
CITY OF DRYDEN INTEGRITY COMMISSIONER, GUY GIORNO

Citation: CAO v. Noel / Mayor v. Noel, 2025 ONMIC 12

Date: December 31, 2025

JOINT INQUIRY REPORT

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THE COMPLAINTS

1. This is my report to City Council under subsection 233.6(2) of the *Municipal Act* on whether the Respondent has contravened the Council Code of Conduct, Schedule A to By-law Number 3529-2007, Policy No. MU-CO-11.
2. The Chief Administrative Officer (Complainant 1) and the Mayor (Complainant 2) filed two separate Complaints alleging that Councillor Ritch Noel (Respondent) contravened the Code by issuing a July 17 news release. I understand and accept that both Complainants were acting in their official capacities.
3. Complaint 1 was filed November 14 and was assigned File No. 2025-03-CC. Complaint 2 was filed December 4 and was assigned File No. 2025-04-CC.
4. Both Complaints allege that the Respondent's July 17 news release, which announced his judicial review application, violated the Code by releasing confidential information.

SUMMARY

5. The Respondent did not contravene the Code.
6. The *Municipal Act* and the Code do not remove the right to commence a judicial review application in Divisional Court. The application is a public proceeding.
7. Commencing a judicial review application did not contravene the Code.
8. Issuing a news release about the same judicial review application did not contravene the Code.
9. Further, the Respondent is protected by the six-week deadline for filing Complaints that was in effect when the Complainants became aware of the news release.

BACKGROUND

10. Earlier this year, an independent, external investigator conducted an investigation into complaints, against Councillor Noel, filed by two employees. The background to the investigation and the investigator's findings are summarized in my report in *Employees v. Noel*, 2025 ONMIC 7 (CanLII).
11. On June 9, after reviewing the investigation report, City Council made certain determinations. One was that the Respondent would not be permitted to attend City Council meetings in person until he has completed in-person harassment training.

12. On July 8, the Respondent commenced an application for judicial review. His application seeks, among other remedies, an order quashing the restriction on his personal attendance.¹

13. On July 17, the Respondent issued a news release titled, "Dryden City Councillor Ritch Noel Challenges His Ban from Attending Dryden City Council Meetings and City Events in Divisional Court."

14. The release generated a July 23 news story, "Noel seeks court review of council ban."

15. On July 28, Complainant 1 obtained, via email, a copy of the news release.

16. The Complaint materials indicate that Complainant 2 obtained the same July 28 email as Complainant 1. It is reasonable to conclude that Complainant 2 found out about the news release from Complainant 1, around the same time as Complainant 1 received the news release.

17. I find that the news release contains no information not already filed with the Divisional Court as part of Councillor Noel's judicial review application. Indeed, the release contains far less information.

18. The release does, however, indicate that Council has barred Councillor Noel from in-person attendance at meetings until he completes harassment training and it does contain some content from which a reader can draw conclusions about the harassment complaints.

19. City Council's June 9 decision was ostensibly confirmed in closed session. As required by subsection 239(5) of the *Municipal Act*, voting took place in open session. However, the resolution was vague and gave no indication that Councillor Noel was being restricted from attending meetings in person. The minutes read as follows:

Report from Closed Session

Ms. Euler advised there had been one item on the Closed Agenda and on that item, Council received a report and directed a motion be presented in the Open Meeting.

3

Moved by M. MacKinnon
Seconded by B. Tardiff

That Council confirms the report recommendations as discussed in the June 9, 2025, Closed Council Meeting.

Carried Unanimously

¹ Ritch Noel v. Dryden (Corporation of the City), Divisional Court File. No. 25-00000006-00JR.

20. At the next meeting, June 23, Council adopted a resolution that made public the restriction. The minutes describe what occurred:

Councillor MacKinnon called a Point of Order and stated that Councillor Noel was attending the meeting in person when the recommendations of Council from June 9, 2025, instructed him to join virtually until he had provided evidence that he fulfilled one of the recommendations.

Deputy Mayor Latham asked Councillor Noel to leave and he declined. Council unanimously adopted a resolution to have Councillor Noel leave the meeting as he is contravening the recommendations adopted by Council at the June 9th meeting which state he can only attend meetings virtually until he has shown evidence that he has fulfilled one of the recommendations. Councillor Noel has shown no such evidence and has refused to leave this meeting and therefore will not be acknowledged during it.

3

Moved by B. Tardiff
Seconded by M. Price

That Councillor Noel be ordered to leave his seat for the duration of the meeting as he is in contravention of a direction of Council.

Carried

21. When Councillor Noel issued his news release, and when the Complainants became aware of the news release, section 13.3 of the applicable Code of Conduct stated, in part:

Complaints must be submitted within six (6) weeks of the matter first becoming known to the complainant and cannot be filed more than six (6) months after the alleged violation occurred. No action will be taken on a complaint received beyond either of the foregoing deadlines.

22. On October 14, Council replaced that Code of Conduct with a new one.

23. The operative passage of the amending by-law, By-law Number 2025-47, provided as follows:

NOW THEREFORE the Council of The Corporation of The City of Dryden enacts as follows:

1. THAT Schedule "A" to By-law Number 3529-2007 be and is hereby amended by deleting and replacing the following policy under section Municipal Government:

(a) MU-CO-11 – Council Code of Conduct Policy.

2. THAT this By-law shall come into force and take effect on the final passage hereof. Enacted and passed this 14th day of October 2025 as

witnessed by the Seal of The Corporation and the hands of its proper Officers duly authorized in that behalf.

24. The new Code of Conduct does not contain either a six-week or six-month deadline. Section 13.6.1 of the new Code states, “There is no time limit on when a complaint must be submitted.”

PROCESS

25. Under section 223.4 of the *Municipal Act*, an inquiry into the Complaints is not automatic. Subsection (1) uses the words, “if the Commissioner conducts an inquiry ...” The Divisional Court has confirmed that whether to commence an inquiry lies within the Integrity Commissioner’s discretion.²

26. The process to be followed in an inquiry also lies within the Integrity Commissioner’s discretion, so long as the process is fair.³

27. In this case, I determined that I could conduct the inquiry without needing to hear from the Respondent and on the assumption that the factual assertions in the Complaints are true or capable of proof. I proceeded on that basis.

ISSUES AND ANALYSIS

28. I have considered the following issues:

- A. Is the Respondent protected by the six-week deadline?
- B. Is commencing litigation contrary to the Code?
- C. Was issuing the news release contrary to the Code?

A. *Is the Respondent protected by the six-week deadline?*

29. When the Respondent’s news release came to the attention of the Complainants, section 13.3 of the Code gave them six weeks to file their Complaints.

30. The six-week deadline was not eliminated until October 14, several months after the Complainants became aware of the news release.

² *Dhillon v. Brampton (City)*, 2021 ONSC 4165 (CanLII), paras. 34, 40.

³ *Di Biase v. Vaughan (City)*, 2016 ONSC 5620 (CanLII)

31. According to Supreme Court of Canada and Ontario Court of Appeal jurisprudence, the six-week deadline was not merely procedural. It affected the Respondent's substantive rights, including the right to move on with his affairs without the risk of a Code of Conduct complaint. Consequently, removal of the six-week deadline did not have retrospective effect unless retrospective application is based on express words or necessary implication.⁴

32. By-law Number 2025-47, the amending by-law, expressly states that it came into force and took effect October 14. It was not in effect prior.

33. By-law Number 2025-47 does not expressly state, nor does it necessarily imply, that removal of the six-week deadline applies to matters of which Complainants became aware prior to October 14.

34. Consequently, I am of the view that the six-week deadline in section 13.3 of the previous Code – that is, the version of the Code that was in effect when the Respondent issued the news release and when the news release became known to the Complainants – provides a complete answer to the Complaints and the Respondent is entitled to have the Complaints dismissed.

35. Should I be wrong in this conclusion, I am, below, also considering the Complaints on their merits.

B. Is commencing litigation contrary to the Code?

36. Having considered the applicable law, I believe that commencement of litigation – in this case, a judicial review application – by a Council Member does not contravene the Code.

37. The Code and the *Municipal Act* do not prohibit a Councillor from commencing a legal proceeding. The Code and the *Municipal Act* do not prohibit a Councillor from threatening to commence a legal proceeding.

38. The right to commence litigation is an ancient common law right that can only be restricted or extinguished by clear legislation.⁵

39. Further, the authority of a superior court to entertain a judicial review application is an ancient power rooted both in the rule of law and in our Constitution.

⁴ *Martin v. Perrie*, 1986 CanLII 73 (SCC), [1986] 1 S.C.R. 41; *The Queen v. Walker, The Queen v. M. E. Clark & Sons Ltd.* (1970), 11 D.L.R. (3d) 173 (SCC), at 186; *Re Teperman & Sons Ltd. and Toronto (City) et al.* (1975), 7 O.R. (2d) 533 (C.A.); *Persaud v. Royal Bank of Canada*, 1996 CanLII 906 (ON CA); *St. Jean v. Cheung*, 2008 ONCA 815 (CanLII).

⁵ *Berardinelli v. Ontario Housing Corp.* (1978), [1979] 1 S.C.R. 275, at 280.

40. Judicial review dates back to the 1200s,⁶ and arguably has roots in *Magna Carta*.⁷ By the end of the 1600s, England's Lord Chief Justice would observe that the exercise of any statutory jurisdiction was subject to judicial review.⁸

41. In Canada, judicial review is constitutionally guaranteed.⁹ The Supreme Court of Canada ruled in *Crevier v. Québec (Attorney General)* that provincial superior courts possess an inherent supervisory authority to determine whether legislative and administrative actions are constitutional and within lawful jurisdiction.¹⁰ It is generally accepted that judicial review is a means of upholding the rule of law.¹¹

42. Nothing in the *Municipal Act* restricts the right of a Council Member to seek judicial review of a municipal decision, and nothing in the Act authorizes a code of conduct to impose such a restriction.

43. Judicial review has always been a discretionary remedy – this is, a matter lying in the court's discretion.¹² However, it is not for a municipality or a municipal Integrity Commissioner to decide whether relief is available to an applicant. That is up to the court.

44. For these reasons, I conclude that Councillor Noel's judicial review application does not contravene the Code of Conduct.

45. I have carefully considered whether the Code of Conduct applies to the content of Councillor Noel's court filing (as opposed to his right to bring the application.) In my view, the Code does not apply to the content.

46. First, Councillor Noel is challenging a decision made in a closed meeting. It is axiomatic that, to challenge secret decision-making, he must refer to what happened in secret. Having found that bringing the application does not contravene the Code, I must also find that this content of his application does not contravene the Code.

⁶ I am referring to *certiorari*, the power to quash decisions, which is the most common judicial review remedy and the one sought by Councillor Noel in his Divisional Court application. The history of *certiorari* back to the 13th century is set out in S.A. de Smith, "The Prerogative Writs" (1951), 11 *Cambridge L.J.* 40, at 45-46.

⁷ *McLeod v. Salmon Arm (Board of School Trustees)* (1951), [1952] 2 D.L.R. 562 (B.C.C.A.), at 571, citing *Magna Carta*, s. 40, "To no one will we sell, to no one deny or delay right or justice."

⁸ "[W]herever any new jurisdiction is erected, be it by private or public Act of Parliament, they are subject to the inspections of this Court by writ of error, or by *certiorari* and *mandamus*." *The Case of Cardiff Bridge* (1699), 1 Salk. 146, Holt C.J., cited by Dickson J. in *Martineau v. Matsqui Institution*, [1980] 1 S.C.R. 602, at 616. To the same effect was his ruling in *R. v. Glamorganshire Inhabitants* (1700), 1 Ld. Raym. 580: "For this court will examine the proceedings of all jurisdictions erected by an Act of Parliament."

⁹ *Constitution Act, 1867*, s. 96.

¹⁰ [1981] 2 S.C.R. 220, at 229-230, 234-235. See also: *Québec (Attorney General) v. Farrah*, [1978] 2 S.C.R. 638, at 651-655, *per* Pratte J.

¹¹ *Tsleil-Waututh Nation v. Canada (Attorney General)*, 2017 FCA 128 (CanLII), para. 78.

¹² *Canadian Pacific Ltd. v. Matsqui Indian Band*, [1995] 1 S.C.R. 3, at 28, para. 30, 64, para. 112.

47. Second, and more important, the content of Councillor Noel's judicial review application is protected by what the courts call "absolute privilege." This means that the content of what he filed with the Divisional Court cannot be used against him in any other proceeding¹³ – including but not limited to a Code of Conduct complaint and this inquiry under section 223.4 of the *Municipal Act*.

48. Because the Notice of Application for Judicial Review issued by the Divisional Court is protected by absolute privilege, it would be impossible for me to find that what Councillor Noel included in this court document breached the Code.

49. My conclusion is bolstered by the recent Divisional Court decision in *Sloat v. Grand Erie District School Board*. The Court quashed sanctions against a school trustee who included allegedly confidential material in a judicial review application, calling the school board's finding of a code of conduct breach, "unintelligible and unreasonable."¹⁴

50. For greater certainty:

- a. The finding of no breach extends to content from the closed meeting included in the Notice of Application.
- b. Because Complaint 1 relies on the confidentiality rule in section 11.1 of the Workplace Harassment Policy & Procedure, I confirm that the finding of no breach extends to the Workplace Harassment Policy & Procedure. In other words, what Councillor Noel included in the Notice of Application did not breach the Workplace Harassment Policy & Procedure.
- c. The above findings of no breach extend to the content of any other documents that Councillor Noel has filed with the Divisional Court.

C. Was issuing the news release contrary to the Code?

51. However, the Complaints do not allege that what is in the court documentation breaches the Code. They allege that what Councillor Noel placed in his news release breaches the Code. This is a distinct issue, to which I now turn.

52. Complaint 1 cites sections 9.1, 9.2, 9.3 and 9.5 of the Code. It also relies on section 11.1 of the Workplace Harassment Policy & Procedure and on Code section 7.2.1, which requires Members to act in accordance with the Workplace Harassment Policy & Procedure.

¹³ *Samuel Manu-Tech Inc. v. Redipac Recycling Corporation*, 1999 CanLII 3776 (ON CA), paras. 19-20; *Amato v. Welsh*, 2013 ONCA 258 (CanLII), paras. 34-35.

¹⁴ *Sloat v. Grand Erie District School Board*, 2024 ONSC 6209 (CanLII), para. 91.

53. Complaint 2 cites sections 9.1, 9.2 and 9.5 of the Code.

54. For the purpose of determining whether the Respondent's conduct contravened the Code, the relevant version of the Code is the one in effect when the Respondent issued the news release, that is, the update of September 23, 2024.¹⁵

55. The relevant sections of the Code, including the definition of "Confidential Information," were as follows:

3.5 **Confidential Information** is information that is classified as being confidential in the opinion of Council Members, whether labeled as confidential or not. Disclosure of information will not constitute a breach of the Code of Conduct unless that information is of an inherently confidential nature such as:

3.5.1 Personal data of employees or others.

3.5.2 Records related to internal policies and practices, which if disclosed, may prejudice the effective performance of a municipal operation.

3.5.3 Records of a financial nature reflecting information given or accumulated in confidence.

3.5.4 Files prepared in connection with litigation and adjudicative proceedings.

3.5.5 Reports of consultants, policy drafts and internal communications, which if disclosed, may prejudice the effective operation of the City.

...

7.2.1 Council Members shall treat each other, the public and staff appropriately to ensure the work and volunteer environment is free of abuse, bullying, intimidation, discrimination and harassment; and shall act in accordance with the City of Dryden Policies HR-RESP-01 Workplace Harassment Policy and Procedure and HR-RESP-02 Workplace Violence Policy and Program.

...

9.1 Council Members shall not disclose, release or publish by any means to any person or the public, confidential information acquired by virtue of their office, in any form, except when required by law, or specifically authorized by Council to do so.

¹⁵ Sections 9.1 and 9.5 of the previous version are identical to those in the current version. The "Confidential Information" definition and sections 7.2.1 and 9.2 are only slightly different and the differences are not material to this inquiry. Section 9.3 of the previous version read, "Council Members shall not use confidential information for private advantage or benefit of any other person or body." Section 9.3 of the current version reads, "Council Members shall not use confidential information for private advantage or benefit of any other person or body."

9.2 Closed Meetings:

9.2.1 Council Members shall not disclose to any person or to the public:

- (a) The subject matter of the discussion or debate;
- (b) Details or information regarding the matter;
- (c) Details of the discussion or debate; or,
- (d) The manner in which the matter was dealt unless required by law to do so, or until those details are discussed in an Open Meeting or the Member is specifically authorized by Council to do so.

9.3 Council Members shall not use confidential information for personal or private gain or benefit; or, for the personal or private gain or benefit of any other person or body.

...

9.5 Council Members shall not disclose to any person or to the public, internally circulated memos, reports or other information, intended for Council Members and not intended for the general public.

56. Section 11.1 of the Workplace Harassment Policy & Procedure provides:

All persons involved with a complaint must ensure that the matter remains confidential. These persons include, but are not limited to witnesses, representatives, managers/supervisors, the Manager of Human Resources and the Investigators. An employee who discloses confidential information except as allowed under this program may be subject to discipline.

57. The Notice of Application was issued by the Local Registrar of the Court on July 8. The news release was distributed on July 17.

58. I find that the content of the news release was obtained from the Notice of Application for Judicial Review.

59. Moreover, I find that, by the time the news release was issued, its content was in the public domain.

60. This means that issuing the news release did not contravene the Code because, according to section 3.5, “Disclosure of information will not constitute a breach of the Code of Conduct unless that information is of **an inherently confidential nature** ...” [emphasis added]

61. Unless sealed by judicial order, the content of a court file is not of an inherently confidential nature.¹⁶

¹⁶ *Rémillard v. Canada (National Revenue)*, [2022] 2 F.C.R. 576, aff’g *Rémillard v. Canada (National Revenue)*, 2021 FC 644 (CanLII).

62. As the Notice of Application on which the news release was based was not “inherently confidential,” section 3.5 of the Code provides a complete answer to the Complaints against Councillor Noel.

63. In case I am wrong about section 3.5, I am also considering the specific rules the Respondent is alleged to have contravened.

64. Section 9.3 can be quickly addressed. Complaint 1 argues that Councillor Noel’s “personal gain or benefit” from the news release “was to further his position in his judicial review.” I find that a news release cannot affect the Divisional Court’s decision on a judicial review application. There is no breach of section 9.3.

65. The remaining confidentiality rules are based on the origin of the information. Section 9.1 refers to confidential information acquired by virtue of office. Section 9.2 refers to closed meeting details. Section 9.5 refers to “internally circulated memos, reports or other information, intended for Council Members.”

66. Councillor Noel did not acquire the Notice of Application by virtue of his office. Consequently, section 9.1 of the Code does not apply to his disclosure of the Notice.

67. The Notice of Application is not closed meeting information. Section 9.2 of the Code does not apply to Councillor Noel’s disclosure of the Notice.

68. The Notice of Application does not fall within the category of “internally circulated memos, reports or other information, intended for Council Members.” Section 9.5 does not apply to disclosing the Notice.

69. The Notice of Application is not covered by the Workplace Harassment Policy & Procedure. Disclosing the Notice did not contravene the Policy.

70. Based on careful consideration of each Code section cited in the Complaints, I find that Councillor Noel did not breach the Code when he issued the news release describing his Notice of Application for Judicial Review.

71. I should add that, in the context of all that occurred, this conclusion is clearly reasonable.

72. It is not my place to address directly how Council chooses to conduct its meetings, but it is my duty to determine whether Councillor Noel contravened the Code. In doing so, I find that meeting secrecy is relevant context.

73. The Respondent’s Council colleagues decided to prohibit him from attending Council meetings in person, without initially disclosing this to the public. It is unfair to argue that Councillor Noel is not permitted to protest this secret decision.

74. I repeat that it is not my place to make findings about Council's meeting practices. It is my role to make findings about Councillor Noel's conduct. In this case, I find it relevant to the assessment of Councillor Noel's conduct that he was trying to protest a secret substantive decision, directly affecting him, when the Ontario Ombudsman has repeatedly explained that substantive decisions must be made in open meetings.

75. Earlier this year, I co-authored a paper that addressed this very topic.¹⁷

Regardless of who conducted an investigation, decisions that pertain to a council member can only be taken by council, and such decision-making must be public. First, findings about a council member are professional information, not personal information and, consequently, are not subject to the personal-information exception to the open-meeting rule.¹⁸ "Generally, information pertaining to complaints against councillors in their professional capacity will not be suitable for in camera discussion."¹⁹ There might be situations where a council intends to discuss a report in detail, creating the possibility that personal information of another identifiable individual (e.g., complainant) might be disclosed; in that case, a closed meeting could be appropriate for discussion of the personal information but not for the decision on the member.²⁰ (On the other hand, general discussion about a harassment complaint, without identifying complainants or witnesses, would not qualify for a closed meeting.²¹) Second, the exception for ongoing investigations does not apply to integrity commissioner inquiries and does not apply to investigations that have been completed.²² Third, only council possesses authority to impose penalties on, and to decide remedial action concerning, a member, and the voting must occur in an open meeting.²³ (If a meeting is properly closed, then voting may occur on a procedural matter or to give directions to staff; an example of the latter would be asking the staff draft a by-law or policy for future consideration. It is well-established that the directions-to-staff exception does not apply to a substantive decision,²⁴ such as [to] restrict a council member's access to the building or ... communicating with employees.)

¹⁷ Guy W. Giorno and Nicole R. Singh, "Elected Officials, Harassment, and Other Human Rights Allegations" (May 29, 2025), paper presented to Ontario Bar Association, Annual Update on Human Rights.

¹⁸ *Re Temagami (Municipality)*, 2021 ONOMBUD 3 (CanLII), paras. 32-33.

¹⁹ *Re Head, Clara and Maria (United Townships)*, 2012 ONOMBUD 8 (CanLII), para. 31.

²⁰ *Re Markstay-Warren (Municipality)*, 2024 ONOMBUD 21 (CanLII), paras. 62-65.

²¹ *Re Temagami*, note 18, para. 22.

²² *Re Markstay-Warren*, note 2020, para. 58.

²³ *Municipal Act*, subs. 239(5).

²⁴ *Re Burk's Falls (Village) / Armour (Township)*, 2015 ONOMBUD 26 (CanLII), paras. 116, 119; *Re Amherstburg (Town)*, 2012 ONOMBUD 1 (CanLII), para. 59; *Re Johnson (Township)*, 2021 ONOMBUD 1 (CanLII), para. 60; *Re Loyalist (Township)*, 2020 ONOMBUD 4 (CanLII), paras. 23-24; *Re Baldwin (Township)*, 2014 ONOMBUD 10 (CanLII), para. 24; *Re Alfred & Plantagenet (Township)*, 2017 ONOMBUD 11 (CanLII), para 55.

76. In this case, on June 9, City Council concealed its substantive decision by adopting a veiled reference to a closed meeting item: "That Council confirms the report recommendations as discussed in the June 9, 2025, Closed Council Meeting." Unstated, but material, was the fact that the recommendations included a restriction on Councillor Noel's attendance at meetings – a secret measure.

77. As noted earlier, on June 23, City Council made public, by adopting a resolution in open session, one aspect of its June 9 decision, though not other details.

78. I repeat that it is not my role to make findings about Council's decision-making process, and this report should not be interpreted as containing such findings. I set out this context only as background for an assessment of Councillor Noel's conduct. In all the circumstances, I conclude that it was reasonable for Councillor Noel to seek an outlet to address what had happened to him. That outlet included public disclosure. I have found that the public disclosure did not contravene the Code. I add that any concern about the public disclosure might have been mitigated had Council not originally set out to impose a secret measure on the Respondent.

CONCLUSION

79. I find that the Respondent did not breach the Council Code of Conduct when he issued the July 17 news release.

CONTENT

80. Subsection 223.6(2) of the *Municipal Act* states that I may disclose in this report such matters as in my opinion are necessary for the purposes of the report. All the content of this report is, in my opinion, necessary.

Respectfully submitted,



Guy Giorno
Integrity Commissioner
City of Dryden

December 31, 2025