII), at paras. 65, 71, 73.

A motion to conduct a review will have no substantive effect on anybody. Conducting the review will not affect the composition of board or anything pertaining to Castle Arms. The eventual outcome – that is, whatever might happen after the review is completed and reported and decisions are made – could affect board membership, but that is not what the motion entails. This situation is the same as the situations considered in *Duncan v. Hewitt*, *Rivett v. Braid* and *Hervey v. Morris*.

As observed by the judge in *Hervey v. Morris*: “At its best and highest I find the discussions at the closed meeting to be related to a decision to investigate and take further steps, nothing more. No one at the meeting, including Ms. Morris knew what the outcome of the investigations would be.”

In *Duncan v. Hewitt*, the Court stated: “While staff was directed to report back to Council on the legal implications to Haldimand County of the potential dissolution of the COMC, I am not satisfied that the direction to investigate or take further steps could be categorized as anything more, without knowing the outcome of the investigation, let alone as a direction which would have impacted the financial position of the COMC.”

The same observations can be made about the motion pending before City Council. Nobody knows what the result of the review would be. One can only speculate.

As for any suggestion that the composition of the Castle Arms Board might somehow affect board decision-making on matters affecting your pecuniary interests (*e.g.*, your employment or your pay), any such impact would be too hypothetical, speculative, and remote to constitute a pecuniary interest under the MCI: *Gammie v. Turner*, 2013 ONSC 4563



(CanLII), at para. 57; *Darnley v. Thompson*, 2016 ONSC 7466 (CanLII), at paras 59, 63.

Your employer does not have a pecuniary interest in the motion, nor do you. Consequently, the prohibitions and obligations in sections 5, 5.1 and 5.2 of the MCI Act do not apply in this situation.

I have also considered the Code of Conduct. Section 13.1 states that “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 City purposes.” It also prohibits you from using your “office or position of influence or attempt to influence the decision of any other person, for the Member’s private advantage or that of the Member’s parent, child, spouse, Staff, friend or associate, business or otherwise.”

In my view, the motion does not relate to a private interest of Castle Arms Non-Profit Apartment Corporation. As I have noted, the motion is confined to a review and would not have any substantive effect. Further, the motion relates to a governance matter, namely, board composition. Under the law, every corporation needs a board. The composition of board membership is not a private interest of a corporation.

If you participate in voting, decision making, and debate on the motion, then the only requirement is that you act for City purposes and not for any other purpose.

### **About this Advice**

This advice is provided under the provisions of the *Municipal Act*. The advice is yours to handle as you wish. You may share it or make it public. The decision to make it public is yours. You are, however, under no obligation to make this advice public if you wish to keep it confidential.

While you can do with the advice as you wish, I am required by the *Municipal Act* to keep this advice confidential, and I may not share it with anyone except in certain specific circumstances outlined in the *Municipal Act*. For example, I may release this advice in the following circumstances:

- I may release this advice with your written consent.
- If you release only part of this advice, then I am free to release part or all of it.
- If an application alleging a *Municipal Conflict of Interest Act* contravention is made to me, then I may disclose this advice in the reasons for my determination.
- If an application is made to a judge alleging that you contravened the *Municipal Conflict of Interest Act*, then I may disclose this advice in that application.

My advice is based on the information contained in your email and the facts set out above. If the information is inaccurate or incomplete, then

please do not rely on this advice. Instead, please let me know about the inaccuracy or incompleteness so that I may modify the advice accordingly.

Thank you.

33. Councillor Lowery did not declare a pecuniary interest when the 2025 Motion came before Council on September 2.

34. The 2025 Motion was consistent with the 2023 Motion but proposed to go farther than its predecessor. The operative passages of its original text read as follows:

... that the Council of the City of North Bay calls upon the other member Municipalities to join in pursuing all available legal and administrative remedies to restore democratic and public oversight of the Castle Arms Non-Profit Housing Corporation. This includes returning Castle Arms governance to its member Municipalities.

...that a committee, composed of the Mayors of the member Municipalities or their designates, along with Cassellholme Board representatives, be established to pursue these options.

... that a copy of this motion be shared with the eight (8) other member Municipalities, the Cassellholme Board of Directors and Nipissing MPP Vic Fedeli.

35. The operative paragraphs of the 2025 Motion do not refer to the Respondent, but four paragraphs of the motion's nine-paragraph preamble do mention him and advice he allegedly provided to the Castle Arms Board:

Whereas at a Castle Arms meeting held on October 28, 2021, the Chief Executive Officer advised the Castle Arms Board that, due to upcoming changes to the *Ontario Not-for-Profit Corporations Act* (ONCA), the Cassellholme and Castle Arms Boards could no longer have identical membership.

Whereas although the Castle Arms Board was advised that it had until October 2024 to implement the upcoming changes to the ONCA, at the subsequent meeting on November 25, 2021 – when 8 of the 9 municipalities had no representation due to a wave of resignations and a lack of public consultation – the Castle Arms Board directed the CEO to alter the composition of the Castle Arms Board.

...

Whereas the advice the former Castle Arms Board received appears to have been incorrect.

Whereas no changes to the former composition of the Castle Arms Board would have been made if not for the Board's reliance on the incorrect advice ...<sup>12</sup>

36. While the above passages refer to the "Chief Executive Officer" and "CEO" of Castle Arms, corporate documents confirm that Mr. Lowery's official title is "Executive Director."

37. Prior to its adoption, the 2025 Motion was amended to call for third-party mediation before the pursuit of other legal or administrative remedies. The amendment added a paragraph stating that:

the first option is to use a third party mediator at the cost of the Municipalities to work in the best interests of the tenants of Castle Arms and that the results shared at a public meeting.

38. The amendment also provided that pursuit of legal and administrative remedies would follow "failure to find a resolution" through mediation.

39. Councillor Lowery spoke to the 2025 Motion and voted against it.

40. Despite his opposition, the 2025 Motion was adopted as amended.

## PROCESS FOLLOWED

41. Both parties were represented in the inquiry by legal counsel. The Applicant's representative was Ms Laura Dean of Aird & Berlis LLP. The Respondent was represented by Mr. Rahul Shastri of Kagan Shastri DeMelo Winer Park LLP.

42. The *Municipal Act* does not direct the procedure that an Integrity Commissioner must follow in handling MCIA applications. The Code does not direct the procedure to follow in investigating complaints. I have chosen to follow a process that ensures fairness to both the entity making the application (Applicant) and the Council Member alleged to have contravened the MCIA and the Code (Respondent).

43. This fair and balanced process usually begins with me issuing to both parties a Notice of Inquiry that sets out the issues. The Notice of Inquiry includes a copy of the Application for an MCIA Inquiry or the Complaint under the Code, as the case may be. (In this case, the correspondence was both an Application and a Complaint.) The Respondent is made aware of the Applicant's name. I do, however, redact personal information such as phone numbers and email addresses.

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<sup>12</sup> In quoting from documents in a report, my practice is always to edit punctuation and capitalization for consistency and to correct immaterial typographical and textual errors.

44. The Respondent has an opportunity to respond. The Applicant receives the Respondent's Response and is given an opportunity to reply. I may accept supplementary communications and submissions from the parties, generally on the condition that parties get to see each other's communications with me. I do this in the interest of transparency and fairness.

45. I typically set deadlines for the submission of a Response and a Reply but give reasonable extensions when requested.

46. I received the Application on October 7, 2025. The Application was accompanied by the statutory declaration required by subsection 223.4.1 (6) of the *Municipal Act*. The declaration stated both that Mr. Jim Bruce was the Applicant and that he was the representative of the Applicant. The declaration and the correspondence left me uncertain whether the Applicant was Mr. Bruce or the Cassellholme Board.

47. I asked for clarification. On November 4, Ms Dean confirmed that the Cassellholme Board was the Applicant.

48. On November 5, I issued a Notice of Inquiry.

49. The Notice of Inquiry informed the parties that I had drawn the following preliminary conclusions based on meeting minutes and Ontario's corporation registry: Councillor Lowery was Executive Director (an officer) of Castle Arms on September 2. Executive Director is a "senior officer" as defined by the MCIA. Councillor Lowery did not declare any pecuniary interest at the September 2 meeting. Councillor Lowery participated in discussion of the 2025 Motion and voted on the 2025 Motion as amended.

50. I told the parties that if either wished to challenge any of these preliminary conclusions, then the preliminary conclusion would become an issue in the inquiry. Neither party challenged a preliminary conclusion.

51. The Notice of Inquiry explained that I was exercising my discretion to conduct an inquiry into the following issues:<sup>13</sup>

Under the MCIA:

- A. On September 2, did Castle Arms possess a pecuniary interest in the 2025 Motion)?
- B. Does Councillor Lowery receive compensation from Castle Arms?

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<sup>13</sup> The Notice of Inquiry used numbers, not letters, to identify the issues. Letters are used here to make the issues distinct from the numbered paragraphs. The Notice of Inquiry also referred to the possibility that a party might place in issue a preliminary conclusion. (See paragraphs 49 and 50.) In the end, this did not occur.

- C. Should the answer to B be yes, did Councillor Lowery possess a direct pecuniary interest in the 2025 Motion?
- D. If Councillor Lowery possessed an indirect or direct pecuniary interest, did any of the exemptions in section 4 of the MCIA apply?

Under the Code:

- E. Did the 2025 Motion involve a “private advantage” of Councillor Lowery under paragraph 13.1(a) of the Code?
- F. On September 2, did Councillor Lowery attempt to influence Council’s decision on the 2025 Motion?

52. I informed the parties that issues other than those listed above would not be considered in the inquiry and the parties need not address them. For example, the Application alleged that the Respondent gave incorrect advice to the Castle Arms Board in 2021. The truth of this allegation is not relevant to the MCIA or the Code and I have not inquired into the allegation’s accuracy.

53. I invited Councillor Lowery to respond to the Application by November 20 and advised the Cassellholme Board that it would have ten business days to provide a Reply.

54. Councillor Lowery provided a Response on November 11.

55. The Response included my 2023 advice to Councillor Lowery. This created a procedural hurdle, because section 223.5 of the *Municipal Act* strictly limits what I can do with written advice that I have given to a Council Member. The advice belongs to the Council Member: the Member can share it with others, or not, as the Member sees fit. For example, Councillor Lowery was fully entitled to include my 2023 advice in his Response.

56. However, the fact that he included the 2023 advice in his Response did not entitle me to share that advice with the Applicant. Section 223.5 lists only five circumstances in which I may disclose the written advice I have given to a Member, and sharing a Respondent’s submissions with an Applicant is not one of them.

57. As it happens, this decision concerning the MCIA constitutes one of the five permitted circumstances in which I may disclose advice I have given. In these written reasons, I am authorized to disclose my prior advice to Councillor Lowery – as I have done in paragraph 32, above – provided in my opinion it is necessary to do so.<sup>14</sup>

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<sup>14</sup> *Municipal Act*, subs. 223.5 (2.3).

58. The same authorization did not apply during the inquiry. Even though the Respondent included my 2023 advice in his Response, I still needed the Respondent's written consent for me to forward that portion of the Response to the Applicant.<sup>15</sup>

59. The Respondent provided consent, subject to the advice not being disclosed to any other party.

60. I shared the Response with the Applicant on January 12 and requested that the Reply, if any, be received by January 26.

61. The Applicant requested and was granted an extension, and it submitted the Reply on February 2.

62. The Reply was shared with the Respondent on February 9. Because the Reply raised new matters including an argument that the Respondent should not have applied to the 2025 Motion my advice on the 2023 Motion and an allegation about transporting residents to the September 2 meeting, I considered it fair to give the Respondent the opportunity of sur-reply.

63. The Respondent did not provide a Sur-reply, other than to submit that "In sum and substance, the matter which was raised in the current Complaint [2025 Motion], is the same motion [as the 2023 Motion]."

64. The Applicant requested a copy of the original request from Councillor Lowery to which my May 2023 advice responded. I sought and obtained consent from the Respondent to do so, on the condition that the Applicant keep the request confidential. I gave the Applicant an opportunity to supplement its submissions based on the information I shared. It had nothing to add.

65. On March 12, the Applicant directed my attention to the Respondent's T4 Statement of Remuneration from Castle Arms, showing that he received employment income in 2025. The T4 was provided by way of hyperlink to the Castle Arms website, where it appears to be publicly available.

66. In making my decision on MCIA compliance and in making my findings under the Code, I have considered all the submissions of the parties and all of the evidence obtained during the inquiry.

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<sup>15</sup> *Municipal Act*, subs. 223.5 (2.3).

## POSITIONS OF THE PARTIES

### ***Applicant's Position***

67. The Applicant submits that the Respondent had a direct pecuniary interest in the 2025 Motion because it initiated a process that could result in replacing the current Castle Arms Board with its previous (pre-2021) governance structure, and such a change would have a financial impact on the Respondent as an employee of Castle Arms who reports directly to the current board.

68. The Applicant also submits that, by speaking to the 2025 Motion, the Respondent attempted to influence Council's decision for his private advantage, contrary to the Code.

69. The Applicant observes that the Respondent receives monetary compensation in his position as Executive Director of Castle Arms.

70. The Applicant argues that Councillor Lowery's past Declaration of Pecuniary Interest, in relation to the 2023 Motion, when he stated he was "an employee of the Castle Arms Board," is an acknowledgement that because of his employment he has a pecuniary interest in matters touching Castle Arms governance.

### ***Respondent's Position***

71. Councillor Lowery's position is that he did not contravene the MCIA or the Code.

72. Citing *Gammie v. Turner*<sup>16</sup> and *Yorke v. Harris*,<sup>17</sup> the Respondent notes that the Applicant bears the onus of establishing that he is in breach under the MCIA and the Code.

73. The Respondent submits that the 2025 Motion is, in substance and effect, a governance and oversight motion. The resolution recites concerns about the governance of Castle Arms, calls for certain efforts (including third-party mediation and possible legal and administrative remedies) to restore public oversight, and establishes a coordinating committee of member municipalities. The Motion does not amend the constating documents of Castle Arms, appoint or remove any board members, set or alter the remuneration of any employee, or change the corporation's assets, liabilities, funding or contractual entitlements. In his view, the 2025 Motion authorizes inquiry and process, but stops short of effecting any financial change.

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<sup>16</sup> 2013 ONSC 4563 (CanLII), para. 25.

<sup>17</sup> 2020 ONSC 7361 (CanLII), para 18.

74. Councillor Lowery does not dispute that he serves as Executive Director of Castle Arms or that he is compensated in that role. However, he submits that employment alone is not enough to engage the MCIA. Council frequently will consider a matter that touches an organization employing one of its Members. The MCIA, he asserts, is not triggered automatically in such circumstance. The relevant question is more exacting: does the particular matter under consideration create a real, present, definable financial impact for that Council Member?

75. Measured against that standard, the allegation of a direct pecuniary interest falls short, he submits. The 2025 Motion did not set or threaten his remuneration, did not appoint or remove him, and did not otherwise affect any contractual or financial right he has against Castle Arms. He characterized the theory that his employment might be affected by the 2025 Motion as a “multi-step hypothetical chain of future contingencies” that is too speculative to amount to a disclosable pecuniary interest under the MCIA.

76. The Respondent argues that Castle Arms had no pecuniary interest in the 2025 Motion and therefore there can be no indirect pecuniary interest of him as its employee.

77. He cites the following passage of *Yorke v. Harris*:

The term “pecuniary interest” must not be construed so broadly that it captures almost any financial or economic interest such that it risks needlessly disqualifying municipal councillors from participating in local matters of importance to their constituents.<sup>18</sup>

78. He further relies on a series of Ontario court decisions – *Rivett v. Braid*, *Darnley v. Thompson*, *Gammie v. Turner* and *Yorke v. Harris* – to support the proposition that, to attract MCIA liability, a pecuniary interest must be real, present and definable at the time of the decision, and not remote, speculative, or contingent on a chain of possible events.<sup>19</sup>

79. Finally, he relies on my prior written advice concerning the 2023 Motion. In that advice, I concluded that the 2023 Motion did not give rise to a pecuniary interest under the MCIA. (The same advice stated that participation in decision making on the 2023 Motion would not breach section 13.1 of the Code.) According to the Respondent, the Integrity Commissioner has already characterized analogous concerns as too remote and speculative to amount to an MCIA interest.

80. In the alternative, the Respondent submits that any pecuniary interest would be exempted by clause 4 (k) of the MCIA:

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<sup>18</sup> 2020 ONSC 7361 (CanLII), para 69.

<sup>19</sup> *Rivett v. Braid*, 2018 ONSC 352 (CanLII), para 63-69; *Darnley v. Thompson*, 2016 ONSC 7466 (CanLII), para 59-63; *Gammie v. Turner*, 2013 ONSC 4563 (CanLII), para 57; *Yorke et. al. v. Harris*, 2020 ONSC 7361 (CanLII), para 47.



Sections 5, 5.2 and 5.3 do not apply to a pecuniary interest in any matter that a member may have ...

(k) by reason only of an interest of the member which is so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the member.

81. Councillor Lowery relies on the decision in *Whitley v. Schnurr*, cited with approval by Justice H.K. O'Connell in *Aurora (Town) v. Ontario*:

Would a reasonable elector, being apprised of all the circumstances, be more likely than not to regard the interest of the councillor as likely to influence that councillor's action and decision on the question? In answering the question set out in such test, such elector might consider whether there was any present or prospective financial benefit or detriment financial or otherwise, that could result depending on the manner in which the member disposed of the subject matter before him or her.<sup>20</sup>

82. In response to the Complaint under the Code, the Respondent denies that he used or attempted to use the influence of his office for a private advantage. He emphasized that speaking to a motion and voting on it are in the ordinary course of an elected member's duties and, absent any non-speculative private benefit in this instance, such participation was not an improper use of influence.

### ***Applicant's Reply***

83. The Applicant observes that my advice to Councillor Lowery related to the 2023 Motion, not the 2025 Motion at issue in this inquiry. It argues that the previous advice does not apply to the present situation. The 2023 Motion proposed to *investigate* governance changes, whereas the 2025 Motion actually directed that Council pursue such changes; the active language of the 2025 Motion initiates a process intended to impact the Castle Arms Board.

84. According to the Applicant, it was not necessary for the 2025 Motion to mention Councillor Lowery's compensation for him to have a pecuniary interest in it: the employee-employer relationship between Castle Arms and the Respondent is by its very nature one that engages his pecuniary interest.

85. The Applicant submits further that the 2025 Motion has an impact on the Respondent's pecuniary interest that is not contingent upon other events taking place.

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<sup>20</sup> 2013 ONSC 6020 (CanLII), para 38, citing [1999] O.J. No. 2575 (Sup. Ct.).

86. It also relies on section 2 of the MCIA, which provides that where a Council Member's employer has a pecuniary interest in a matter, the Member possesses an indirect pecuniary interest in the matter. It submits that Castle Arms itself has a pecuniary interest in the 2025 Motion because any Council direction aimed at changing board composition and restoring municipal oversight engages the not-for-profit corporation's financial management, which implicates its pecuniary interests.

87. As examples of pecuniary interests of Castle Arms, the Applicant points to a long-term agreement with the District of Nipissing Social Services Administration Board (which is partly funded by the City) and a preferential property tax rate which it argues is effectively a subsidy to Castle Arms.

88. The Applicant asserts that no MCIA exemption applies to the Respondent's direct and indirect pecuniary interest. It argues that the interest is not one "in common with electors generally" under clause 4 (j) of the MCIA. It contends the interest is neither remote nor insignificant under clause 4 (k).

89. With respect to the Code, the Applicant submits that the "private advantage" contemplated by section 13.1 is not limited to a Council Member's pecuniary interests. A "private advantage" relates to a matter which would benefit a Member for a purpose unrelated to official duties and City purposes. The Applicant takes the position that Councillor Lowery is an employee of Castle Arms in his private capacity, unrelated to his official duties as a Council Member. It argues that the composition of the organization's governing body, which is directly responsible for employing, compensating and overseeing Councillor Lowery, is closely related to, and has an impact on, Councillor Lowery's day-to-day employment experience.

90. According to the Applicant, by participating in debate on the 2025 Motion, Councillor Lowery used the influence of his office to affect an outcome with a benefit to himself; namely, preserving a board composition he prefers and helped bring about. At the same time, he was advancing a private advantage to Castle Arms by opposing efforts to restore municipal oversight.

91. The Applicant provided a redacted email that it claims is evidence of the Respondent using the influence of office for a private advantage unrelated to City purposes. What was submitted does not show the date, recipient(s) or sender information. It reads as follows:

Hi there [redacted], Regarding the Castle Arms Public Presentation held back on September 2, 2025, here is a quick re-cap to the best of my recollection regarding the use of the transport van operated by Cassellholme CSS. There was no mention to me of any public meeting and no request to utilize the transport van prior to the meeting date. The day after the meeting was held, I learned that my CSS employee,

[redacted] had utilized the van to transport several residents to this meeting. When discussing this with [redacted] I learned that [redacted] had been asked by Jamie Lowery to use the van to transport tenants to this meeting. Since the transport van is owned by Castle Arms, [redacted] had innocently thought that there was no issue following his direction, which I understand. I advised [redacted], moving forward, because [redacted], she would need to consult with myself or [redacted] prior to accepting these types of assignments to ensure it is valid and reasonable. [redacted], agreed and was very apologetic. [redacted].

### ***Respondent's Sur-reply***

92. The Respondent did not formally submit a Sur-reply, just a brief email.

93. Counsel asked why the Applicant's February 2 Reply, due January 26, was being "entertained out of time." I explained that an extension had been requested and granted and that I routinely grant reasonable extensions and do so on an *ex parte* basis unless an extension would affect the substantive rights of another party.

94. The January 2023 declaration of pecuniary interest was explained as having been made, "out an abundance of caution."

95. It was noted that the 2023 Motion was not considered by the Committee "and it remains extant. In sum and substance, the matter [2025 Motion] which was raised in the current Complaint, is the same motion [as the 2023 Motion]."

## **FINDINGS OF FACT**

96. Findings of Fact appear in the Background section, above, and in this Findings of Fact section.

97. Findings of fact are made based on the standard of the balance of probabilities.

98. Castle Arms, legally known as Castle Arms Non-Profit Apartment Corporation, is an active Ontario not-for-profit corporation. It was incorporated August 8, 1986.

99. On September 2, Councillor Lowery was the Executive Director of Castle Arms/. This made him a senior officer within the meaning of the MClA.

100. Prior to Mr. Lowery's election to City Council, he served as the Chief Executive Officer of Cassellholme.

101. Councillor Lowery declared a pecuniary interest in the 2023 Motion, stating, "I am an employee of the Castle Arms Board" as the basis for his declaration.

102. At the September 2 meeting, Councillor Lowery did not declare a pecuniary interest in the 2025 Motion.

103. Councillor Lowery participated in the debate on the 2025 Motion and voted on the Motion as amended.

104. The 2025 Motion was adopted, with Councillors Inch and Lowery opposed.

105. The 2025 Motion did not amend the constating documents of Castle Arms, appoint or remove directors, alter its assets or liabilities, or vary the remuneration of any employee. The 2025 Motion authorized a process, including mediation and potential legal or administrative remedies, the outcome of which is undeterminable.

106. The operative (active) parts of the 2025 Motion do not directly or indirectly mention the Respondent.

107. The preamble (the list of “whereas” recitals) to the 2025 Motion was not an operative part of the resolution.<sup>21</sup> A preamble may set out the background to<sup>22</sup> and authority for<sup>23</sup> a council decision and can be used to elucidate the resolution’s purpose,<sup>24</sup> but has no substantive effect.<sup>25</sup>

108. Consequently, the mentions of the Respondent in the “whereas” recitals of the 2025 Motion had no substantive effect on him.

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<sup>21</sup> In *Shell Canada Products Ltd. v. Vancouver (City)*, [1994] 1 S.C.R. 231, at 277, the majority distinguished between the preambles and the “operative parts” of a council’s resolutions. To the same effect are: *Re Bruce and Toronto (City)*, [1971] 3 O.R. 62 (C.A.); *Vollant v. Sioui*, 2006 FC 487 (CanLII), para. 14; *Pittman v. Ashcroft First Nation*, 2022 FC 1380 (CanLII), para. 27; *Consortium Developments (Clearwater) Ltd. v. Sarnia (City)*, 1995 CanLII 10652 (Ont. S.C.), per Steele J.; *Graham v. McCallion*, 1982 CanLII 3196 (Ont. Cty. Ct.), para. 23.

<sup>22</sup> *Terratec v. Melancthon (Township)*, 2003 CanLII 13522 (Ont. S.C.J.); *Consortium Developments Ltd. v. Sarnia (City)*, 1996 CanLII 1905 (ON CA); *Alexander v. Etobicoke Board of Education*, (1982), 34 O.R. (2d) 76 (H.C.J.)

<sup>23</sup> *R. v. Drain*, 2006 ONCJ 186 (CanLII), para. 10; *1784049 Ontario Ltd. v. Toronto (City)* (2010), 101 O.R. (3d) 505, para. 21.

<sup>24</sup> *Seguin (Township) v. Hamer*, 2014 ONCA 108 (CanLII), para. 10; *Municipal Parking Corporation v. Toronto (City)*, 2007 ONCA 647 (CanLII), para. 20; *Haldimand (County) v. Hill*, 2023 ONCJ 105 (CanLII), para. 23; *Vincorp Financial Ltd. v. Oxford (County)*, 2014 ONSC 2580 (CanLII), para. 46; *Municipal Parking Corporation v. Toronto (City)*, 2009 CanLII 65385 (ON SC), para. 57; *Anderson v. Hamilton (City)*, 2009 CanLII 72107 (Ont. S.C.J.), para. 17; *T.T.C. v. Metro. Toronto*, [1960] O.R. 487 (H.C.J.).

<sup>25</sup> This true of all instruments, not just municipal resolutions: *Chromascan Inc. v. Canada*, 1999 CanLII 8030 (F.C.), para. 25; *Vhora v. Vhora*, 2016 ONSC 2951 (CanLII), paras. 110, 118; *Fairview Donut Inc. v. The TDL Group Corp.*, 2012 ONSC 1252 (CanLII), para. 430; *Munro v. Munro Concrete Products Ltd.*, 2005 CanLII 47715 (Ont. S.C.J.), para. 15; *Metropolitan Toronto Condominium Corp. No. 678 v. First Royal Management Inc.*, 2004 CanLII 21538 (Ont. S.C.J.), para. 16.

## ISSUES AND ANALYSIS

109. I agree with the Respondent that the Applicant bears the onus of establishing breaches of the MCIA and the Code.

110. I agree with the Applicant that my advice to Councillor Lowery concerning the 2023 Motion is not directly applicable to the 2025 Motion.

111. Because he had previously sought my advice on a motion respecting Castle Arms governance, the Respondent assumed he could rely on my prior guidance in connection with the 2025 Motion. The problem with the assumption is that pecuniary interest is assessed, not in relation to a broad topic (such as Castle Arms governance), but based on specific analysis of a proposed Council decision and its effect.

112. While the 2023 Motion and the 2025 Motion relate to same topic and their goals of governance reform are closely connected, their operative provisions are sufficiently distinct that what I advised in 2023 cannot automatically be transferred to the Respondent's participation in Council's 2025 decision making.

113. Council Members are encouraged to seek Integrity Commissioner advice on specific agenda items. No one should assume that two pecuniary interest assessments will be identical just because two motions, recommendations, staff reports or draft by-laws relate to the same topic. If an assumption is to be made, then the cautious approach would be to assume that a previously identified pecuniary interest continues to exist, not to assume the ongoing absence of pecuniary interest.

114. For these reasons, I have analyzed the 2025 Motion and whether it affects a pecuniary interest (of either the Respondent or Castle Arms) independently from my advice on the 2023 Motion,

115. I have considered the following issues:

- A. On September 2, did Castle Arms possess a pecuniary interest in the 2025 Motion?
- B. Did Councillor Lowery receive compensation from Castle Arms?
- C. Did Councillor Lowery possess a direct pecuniary interest in the 2025 Motion?
- D. If Councillor Lowery possessed an indirect or direct pecuniary interest, did any of the exemptions in section 4 of the MCIA apply?
- E. Did the 2025 Motion affect a "private advantage" of Councillor Lowery under paragraph 13.1(a) of the Code?

- F. On September 2, did Councillor Lowery attempt to influence Council's decision on the 2025 Motion?
- G. Should I make an application to a judge under section 8 of the MCIA?<sup>26</sup>

***A. On September 2, did Castle Arms Non-Profit Apartment Corporation possess pecuniary interest in 2025 Motion?***

116. The Divisional Court has defined pecuniary interest as follows: "Generally, it is a financial interest, an interest related to or involving money."<sup>27</sup> I agree with the Respondent's submission that, according to the jurisprudence, for the MCIA to apply, a pecuniary interest must be real, present and definable at the time of a matter's consideration by Council.

117. The 2025 Motion does not relate to any financial interest of Castle Arms. It relates to governance. It does so vaguely. The 2025 Motion does not specify who should be on the Castle Arms Board; it simply states the position that governance should be returned to the municipalities.

118. Even if the Motion had proposed specific changes to the corporation's board (which it did not do), changes to a board (should they occur) would not change the assets, liabilities, debts, or financial entitlements of a corporation (including a corporation incorporated under the *Not-for-Profit Corporations Act*<sup>28</sup>).

119. There is no correlation between governance, in particular, membership on the board, and a corporation's pecuniary interests. The entire board of Castle Arms could be replaced, yet that alone would not necessarily affect the organization's financial picture.

120. On a balance of probabilities, I find that Castle Arms did not possess a pecuniary interest in Res. # 2025-296, the 2025 Motion. The motion states vague, aspirational and speculative goals that, even if fully achieved, would not, without more, alter the financial position of Castle Arms. Any downstream financial effect on Castle Arms would depend on a chain of contingencies that were not decided by Council on September 2 – and were not even before Council on September 2. In these circumstances and on the evidence before the inquiry, it is not possible for me to find the existence of a corporate pecuniary interest that meets the jurisprudential standard of being actual, definable, real, and immediate.

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<sup>26</sup> Item G was not included in the list of issues in the Notice of Inquiry, but under the "Process" heading the Notice made clear that this determination would occur: "At the end of the portion of the inquiry related to the MCIA, the Integrity Commissioner determines whether or not to apply to the Superior Court of Justice for a finding that the Respondent contravened the MCIA."

<sup>27</sup> *Tuchenhagen v. Mondoux*, 2011 ONSC 5398 (CanLII) (Div. Ct.), para. 31.

<sup>28</sup> S.O. 2010, c. 15.

121. The conclusion that Castle Arms did not possess a pecuniary interest leads to the conclusion that the Respondent did not possess an indirect pecuniary interest by virtue of his employer's interest.

122. This leaves the question of whether the Respondent had a direct pecuniary interest in the motion.

### ***B. Did Respondent receive compensation from Castle Arms?***

123. Yes. It is not disputed that, on September 2, Councillor Lowery served as Executive Director of Castle Arms and received compensation in that capacity.

124. Whether his salary was at or below the norm within the non-profit sector is not relevant to compliance with the MCI and the Code. It suffices that the amount of the compensation was material – more than nominal or trivial.

### ***C. Did Respondent have direct pecuniary interest in 2025 Motion?***

125. Whether Councillor Lowery had a pecuniary interest in the 2025 Motion has been analyzed separately from my advice to him on the 2023 Motion.

126. The relevant test was formulated by the Divisional Court in *Re Greene and Borins*: “Does the matter to be voted upon have a potential to affect the pecuniary interest of the municipal councillor?”<sup>29</sup> The impact on a Council Member is irrelevant to whether a pecuniary interest exists. The impact may be positive or negative;<sup>30</sup> what counts is that the Council Member possesses a pecuniary interest in the matter.

127. I approach the question of whether Councillor Lowery had a pecuniary interest in the 2025 Motion based on the standard of a pecuniary interest that is real and present, and not speculative and remote. According to the Courts, the standard is an interest that is actual,<sup>31</sup> definable,<sup>32</sup> and real.<sup>33</sup> A pecuniary interest does not arise from speculation based on hypothetical circumstances.<sup>34</sup>

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<sup>29</sup> 50 O.R. (2d) 513, at 522.

<sup>30</sup> *Cooper et al. v. Wiancko et al.*, 2018 ONSC 342 (CanLII), para. 63.

<sup>31</sup> *Bowers v. Deleгарde*, 2005 CanLII 4439 (Ont. S.C.), para. 78; *Darnley v. Thompson*, 2016 ONSC 7466 (CanLII), para 59; *Rivett v. Braid*, 2018 ONSC 352 (CanLII), para. 51.

<sup>32</sup> *Lorello v. Meffe*, 2010 ONSC 1976 (CanLII), para. 59; *Darnley v. Thompson*, para. 59.

<sup>33</sup> *Methuku v. Barrow*, 2014 ONSC 5277 (CanLII), paras. 43, 48; *Lorello v. Meffe*, para. 59; *Darnley v. Thompson*, para. 59.

<sup>34</sup> *Gammie v. Turner*, 2013 ONSC 4563 (CanLII), para. 57; *Darnley v. Thompson*, para. 63.

128. A pecuniary interest must have crystalized by the time the matter is considered by Council or committee.<sup>35</sup> The matter before Council must be such that, “the member could experience an immediate, in the sense of close, non-deviated or traceable[,] financial or economic impact, positive or negative.”<sup>36</sup> Possible and potential future happenings do not amount to a pecuniary interest.<sup>37</sup>

129. I agree with the Applicant that an employee has a pecuniary interest in getting paid. However, not every motion related to the employer affects an employee’s compensation. For example, a governance-focused resolution that contemplates altering the employer’s board does not necessarily or logically have a salary impact. Absent such impact, there is no direct pecuniary interest of an employee.

130. Likewise, a change in an employee’s reporting or the reporting structure does not necessarily or logically affect compensation. Even if the effect of Motion 2025 were to change (not just launch a process that might lead to changing) the composition of the board to which Councillor Lowery reports, a changed board would not automatically or invariably affect his pay or other financial interest. Any impact on his pecuniary interest is speculative and remote.

131. The assumption that a change in composition of a corporation’s board – which, to be clear, the 2025 Motion did not implement, but merely urged be “pursued” – would impact the chief executive’s employment is just that, an assumption. No portion of the 2025 Motion directs (or even advocates) changing or ending his employment relationship with Castle Arms. It does not alter his remuneration, replace or remove him, or purport to amend any contractual right or obligation personal to him; neither does it call for any such outcome.

132. What the Motion does is to authorize mediation as a first step, failing which it calls upon member municipalities to explore and pursue available legal and administrative remedies, and establishes a coordinating committee with provisions for appropriate notice to be given to relevant parties. It does nothing more.

133. A hypothetical situation does not give rise to an MCI pecuniary interest.<sup>38</sup> Here, any financial impact on the Respondent would depend on a sequence of future contingencies. Other municipalities might or might not answer North Bay’s call to join in advancing governance reform, mediation might or might not result in governance changes, legal or administrative recourse may be pursued with unknown results, and

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<sup>35</sup> *Darnley v. Thompson*, para. 59.

<sup>36</sup> *Cooper v. Wiancko*, para. 63.

<sup>37</sup> *Bowers v. Delegarde*, paras. 76, 78; *Rivett v. Braid*, para. 51.

<sup>38</sup> *Gammie v. Turner*, para. 57; *Darnley v. Thompson*, para. 63.



courts (if called on) might or might not grant relief. Even if these unknown future happenings were to produce an altered board, then that board might or might not take employment decisions that could affect the Respondent. This series of hypotheticals and unknowns is too remote and too uncertain to ground an MCIA pecuniary interest.

134. As observed by the judge in *Darnley v Thompson*: “a pecuniary interest cannot be hypothetical and the pecuniary gain cannot be the subject of any contingency.”<sup>39</sup> On September 2, nobody knew what the result of the 2025 Motion would be. Even now, one can only speculate.

135. Four of the resolution’s “whereas” recitals directly or indirectly refer to Councillor Lowery. I have considered whether these mentions gave him a pecuniary interest in the 2025 Motion.

136. I accept that the Respondent has a personal interest in the allegation that he provided incorrect information to his board. However, this personal interest is not financial. It is not pecuniary interest under the MCIA.

137. As explained earlier, the preamble to the 2025 Motion is not an operative portion of the resolution. It lacks substantive effect. The “whereas recitals” do not authorize, instruct, direct or do anything. Because the preamble lacks substantive effect, it cannot give rise to an MCIA pecuniary interest.<sup>40</sup>

138. In summary, on the balance of probabilities, I find that on September 2 the Respondent did not possess a direct pecuniary interest in the 2025 Motion.

***D. If Respondent possessed indirect or direct pecuniary interest, did an exemption in section 4 of MCIA apply?***

139. Because I have concluded that the Respondent possessed neither a direct nor an indirect pecuniary interest, the section 4 issue is academic. Nonetheless, I agree with the Applicant that the exemptions in section 4 of the MCIA do not apply here.

140. Section 4 does not deny the existence of a pecuniary interest; it qualifies its consequences. A member who falls within an exception remains someone with a pecuniary interest but is not required to withdraw from discussion, voting, and attempting to persuade others.

141. I share the Applicant’s view that the clause 4 (j) exception – an interest in common with electors generally – would not apply. If I were wrong on Issue A or Issue C, that is, if

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<sup>39</sup> *Darnley v. Thompson*, para. 63.

<sup>40</sup> *Lediard v. Clarke*, para. 18.

this were a matter of financial impact on Castle Arms or Councillor Lowery, then Councillor Lowery would not be in the same position as electors generally.

142. I also agree with Applicant that the clause 4 (k) exception – remote or insignificant interest – does not apply.

143. Clause 4 (k) refers to a pecuniary interest “so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the member.” The test of what can be reasonably regarded as likely to influence is based on the standard of a reasonable elector fully apprised of all the circumstances.<sup>41</sup>

144. If I were wrong on Issue C, that is, if the Respondent’s employment or compensation stood to be affected by the 2025 Motion in a way that is not hypothetical, speculative or remote, then I believe that the Respondent’s interest (an interest in keeping a salary and job) would be sufficiently significant to reasonably be regarded as likely to influence him.

### ***E. Did 2025 Motion involve Respondent’s “private advantage” under paragraph 13.1(a) of Code?***

145. The Complaint under the Code is based on section 13.1, paragraph (a):

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 City purposes. Without limitation, no Member may:

- (a) use his or her office or position of influence or attempt to influence the decision of any other person, for the Member’s private advantage or that of the Member’s parent, child, spouse, Staff, friend or associate, business or otherwise.

146. The rule in section 13.1 differs from the MCIA in several ways. For example, unlike the MCIA, section 13.1 is a purpose-based, intent-based restriction. Under the MCIA, the existence of a pecuniary interest (subject to the section 4 exceptions) removes a Member from decision-making, regardless of the Member’s motive and intention.<sup>42</sup> In contrast, section 13.1 of the Code looks at the Member’s purpose, and paragraph (a) considers whether the Member is acting for private advantage or attempted private advantage. The

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<sup>41</sup> *Ferri v. Ontario (Attorney General)*, 2015 ONCA 683 (CanLII), para. 16.

<sup>42</sup> See *Moll v. Fisher*, (1979), 23 O.R. (2d) 609 (Div. Ct.) at 612 and *Tuchenhagen v. Mondoux* (2011), 107 O.R. (3d) 675 (Div. Ct.) at 686, paras. 25, 28. (*Ferri v. Ontario*, para. 21, suggests that, in some circumstances, whether the Member is acting in good faith and is not motivated by a potential pecuniary benefit might be mitigating factors, but its analysis does not affect the observation I am making about the structure of section 13.1 of the Code.)

text of the by-law makes a Member's motivation, intention and state of mind directly relevant to compliance with section 13.1.

147. The Code does not define "private advantage," though section 13.2 identifies what does not constitute private advantage.

148. I agree with the Applicant that "private advantage" is not limited to a pecuniary (financial) matter. Private advantage certainly includes pecuniary interest, but it is a more expansive term that might also encompass non-financial interests.<sup>43</sup> The ordinary meaning of the word "advantage" is not limited to finances.<sup>44</sup> Furthermore, section 12.2 of the Code refers to "personal financial gain," suggesting that, when a pecuniary interest is meant, the Code explicitly refers to finances.

149. Even applying a broader interpretation that goes beyond financial interest, I am not satisfied that the 2025 Motion involved a "private advantage" to Councillor Lowery. Certainly, the resolution broached topics personal to him. The preamble stated that he gave his employer incorrect information. The operative provisions addressed the governance structure of his employer. In these ways, the 2025 Motion touched the Respondent in a personal (*i.e.*, non-Council, non-City) capacity. That does not, however, mean that a private advantage to him was engaged.

150. I accept that the Respondent has a personal interest in not being accused of passing incorrect information. However, I do not conclude that his opposition to the 2025 Motion was an attempt to obtain private advantage. First, the "whereas" recitals, while unflattering, had no substantive effect. The absence of operative impact negates the suggestion of advantage. Second, the allegation of incorrect information was peripheral to the motion and Council's consideration, and there is no suggestion that the purpose of Councillor Lowery or anyone else was to address this incidental point. Third, the ordinary meaning of "advantage" carries the connotations of opportunity and of getting ahead, especially relative to others.<sup>45</sup> While the allegation of providing incorrect information might be characterized as disadvantageous, it is stretching the language of paragraph 13.1(a) to suggest that defending oneself against an allegation constitutes seeking an "advantage."

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<sup>43</sup> *Re Voyageur Days Festival Committee*, 2024 ONMIC 3 (CanLII), para. 137; *Therrien-Hale v. Leal*, 2025 ONMIC 4 (CanLII), para. 255.

<sup>44</sup> Definitions include "benefit or gain" (Britannica Dictionary), "benefit resulting from some course of action" (Merriam-Webster), "a condition giving a greater chance of success" (Cambridge Dictionary), "something that puts you in a better position than other people" (Collins), "the opportunity to gain something; benefit or profit" (Oxford Languages), and "something that helps you to be more successful than others, or the state of having this" (Longman Dictionary of Contemporary English).

<sup>45</sup> *Ibid.*, especially the definitions from Cambridge Dictionary, Collins, Oxford Languages, and Longman Dictionary of Contemporary English.

151. I also recognize that Castle Arms employs Councillor Lowery personally. However, I cannot conclude that the 2025 Motion, which related to governance and oversight of his employer, was a matter of private advantage to him. I do not accept the Applicant's characterization that the Motion "went to the heart" of the Respondent's private employment. I rely on the analysis in paragraphs 127 to 138 and apply it here. The 2025 Motion did not affect his employment or entitlements. Nothing in the evidence demonstrates, on a balance of probabilities, a determinate employment impact arising from the resolution.

152. I conclude that the Respondent was not acting for other than a lawful purpose and was not motivated by "private advantage" as that term is used in section 13.1.

***F. On September 2, did Councillor Lowery attempt to influence Council's decision on the 2025 Motion?***

153. Having concluded that the 2025 Motion did not involve a "private advantage" to Councillor Lowery within the meaning of paragraph 13.1(a) of the Code, it is unnecessary to determine whether he also attempted to influence Council's decision on that basis. Nonetheless, I will address the issue briefly.

154. The Applicant argues that, in debate on the 2025 Motion, the Respondent used or attempted to use the influence of office to sway other Council Members, for his private advantage. I agree that what occurs in Council and committee meetings involves the use of a Member's office and position. I have already dealt with "private advantage." This leaves the question of influence, to which I now turn.

155. The Code does not prohibit having influence and does not prohibit all uses of influence. Section 13.1 generally and paragraph 13.1(a) in particular draw a more careful line: they prohibit the use of office, or the attempt to influence another person, for purposes unrelated to the lawful exercise of official duties and the advancement of City purposes.

156. In the context of section 13.1, the Applicant does not specifically mention the Respondent's vote. Nonetheless, it is important to state that voting is a Council Member's duty. During a recorded vote, section 246 of the *Municipal Act* obliges each Member present to vote, unless one is disqualified from voting by an Act. This means that voting is a lawful exercise of official duties, formally recognized by the opening words of section 13.1.

157. Speaking to a motion is closely connected to casting a vote. The Applicant argues that speaking to the 2025 Motion was an attempt to influence others. While I agree that persuasion of colleagues is one purpose of debate, it is not the only purpose. Nor, in my

view, is it the primary purpose. Council Members speak to explain their positions and to place on record the reasons for their votes. Participating in debate for this purpose is common, expected, and an extension of voting.

158. We should be reluctant to assume that the ordinary expression of a Council Member's position – which occurs numerous times at every meeting – is an attempt to influence colleagues that becomes subject to restriction under section 13.1. In the absence of a private advantage, participation in open-meeting debate and decision making cannot amount to an improper use of influence. The routine performance of an elected Member's duty, without more, cannot be converted into a breach of the Code.

159. The Applicant relies on a redacted email that purports to describe the Respondent's role in bringing people to the September 2 meeting. The email is reproduced in paragraph 91. I make no finding as to the truth of the conduct described but do make the following observations.

160. First, the email describes conduct that, if it occurred, was in the course of the Respondent's duties to Castle Arms. There is no suggestion that he used his City Council position or the influence of that position.

161. Second, mobilizing community members to attend a public meeting, if this occurred, would not contravene section 13.1 or any other provision of the Code.<sup>46</sup> As Integrity Commissioner Michael Maynard has found, "Marshalling political support is common and ordinary in politics."<sup>47</sup> In another case, the same Integrity Commissioner observed:

I would find it an absurd waste of taxpayer dollars to review a politician practising politics in its most basic form – i.e., rallying personal support in the face of anticipated criticism.<sup>48</sup>

162. The Code prohibits using office for private advantage; it does not prohibit requesting or facilitating public access to an open Council proceeding.

163. Third, the claim that the Respondent encouraged members of the Castle Arms community to attend the public meeting does not assist in establishing that he acted in furtherance of a private advantage. Inviting public scrutiny is seldom a hallmark of misuse of public office.

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<sup>46</sup> *Farr v. Murphy*, 2017 ONMIC 19 (CanLII), para. 43.

<sup>47</sup> *Burdett v. Strange* (Nov. 19, 2025), Niagara Falls Integrity Commissioner, Michael Maynard, p. 6, online: <https://niagarafalls.civicweb.net/document/102627/>

<sup>48</sup> *Complainant v. Strange* (Dec. 12, 2025), Niagara Falls Integrity Commissioner, Michael Maynard, p. 43, online: <https://niagarafalls.civicweb.net/document/104727/>

164. The conclusions under this heading, particularly in paragraph 160, may cause readers to wonder whether involvement in the Respondent's capacity as Executive Director of Castle Arms demonstrates that Castle Arms did have a pecuniary interest in the 2025 Motion or that a private advantage was involved. The answer lies in the examinations of pecuniary interest (paragraphs 116 to 138) and of private advantage (paragraphs 147 to 152). The 2025 Motion was about Castle Arms, and it is unsurprising that Castle Arms was following the City Council proceedings. However, for the reasons I have outlined, despite being about Castle Arms, the resolution did not affect a pecuniary interest of Castle Arms or the Respondent and did not involve their private advantage.

### ***G. Should I make an application to a judge?***

165. No. The *Municipal Act* leaves this decision to the Integrity Commissioner, based on what the Integrity Commissioner feels is appropriate. Having found that no pecuniary interest exists, I should not commence a Court application.

166. Consequently, I will not apply to a judge for a determination as to whether Councillor Lowery contravened section 5 of the MCI A.

## **DECISION (MCI A)**

167. I will not apply to a judge under section 8 of the MCI A for a determination as to whether Councillor Jamie Lowery contravened the MCI A on September 2, 2025.

168. This decision is limited to the September 2 Council Meeting. The assessment of a conflict of interest must be made on a case-by-case basis. Just because discussion and voting on the 2025 Motion did not engage a pecuniary interest does not mean that a subsequent matter before Council or a committee – perhaps different in some material respect – will be similarly treated. The Integrity Commissioner is always available to give confidential advice to a Council Member at any time.

## **CONCLUSION (CODE)**

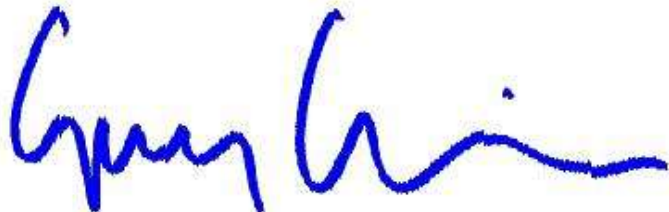
169. I find that Councillor Lowery did not contravene section 13.1 of the Code.

## **PUBLICATION**

170. The *Municipal Act* requires that, after deciding whether or not to apply to a judge, the Integrity Commissioner shall publish written reasons for the decision. This decision

will be published by providing it to the City to make public and by posting on the free, online CanLII database as decision 2026 ONMIC 1.

171. Subsection 223.5 (2.3) of the *Municipal Act* states that I may disclose in these written reasons such information as in my opinion is necessary. All the content of these reasons is, in my opinion, necessary.

A handwritten signature in blue ink, appearing to read "Guy Giorno". The signature is fluid and cursive, with a prominent initial "G" and a long, sweeping tail.

Guy Giorno  
Integrity Commissioner  
City of North Bay

April 4, 2026