

To: ONE Joint Investment Board
From: Denis Kelly, Board Secretary
Date: May 11, 2021
Re: Re-appointment of Integrity Commissioner and Closed Meeting Investigator
Report: 21-016

1. RECOMMENDATIONS

It is recommended that the Board:

1. Re-appoint Aird & Berlis LLP to provide Integrity Commissioner and Closed Meeting Investigator services for a period of five years and that ONE JIB execute the Services Agreement with Aird & Berlis LLP.

2. SUMMARY

The Integrity Commissioner and Closed Meeting Investigator Services Agreement is between ONE JIB and Aird & Berlis LLP

ONE JIB, as a municipal services board under the *Municipal Act, 2001*, is required to have an Integrity Commissioner and Closed Meeting Investigator. ONE JIB appointed Aird & Berlis LLP for a one-year term effective May 19, 2020.

3. BACKGROUND

The *Municipal Act* requires the appointment of an Integrity Commissioner

ONE JIB, as a local municipal board, is required to have an Integrity Commissioner. The Integrity Commissioner reports to the ONE JIB and is responsible for investigating complaints and determining whether a member of the ONE JIB has contravened its Code of Conduct or the *Municipal Conflict of Interest Act*. The Founding Municipalities approved Aird & Berlis LLP for an initial appointment of one year. At its meeting of May 19, 2020, the ONE JIB accepted the approval and appointed Aird & Berlis LLP for one year. It is time to renew the Services Agreement.

The *Municipal Act* requires the appointment of a Closed Meeting Investigator

Under the *Municipal Act*, ONE JIB is also required to have a Closed Meeting Investigator. The Founding Municipalities similarly approved Aird & Berlis LLP for an initial appointment of one year. At its meeting of May 19, 2020, the ONE JIB accepted the approval and appointed Aird & Berlis LLP for one year. It is also time to renew this Services Agreement.

Both the appointment of the Integrity Commissioner and the Closed Meeting Investigator were initially for a short term as the ONE JIB adjusted to its new responsibilities.

ONE JIB has received excellent service from Aird & Berlis LLP

Aird & Berlis LLP generally and John Mascarin specifically as the lead Partner have provided excellent service to the ONE JIB and its members over the past year. This has included providing timely advice, leading education sessions on the role of the Integrity Commissioner and on Closed Meetings and providing an Annual Report to ONE JIB. During this period, they have also gained valuable knowledge and awareness of the ONE JIB's unique responsibilities and its Code of Conduct and Procedure By-law.

4. ANALYSIS

An agreement with a longer term is appropriate under the circumstances

Municipal Integrity Commissioners and Closed Meeting Investigators are often appointed for an indefinite term. This means that they serve in this capacity for either a few or several years at the pleasure of the appointing municipal council. The ONE JIB's circumstances are different than those of a municipal council whose members are elected every four years. Each Integrity Commissioner and Closed Meeting Investigator has a different approach. Entering into a five-year agreement with Aird & Berlis LLP will ensure legislative compliance, consistency and continuity.

Integrity Commissioner Services

Integrity Commissioner Services include the following:

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

Closed Meeting Investigator Services

Closed Meeting Investigator services include the following:

- Receiving complaints and conducting investigations, as required, pursuant to sections 239, 239.1 and 239.2 of the *Municipal Act*, regarding 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

- Maintaining a complaint handling procedure
- 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 three days of receiving a complaint and ensuring the complaint includes accurate and concise documentation
- Reporting to the 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
- 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.

John Mascarin is the Lead Partner at Aird & Berlis LLP for both Integrity Commissioner and Closed Meeting Investigator Services

John Mascarin, Partner, will continue to 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 practices 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.

Mr. Mascarin and Aird & Berlis also act as Integrity Commissioner and Closed Meeting Investigator for several municipalities. 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.

5. CONCLUSION

The re-appointment of Aird & Berlis LLP for Integrity Commissioner and Closed Meeting Investigator services will ensure that ONE JIB continues to meet its obligations under the *Municipal Act* while maintaining consistency and continuity.