

**WRITTEN REASONS FOR DECISION and ORDER**

**of the**

**DISCIPLINE COMMITTEE OF THE ONTARIO  
PROFESSIONAL PLANNERS INSTITUTE**

**IN THE MATTER OF** the *Ontario Professional Planners Institute Act, 1994*, S.O. 1994, c. Pr44, as amended, and the regulations thereunder;

**AND IN THE MATTER OF** allegations of breaches of the *Professional Code of Practice* referred to the Discipline Committee of the Ontario Professional Planners Institute regarding Member [REDACTED];

**BETWEEN:**

**ONTARIO PROFESSIONAL PLANNERS INSTITUTE**  
(the “Institute”)

and

[REDACTED]  
(the “Member”)

**THIS MATTER**, having come before a Panel of the Discipline Committee on an uncontested basis, was heard in person on January 5, 2024 at the Institute’s Office.

**ON REVIEWING** the documents and materials submitted by counsel for the Institute, including the Undertaking and Acknowledgement of the Member, dated November 6, 2023, the Agreed Statement of Facts, dated November 7, 2023, the Joint Submission on Penalty, dated November 7, 2023, and the Waiver of Appeal & Review of the Member, dated January 5, 2024, and on hearing the oral evidence of the Member, and on hearing the submissions of counsel to the Institute and counsel to the Member,

**THE DISCIPLINE COMMITTEE HEREBY ORDERS THAT:**

1. The Member is found to have contravened sections 2.12 and 3.5 of the *Professional Code of Practice* and is guilty of professional misconduct.
2. The Member is hereby reprimanded for his professional misconduct.
3. The Member shall be suspended from membership in the Institute for a period of one (1) month. The first two (2) weeks of the suspension shall be served beginning on the date of issuance of this Order and shall run uninterrupted for the full two (2) week period. The remaining two (2) week period of the suspension shall be postponed and shall be remitted in full (i.e., not served) if, on or before the three (3) month anniversary of the issuance of this Order, the Member provides evidence, satisfactory to the Registrar, of the successful completion of the

specified rehabilitative measures outlined in paragraph 4 of this Order. If the Member fails to successfully complete those specified rehabilitative measures within that timeframe, the Member shall serve the remaining two (2) weeks of the suspension, which shall be served immediately following the three (3) month anniversary of the issuance of this Order. For greater clarity, the specified rehabilitative measures imposed under paragraph 4 of this Order will be binding on the Member regardless of the length of suspension served and the Member may not elect to serve the suspension in place of performing those specified rehabilitative measures. If the Member fails to comply with the specified rehabilitative measures, it will be considered a breach of this Order and may be the subject of a complaint, investigation, and/or discipline proceeding.

4. The Member is directed to successfully complete the following specific rehabilitative measures:
  - a. Within three (3) months of the issuance of this Order, the Member shall, at his own expense, meet with a mentor who is a senior member of the planning profession in Ontario and who has been pre-approved by the Registrar (the “**Mentor**”). The meeting with the Mentor may be in person or virtual and shall last a minimum of one (1) hour. In advance of the meeting, the Member shall provide the Mentor with a copy of the Agreed Statement of Facts and this Decision and Order. The meeting with the Mentor shall be in accordance with the following terms:
    - i. The subject matter of the meeting shall include a discussion on:
      - the applicable provisions of the *Professional Code of Practice* and the Standards of Practice relating to conflicts of interest;
      - the acts or omissions for which the Member was found to have committed professional misconduct and the Member’s reflections on the factors contributing to that conduct;
      - the potential consequences of the misconduct to the Member’s clients, colleagues, the profession, the public, and himself; and
      - strategies for preventing the misconduct from recurring.
    - ii. The Mentor shall provide a letter to the Registrar within two (2) weeks of the meeting to confirm the Member’s participation in the meeting, the topics discussed, and the Member’s progress over the course of the meeting.
5. The Discipline Committee’s findings and this Order shall be published, in detail or in summary, but with the name of the Member redacted throughout, online and/or in print, including, but not limited to, in the Institute’s annual report, on the Institute’s

website, and in the Institute's publication *Y Magazine*. The summary shall consist of the preamble to and terms of the Order, verbatim. The Committee hereby directs that the summary be published in an email bulletin, on the Institute's website, and in *Y Magazine*, accompanied by a hyperlink to, or instructions on how to obtain, the complete Written Reasons, including attachments, redacted to remove the name of the Member's firm in Attachment "A", and the entirety of Schedule "A" to Attachment "C".

**DATED** at Toronto, this 7<sup>th</sup> day of February, 2024  
(amended March 6<sup>th</sup>, 2024 pursuant to section 21.1 of the *Statutory Powers Procedures Act*, R.S.O. 1990, c. S.22)

## REASONS

The reasons for the Discipline Committee's Order are as follows:

### A. Overview

1. Conflict of interest rules are a critical component of professional ethics regimes. They serve a prophylactic function to protect against the potential for harm by individuals engaged in a profession. This case engages obligations of professional planners related to conflicts of interest, particularly when the planner is engaged by public planning agencies, which owe paramount duties to the public.
2. As detailed more particularly in these Reasons, the Member contravened the Institute's rules related to conflicts of interest by simultaneously representing the interests of a private entity and a public planning agency without obtaining written consent and disclosure upon retention by the public planning agency. It is the failure to obtain written consent and disclosure that put the Member in a compromised position and which constituted an ethical lapse in this case. Actual harm need not have resulted in order for there to have been a contravention.

## B. Procedural History

3. In February 2021, the Institute received a complaint against the Member alleging, among other things, that the Member acted in a conflict of interest contrary to the Institute’s *Professional Code of Practice* (the “**Code**”). The Complaints Committee of the Institute directed that the matter be referred to the Discipline Committee.
4. This matter came for an in-person hearing before a Panel of the Discipline Committee (the “**Panel**”) comprised of the following members:
  - Wendy Nott, RPP                      Chair
  - Anthony Usher, RPP                Member
  - Monica Walker Bolton, RPP        Member
  - Elizabeth Jamischak                Public Interest Representative

5. The Institute was represented by Mr. Ben Kates, ~~independent~~ legal counsel.
6. The Member was represented by legal counsel, Mr. Paul Morrissey.

**C. Allegations**

7. As summarized in the Statement of Allegations, dated January 31, 2022, the Member was alleged to have contravened Sections 2.1, 2.12, and 3.5 of the Code.
8. This matter came before the Panel on an uncontested basis (i.e., a resolution) on two charges:
  - a. That the Member violated Section 2.12 of the Code by, as a consultant to a public planning agency, giving professional advice for compensation to others within the jurisdiction of the agency without written consent and disclosure to the agency in situations where there is a possibility of a conflict of interest arising.
  - b. That the Member violated Section 3.5 of the Code by engaging in dishonourable or questionable conduct in his professional practice, extra-professional activities or private life that may cast doubt on his professional competence or integrity, or that may reflect adversely on the integrity of the profession.
9. The Institute did not pursue charges under Section 2.1 of the Code.

**D. Agreed Statement of Facts**

10. The matter, being uncontested, proceeded on the basis of an Agreed Statement of Facts between Institute and the Member, dated November 7, 2023 (the “**ASF**”), which details the factual background of this matter. The Panel accepts as evidence those facts set out in the ASF, which is attached to this Decision and Order as **Attachment “A”**.
11. The following is a summary of the salient facts in the ASF.
12. In January 2019, the Member and his land use planning consulting firm (the “**Firm**”) were retained by a private company, Xinyi Canada Glass (“**Xinyi**”), to assist in obtaining necessary approvals to facilitate the development of a float glass plant in the City of Stratford, Ontario (the “**City**”). The Member was the Lead Project Manager.
13. The City and Xinyi had entered into an arrangement to work collaboratively to locate the float glass plant in the City in order to realize economic development opportunities.

14. During a meeting in February 2019, the City indicated that it did not currently have a sufficient supply of industrial/employment lands for the project, and that the City was planning to pursue annexation of lands from a neighbouring municipality. At this time, City Council had not yet approved annexation, but rather, directed City staff to undertake studies to evaluate the proposed annexation.
15. In February 2019, following the earlier meeting, the Member and his Firm were retained by the City's Chief Administrative Officer ("**CAO**") to provide support and assistance to the City in relation to the annexation proposal. Importantly, while the annexation proposal dealt with four parcels of land, one of those parcels was to be used for Xinyi's proposed float glass plant.
16. The Member's engagement with the City to assist with the proposed annexation lasted between February and November 2019. Among other tasks outlined in the scope of his retainer, the Member also prepared a draft Planning Justification Report in relation to lands proposed to be annexed by the City. This report was ultimately not finalized as the City eventually obtained its own independent planning opinion from another consultant.
17. During the time he was engaged by the City, the Member continued to act as the Lead Project Manager for Xinyi's proposed float glass plant. At all times, members of City staff, including the CAO, were aware that the Member was engaged by Xinyi to assist with securing approvals for a float glass plant, and that part of the lands proposed for annexation would be used by Xinyi for its plant. As such, Xinyi had an interest in whether annexation would proceed, and which lands would be annexed.
18. Despite this, the Member never obtained disclosure and a written consent from the City in respect of the Member's potential conflict of interest by virtue of the Member's prior and continuing retainer by Xinyi.
19. The Member's contract with the City was terminated in November 2019 by the City's new CAO.
20. The Member admits that by engaging in the conduct outlined in the ASF, he violated Sections 2.12 and 3.5 of the Code and is thereby guilty of professional misconduct.
21. At the hearing of this matter, Mr. Morrissey confirmed for the Panel that the Member agreed with and accepted the facts as set out in the ASF.

**E. Findings on Misconduct**

22. For the reasons set out below, the Panel finds that the Member engaged in professional misconduct.

**(a) Code Provisions at Issue**

23. This matter engages the following provisions of the Code:

**2.0 The Planner's Responsibility to Clients and Employers**

Members must provide diligent, creative, independent, and competent performance of work in pursuit of the client's or employer's interest. Accordingly, a Member shall...

2.12 not, as a consultant to a public planning agency during the period of contract with the agency, give professional planning advice for compensation to others within the jurisdiction of the agency without written consent and disclosure to the agency in situations where there is the possibility of a conflict of interest arising;

**3.0 The Planner's Responsibility to the Professional and Other Members**

The vitality and credibility of the planning profession and of the Institute are reflective of the quality of the Membership. To further the profession, Members will be expected to attain and maintain a high standard of professional competence and conduct, which extends to their relationship with other Members. Accordingly, Members shall...

3.5 not in professional practice, extra-professional activities or private life, engage in dishonourable or questionable conduct that may cast doubt on the Member's professional competence or integrity or that may reflect adversely on the integrity of the profession.

**(b) Section 2.12**

24. Section 2.12 of the Code deals with conflicts of interest. The Panel accepts the submission of Mr. Kates that conflict of interest provisions have a "prophylactic" character in that they do not depend on whether actual harm or a compromised position has resulted, but rather, whether a member has placed themselves in a position where there is a reasonable apprehension that their professional duties may be influenced by their divided loyalties. The Panel also accepted the notion that what constitutes a conflict of interest may vary from one profession to the next, and is further articulated by regulators, through their professional codes of practice.
25. To this end, Section 2.12 articulates the Institute's expectations of its members in providing professional services by setting a bright line rule for when potential conflicts of interest require express written disclosure and consent.

26. Section 2.12 prohibits a member from simultaneously advising a public planning agency, such as a municipality, and a private entity, where there is a possibility of a conflict of interest unless the member discloses the potential conflict to the agency in writing, and obtains its written consent.
27. These obligations, and the Institute's expectations of its members, are further articulated through the Institute's Standards of Practice on Independent Professional Judgement and on Conflict of Interest. The Panel notes in particular that both Standards urge members to "zealously guard against conflict of interest or its appearance."
28. The importance of this rule is underscored by the fact that there are overriding public interest considerations when a member is engaged to provide services to a public planning agency, which must exercise its land use planning powers for public purposes and in the public interest.
29. The Panel finds that the Member has contravened Section 2.12 of the Code. The Member's simultaneous engagement with Xinyi and the City gave rise to the potential for a conflict of interest, given that Xinyi had an interest in the outcome of the City's annexation proposal. While the Member owed professional duties to both clients, he placed himself in a position where there was a risk that his duties may have been unduly influenced. The Panel finds that this potential conflict materialized as soon as the Member was retained by the City, given the nature of the scope of work with the City.
30. Xinyi engaged the Member to secure all approvals necessary to facilitate its project and had an interest in ensuring the annexation of lands was completed in a manner that included the lands on which its project was proposed to be located. For its part, while the City was interested in securing the float glass plant and related economic development benefits, as a public entity the City was required to make its decisions and exercise its powers in accordance with overarching public interest considerations. Through annexation proceedings, the City might have determined that it was not in the public interest to annex Xinyi's proposed parcel of land, preferring others. Moreover, the City could have decided not to proceed with annexation altogether. These outcomes would not have been acceptable to Xinyi. Furthermore, had Xinyi's lands been annexed, Xinyi, as private developer, and the City, as a public planning authority, would not necessarily have always had the same interests on Xinyi's development proposal. The Member's position as advisor to both entities would have been caught in between these conflicting interests.
31. This potential conflict was not negated by the fact that Xinyi and the City may have been aligned in interest to pursue annexation. The interests of Xinyi and the City were separate and distinct. In any event, it is the potential for a conflict of interest that is relevant to the Panel's determination, not whether any actual harm resulted.

32. Further, the potential conflict was not negated by the fact that City staff had knowledge that the Member was acting for Xinyi, and according to the Member in his evidence at the hearing, did not raise any concern or objection. A potential conflict of interest cannot be waived by knowledge or acquiescence. Section 2.12 of the Code requires written consent.
33. Having failed to obtain the requisite written consent from the City, the Member contravened Section 2.12 of the Code. The Panel wishes to emphasize that its findings of conflict or appearance of conflict of interest in this case apply to the circumstances of this case only.

**(c) Section 3.5**

34. Section 3.5 of the Code imposes obligations on members to avoid conduct which might reflect poorly on the member and the profession at large. The provisions of Section 3.5 set out multiple disjunctive obligations. As it relates to this matter, Section 3.5 requires members to avoid engaging in questionable conduct that may cast doubt on their own integrity or reflect adversely on the integrity of the planning profession.
35. Conflicts of interest rules seek to preserve the reputation and integrity of the profession by ensuring clients' interests are protected. As it relates to members of the Institute, a planner's primary duty is to the public interest, and planners bear a duty to ensure their advice is independent. This is particularly important where a planner advises public planning agencies, given their mandate in protecting and pursuing the public interest as opposed to private interests. Conduct which undermines these core principles may reflect negatively on both the integrity of the individual member, but also on the integrity of the profession at large.
36. Although Section 3.5 may be characterized as a "catch all" provision, a contravention of conflicts of interest rules is not a sufficient condition to a finding of a contravention of Section 3.5. Each case must be assessed on its own factual matrix and the merits.
37. The Panel finds on the facts that the Member contravened Section 3.5 by placing himself in a potential conflict of interest and failing to obtain the requisite written consent to act, which, in turn, cast doubt on his professional integrity and the integrity of the planning profession.

**(d) Summary on Misconduct**

38. For the reasons set out above, the Panel finds that the Member contravened Sections 2.12 and 3.5 of the Code and is guilty of professional misconduct.



## **F. Penalty**

39. Having found the Member to have contravened the Code, the Panel must determine whether to impose one or more penalties on the Member in accordance with Section 3.7 of the Complaints and Discipline Provisions.
40. This matter came before the Panel on an uncontested basis, including a Joint Submission on Penalty between the Institute and the Member, dated November 7, 2023 (the “**JSP**”), which is attached to this Decision and Order as **Attachment “B”**. Distilled to its core elements, the JSP proposes a reprimand, a suspension, rehabilitative measures, and publication of the Panel’s decision.

### **(a) Principles Applicable to Assessment of Penalties**

41. The overarching purpose of disciplinary proceedings by professional regulators is the protection of the public interest. In pursuing this objective, any penalty of the Panel must achieve specific deterrence and general deterrence. Further, a penalty must also seek to uphold the broader public interest and public confidence in the profession. The Panel’s determination of an appropriate penalty must also consider and weigh aggravating factors and mitigating factors.
42. Special considerations also apply where a regulatory body, such as the Panel, is provided a joint submission from the parties on the matter of penalty. While joint submissions are not binding on a regulatory body, the case law establishes that a joint submission “should not be rejected lightly,” and should only be rejected if the body is of the view that “the proposed sentence would bring the administration of justice into disrepute or is otherwise contrary to the public interest”: see *R. v. Anthony-Cook*, 2016 SCC 43 at paras. 32, 34.

### **(b) Aggravating and Mitigating Factors**

43. The Panel finds that the primary aggravating factor in this matter is the Member’s contraventions of the Code. In particular, the Member’s contravention of conflicts of interest rules related to providing services to a public planning agency is a serious matter.
44. The Panel also finds that there are several mitigating factors. First, this matter came before the Panel on an uncontested basis, with the Member having admitted to and accepted responsibility for his misconduct. A resolution of this nature demonstrates cooperation and acceptance of responsibility for one’s actions, and avoids putting the Institute to the expense of a protracted hearing. Second, through his oral evidence, the Member apologized for his misconduct and expressed remorse. The Panel finds that the Member’s statements were sincere and contrite. Third, the Member does not have any disciplinary history in his 38 year career; this matter is a “first offence.”

45. Lastly, the Panel wishes to note the Member's Undertaking and Acknowledgement, dated November 6, 2023, which is attached to this Decision and Order as **Attachment "C"** (the "**Undertaking**"). Through the Undertaking, the Member has voluntarily committed to resigning his membership and professional designation, save and except for two outstanding proceedings.
46. During the course of the hearing, the Panel was also advised that if the JSP were accepted, the Member was agreeable to waiving his right to request a review of or appeal this Decision and Order in order that the penalty may become effective immediately. This was formalized in the Member's Waiver of Appeal & Review, dated January 5, 2024, which is attached to this Decision and Order as **Attachment "D"** (the "**Waiver**").

**(c) Assessment of the Joint Submission on Penalty**

**i. Reprimand**

47. A reprimand of the Member expresses the Panel's discontent with and denunciation of his conduct and serves the aim of specific deterrence. A reprimand is certainly appropriate in this instance. The Panel wishes to note that in this instance, a reprimand is coupled with additional aspects of penalties.

**ii. Suspension of Membership**

48. Suspension of the Member's membership in the Institute, and related ability to practice as a Registered Professional Planner for a period of time, works to serve both specific and general deterrence. In addition to punishing the member for misconduct, a suspension demonstrates to the Institute's membership generally that instances of professional misconduct are serious matters that have significant professional consequences, including the inability to practice for a period of time. A suspension also demonstrates to the public at large that it can have confidence in the profession's ability to self-regulate.
49. The length of a suspension must achieve proportionality with the specific misconduct committed. Mr. Kates provided the Panel examples from other professional regulators where suspensions were imposed for violations of conflict of interest rules. In Mr. Kates' submission, the weight of these examples suggest a suspension in the range of 0 to 3 months is appropriate for contraventions of conflicts of interest rules. The Panel views these examples as persuasive only and not binding on its determination.
50. Mr. Kates also explained to the Panel how the terms of the suspension proposed by the JSP would operate. In effect, the JSP proposed a one (1) month suspension, with two (2) weeks served immediately, and the remaining two (2) weeks remitted upon successful completion of certain rehabilitative measures.

51. In the circumstances of this matter, including the resolution achieved between the Institute and the Member, the Member's intention to resign permanently, as reflected in the Undertaking, and in light of the mitigating factors, the Panel finds that the suspension proposed by the JSP, and the length thereof, is appropriate.

**iii. Rehabilitative Measures**

52. Rehabilitative or remedial measures can serve as an effective tool for a member to internalize and accept their misconduct, while also preventing future instances of misconduct. The efficacy of such measures is also enhanced where a member and the Institute have achieved a resolution and joint submission.
53. The terms of the JSP will require the Member to undergo a meeting with a "Mentor," who is a senior member of the profession, to discuss, among other things, the applicable provisions of the Code, the Member's misconduct and its consequences, and strategies for preventing misconduct in the future. This rehabilitative measure is given further "teeth" by the terms of the JSP on suspension discussed above; if the Member fails to complete this rehabilitative measure, in addition to potential exposure to further disciplinary proceedings, his membership will be suspended for a further term.
54. The Panel also wishes to note that during the course of the hearing, the Member and the Institute agreed to vary this and related terms of the JSP to provide that the rehabilitative measures must be completed within three months of the effective date of this Decision and Order, not six months as was previously contemplated. The Member's waiver of his appeal rights, through the Waiver, allows these measures to commence immediately.
55. The Panel finds that the rehabilitative measures contemplated by the JSP, as varied on agreement by the parties, are appropriate in the circumstances of this matter. As the Member advised during his oral evidence, and as reaffirmed by the Member's Undertaking, the Member has retired from his Firm, and will be resigning his membership in the Institute, save and except for two outstanding proceedings. That being said, rehabilitative measures are still important for the Member to reflect on his career, and internalize a lesson that he may share with other practicing members of the profession.

**iv. Publication of Decision**

56. The final term of the JSP relates to the publication of the Panel's decision. It provides that the Panel's decision, in full or summarized, shall be published, however the Member's name shall be anonymized. Publication of a decision of the Panel serves the purpose of general deterrence as it is instructive to other members of the Institute that professional misconduct will have serious consequences.

57. Mr. Kates submitted that in light of the facts of this matter, the Member's cooperation with the Institute, and the fact that the discipline hearing was public, among other things, it was not necessary to identify the Member in the Panel's published decision. Mr. Kates also suggested that this would be consistent with the Discipline Committee's past practice.
58. The Panel questioned Mr. Kates on this aspect of the JSP. In particular, the Panel asked Mr. Kates to explain his submissions on why anonymizing the Panel's decision would fit within its past practice. Mr. Kates referred the Panel to section 5.2 of the Complaints and Discipline Provisions, and submitted that in contrast to other regulators with mandatory publication requirements, the Discipline Panel had the authority not to publish the name of the Member in its decisions.
59. Section 5.2 of the Complaints and Discipline Provisions provides that the Institute "shall not" publish the name of a member in a decision summary "unless the member has been found guilty of professional misconduct." The Panel agrees that this provision affords it discretion not to publish the name of a member, even where the member has been found guilty of professional misconduct. However, this does not amount to a practice or mandatory requirement. This discretion must be exercised based on the specific circumstances of each case.
60. The Panel is mindful of the legal principles guiding its decision on the JSP, as well as the circumstances in which this matter came before it. Although the publication of a decision serves the end of general deterrence, the Panel is of the view that in this case, this goal can still be achieved with an anonymized decision. Other members of the Institute, and the public generally, will still be able to review these Reasons, which underscore the important purpose of conflict of interest rules, and understand that there are real consequences for violations of those rules. On the specific facts before the Panel, taken together with the other terms of the JSP, the Panel finds that this component of the JSP is appropriate in this case.
61. Despite this, the Panel wishes to make clear that its Reasons should not be construed as setting a precedent or endorsing a practice of redacting the names of members in its decision in every instance. The Panel is not bound by Section 5.2 of the Complaints and Discipline Provisions to anonymize all its decisions, but rather, has discretion not to publish the name of a member. Like all aspects of penalties, whether it is appropriate to anonymize a decision must be assessed on a case-by-case basis.

**(e) Summary on Penalty**

62. In summary, for the reasons set out above, the Panel accepts that the terms of the JSP, as varied on agreement by the parties, in totality, represent an appropriate and proportional penalty for the misconduct committed, serve the purposes of specific and general deterrence, and will protect the public interest.

**G. Conclusion**

63. For the reasons set out above, the Panel finds that the Member contravened section 2.12 and 3.5 of the Code, and issues the within Order as to penalty.
64. This Decision and Order is effective on the date it is issued.

**DATED** at Toronto, this 7<sup>th</sup> day of February, 2024  
(amended March 6<sup>th</sup>, 2024 pursuant to section 21.1 of the *Statutory Powers Procedures Act*, R.S.O. 1990, c. S.22)

Wendy Nott, RPP  
Chair

Anthony Usher, RPP  
Member

Monica Walker Bolton, RPP  
Member

Elizabeth Jamischak  
Public Interest Representative

**ATTACHMENT "A"**  
**Agreed Statement of Facts, dated November 7, 2023**

**DISCIPLINE COMMITTEE OF THE  
ONTARIO PROFESSIONAL PLANNERS INSTITUTE**

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**AGREED STATEMENT OF FACTS  
REGARDING [REDACTED]**

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1. At all relevant times, [REDACTED] (the “**Member**”) was a member of the Ontario Professional Planners Institute (“**OPPI**”) and was the President of [REDACTED] (“[REDACTED]”).
2. The Member has been a Full Member of OPPI since February 1995 and received a 25-year recognition on October 18, 2018. He has no discipline history.
3. In January 2019, the Member and [REDACTED] were retained to assist Xinyi Canada Glass (“**Xinyi**”) in obtaining the necessary approvals required for a float glass plant in the City of Stratford (the “**City**”). The Member was the Lead Project Manager for the float glass project.
4. If the Member were to testify, he would state that in February 2019, the City and Xinyi executed a confidential and binding Letter of Intent (the “**LOI**”) to work collaboratively to realize economic development opportunities by locating a new float glass manufacturing facility in the City. If the Member were to testify, he would state that the LOI bound him to confidentiality throughout.
5. In February of 2019, the Member met with City officials to discuss Xinyi’s proposed glass plant. City officials indicated that the City was planning to pursue the annexation of lands for use as industrial/employment lands. The City indicated it did not currently have sufficient supply of such lands. The City had not yet voted in favour of annexation and had directed staff to undertake studies to evaluate the proposed annexation. If the Member were to testify, he would state his understanding was that the City’s interest in pursuing annexation was not dependent on Xinyi’s plans.
6. Shortly after the February 2019 meeting with City staff, the Member was retained by the City’s Chief Administrative Officer to provide support and assistance to the City in relation to the proposed annexation. That annexation dealt with four parcels of land, one of which was to be used for the proposed Xinyi float glass plant (collectively, the “**Annexation Lands**”).
7. The Member’s contract with the City in respect of the proposed annexation lasted from February through November 2019. Throughout that time, he continued to be the Lead Project Manager for the Xinyi float glass plant, and he simultaneously provided planning assistance to the City relating to the proposed annexation and the Annexation Lands. If the Member were to testify, he would describe his role with the City as consultative, ad hoc and without formal responsibilities.

8. The work the Member and/or █████ conducted under his contract with the City between February and November 2019 with respect to the Annexation Lands included:
  - (a) Coordinating, conducting, commenting on, and/or finalizing various studies and assessments, including traffic studies, archaeological assessments, legal boundaries surveys, environmental impact studies, natural heritage assessments, woodlot removal compensation studies, and sanitary/water servicing peer reviews;
  - (b) Coordinating comments on one or more of the reports referenced in paragraph 8(a) above;
  - (c) Coordinating and participating in meetings and discussions with the City, City officials, investStratford, other affected townships/municipalities, consultants, relevant authorities, and government officials on various issues related to the annexation, including discussions related to or arising from the studies and assessments referenced in paragraph 8(a) above;
  - (d) Coordinating the final “barring” of Reference Plans for the Annexation Lands relating to a request that the project Ontario Land Surveyor (“OLS”) prepare Reference Plans;
  - (e) Obtaining deposited/registered Reference Plans from the OLS for the Annexation Lands to inform the City annexation;
  - (f) Confirming accessibility as liaison between the various owners of the Annexation Lands and the City and its consultants;
  - (g) Meeting with owners regarding stormwater management design alternatives and sanitary servicing strategies; and
  - (h) Participating in discussions about a Ministerial Zoning Order (“MZO”) for the proposed Annexation Lands and the MZO regulations to apply to Xinyi.
9. Examples of documents that the Member assisted in obtaining to help the City in the annexation process included:
  - (a) Reference Plans for three annexation parcels, including 44R-5730, 44R-5731, and 44R-5736; and
  - (b) Archaeological Reports for the three annexation parcels and expediting the registry of the same with the Ministry of Heritage, Sport, Tourism and Culture Industries.
10. Several of the tasks referred to in paragraph 8 above dealt with both the land to be used for the Xinyi float glass plant and the lands to be annexed by the City for other purposes.
11. The Member also prepared a Draft Planning Justification Report in relation to the Annexation Lands, including the coordination of graphics for use in that report. If the Member were to testify, he would state that he prepared the Draft Planning Justification



Report in collaboration with the City, that the City Economic Development Department provided historical employment land absorption rates, and the City prepared the analysis of the supply and demand of employment lands in the City.

12. Although the Member intended to submit the Draft Planning Justification Report to the City, he ultimately did not do so because it was determined that the City would obtain its own independent planning opinion and justification report. A Planning Justification Report dated January 2020 was prepared by Harrington McAvan Ltd to support the annexation.
13. The City hired a new Chief Administrative Officer in August 2019, and she was not involved in the retainer of the Member or privy to the details or scope of work with the City. She ended the Member's contract with the City in November 2019, in part because of the view that the City's planning department was solely responsible for the annexation.
14. At all times during the Member's contract with the City, the Chief Administrative Officer who had initially engaged him and the other City staff with whom the Member dealt were aware that he was the Lead Project Manager for Xinyi in respect of its proposed float glass plant and assisting the City in the annexation process. The City staff were also aware that part of the Annexation Lands was to be used for Xinyi's plant, and that Xinyi therefore had an interest in the annexation going ahead. However, the Member never obtained written consent from the City in respect of that potential conflict of interest.
15. If he were to testify, the Member would state that he did not feel there was a conflict of interest, as both Xinyi and the City staff with whom he was dealing wanted the annexation to proceed. However, in hindsight, he acknowledges that because the City had not yet voted on the annexation and the work he was doing pursuant to his contract with the City would be used to evaluate that proposed annexation, there was a potential for a conflict to arise.
16. The Member would state that he did not feel his simultaneous retainer for both Xinyi and the City impaired his ability to provide independent professional opinions to both clients. He acknowledges, however, that the scope of his mandate with the City contemplated that he might be called upon to provide a planning opinion, and the potential conflict of interest necessarily meant that he was not in a position to do so independently.

## **ADMISSIONS OF PROFESSIONAL MISCONDUCT**

17. The Member acknowledges that OPPI has jurisdiction to make findings of misconduct in respect of the conduct outlined above. He further admits that by reason of engaging in the conduct outlined above, he is guilty of professional misconduct within the meaning of s. 3.6 of Appendix II to OPPI's By-Law No. 1 (the "**By-Law**"), in that he breached Part 3 of Appendix I to the By-Law (the "**Professional Code of Practice**") by:
  - (a) Violating **Section 2.12 of the Professional Code of Practice** by, as a consultant to a public planning agency during the period of contract with the agency, giving professional planning advice for compensation to others within the jurisdiction of the agency without written consent and disclosure to the agency in situations where there is a possibility of a conflict of interest arising; and/or

- (b) Violating **Section 3.5 of the Professional Code of Practice** by engaging in dishonourable or questionable conduct in his professional practice, extra-professional activities or private life that may cast doubt on his professional competence or integrity, or that may reflect adversely on the integrity of the profession.
18. The Member understands the nature of the allegations that have been made against him and that by voluntarily admitting to these allegations, he waives his right to require OPPI to otherwise prove the case against him.
19. The Member understands that the Discipline Committee can accept that the facts herein constitute professional misconduct.
20. The Member understands that any agreement between him and OPPI does not bind the Discipline Committee.
21. The Member was encouraged by OPPI to consult with legal counsel before making the admissions contained herein and had the opportunity to do so if he so wished.
22. The Member and OPPI consent to the panel viewing the Notice of Hearing and this Agreed Statement of Facts prior to the start of the hearing.

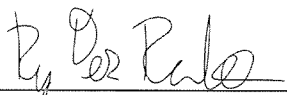
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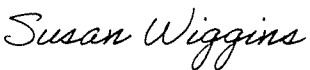
DATED: 7 November, 2023

DATED: 29 September, 2023

DATED: 29 September, 2023



  
**Registrar and Director, Education & Events**  
**Ontario Professional Planners Institute**

  
**Witness**

**ATTACHMENT “B”**  
**Joint Submission on Penalty, dated November 7, 2023**

**DISCIPLINE COMMITTEE OF THE  
ONTARIO PROFESSIONAL PLANNERS INSTITUTE**

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**JOINT SUBMISSION ON PENALTY  
REGARDING [REDACTED]**

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The Ontario Professional Planners Institute (“OPPI”) and [REDACTED] (the “Member”) agree and jointly submit that the Discipline Committee should order that:

1. The Member be reprimanded by the Discipline Committee in person or by videoconference.
2. The Member shall be suspended from membership in OPPI for a period of one (1) month. The first two (2) weeks of the suspension shall be served beginning on the date of the Discipline Committee’s order herein and shall run uninterrupted for the full two (2) week period. The remaining two (2) weeks of the suspension shall be postponed and shall be remitted in full (*i.e.*, not served) if, on or before the six (6) month anniversary of the Discipline Committee’s order herein, the Member provides evidence, satisfactory to the Registrar, of the successful completion of the specified rehabilitative measures outlined in paragraph 3 below. If the Member fails to successfully complete those specified rehabilitative measures within that timeframe, he shall serve the remaining two (2) weeks of the suspension, which shall be served immediately following the six (6) month anniversary of the Discipline Committee’s order herein.<sup>1</sup>
3. The Member is directed to successfully complete the following specified rehabilitative measures:
  - a) Within six (6) months of the Discipline Committee’s order herein, the Member shall, at his own expense, meet with a mentor who is a senior member of the planning profession in Ontario and who has been pre-approved by the Registrar (the “Mentor”). The meeting with the Mentor may be in person or virtual and shall last a minimum of one (1) hour. In advance of the meeting, the Member shall provide the Mentor with a copy of the Agreed Statement of Facts and the Discipline Committee’s decision in this matter. The meeting with the Mentor shall be in accordance with the following terms:
    - i. The subject of the meeting shall include a discussion on:
      - the applicable provisions of the Professional Code of Practice and the Standards of Practice relating to conflicts of interest;

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<sup>1</sup> For greater clarity, the specified rehabilitative measures imposed under paragraph 3 will be binding on the Member regardless of the length of suspension served and the Member may not elect to serve the suspension in place of performing those specified rehabilitative measures. If the Member fails to comply with the specified rehabilitative measures, it will be considered a breach of the Discipline Committee’s order herein and may be the subject of a complaint, investigation, and/or discipline proceeding.

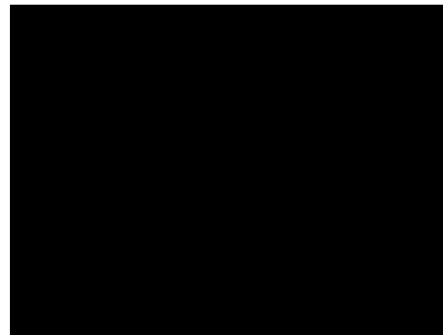
- the acts or omissions for which the Member was found to have committed professional misconduct and the Member's reflections on the factors contributing to that conduct;
  - the potential consequences of the misconduct to the Member's clients, colleagues, the profession, the public, and himself; and
  - strategies for preventing the misconduct from recurring.
- ii. The Mentor shall provide a letter to the Registrar within two weeks of the meeting to confirm the Member's participation in the meeting, the topics discussed, and the Member's progress over the course of the meeting.
4. The finding and the order of the Discipline Committee shall be published, in detail or in summary, but with the name of the Member anonymized, online and/or in print, including, but not limited to, in OPPI's annual report, on OPPI's website, and in OPPI's publication *Y Magazine*.


DATED: 6 November, 2023

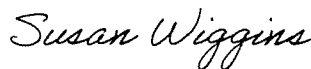
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\_\_\_\_\_  
**Registrar and Director, Education & Events**  
**Ontario Professional Planners Institute**

  
\_\_\_\_\_  
**Witness**

**ATTACHMENT “C”**

**Undertaking and Acknowledgement of the Member, dated November 6, 2023**

## UNDERTAKING and ACKNOWLEDGEMENT

FROM



TO

**Ontario Professional Planners Institute**

**WHEREAS** the Ontario Professional Planners Institute (the “**Institute**”) received a complaint from Michael Sullivan on February 18, 2021 (the “**Complaint**”) that raised concerns that I, among other things, acted in a conflict of interest in breach of the *Professional Code of Practice*;

**AND WHEREAS** on January 31, 2022, the Complaints Committee directed that the matter of the Complaint be referred to the Discipline Committee, as set out in a Statement of Allegations alleging breaches of sections 2.1, 2.12, and 3.5 of the *Professional Code of Practice* (the “**Proceeding**”);

**AND WHEREAS** I have indicated my intention to permanently resign from the Institute and surrender my certificate of registration;

**AND WHEREAS** I may be required to provide evidence in my capacity as a Registered Professional Planner in relation to the ongoing Ontario Land Tribunal proceedings set out at Schedule “A” to this Undertaking and Acknowledgment (the “**Ontario Land Tribunal Proceedings**”);

**NOW THEREFORE, I,** , undertake and acknowledge that:

1. I hereby resign from the Institute and permanently cease to be member, effective as of the Effective Date, defined below;
2. My resignation is effective and will result in the permanent surrender of my certificate of registration (the “**Effective Date**”) on the earlier of:<sup>1</sup>
  - a. The final determination of the Ontario Land Tribunal Proceedings; or<sup>2</sup>
  - b. Written notice by me to the Institute at [registrar@ontarioplanners.ca](mailto:registrar@ontarioplanners.ca) that I am no longer required to give evidence in the Ontario Land Tribunal Proceedings in my capacity as a Registered Professional Planner or at all.

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<sup>1</sup> I understand that, notwithstanding this Undertaking and Acknowledgment, for as long as I am an OPPI member I will be obliged to renew my membership and to pay any applicable membership fees. I will continue to be responsible for paying the OPPI membership fees as they become due until my resignation is effective.

<sup>2</sup> For the purpose of paragraph 2(a), “final determination” does not include any appeals or rehearing of the Ontario Land Tribunal Matters.


3. From the Effective Date and thereafter, I will refrain from re-applying for membership in the Institute in any category.
4. I will return to the Institute my certificate of registration and seal designating me as a "Registered Professional Planner" within 30 days of the Effective Date.
5. From December 31, 2023 and thereafter, I will not hold myself out as or use the designation of "Registered Professional Planner" or "RPP" save and except for the purpose of giving evidence in the Ontario Land Tribunal Proceedings.
6. From the Effective Date and thereafter, I will not apply to be placed on the retired list of the Institute or hold myself out as or use the designations of "Registered Professional Planner Retired" or "RPP Retired".
7. I acknowledge that, should I breach my Undertaking and Acknowledgment, such breach would constitute professional misconduct and the Complaints Committee may refer allegations of professional misconduct to the Discipline Committee in respect of that breach.
8. I acknowledge and agree that this Undertaking and Acknowledgment is effective immediately upon being tendered to the Institute and may be taken into consideration by the Discipline Committee as part of its disposition of the Proceeding.
9. I am signing this Undertaking and Acknowledgement voluntarily and without compulsion or duress.
10. I have had the opportunity to obtain independent legal advice prior to signing this Undertaking and Acknowledgement and have done so and/or waived my right to do so.

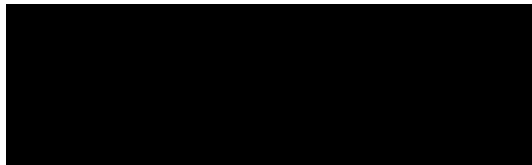
Signature



Date:

6 November 2023

Witness to 's signature:





## **Schedule A**

### List of Ontario Land Tribunal Proceedings

(As referenced at the fourth recital and paragraphs 2(a)(b) and 5)

- (1) [REDACTED]
  - [REDACTED]
- (2) [REDACTED]
  - [REDACTED]

**ATTACHMENT “D”**  
**Waiver of Appeal & Review, dated November 7, 2023**

# ONTARIO PROFESSIONAL PLANNERS INSTITUTE

IN THE MATTER OF THE *ONTARIO PROFESSIONAL PLANNERS INSTITUTE ACT*, 1994, as amended and the regulations thereunder, as amended;

AND IN THE MATTER OF allegations of breaches of the Professional Code of Practice referred by the Discipline Committee of the Ontario Professional Planners Institute regarding [REDACTED]

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## WAIVER OF APPEAL & REVIEW

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A panel of the Discipline Committee of the Ontario Professional Planners Institute has found that [REDACTED] has committed acts of professional misconduct and has issued an Order in relation to its findings.

The undersigned member wishes the Order to be effective immediately. The undersigned member, having had the opportunity to consult counsel, and having in fact consulted counsel, hereby waives all rights of appeal and review pursuant to section 4.1 of the Ontario Professional Planners Institute Complaints and Discipline Provisions and under the *Judicial Review Procedure Act*, R.S.O. 1990, c. J.1 with respect to both the findings and Order of the Discipline Committee, delivered orally on January 5, 2024 and in writing on or after January 5, 2024.

Dated: 5 January, 2024

