
TOWNSHIP OF MELANCTHON INTEGRITY COMMISSIONER,
GUY GIORNO

Citation: Mercer v. White (No. 2), 2020 ONMIC 16

Date: November 18, 2020

SUPPLEMENTARY REPORT ON INVESTIGATION

1. On November 15, I issued the report *Mercer v. White*, 2020 ONMIC 15.
2. The report dismissed Councillor Margaret Mercer's Complaint that Mayor Darren White had breached sections 1.14, 1.15, and 1.16 of By-law 11-2019, A By-law to Adopt a Code of Conduct for Members of Council & Members of Local Boards.
3. I reported that Councillor Mercer's complaint was unfounded.
4. I found that Councillor Mercer made claims unsupported by the evidence
5. I found Councillor Mercer's account of what occurred to be unreliable.
6. I noted several instances in which Councillor Mercer's versions of events was at variance with fact.
7. Councillor Mercer's Complaint was submitted July 28, 2020, on the wrong form. It was resubmitted on the proper form, August 4.
8. This morning, I received a letter from a lawyer for Councillor Mercer.
9. Councillor Mercer's legal letter was six pages long, including attachments. It demanded that I "immediately rescind the Report on account of non-compliance with the Township's Complaint Protocol."
10. According to Councillor Mercer, through her lawyer, report 2020 ONMIC 15 should not have been issued, because she had previously withdrawn her complaint in writing.
11. The letter claimed that Councillor Mercer had withdrawn her complaint. The letter claimed that I had no authority to issue report 2020 ONMIC 15 because it was based on a withdrawn complaint. The Mercer-lawyer letter claimed that I had been procedurally unfair and issued a report that I had no authority to make.
12. In the first report, 2020 ONMIC 15, I found that Councillor Mercer made claims that were inconsistent with fact.
13. Her legal correspondence today is another example.
14. Contrary to the claim in the Mercer-lawyer letter, Councillor Mercer never withdrew the complaint on which report 2020 ONMIC 15 was based.
15. She did withdraw a 2019 complaint. She withdrew it on January 4, 2020.
16. She withdrew a prior complaint, not this one.

17. I cannot accept Councillor Mercer's claim that withdrawal of a previous complaint on January 4 has any bearing on the complaint she would subsequently submit on July 28, and officially file on August 4.

18. After I pointed out that he had been misinformed of the facts, the lawyer withdrew the request to rescind report 2020 ONMIC 15, and he apologized. However, he claimed that Councillor Mercer experienced "confusion" about which complaint was involved.

19. I cannot accept that Councillor Mercer confused her 2019 complaint with her 2020 complaint. She withdrew the former seven months before the latter was submitted.

20. While I accept that the lawyer may have been confused, I do not accept that Councillor Mercer was confused about whether her 2020 complaint was withdrawn.

21. On September 3, she asked, "Could I get an update on my complaint please?" On September 9, she asked if I would proceed on her complaint without the Mayor's response. On September 22, she wrote, "I stand fully behind my original complaint." These were odd things to write if she believed her 2020 complaint had been withdrawn.

22. In the last few days, Councillor Mercer has emailed me several times to object to the dismissal of her complaint: "You have done a disservice here." ... "You have capitulated and I'm disappointed in your service." ... "You have said I'm wrong on every point and given the mayor all the rights and total power to continue."

23. Not once did Councillor Mercer mention that she had withdrawn her complaint. On the contrary, she was upset that I had not upheld her complaint.

24. Today's claim of complaint withdrawal is of very recent origin and inconsistent with her previous writings. I do not, therefore, accept that Councillor Mercer experienced "confusion" about having withdrawn the 2020 complaint.

25. Councillor Mercer was aware that she never withdrew the complaint on which report 2020 ONMIC 15 was based. She nonetheless had her lawyer demand that I rescind the report, on the basis of a non-existent withdrawal.

26. Report 2020 ONMIC 15 has already been issued, but Councillor Mercer's most recent claim – to have withdrawn this complaint when in fact she did not – is further reason to conclude that her description of events is not reliable.

27. I have found that Mayor White did not contravene the Code of Conduct.

28. 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,

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
Township of Melancthon

November 18, 2020