



REPORT

To: ONE Joint Investment Board
From: Heather Douglas, WeirFoulds LLP, Counsel
Date: May 19, 2020
Re: Appointment of Integrity Commissioner and Closed Meeting Investigator
Report: 20-003

1. RECOMMENDATIONS

It is recommended that at its initial meeting on May 19, 2020 ONE JIB appoint Aird & Berlis LLP to provide Integrity Commissioner and Closed Meeting Investigator services for a period of one year and that ONE JIB execute the Services Agreement with Aird & Berlis LLP.

A copy of the Services Agreement with Aird & Berlis LLP is attached.

2. SUMMARY

(a) Services Agreement is between ONE JIB and Aird & Berlis LLP

As a municipal services board under the *Municipal Act, 2001* (Municipal Act) ONE JIB is required to have an Integrity Commissioner and Closed Meeting Investigator. The Services Agreement meets these requirements. ONE Investment is not subject to these Municipal Act requirements and is therefore not a party to the Services Agreement.

3. BACKGROUND

(a) Municipal Act Requires Appointment of an Integrity Commissioner and that there be a Code of Conduct in place.

All Ontario municipalities are required to have both an Integrity Commissioner and a Code of Conduct in place. As a local board ONE JIB is required to have an Integrity Commissioner and a Code of Conduct in place as well. The municipalities which established ONE JIB, also known as the Founding Municipalities, have approved the appointment of Aird & Berlis as the Integrity Commissioner and established the Code of Conduct, for ONE JIB. The Code of Conduct was drafted based on provisions and best practices in other municipal Codes of Conduct. The Integrity Commissioner will be required to work with the Code of Conduct that has been established by the Founding Municipalities. The Code of Conduct is dealt with in more detail in a separate report.

The Integrity Commissioner will be responsible for investigating complaints and determining whether a member of ONE JIB has contravened the Code of Conduct or the *Municipal Conflict of Interest Act* and shall report to ONE JIB.

(b) Municipal Act, Requires Appointment of a Closed Meeting Investigator.

Under the Municipal Act ONE JIB is also required to have a Closed Meeting Investigator. The Founding Municipalities have approved the appointment of Aird & Berlis as the Closed Meeting Investigator for ONE JIB.

The Closed Meeting Investigator will investigate any allegations that ONE JIB inappropriately closed all or part of a meeting that should have been open to the public and shall provide an annual report to ONE JIB's Secretary.

The Municipal Act requires municipalities to appoint an Integrity Commissioner and a Closed Meeting Investigator and establish a Code of Conduct for their local boards. Accordingly, in advance of the first meeting of ONE JIB the Founding Municipalities directed ONE Investment to undertake an RFP process to obtain the services of an Integrity Commissioner and a Closed Meeting Investigator for ONE JIB. ONE Investment issued the RFPs and made a recommendation to the Founding Municipalities for the Integrity Commissioner and the Closed Meeting Investigator which was accepted for a one-year term.

Pursuant to the Authorizing By-law that has been passed by each Founding Municipality, the Code of Conduct for ONE JIB has been established. ONE JIB is authorized to make future changes to the Code of Conduct. The authority to appoint the initial Integrity Commissioner and Closed Meeting Investigator and their respective successors was delegated to ONE JIB.

The RFP requirements are reflected in the Services Agreement.

4. ANALYSIS

(a) Integrity Commissioner Services

After its appointment, Aird & Berlis LLP will provide the Integrity Commissioner Services which will include the following:

- Providing advice to members of ONE JIB respecting their obligations under the Code of Conduct ;

- Providing advice to members of ONE JIB on their obligations under a procedure, rule or policy of ONE JIB, governing their ethical behavior;
- Providing advice to members of ONE JIB respecting their obligations under the *Municipal Conflict of Interest Act*;
- Establishing a complaint-handling procedure that will include complaint resolution steps, advice and timing expectations for completing investigations;
- Providing educational information to members of ONE JIB about its Code of Conduct and the *Municipal Conflict of Interest Act*;
- Reporting to ONE JIB annually on the Integrity Commissioner's activities;
- Investigating complaints and advising whether a member of ONE JIB has contravened the provisions of the Code of Conduct or the *Municipal Conflict of Interest Act*; and
- Recommending appropriate remedies.

(b) Closed Meeting Investigator Services.

After its appointment Aird & Berlis LLP will provide Closed Meeting Investigator services including:

- Receiving complaints and conducting investigations, as required, pursuant to Sections 239, 239.1 and 239.2 of the Municipal Act, in respect of any meeting or part of a meeting of ONE JIB that was closed to the public, to determine compliance with the Act and/or ONE JIB's Procedure By-law;
- Establishing a complaint handling procedure;
- Reporting to ONE JIB on the results of such investigations, including the dismissal of a complaint without an investigation (e.g. frivolous, vexatious or insufficient evidence) as well as providing recommendations for improvements to processes;
- Conducting an investigation or determining not to undertake an investigation in a manner that demonstrates the importance of her/his independence and impartiality, the confidentiality of her/his activities, and the Closed Meeting Investigator's credibility as it relates to the complaint and her/his investigative process;

- Commencing investigative services within 3 days of receiving a complaint and ensuring the complaint includes accurate and concise documentation.
- Establishing a protocol to ensure ONE JIB's Secretary has access to up-to-date information on investigations; and
- Maintaining the integrity of the process .

(c) Lead Partner at Aird & Berlis LLP for both Integrity Commissioner and Closed Meeting Investigator Services

John Mascarin, Partner, will be the lead for both services provided to ONE JIB. Mr. Mascarin is a member of the Municipal and Land Use Planning Group of Aird & Berlis LLP. He practises in the areas of local government and municipal law, development, land use and planning law, and building and construction regulation. Mr. Mascarin provides advice, counsel and representation to both private and public sector clients on all matters relating to municipal law as well as land use planning and development matters, including development charges, building regulatory matters and various contractual arrangements. Aird & Berlis LLP will be taking a team approach to providing Integrity Commissioner and Closed Meeting Investigator services in part to keep costs as low as possible for ONE JIB, but also to ensure access to a full range of skills and knowledge. A copy of biographies for the Aird & Berlis LLP team that will be servicing ONE JIB is attached.

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