

**OFFICE OF THE INTEGRITY
COMMISSIONER**

Summary of the Complaint:

This report presents my findings in respect of the formal complaint under the City of Barrie Code of Conduct (the “Code”) in which the conduct of Chair Rob Hamilton, Downtown Barrie Business Association (BIA) (the “Respondent”) was alleged to have contravened the Code.

On March 16, 2021 I received a Formal Complaint (the “complaint”). The complaint alleged that:

The Respondent had contravened many rules of the Code by making certain statements at the September 22, 2020 BIA meeting, as shared by the CBC (February 11, 2021) and the Barrie Advance (February 12, 2021).

The Complaint stated that the Respondent’s statements contained racist slurs and derogatory comments about homeless people, and those with mental health issues, and those living with addiction. In particular, the Complaint goes on to state that:

1. Near the beginning of this video, Rob Hamilton refers to people in the downtown “carrying on like a bunch of Mau Maus”. ‘Mau-mau’ is a derogatory term toward black people. It originally referred to Kenyans .
2. Mr. Hamilton makes several more derogatory and degrading descriptions of people with addictions and/or mental health issues. Near the end, another board member tries to say ‘everyone who lives downtown and walks downtown is a worthy citizen of Barrie, and we should treat everyone as a citizen’- but Mr. Hamilton interrupts, preventing him from finishing his sentence by shouting over him ‘That is just not true, [...]’.

The Complainant then cited the sections of the Code that the Respondent’s statements have allegedly contravened.

Facts:

During the September 22nd BIA Board meeting, at the 59-minute mark of the Zoom recording, BIA Board Member Ing introduced the topic of the Safe Consumption Site (SCS) that was being considered by the Simcoe Muskoka District Health Unit in the downtown core of the City of Barrie. At the 113-minute mark, the Respondent spoke to

the item claiming that “downtown is not comfortable or safe and that people are carrying on like a bunch of Mau-Maus”. At the 117:30-minute mark, BIA Board Member Ballantyne stated that “everyone that lives downtown and walks downtown is a worthy citizen.” The Respondent then stated: “[t]hat’s just not true[...]. They are not a productive contributing citizen...are they worthy – yes...But if they’re screwing up other people...” BIA Board Member Ballantyne then stated: “Let me finish, let me finish – As a human, they are worthy and we don’t want to see them die”

Upon review of the BIA Zoom virtual meeting, I noted that the Respondent’s full statement was:

“...the perception of our downtown is not a comfortable place...people are running around like a bunch of Mau-Mau’s...my friends say you have to get rid of them...the [police] said that the crime rate is low but the perception is that crime is high...[...] had a great restaurant...the Salvation Army was right next door...you have to fight your way through...the Salvation Army folks are always asking for money...it’s the collision of 2 worlds...its untenable...they are not productive...but yes, they are worthy”

Relevant Code of Conduct rules:

The Complaint alleged that the Respondent’s conduct triggered the following sections of the Code:

- 20.1 All members of Council have a duty to treat members of the public, one another and staff appropriately and without abuse, bullying or intimidation. All members of Council shall ensure that their work environment is free from discrimination and of personal and sexual harassment.
- 20.3 Members shall abide by the provisions of the Human Rights Code, as amended, and, in doing so, shall treat every person, including other Members, employees, individuals providing services on a contract for service, students on placements, and the public, with dignity, understanding and respect.
- 20.4 In accordance with the Human Rights Code, as amended, Members shall not discriminate against anyone on the basis of their race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offences, marital status, family status, or disability.
- 20.5 In accordance with the Human Rights Code, as amended, harassment means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.
- 20.6 Without limiting the generality of the foregoing, Members shall not:
 - b) Display materials or transmit communications that are inappropriate, offensive, insulting or derogatory.

- f) Refuse to converse or interact with anyone based on any ground listed in the Human Rights Code, as amended.

5.3 Members will conduct their dealings with each other in ways that maintain public confidence in the office to which they have been elected, are open and honest, focus on issues rather than personalities, avoid aggressive, offensive or abusive conduct.

Following my preliminary review of the Complaint, I determined that only section 20.6(b) of the Code was triggered.

The Respondent's original reply to the Complaint:

On March 24, 2021 the Respondent provided his reply to the Complaint, which included the following comments:

As Chair of the Downtown Barrie BIA Board of Directors and a former business owner for 46 years in the downtown core, I know there is an opioid crisis in our city and agree that a solution to address that issue is needed. I, along with our BIA members, witness the impact of addictions issues on our downtown community every day. It is why I personally and the Downtown Barrie BIA are working tirelessly to identify, bring forward, and advocate for the best solutions possible, both for the near term and for the future of the City.

I also believe that an issue of this nature, one that impacts so many in our community, must take all views into account- regardless of one's position on the final location of an SCS. I also recognize the importance of doing so in a respectful manner. Upon reflection of the Downtown Barrie BIA Board of Directors in question, I acknowledge my remarks were not in keeping with that principle and issued a public apology to that effect on February 12, 2021.

The Respondent provided a link to the public apology:
<https://www.barrie360.com/theyre-not-a-productive-contributing-citizen-former-barrie-mayor-turned-bia-chair-catching-heat-for-comments-surrounding-supervised-consumption-site/>

The Respondent went on to say that:

As noted in that apology, my remarks at the BIA meeting were inappropriate and not intended to be harmful. They were also not reflective of the BIA's position nor helpful to what needs to be a collaborative and inclusive discussion around a goal that we all share – that is providing the right services in the best location for all, including those with addictions, the health care providers, the residents and the businesses of Barrie.

The Respondent concluded the letter in reply to the Code Complaint by stating:

I remain fully committed to the shared goal of ensuring the best solution to address the opioid issue in Barrie are brought forward.

Integrity Commissioner's request for Respondent to clarify response to Complaint:

After having reviewed the Respondent's reply, I determined that I required clarification about how the reply addressed the allegations in the Complaint. I advised the Respondent that in the link that he provided in his written reply, he was quoted as stating:

"[m]y remarks at the BIA meeting were inappropriate, and for that, I apologize. My remarks were also not reflective of the BIA's position nor helpful to what needs to be a collaborative and inclusive discussion around a goal that we all share – that is providing the right services in the best location for all, including those with addictions, the health care providers, the residents and the businesses of Barrie."

I advised the Respondent that the Code sets out the formal complaint and investigation process. Upon receipt of a formal complaint, I explained that I am required to follow the process in the Code. I explained that the fact that a Respondent has issued an apology does not eliminate my jurisdiction as Integrity Commissioner.

I requested that the Respondent clarify his written reply. As set out in the Complaint, the Respondent at the meeting, referred to people in the downtown "carrying on like a bunch of Mau Maus". I advised the Respondent that "*mau-mau*" is a derogatory term toward black people. It originally referred to Kenyans of the Kikuyu tribe involved in the Mau Mau Rebellion in the 1950s - insurgency against white colonists.

Further, I requested that the Respondent clarify and reply to his statement made at the BIA Board meeting, in particular with respect to the part "[n]ear the end, another board member tries to say "everyone who lives downtown and walks downtown is a worthy citizen of Barrie, and we should treat everyone as a citizen" - but Mr. Hamilton interrupts, preventing him from finishing his sentence by shouting over him "That is just not true, [...]"

The Respondent's additional submissions:

On April 9th, the Respondent provided written clarification to my request. In the clarification, the Respondent states:

First and foremost, I offer my sincere apologies for my remarks and the harm they have caused. I recognize that my comments were both inappropriate and offensive, and for that I am sorry.

In regard to the term "Mau Maus", I was unaware of its historical origins and my use of the phrase was not intended to be derogatory. However, I do understand how it was received in that way and the harmful impact that has had regardless of my intent and I regret using the term.

I also fully regret my statement that suggested individuals with addictions issues in our downtown are unworthy citizens. I believe that every human being regardless of where they live or their personal circumstances are worthy of

respect and deserve to have access to the support they need, including those in our downtown core with addiction issues. I apologize for the disrespect I have shown Barrie citizens with those remarks.

I also wish to reiterate that my remarks were not reflective of the Downtown Barrie BIA or my fellow Board Members' position on the matter or an SCS in our City. Furthermore, I remain committed to supporting the BIA and other stakeholders in the efforts to have a collaborative and inclusive discussion around solutions to Barrie's opioid crisis, including the potential for an SCS in the near-term and a longer-term solution in the form of a community care hub.

Analysis:

The Complainant had set out in the Complaint that the term *mau-mau* comes from the name of the Mau-Mau, a militant African nationalist movement formed among the Kikuyu people of Kenya in the 1950s to advocate violent resistance to British rule. I have confirmed this is a matter contained in academic writings and an belief not simply held by the Complainant.¹ The English term reflects the historical British version of the actions of the Mau-Mau, a version that does not acknowledge the grievances of the Kikuyu or the atrocities committed against them. In current English, *mau-mau* is used to suggest that a person's efforts and actions stem only from a desire to commit violent acts, or in milder use, to cause disruption or achieve some petty aim. When the term is used of a black person it is especially likely to be considered offensive.²

In both the original reply to the Complaint and the subsequent additional submissions, the Respondent did not explain why he used the term *mau-mau* but did acknowledge that he used it. Neither did the Respondent advise why when another board member tried to say 'everyone who lives downtown and walks downtown is a worthy citizen of Barrie, and we should treat everyone as a citizen', the Respondent interrupts, preventing him from finishing his sentence by speaking over him saying "That is just not true, [...]" While the Respondent has said "they" (being the citizens with mental illness and who suffer from substance addictions and are homeless) are not productive not contributing citizens (which in and of itself is a blanket statement that stigmatizes individuals suffering from mental illness, addiction and homelessness), he then he on to say that they are worthy but lose their worthiness if "they" are "screwing up other people", causing businesses to close, leaving coffee cups and asking for money. The Respondent concludes by stating, "it's a collision of 2 worlds". The perception these statements leave with those who have heard the utterances during this public meeting, is that "those people" who are viewed by the Respondent as not productive not contributing citizens, lose their worthiness because they are not productive and need to be moved out of the

¹ Gatheru, R. M. (2005). Kenya: From Colonisation to Independence, 1888-1970. Jefferson: McFarland & Company.; Ochieng, W. R. (1990). Themes in Kenyan History. Nairobi: Heinemann Kenya Limited.; Tignor, R. L. (1976). The Colonial Transformation of Kenya. Princeton: Princeton University Press.

² <https://www.merriam-webster.com/dictionary/mau-mau>

downtown core, or at least far enough away from worthy citizens so that “those people” are not allowed to “screw up other people”. Within the context of reviewing the whole video recording of the meeting, it is not only what the Respondent says but how he says it. The Respondent qualifies his statement regarding worthiness to be an eligibility criterion for only those residents of Barrie who act in a way that the Respondent believes does not cross the line into “screwing up other people.” The Respondent’s remarks about individuals with mental illness and substance addiction being not productive or not contributing and therefore screwing up other people, is perceived to render them in the Respondent’s view, not worthy to be walking downtown with the rest of the worthy citizens of Barrie.

Upon having investigated this matter, I will not make any assumption on the Respondent’s reasons for using the term *mau-mau* or telling his fellow board member “that is just not true” when the former said that “we should treat everyone as a citizen” and “everyone who lives downtown and walks down is a worthy citizen of Barrie”. The Code requires Members of Council and Local Boards to refrain from making inappropriate comments or gestures to or about an individual where such conduct is known ***or ought reasonably to be known to be offensive*** to the person(s) to whom they are directed or are about. The Respondent ought to have known, even if it was not his intent, that making the remarks he made would be reasonably perceived as inappropriate, offensive, insulting or derogatory.

Whether one imputes a historical reference to a revolt and uprising in Africa, or whether one suggests the violent and barbaric nature of individuals generally, the term *mau mau* is a loaded term that is derogatory and at best connotes unrestrained violent behavior and at its worst iteration, represents a racial slur against people of colour generally. Either way, the use of this term by the Respondent to refer to some individuals in the downtown core of Barrie, represents conduct that ought reasonably to be known to be inappropriate, offensive, insulting or derogatory to the persons about whom they are directed.

I acknowledge the Respondent’s regret for having made the statement that suggested individuals with addiction issues in Barrie’s downtown are unworthy citizens and the disrespect that the use of those remarks may have shown Barrie citizens. However, the statements and remarks were made and given his capacity of the Chair of a Local Board of the City of Barrie, making the statements breached the Code. The Respondent and all Members of the BIA are required to respect and follow the rules of the City of Barrie Code of Conduct. In fact, section 5.13 of the Code states that:

Board Members do not hold office nor do they represent a constituency within the community nor do they represent Council, or the committee or the Local Board unless mandated to do so. Members of the public appointed to committees and Local Boards must respect both the word and spirit of this Code as it applies to them and also as it applies to Members of Council.

Findings:

The Respondent did not dispute using the term *mau-mau*. I find that the Respondent's use of the term *mau-mau* was inappropriate, offensive, insulting or derogatory. While the Respondent states that he was unaware of its historical origins and he did not intend to be derogatory, his statements were received as offensive and derogatory, regardless of his intent. I note that the Respondent has apologized for and regrets having used the term. I further find that the Respondent made derogatory comments when he suggested that certain individuals who suffered from mental illness, substance addiction and homelessness, were not worthy citizens. The Respondent states in his supplementary submissions, that he believes "every human being regardless of where they live or their personal circumstances are worthy of respect and deserve to have access to the support they need, including those in our downtown core with addiction issues" and he "apologizes for the disrespect [...] shown Barrie citizens with those remarks." I am encouraged that the Respondent has decided to submit an apology for having made the above-noted remarks. However, this recognition of having disrespected a category of Barrie citizens with his remarks and having given an apology for having made the remarks, does not absolve the Respondent of having fallen short of his ethical obligations set out under the Code. On April 19, 2021, with a view to affording the Respondent procedural fairness, I forwarded a copy of my investigation findings to him advising that I would be submitting to the City, a final report with recommendations on sanctions and remedial action for Council's consideration at the next Council meeting.

I find that the Respondent ***ought to have reasonably known that the remarks he made at the BIA meeting with reference to residents of the City of Barrie, were inappropriate, offensive, insulting or derogatory*** to the person(s) to whom they were directed or were about. With respect to his interactions with other Board Members during the course of the meeting subject of the Complaint, I find that the Respondent did interrupt his fellow Board Members, however, during the preliminary review of the Complaint, I determined that I would only investigate the application of rule 20.6 as the utterances and conduct of the Respondent did not rise to the level of triggering the other rules set out in the Complaint. I therefore find that the Respondent has contravened Rule 20.6 of the Code.

Recommendations:

In accordance with 27.3(a) of the Code, I recommend that Council impose the following:

- 1) The imposition of a penalty of a reprimand on the Respondent in respect of having made comments at the September 22, 2020 BIA meeting that were inappropriate, offensive, insulting and derogatory;
- 2) The imposition of remedial action which will require the Respondent to:

- i) submit the written letter dated April 9, 2021 that was addressed to the Integrity Commissioner in reply to her request for information, to the City of Barrie. The City of Barrie shall post this letter on the City's website and forward it to Executive Director of the Downtown Barrie BIA;
- ii) be removed as Chair of the BIA;
- iii) attend training on addiction as a mental illness and human rights training as a condition of remaining on the BIA Board.

Sincerely,



Suzanne Craig, Integrity Commissioner

April 22, 2021