



Fasken Response to City of Peterborough: Integrity Commissioner Investigative Services

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Guy Giorno

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About Guy Giorno

We firmly believe that an Integrity Commissioner must be an expert in public-sector ethics, with considerable experience investigating and advising on ethical compliance and addressing conflicts, not just anybody with a vague, general background in municipal law.

Public-sector ethics law has emerged as a separate and distinct area of legal practice. Practitioners in this field have their own association, the Council on Governmental Ethics Laws, or COGEL.¹ Three years ago the Canadian Bar Association recognized the trend by establishing a CBA Committee on the Law of Lobbying and Ethics.² Guy Giorno is the only respondent to this RFP who is active in these bodies.

Guy Giorno has deep municipal experience (as this submission demonstrates), but more importantly he offers expertise in government ethics and conflict of interest law. **Unparalleled experience.** He offers precisely the unique and particular expertise needed to administer and uphold the Code of Conduct, to investigate, to draft reports, to provide advice to Council Members, and to deliver other educational services.

Guy is an expert in conflict of interest and government ethics. He is already the Integrity Commissioner for 30 Ontario municipalities. Guy was called to the Bar in 1991 and has practised law for 27 years. He has been a partner in Fasken continuously since 2002, except for the period July 1, 2008, through December 31, 2010, when he was Chief of Staff to the Prime Minister of Canada.

News media call him **“well respected as an expert in accountability and ethics law”** (*Huffington Post*, 6/6/13) and **“an ethics and lobbying bulldog who has built a reputation as a vocal advocate of accountable government”** (*iPolitics*, 2/25/13).

Guy’s practice is devoted to government ethics, conflict of interest, lobbyist registration, lobbying ethics, government transparency, and related fields. He is certification co-chair of the Council for Governmental Ethics Laws, the pre-eminent organization of government ethics administrators in North America. He chairs the Law of Lobbying and Ethics committee of the Canadian Bar Association.

Guy Giorno currently serves as Integrity Commissioner for the municipalities of Durham Region, Dufferin County, Renfrew County, Wellington County, Amaranth, Brock, Centre Wellington, Clarington, Deep River, Dryden, East Garafraxa, East Gwillimbury Grand Valley, Greater Madawaska, Madawaska

¹ Guy Giorno served on the steering committee, and is now certification committee co-chair, of this organization.

² Guy Giorno chairs this committee.

Valley, Mapleton, Melancthon, Minto, Mono, North Algona Wilberforce, Orangeville, Oshawa, Pickering, Puslinch, Scugog, Shelburne, Uxbridge, Wellington North and Whitby.

He is also the Integrity Commissioner and Lobbyist Registrar for the City of Brampton.

As a municipal Integrity Commissioner, Guy Giorno has:

- Handled code of conduct complaints
- Conducted investigations
- Issued reports
- Presented to municipal councillors on codes of conduct and conflict of interest
- Established processes for handling code of conduct complaints where municipalities did not have one
- Advised municipalities on ethics issues
- Assisted municipalities in resolving conflicts among staff, council members, and members of boards by acting as a neutral and impartial arbiter

Guy Giorno: Expert in Ethics Laws

Guy practises public law with an emphasis on accountability and ethics laws.

He leads Fasken's Political Law practice. He is Chair of the "Law of Lobbying and Ethics" committee of the Canadian Bar Association, is co-author of the legal text *Lobbying in Canada* and as a recognized expert in the law of lobbying routinely speaks, writes and advises on these, evolving, complex rules.

What others say about Guy Giorno

"well respected as an expert in accountability and ethics law"
Althia Raj, *Huffington Post*, June 6, 2013

"an ethics and lobbying bulldog who has built a reputation as a vocal advocate of accountable government"
Olesia Plokhii, *iPolitics*, February 25, 2013

"Canada's leading expert on the new *Federal Accountability Act*"
Ontario Bar Association

"lawyer specializing in public accountability"
Alex MacPherson, *Saskatoon StarPhoenix*, June 10, 2017



Codes of Conduct Proceedings

Guy Giorno has extensive experience in proceedings and investigations under codes of conduct and other government ethics laws.

Guy's Proceedings under Codes of Conduct (and Government Ethics Laws)

- Represented/advised MPPs (both complainants and respondents) in inquiries by the Integrity Commissioner (Ontario) under the Members' Integrity Act.
- Represented MP in Conflict of Interest Code for Members of the House of Commons inquiry.
- Represented federal officials (including a Minister, two former Deputy Ministers, and several former officials) in examinations by the federal Conflict of Interest and Ethics Commissioner and other Conflict of Interest Act proceedings.
- Represented persons being investigated for alleged breaches of the federal Lobbyists' Code of Conduct.
- Advised and represented witnesses in examinations by the federal Conflict of Interest and Ethics Commissioner under the Conflict of Interest Act.

Guy Drafts Codes of Conduct

- Drafted code of conduct complaint protocols for several Ontario municipalities.
- Drafted employee code of conduct for national organization.
- Drafted Annex B of *Open Government: A Guide for Ministers* (now known as *Open and Accountable Government*) of the Government of Canada.
- Drafted policies on conflict of interest, transparency, and whistle-blowing.

Other

- Routinely advises on compliance with:
 - Conflict of interest rules for public servants (regulations under *Public Service of Ontario Act*)
 - *Conflict of Interest Act* (Canada)
 - Conflict of Interest Code for Members of the House of Commons
 - Policy on Conflict of Interest and Post-Employment (Canada)
 - Code of Conduct for Procurement (Canada)
 - Ethical and Political Activity Guidelines for Public Office Holders (Canada)
 - *Lobbyists' Code of Conduct* (Toronto)
 - *Lobbyists' Code of Conduct* (Ottawa)
 - *Lobbyists' Code of Conduct* (Canada)
 - Public corruption provisions of *Criminal Code*
- Advised various government agencies/entities on conflict of interest, transparency and whistle-blowing.



- Testified on conflict of interest before House of Commons Standing Committee on Access to Information, Privacy and Ethics.
- Consulted by three different provinces on law-of-lobbying issues.

Additional Relevant Municipal and Ethics Experience

Municipal Act, Municipalities and Municipal Law

- Faculty, Advanced Roundtable in Municipal Law, Law Society of Upper Canada (May 2, 2008)
- “Municipal Mergers: A Case Study of Municipal Amalgamation in Ontario, 1996-2001,” presentation to Ryerson University Department of Politics and Public Administration and Canada25 (March 2005)

***Municipal Conflict of Interest Act* and Municipal Ethics**

Guy Giorno has lectured and publicly demonstrated advanced knowledge of Municipal Ethics and Code of Conduct matters:

Guy’s Presentations

- “Municipal Conflict of Interest - What’s New?” Ontario Bar Association (February 8, 2013)
- “Municipal Conflict of Interest,” OBA Summer Institute, live Q&A following rebroadcast (July 11, 2013)
- “The Ethical Council: Conflict Codes, Lobbyist Registration and Other Best Practices for Councils and Councillors,” presented to Association of Municipalities of Ontario (August 16, 2005)

Guy’s Articles and Writings

- “Leasing lives on: Toronto’s MFP scandal provides lessons,” *Summit*, January/February 2006 (p. 12)
- “Comments on Implementation of the Recommendations of the Bellamy Inquiry,” Presentation to Policy and Finance Committee, Toronto City Council Meeting No. 10, November 22, 2005

Other

During 2006, when the *Municipal Act* was being amended (including to provide for municipal Integrity Commissioners), Guy was there: commenting on lobbyist registries, on democratic accountability and other issues related to open and ethical government. For example:

- “We need more democracy locally – not less,” *Globe and Mail* (May 3, 2006)
- “Act needs to be stronger to curb lobbyists at City Hall,” *National Post* (June 12, 2006)



Expertise in Government Ethics and Integrity

Guy Giorno has extensive experience in conflict of interest and ethics matters involving government officials:

- Represented Member of Parliament in inquiry under the Conflict of Interest Code for Members of the House of Commons.
- Advised MPPs (both complainants and respondents) in inquiries by the Integrity Commissioner (Ontario) under the *Members' Integrity Act*.
- Represented federal officials (including a Minister, two former Deputy Ministers, and several former officials) in examinations by the federal Conflict of Interest and Ethics Commissioner and other proceedings under the *Conflict of Interest Act*.
- Advised and represented witnesses in examinations by the federal Conflict of Interest and Ethics Commissioner under the *Conflict of Interest Act*.
- Represented persons being investigated for alleged breaches of the federal *Lobbyists' Code of Conduct*.

General Municipal Experience

Guy Giorno has extensive experience working with and for municipalities. In fact, he has worked for municipal clients since starting his legal career.

- **Toronto** – Conducted workplace “equal employment opportunity” investigations for former Municipality of Metropolitan Toronto (1989 – while Guy was a student-at-law)
- **Gravenhurst** – Acted for the Town in precedent-setting freedom of information litigation
- **Ontario** – While employed by the Government of Ontario (1995 - 2002) Guy was closely involved in the municipal restructuring reforms of the mid to late 1990's
- **Ontario** – Acted for the Ministry of Municipal Affairs and Housing on project related to the Toronto Islands community (2002-03)
- **Brantford** – Facilitator for Council strategic planning session, then delivered written report (2004)
- **Grimsby** – Facilitator for Council strategic planning session, then delivered written report (2004)
- **Oakville** – Represented the Town in labour relations proceedings
- **Pembroke** – Represented Police Services Board in significant case: *Pembroke (City) Police Services Board v. Kidder* (1995), 22 O.R. (3d) 663 (Div. Ct.)

Municipal Freedom of Information and Protection of Privacy Act

Guy Giorno has been practising municipal freedom of information law for 25 years. He has represented institutions and requesters in FOI appeals and litigation, helped institutions to process access requests and trained employees in FOI-Privacy implementation and compliance.



Guy founded the FOI practice at Hicks Morley in 1991, the year that *MFIPPA* took effect and extended freedom of information to Ontario school boards and municipalities. When the new law took effect, he worked with the Ontario Public School Boards Association to educate and train school boards in their legal responsibilities. Two decades later, he helped the Ontario Hospital Association to implement FOI among hospitals by co-authoring its comprehensive Hospital Freedom of Information Toolkit and delivering training.

His extensive experience includes:

- Representing the institution in Ontario's first-ever school board FOI appeal.
- Representing institutions in two of the first five judicial reviews under the *Municipal Freedom of Information and Protection of Privacy Act*.
- Winning a landmark, multi-year case over access to records concerning the sale of Toronto's street lights.
- Winning a precedent-setting Divisional Court judgment over access to records during judicial review of an Information and Privacy Commissioner (IPC) order.
- On behalf of a hospital, winning an historic Divisional Court decision giving the hospital access to internal records of the Pay Equity Hearings Tribunal.
- While working for the Ontario Government, helping to develop the 1996 amendments to the *Freedom of Information and Protection of Privacy Act*.
- Acting for institutions in response to IPC privacy compliance investigations.
- Speaking about freedom of information to both Ontario and federal parliamentary committees.
- Training and educating employees of institutions in Freedom of Information and Privacy implementation and compliance.

Guy's Freedom of Information Cases

- *Gravenhurst (Town) v. Ontario (Information and Privacy Commissioner)* (1993), 13 O.R. (3d) 531, 49 C.P.R. (3d) 550 (Div. Ct.) – Counsel to Town of Gravenhurst
- *Ontario Secondary School Teachers' Federation v. Wellington County Board of Education and Information and Privacy Commissioner* (Ont. Div. Ct. File No. 407193) – Counsel to Wellington County Board of Education
- *Re City of Toronto*, Order MO-2468-F (Information and Privacy Commissioner/Ontario) (October 27, 2009) – Counsel to the Requester
- *Re City of Toronto*, Orders MO-2135-I, MO-2226, MO-2275, MO-2282-I, MO-2389, MO-2396-F (2006 through 2009) (Information and Privacy Commissioner/Ontario) – Counsel to the Requester
- *Saraga v. Wellington County Board of Education*, [1995] O.J. No. 1693, 1995 CanLII 7280, Ontario Court of Justice (General Division) – Counsel to Wellington County Board of Education

Elected Officials and Senior Administrators

As Integrity Commissioner of 31 municipalities, as a former Chief of Staff to the Premier of Ontario and former Chief of Staff to the Prime Minister of Canada, and an experienced lawyer serving municipalities, Guy is at ease dealing with elected officials and senior administrators. He has made presentations to: municipal councils; council committees; school board meetings; the federal Cabinet; the Ontario Cabinet; committees of the House of Commons, Senate and Ontario Legislature; and federal and provincial caucuses. He has worked collaboratively with public servants at all levels.

He has dealt with elected officials one-on-one and in groups. He has dealt with elected officials in every conceivable way: given them advice; trained them; acted on their instructions; reported to them. Ten years of his legal career were spent inside government, working with officials.

News Media

The news media frequently ask Guy Giorno to address issues related to municipal councillors and municipal government. For example:

- *Metro News/Ottawa* (Jun. 26, 2016)
- *Toronto Star* (Oct. 4, 2013)
- *Toronto Metro* (Oct. 4, 2014)
- TVO's *The Agenda with Steve Paikin* (Dec. 5, 2012)
- *Ottawa Business Journal* (Aug. 21, 2012)
- *Ottawa Sun* (July 6, 2012)
- *Ottawa Citizen* (Mar. 8, 2012)

Outside of municipal issues, Guy Giorno has extensive experience dealing with TV, radio, print and digital news media. Inside Ontario, those news media include: AM640 (CFMJ), CBC Metro Morning, CBC Newsworld, *Education Today*, CFRA, CIUT, CTV, CTV Question Period, Global TV, *The Globe and Mail*, *The Hill Times*, Hour Town (Pulse 24), *Huffington Post*, *iPolitics*, *The Lawyers Weekly*, *Lobby Monitor*, National Post, News Talk 1010 (CFRB), Ottawa Citizen, Ottawa Sun, Power and Politics, Rhonda Live, *Summit Magazine*, Sun News Network, TVO's Studio Two, *Toronto Star* (Canada's largest circulation newspaper, where he used to write a weekly column), *Winnipeg Free Press*, *Winnipeg Sun*, and URC Investigates.

Speaking

Guy Giorno is highly regarded as a public speaker and as a trainer and an instructor, including at Carleton University where he teaches a graduate course in the school of political management. He has delivered speeches to a variety of audiences, including: Economic Club of Canada, ACEC-Canada, Canada-U.K. Chamber of Commerce, Canadian Council of Christian Charities, Ontario Hospital Association, Osgoode Professional Development, Council on Governmental Ethics Laws, University of Toronto School of Public Policy & Governance and Mowat Centre for Policy Innovation, Carleton



University, Municipal Taxpayer Advocacy Group, Canadian Bar Association, University of Calgary, Winnipeg Public Library, and many others.

Audience Feedback (Examples)

- “Your presentation last time was a highlight of our event.” Conference Organizer, Nov. 30, 2014
- “Guy Giorno was a very engaging speaker.” Seminar Attendee, June 20, 2013
- “Very informative; great speaker and very clear.” U.K. Speech Attendee, Sept. 14, 2012
- “Dynamic speaker.” Seminar Participant, May 11, 2011
- “A great speaker ... commands attention.” Audience Member, Jan. 31, 2006

Also:

- “Every once in a while, I hear a speech that I think is so good, I just want to turn over my entire column to it. ... Besides being a romping fun speech, Giorno’s words should serve as a valuable lesson ...” Licia Corbella, Editor, *Calgary Sun*, Nov. 13, 2005
- “Frankly you were the most highly rated speaker over the summer and in high demand by the registrants.” Conference Organizer, Sept. 15, 2005

Writing

- 2008 OVATION Award of Excellence for Writing, International Association of Business Communicators/Toronto
- 2008 OVATION Award of Merit for Writing, International Association of Business Communicators/Toronto
- author of numerous articles and papers
- co-author of the leading legal text on the law of lobbying in Canada

Accessibility and transparency

Guy Giorno will only accept an Integrity Commissioner appointment where the process to uphold the code of conduct is transparent and accessible. For example:

- The code of conduct must be posted online and be easily accessible.
- The form used to file a complaint must be easily accessible.
- Guy Giorno recommends as a best practice that the complaint form not include an affidavit.
- Guy Giorno recommends as a best practice that members of the public be permitted to file complaints directly with the Integrity Commissioner.
- In compliance with the *Municipal Act*, reports of the Integrity Commissioner must be publicly available: online posting, all in one place on the same Web page, is recommended.



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Integrity Commissioner Investigative Staffing Plan

Individual and Team

Guy Giorno will lead the team, serve as the Integrity Commissioner, and be accountable for the exercise of all functions.

Guy will be supported by a team that includes Paul Burbank, whose biographical information appears below, and other legal professionals. He is also supported by legal assistants at Fasken. Fasken does not bill time for any work performed by legal assistants. Guy's experience as Integrity Commissioner for 30 Ontario municipalities demonstrates that speciality services are best delivered by a small but effective team of professionals, a team that already in place.

How will the team be organized?

Where efficient and more convenient for the municipality, other members of the team may engage in research, information gathering and some interviewing. At all times Guy alone will be accountable for the Integrity Commissioner functions. He will report. He will make recommendations. He is the one in whose judgment and expertise councillors can have confidence.

Paul Burbank		
Fasken	Student-at-Law	April 2018 – Present
Canadian Wireless Telecommunications Association (CWTA)	Contract Consultant Provided the Association with research, analysis and other advice on policy/regulatory matters in the wireless telecommunications sector.	May 2016 – Apr 2018
Department of Justice - Competition Bureau Legal Services	Student Worked with Competition Bureau Legal Services group on active and prospective litigation matters, spanning many different provisions of the <i>Competition Act</i> .	Sept 2017 – Dec 2017
Fasken	Summer Law Student	May 2017 – Aug 2017
Office of the Minister of State (Social Development) - Government of Canada	Policy Advisor to the Minister Previously: Office of the Minister of Canadian Heritage & Official Languages	Apr 2013 – Sep 2015
Education		
University of Ottawa	Doctor of Law (J.D.), Common Law	2015 – 2018
Carleton University	Master of Political Management (MPM)	2012 – 2013
University of Winnipeg	Bachelor of Arts (Honours), Politics, History, Economics	2007 – 2012

Additional Matters

Legal Services, Confidentiality, Conflict of Interest and Independence

To protect the Integrity Commissioner's independence and to avoid conflicts of interest, we typically ask that the contract with a municipality include a provision such as the following:

- (a) The parties confirm that the services covered by this Agreement, except as where lawfully delegated under subsection 223.3(3) of the *Municipal Act*, will be provided by the Company through Giorno in his capacity as a lawyer and other professionals within the firm working under his supervision.
- (b) The Company and Giorno will, inside the law firm, create a "confidentiality wall" so that only the those professionals within the Company working on the Municipality's Integrity Commissioner files have access to such information related to the Municipality.
- (c) The Municipality understands, agrees and confirms that Giorno is not the Municipality's lawyer and the Company is not the Municipality's law firm
- (d) The Company declares that, to its knowledge, (i) no Councillor, official or employee of the Municipality has any direct or indirect beneficial interest, whether financial or otherwise, in the Company, or in their performance of the Services; and (ii) the Company is not engaged in any other projects nor is it providing services to any other client that would give rise to an actual or potential conflict of interest; and (iii) the Company is not engaged in any direct or indirect beneficial interest, whether financial or otherwise with any other consultant or company retained by the Municipality.
- (e) The Giorno declares that he has no direct or indirect financial interest in any matter in which the Municipality is concerned that would give rise to an actual or potential conflict of interest.
- (f) The Municipality confirms, agrees and consents that the appointment of Giorno and this Agreement with the Company do not prohibit Giorno from acting as Integrity Commissioner for other municipalities.
- (g) The Municipality understands that an Integrity Commissioner must exercise functions independently of the Municipality and of Council. Giorno is appointed and the Company is engaged only to provide Integrity Commissioner services under the *Municipal Act* and the Code of Conduct. The Municipality understands and accepts that Giorno and the Company do not represent the Municipality or the Council, and Giorno and the Company do not represent and do not advance the interests of the Municipality and the Council.
- (h) The Municipality confirms, agrees and consents that the appointment of Giorno and this Agreement with the Company do not prohibit the Company from accepting from another client a mandate that is adverse to the interests of the Municipality, provided that all of the following conditions are satisfied: Giorno does not act in the other mandate; no one else providing services under this Agreement acts in the other mandate; the other mandate is unrelated to Integrity Commissioner services; and the Company possesses no confidential information obtained in the course of providing services under this Agreement that is relevant to the other mandate.

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- (i) A mandate that satisfies the conditions in paragraph (h), above, does not constitute a conflict of interest, either actual or potential, and does not require notice to the Municipality or provide cause to terminate the appointment or this Agreement.

