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CASE SUMMARY: COURT UPHOLDS PENALTIES FOR A CITY COUNCILLOR WHO SEXUALLY HARASSED A COLLEAGUE

A city councillor, Dhillon, applied for judicial review of the City Council's decision to penalize him for sexual harassment on a business trip. Councillor Dhillon was largely unsuccessful on the application and ordered to pay \$40,000 in costs.

Administrative law – Decisions reviewed – Municipal Council – Integrity Commissioner – Judicial review application – Disclosure – Jurisdiction – Compliance with legislation – Procedural requirements and fairness – Standard of review – Reasonableness – Professional governance and discipline – Professional misconduct / conduct unbecoming – Code of conduct – Municipalities – Discipline of officials

Dhillon v. City of Brampton, [2021] O.J. No. 3200, 2021 ONSC 4165, Ontario Superior Court of Justice, June 11, 2021, C.U.C. MacLeod R.S.J., F. Kristjanson and L.G. Favreau JJ.

The applicant, Gurpreet Dhillon, was a Regional Councillor for the Respondent, City of Brampton. He attended a Brampton Trade Mission in Turkey in November 2019.

The complainant, a small business owner, also attended the Trade Mission. She met with Councillor Dhillon at night. She left the trip early and returned to Canada. On November 20, 2019, she met with Mayor Brown and a staff member, and reported a complaint that Councillor Dhillon came to her hotel room and tried to force himself upon her. She also played an audio recording for them. On November 26, 2019, Mayor Brown's staff member wrote an email to the Respondent, Integrity Commissioner of the City of Brampton, about the incident. Mayor Brown also called the Integrity Commissioner to report the allegations. The Integrity Commissioner treated Mayor Brown's call as a formal complaint.

The Integrity Commissioner interviewed the complainant, Mayor Brown, and other individuals. Councillor Dhillon declined requests to participate in an interview with the Integrity Commissioner.

In April, the Integrity Commissioner provided disclosure to Councillor Dhillon including a summary of her call with the Mayor, her email exchange with the Mayor, the transcript of the audio recording, and the March 2020 complaint form completed by the complainant.

On July 14, 2020, the Integrity Commissioner provided her Interim Report to Councillor Dhillon and requested his comments. His lawyers raised procedural and jurisdictional issues, and Councillor Dhillon maintained a general denial of the allegations.

On July 22, 2020, the Integrity Commissioner released her Final Report. She concluded that Councillor Dhillon tried to force himself on the complainant. The complainant made it clear, many times, that she did not want to engage in sexual activity. The complainant said “no” a total of 74 times during the audio recording. The Integrity Commissioner found Councillor Dhillon breached the City’s Code of Conduct by sexually harassing the complainant. The Integrity Commissioner recommended several steps be taken by the City Council.

On July 22, 2020, Councillor Dhillon filed an application for judicial review. His lawyers asked the Council to defer making decisions until after the application was heard.

On August 5, 2020, the Council made its decision. It accepted the recommendations of the Integrity Commissioner. The Council suspended Councillor Dhillon’s pay, reprimanded Councillor Dhillon, restricted his ability to communicate with the public, and removed him from committees.

Councillor Dhillon made a few arguments in his application for judicial review.

First, Councillor Dhillon argued the Integrity Commissioner did not properly commence the investigation. The Court found the investigation was properly commenced based on the information provided by the Mayor’s office. Also, the complainant then filed a form to complete all required information.

Second, Councillor Dhillon argued that he was denied procedural fairness in two ways; the disclosure was inadequate and he did not have an opportunity to be heard in response to the Interim Report. The Court found the Integrity Commissioner provided adequate disclosure. The Court found the Integrity Commissioner invited Councillor Dhillon to participate on several occasions, but he declined to participate. There was no denial of procedural fairness.

Third, Councillor Dhillon argued the Integrity Commissioner’s recommendations in her Final Report were unreasonable. The Court found the Integrity Commissioner’s recommendations were reasonable.

Finally, Councillor Dhillon argued the penalties recommended by the Integrity Commissioner were not authorized by the *Municipal Act*. The Court found the penalties were reasonable except for one part of the Council’s Resolution relating to Councillor Dhillon’s ability to communicate with the public.

The Court allowed the application for judicial review in part, as one part of the City’s Resolution was quashed. Aside from that, all other parts of the application were unsuccessful.

The Court ordered that Councillor Dhillon pay costs to the City of Brampton in the amount of \$20,000 and to the Integrity Commissioner in the amount of \$20,000.

This case was digested by [Scott J. Marcinkow](#), and first published in the LexisNexis® Harper Grey Administrative Law Netletter and the Harper Grey Administrative Law Newsletter. If you would like to discuss this case further, please contact Scott Marcinkow at smarcinkow@harpergrey.com.