

ORDER OF THE DISCIPLINE COMMITTEE
OF THE
ONTARIO PROFESSIONAL PLANNERS INSTITUTE/
INSTITUT DES PLANIFICATEURS PROFESSIONNELS DE L'ONTARIO

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

AND IN THE MATTER of allegations of breaches of the Professional Code of Conduct referred to it by the Ontario Professional Planners Institute;

BETWEEN:

ONTARIO PROFESSIONAL PLANNERS INSTITUTE/
INSTITUT DES PLANIFICATEURS PROFESSIONNELS DE L'ONTARIO

And

[REDACTED]

ORDER AND REASONS

THIS MOTION, made by the **ONTARIO PROFESSIONAL PLANNERS INSTITUTE ("OPPI")**, on consent, for an order to stay the discipline proceeding was heard on November 26, 2021.

ON READING the Notice of Motion; the Affidavit of Sandra Noe, sworn October 19, 2021; the statement of allegations (attached as Appendix A); the Undertaking, Agreement & Acknowledgement of [REDACTED] dated October 5, 2021 (attached as Appendix B); and on hearing the submissions of counsel for OPPI,

THE DISCIPLINE COMMITTEE ORDERS:

1. That the allegations of professional misconduct against [REDACTED] in Appendix "A" be stayed; and
2. That the stay shall remain in effect only as long as the Undertaking, Agreement & Acknowledgement of [REDACTED] dated October 5, 2021, attached as Appendix "B", remains in full force and effect and [REDACTED] remains in compliance with all of the terms of that Undertaking, Agreement & Acknowledgement.

REASONS FOR ORDER:

1. This matter came before a video-conference hearing of the Discipline Committee of OPPI comprised of:

Wendy Nott, RPP	Chair
Sue Cumming, RPP	Member
Matt Pearson, RPP	Member

on November 26, 2021.

2. OPPI was represented by Lara Kinkartz, independent legal counsel
3. The Member, [REDACTED] chose not to be represented by independent legal counsel and did not attend the Discipline Committee hearing.

The Allegations

4. In December 2020, OPPI's Complaints Committee referred allegations of professional misconduct against the Member to OPPI's Discipline Committee. The Member was informed of this referral by way of letter dated December 8, 2020 which attached a Statement of Allegations. The Statement of Allegations alleges certain professional misconduct by the Member in breach of Part 3 of Appendix I to By-law No. 1 of OPPI (the "Professional Code of Practice"). The Statement of Allegations is appended hereto as Appendix "A".

The Motion

5. Counsel for OPPI brought a motion seeking a stay of the allegations of professional misconduct against the Member subject to certain conditions set out in an Undertaking, Agreement & Acknowledgement, signed by the Member on October 5, 2021 which is attached hereto as Appendix "B".
6. The motion for a stay of the allegations was granted by the Discipline Committee subject to the Undertaking, Agreement & Acknowledgement remaining in full force and effect and as long as the Member remains in compliance with all of the terms of that Undertaking, Agreement & Acknowledgement (is attached hereto as Appendix "B") including, but not limited to:
 - Permanent resignation of membership in OPPI effective December 31, 2021;
 - Relinquishment of the title of 'Registered Professional Planner' and of the Member's Certificate of Registration; and,
 - Prohibition on the seeking of further membership.

7. Both parties; OPPI (through its legal counsel) and the Member, have agreed to the requested stay subject to the terms of the Undertaking, Agreement & Acknowledgement.
8. It nonetheless remains important to consider whether the public interest is protected by the resolution of these professional misconduct allegations by the Member's resignation and agreement not to reapply for membership in the future, as opposed to adjudication through a full hearing of the Discipline Committee.
9. The Member has entered into an Undertaking, Agreement & Acknowledgement to resign permanently as a member of OPPI and irrevocably surrender his Certificate of Resignation, effective December 31, 2021.
10. Through the Undertaking, Agreement & Acknowledgment, the Member also agrees and acknowledges that he will not seek future membership in OPPI, will no longer use the title "Registered Professional Planner" or the abbreviation "R.P.P." and/or imply, suggest or hold himself out as a full member or a retired member of OPPI.
11. Should the Member breach or fail to comply with any term of the Undertaking, Agreement & Acknowledgement, the stay may be lifted and OPPI may proceed with the prosecution of the allegations set out in the Statement of Allegations and/or take any other legal actions against the Member that may be warranted to enforce the Undertaking, Agreement & Acknowledgement.
12. It is therefore the Discipline Committee's opinion that the Member's resignation and undertaking not to reapply will protect the public interest.
13. The Undertaking, Agreement & Acknowledgement further provides that OPPI may, through its Annual Report and/or its publications, publish a summary of the Statement of Allegations against the Member and specify that the Member has entered into the Undertaking, Agreement & Acknowledgement. This will satisfy OPPI's obligation of public transparency.
14. The decision of the Discipline Committee is consistent with the powers provided to it under Appendix II to By-law No.1 of OPPI and the Rules of Procedure of the Discipline Committee.
15. The profession and the public will also avoid the costs of a full hearing.
16. The Discipline Committee regards the proposed resolution as reasonable and consistent with the public interest and is satisfied that it will not undermine the public interest's confidence in OPPI to ensure the professional conduct of its members.
17. Accordingly, the Discipline Committee makes the order requested by the Parties. The discipline proceedings against the Member are stayed in accordance with the Undertaking, Agreement & Acknowledgement.

DATED at Toronto, this 7th day of December, 2021

A handwritten signature in black ink, appearing to be 'W. H. O. A.', written over a horizontal line.

Chair of the Discipline Committee Panel

Appendix A

ONTARIO PROFESSIONAL PLANNERS INSTITUTE

STATEMENT OF ALLEGATIONS REGARDING [REDACTED] [REDACTED] FOR REFERRAL TO THE DISCIPLINE COMMITTEE

You are alleged to be guilty of professional misconduct within the meaning of section 3.6 of Appendix II to By-law No. 1 of the Ontario Professional Planners Institute (the “By-law”) in that you are alleged to have engaged in conduct that breached Part 3 of Appendix I to the By-Law (the “Professional Code of Practice”).

I. The following are particulars of the said allegations:

1. At all relevant times, you were a member of the Ontario Professional Planners Institute (the “Institute”).
2. From in or about 2014 through in or about 2018, you were an elected Councillor in the [REDACTED]. In or about 2018, while you were a sitting Councillor, you also ran for Mayor of [REDACTED].
3. Under [REDACTED]'s Council-Staff Relations Policy, elected Councillors were not to provide technical expertise or to act in their professional capacity. Rather, this was the role of staff.
4. During one or more Council meetings in 2018, you attempted to undermine and/or behaved in a rude and unprofessional manner towards members of the Institute and/or to colleagues (such as [REDACTED] staff and external consultants) including, but not limited to, by:
 - (a) Referring to a report prepared by an external environmental/ecological consultant as “negligent”, “quite deficient”, and/or “not up to standard”;
 - (b) Attempted to have planning-related matters considered by Council in circumstances in which [REDACTED] planning staff still had the process under review;
 - (c) Attempted to prematurely influence Council on a planning matter that [REDACTED] planning staff still had under review, by providing Council with a detailed discussion paper containing analysis and your own recommendation on the issue;
 - (d) Repeatedly expressing the view that certain recommendations made by external consultants were “not good planning”;
 - (e) Sought out information and conducted your own independent review of a planning matter that was being reviewed by [REDACTED] planning staff, including by consulting with a planner from the Ministry of Municipal Affairs and [REDACTED]'s Planning Director. In so doing you bypassed the

work of planning staff and/or gave the impression that you were acting as an independent expert when this was not the case.

5. The other members of Council and those in attendance at Council meetings were aware that you were an RPP. In engaging in one or more of the actions in paragraph 4 above, you also referred to your own background in environmental assessment and/or planning. However, at no time were you retained in your professional capacity as an RPP to provide independent planning advice on those issues.
6. When engaging in the conduct referred to in paragraph 4 above, you did not state that you were doing so as an elected Councillor acting in the interests of your constituents, and not as an RPP.
7. The conduct referred to in paragraphs 4-6 above falsely or maliciously injured the professional reputation or practice of another member or colleague; demonstrated a lack of respect, objectivity, and fairness; and/or amounted to ill-considered or uninformed criticism of the competence, conduct, or advice of another member.
8. When engaging in the conduct referred to in paragraphs 4-6 above, you were in an actual or perceived conflict of interest, given that:
 - (a) You relied on your constituents' votes to obtain and retain your position;
 - (b) You were running for the position of Mayor in the 2018 election; and/or
 - (c) Your constituents and/or other Council members were aware of your designation as an RPP.
9. You failed to take appropriate steps to avoid these actual or perceived conflicts of interest. Your failure to explicitly state that you were not providing professional planning advice and were not acting in the capacity of an RPP would allow reasonable people to believe that you were providing professional planning opinions that were not independent or impartial, and/or that you were using your RPP designation to advance your constituents' interests.
10. The actions referred to in paragraphs 4-8 above would give a reasonable person the impression that you were leveraging your credentials as an RPP to advocate for a specific policy interpretation and/or to influence [REDACTED]'s planning decisions.

II. It is alleged that by reason of engaging in some or all of the conduct outlined above, you are guilty of professional misconduct as set out section 3.6 of Appendix II to the By-law:

- (a) In that you violated **Section 3.5 of the Professional Code of Practice** by engaging in dishonourable or questionable conduct in your professional practice, extra-professional activities or private life that may cast doubt on your professional competence or integrity, or that may reflect adversely on the integrity of the profession.

Appendix B

UNDERTAKING, AGREEMENT & ACKNOWLEDGEMENT OF

TO

ONTARIO PROFESSIONAL PLANNERS INSTITUTE

IN THE MATTER OF the *Ontario Professional Planners Institute Act, 1994*, S.O. 1994, c. Pr44, as amended, and the By-laws of the Ontario Professional Planners Institute, as amended;

AND IN THE MATTER of allegations of professional misconduct referred by the Complaints Committee to the Discipline Committee of the Ontario Professional Planners Institute regarding [REDACTED]
[REDACTED]

WHEREAS I have been a registered professional planner and a full member of the Ontario Professional Planners Institute ("OPPI") since the *Ontario Professional Planners Institute Act, 1994*, came into force in December 1994;

AND WHEREAS in a decision communicated to me by letter dated December 8, 2020, OPPI's Complaints Committee referred allegations of professional misconduct against me to the Discipline Committee. Those allegations are contained in a Statement of Allegations provided to me by way of the same letter dated December 8, 2020;

AND WHEREAS I have advised OPPI that I intend to resign my membership in OPPI;

AND WHEREAS I am prepared to relinquish my membership in OPPI, surrender my Certificate of Registration and cease to practise as a registered professional planner in Ontario, now and in the future;

AND WHEREAS OPPI and I are prepared to resolve the allegations of professional misconduct against me in the public interest but without requiring the Discipline Committee to decide if I committed the acts of professional misconduct as alleged;

AND WHEREAS I do not make any admissions that I committed acts of professional misconduct;

NOW THEREFORE, I, [REDACTED], undertake that:

1. I hereby resign permanently as a member of OPPI, and surrender irrevocably my Certificate of Registration, effective December 31, 2021.

AND NOW THEREFORE, I also confirm, agree and acknowledge that:

2. I will not be entitled in the future to seek membership in OPPI after having resigned permanently from membership in OPPI and having irrevocably surrendered my Certificate of Registration pursuant to the Undertaking, Agreement & Acknowledgement above.
3. I will no longer:
 - a. take or use the title "Registered Professional Planner" or the abbreviation "R.P.P.", alone or in combination with any other word, name, title, initial or description; and/or
 - b. imply, suggest, or hold myself out as a full member or a retired member of OPPI.
4. I agree and acknowledge that OPPI is authorized to provide information regarding this Undertaking, Agreement & Acknowledgement in response to any inquiries it receives from any authority that regulates the practice of planning in any other jurisdiction.
5. I agree and acknowledge that OPPI may publish in its Annual Report and/or in its publication *Y Magazine* the fact that I entered into this Undertaking, Agreement & Acknowledgement while a discipline hearing into the allegations of professional misconduct against me was pending before the Discipline Committee, along with a summary of the allegations in the Notice of Hearing and the fact that the proceeding was stayed without a finding being made on those allegations in light of my entering into this Undertaking, Agreement & Acknowledgement.
6. OPPI will seek an order by the Discipline Committee, with my consent, to stay the allegations of professional misconduct against me as set out in the Statement of Allegations that was provided to me by way of letter dated December 8, 2020.
7. Any order of the Discipline Committee to stay the allegations of professional misconduct against me will continue in effect only as long as this Undertaking, Agreement & Acknowledgement remains in full force and effect. If I breach or fail to comply with any or all terms of this Undertaking, Agreement & Acknowledgement, the stay may be lifted, and OPPI may proceed with the prosecution of the allegations set out in the Statement of Allegations and/or take any other legal action against me that may be warranted to enforce this Undertaking, Agreement & Acknowledgement or otherwise.
8. I understand and agree that if I breach or fail to comply with any of the terms of this Undertaking, Agreement & Acknowledgement, information relating to the breach or failure to comply will be brought to the attention of the Registrar, who may initiate an investigation into the breach or failure to comply. The results of the investigation, if undertaken, may be presented to the Complaints

Committee, which has the authority to take various actions, up to and including referring allegations of professional misconduct to the Discipline Committee if the circumstances so warrant. OPPI may also take any other legal action against me that it deems appropriate.

9. I fully understand the terms of this Undertaking, Agreement & Acknowledgement.
10. I am entering into this Undertaking, Agreement & Acknowledgement voluntarily and without compulsion or duress. I have been encouraged to seek legal advice and have had ample opportunity to consult with legal counsel if I so wished regarding the discipline proceeding, the terms of this Undertaking, Agreement & Acknowledgement, and any other related legal issues, prior to executing this Undertaking, Agreement & Acknowledgement.

SIGNED AND DATED in

Ontario on this 5th day of October, 2021.

Witness Signature

Name of Witness

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