

# **Report on an Inquiry Respecting the Conduct of Members of the Manotick BIA Board of Management**

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Integrity Commissioner

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# Executive Summary

## Commissioner's Mandate

As Integrity Commissioner for the City of Ottawa, I am responsible for the application of the Code of Conduct for Members of Local Boards, which includes receiving and investigating complaints about whether a member of a local board has contravened the Code of Conduct. In this case, I received five formal complaints respecting the conduct of members of the Manotick Business Improvement Area (MBIA) Board of Management.

Following an intake analysis, confirmation of my jurisdiction to investigate and submissions from the parties, I initiated an investigation under subsection 9(2) of the Complaint Protocol into three of the formal complaints. This report is prepared pursuant to Section 11 of the Complaint Protocol and contains the findings and conclusions of my investigation.

## Code of Conduct for Members of Local Boards

The Code of Conduct for Members of Local Boards (Code of Conduct) sets the standards of behaviour expected of members of the City's local boards. Pursuant to Section 204 of the *Municipal Act, 2001*, a Board of Management of a Business Improvement Area (BIA) is a local board of the municipality for all purposes. The Code of Conduct was enacted by City Council on December 1, 2018, and came into force on March 1, 2019.

Members of local boards have an obligation to uphold the values and rules set out in the Code of Conduct.

## The Complaints

I received a total of five formal complaints from two individuals, who were also the respondents to one of the formal complaints.<sup>1</sup> Two formal complaints were dismissed at intake as being outside of my jurisdiction to investigate. I proceeded with an investigation into the three remaining formal complaints.

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<sup>1</sup> Because both Complainants were also Respondents, and there was an additional Respondent, I have elected to refer to them as Respondent 1, Respondent 2 and Respondent 3 and Complainant 1 and Complainant 2. For clarity, in each section of the Analysis, I indicate which Respondent is the Complainant.

## **Respondent 1**

The allegations concerning the conduct of Respondent 1, are summarized as follows:

- Improperly received/failed to disclose a payment of \$500 from the MBIA for volunteering as Vice-Chair during the MBIA Christmas festivities on two occasions (November 2019 and December 2022);
- Harassed Complainant 1 through emails (some of which were curt and aggressive), manipulation and use of threats; and
- Failed to follow due process when she allegedly self-appointed herself as Chair of the MBIA and attempted to remove Complainant 1 as Chair and director of the MBIA Board of Management.

## **Respondent 2**

The allegations concerning the conduct of Respondent 2, are summarized as follows:

- Bullied and harassed Complainant 1 in her role as Chair for the MBIA;
- Failed to declare a conflict of interest - Recused himself from the hiring process [for the new BIA Executive Director] very late in the process; however, asserted his opinion at a Board meeting about the situation, and when reminded he had recused himself from the process, denied it; and
- Sent all MBIA communications to his lawyer then threatened Complainant 1 about the contents of the communications.

## **Respondent 3**

The allegations concerning the conduct of Respondent 3, are summarized as follows:

- Bullied Executive Directors of the MBIA;
- Exhibited inappropriate conduct in relation to other individuals, including other members of the MBIA Board of Management; and
- Misspent MBIA funds, including on personal gifts that other members of the MBIA received.

## **Investigation**

The first two formal complaints were filed with my Office on December 2, 2022 and the other three formal complaints were filed with my Office on December 8, 2022.

The first stage of my intake analysis of the complaints required that I assess whether I had jurisdiction to investigate the conduct of the five respondents, specifically to assess whether the respondents were members of the local board at the time of the complaints.

Following a review of By-law 2021-255 (“BIA Governance By-law”) and documentation relating to the status of specific respondents as MBIA directors at the time the formal complaints were filed, I determined I had jurisdiction to investigate three of the five formal complaints.

Next, I determined whether the alleged misconduct, if proven, was a violation of the Code of Conduct and therefore within my jurisdiction as Integrity Commissioner to examine. I provided the respondents with an opportunity to provide submissions on this issue (as provided for in Section 9 of the Formal Complaint Procedure). After reviewing the submissions of the parties, I determined there were sufficient grounds to proceed with an investigation.

The parties were notified on May 4, 2023 of my determination that further investigation was required and that I was proceeding to the next stage of the inquiry.

Given the overlapping nature of the three formal complaints, I exercised my discretion to conduct one investigation.

I conducted interviews with the two complainants, two respondents<sup>2</sup> (one of whom was also a complainant), and 13 witnesses/subject matter experts. The investigation also included a review of hard copy and electronic records, including e-mail correspondence, and financial documentation.

In preparing my report, I reviewed the recorded interviews and the documentary evidence collected. I made factual findings on a balance of probabilities about whether the allegations were substantiated, and then determined whether there had been breaches of the Code of Conduct.

Upon completion of the investigation, and in accordance with subsection 11(2) of the Complaint Protocol, the respondents were provided the opportunity to provide comments on the relevant portions of a draft of this report. The draft report was provided to the respondents, by way of a secure file transfer application on October 4, 2023. Respondent 1 accessed the draft report that same day. Respondents 2 and 3 accessed the draft report on October 5, 2023. On October 11, 2023, Respondent 1 and Respondent 3 provided written comments. Respondent 2 did not provide a response to the draft report. I conducted a thorough review of the comments and took into consideration all matters raised therein when finalizing my report.

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<sup>2</sup> As noted in this report, Respondent 3 declined to be interviewed.

# Summary of Findings

## Respondent 1

The complaint alleges that Respondent 1 contravened the following sections of the Code of Conduct:

- Section 4 – General Integrity<sup>3</sup>
- Section 7 – Discrimination and Harassment
- Section 8 – Improper Use of Influence<sup>4</sup>
- Section 10 – Conduct Respecting Staff
- Section 11 – Gifts, Benefits and Hospitality

Having completed the investigation, I conclude that the allegations were not substantiated and find, on a balance of probabilities, that Respondent 1 did not contravene the Code of Conduct.

## Respondent 2

The complaint alleges that Respondent 2 contravened the following sections of the Code of Conduct:

- Section 4 – General Integrity
- Section 5 – Confidential Information
- Section 7 – Discrimination and Harassment

Having completed the investigation, I conclude that allegation 1 was substantiated and find, on a balance of probabilities, that Respondent 2 contravened Section 7 of the Code of Conduct.

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<sup>3</sup> Following the intake analysis of the formal complaint, I exercised my discretion and reformulated the complaint to consider whether this section of the Code of Conduct had also been engaged.

<sup>4</sup> Ibid

## Respondent 3

The complaint alleges that Respondent 3 contravened the following sections of the Code of Conduct:

- Section 4 – General Integrity
- Section 6 – Conduct at Local Board Meetings
- Section 7 – Discrimination and Harassment
- Section 8 – Improper Use of Influence
- Section 9 – Use of Board Property and Resources<sup>5</sup>

Having completed the investigation, I conclude that allegations 2 and 3 were substantiated and find, on a balance of probabilities, that Respondent 3 contravened sections 4 and 7 of the Code of Conduct.

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<sup>5</sup> Ibid

# Background

## Process: Jurisdiction

The Code of Conduct for Members of Local Boards (Code of Conduct) applies to members of the City of Ottawa's local boards. As set out in Section 204 of the *Municipal Act, 2001*, a Board of Management of a Business Improvement Area (BIA) is a local board of the municipality for all purposes.

Based on the language of the Code of Conduct, I conclude that the Code applies only to sitting members of a local board (i.e., not former members). While not expressly stated in the Code of Conduct for Members of Local Boards, this position is consistent with the application of the Code of Conduct for Members of Council. Further, as expressed by former Toronto Integrity Commissioner Valerie Jepson in a similar case, "the complaint was filed while the Respondent was a Board member, and the conduct at issue took place during the Respondent's tenure on the Board and was related to the Respondent's position on the Board."<sup>6</sup>

On July 21, 2021, City Council enacted By-law 2021-255 (BIA Governance By-law), which sets out a general governance framework that applies to all BIAs of the City. The By-law establishes the term of office for directors, the process for appointment and removal of directors and other governance rules. Specifically, the By-law stipulates that each BIA Board's term of office "runs concurrently with that of the Council appointing it, being four (4) years, with directors to hold office until their successors are appointed."<sup>7</sup> Only City Council has the authority to appoint and/or remove a director from the BIA.<sup>8</sup>

There is a two-step process for appointing directors.<sup>9</sup> First, the membership of the BIA selects candidates from its membership by a vote at an annual general meeting. Second, the General Manager exercises their delegated authority from City Council to officially appoint the selected candidates as directors of the BIA.

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<sup>6</sup> Jepson, Valerie (2016). *Investigation report regarding the conduct of a former member of a Business Improvement Area Board of Management*. <https://www.toronto.ca/wp-content/uploads/2017/08/9751-2016-08-16-Integrity-Commissioner-Report-web-2.pdf>

<sup>7</sup> Section 7 of the BIA Governance By-law

<sup>8</sup> Under Section 23.1 of the *Municipal Act, 2001*, City Council may delegate any of its powers and duties to a person or body, subject to the restrictions set out in the Act. As per Schedule I, Section 57 of the Delegation of Authority By-law, the General Manager, Planning, Real Estate and Economic Development is delegated the authority to appoint to a Business Improvement Area Board of Management those directors who have been selected by a vote of the membership of the improvement area.

<sup>9</sup> Section 6 of the BIA Governance By-law



In contrast, the process for removing directors requires a resolution from the BIA Board, recommending the removal of a director and approved by two thirds of the directors present at a duly called meeting of the Board.<sup>10</sup> The recommendation is then forwarded to City Council for consideration. The decision to remove a director from a BIA Board rests with City Council.

Given the five formal complaints were filed near the end of the 2018-2022 term of office for the Manotick BIA (MBIA) Board, I considered whether each individual respondent was a sitting member of the Board when the relevant formal complaint was filed. I consistently applied the following analysis to each case: (1) had a successor been appointed; (2) had City Council voted to remove the member from the Board; or (3) had the member formally resigned from the Board. As a result of this review, I determined two of the formal complaints were outside my jurisdiction to investigate as the respondents had filed their resignation from the MBIA Board before the relevant formal complaint was filed.

### **Objection raised by Respondent 3 respecting jurisdiction**

Respondent 3, through her legal counsel, challenged my jurisdiction to receive and investigate a formal complaint concerning her conduct as a member of the MBIA Board. Respondent 3 stated that she had been removed from the MBIA Board before the formal complaint was filed and subsequently that she had resigned.

#### **(i) How jurisdiction was determined**

As part of my intake analysis, I specifically considered whether Respondent 3 was a sitting member of the MBIA Board when the formal complaint concerning her conduct was filed on December 2, 2022.

This was an important consideration because, on November 21, 2022, members of the MBIA Board held a vote by e-mail to remove Respondent 3 from the Board while an investigation proceeded. The following communication was circulated to the members of the MBIA Board:

“To all MBIA Board Members

Background: A number of Board Directors met on November 21, 2022 to discuss certain anomalies found in Petty cash charges that were never disclosed or approved by the Board. Given that these expenditures were made under the leadership of [Respondent 3], as the Board Chair of the Manotick BIA, it has been proposed that she be temporarily removed from any Chair or Director

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<sup>10</sup> Sections 9 and 10 of the BIA Governance By-law

function until this matter has been investigated and resolved. As a result ALL Board Directors are asked to Vote on the following resolution:

**Resolution of the Board of Directors to Remove [Respondent 3] as the Manotick BIA Chair and Board Director and the appointment of an interim Chair:**

I agree, that due to certain anomalies in expenditures charged to the BIA under the leadership of [Respondent 3], that she be removed immediately from her functions of Chair of the Manotick BIA and also as a Board Director of the BIA until a full and proper investigation can be completed.

This being done under the authority of Section 14(a) of Bylaw No. 2021-255 governing BIAs, enacted by the Ottawa City Council.

In the interim, [Respondent 1] is to be appointed Acting Chair until a new Chair is elected at a Board meeting following the AGM.

I, \_\_\_\_\_ vote in favour of passing this resolution or

I, \_\_\_\_\_ vote against this resolution

Please vote immediately and return your vote by e-mail to [redacted] where it will be counted confidentially and verified by [redacted]. Individual Board Director votes will not be disclosed. You will be informed if this resolution has passed or failed. Only a simple majority is required to pass or reject this resolution.”

A short time later, Respondent 3 received the following update respecting the results of the vote:

“It has come to the Board's attention that there have been a number of anomalies found relating to expenditures charged under the Petty Cash category and perhaps other categories, during your leadership as Chair of the Manotick BIA. As a consequence, and until these financial anomalies can be fully and properly investigated, the Board felt it was in the best interests of the BIA and its membership, that you should be temporarily relieved of your Board functions as a Director and Chair of the BIA. The Board voted on November 21, 2022 and a majority of Directors passed a resolution to remove you immediately as a Board Chair and Board Director as outlined in Section 14(a) of Bylaw No. 2021-255 governing BIAs, enacted by the Ottawa City Council.

As a result, you will not be permitted to Chair or co-Chair the AGM this week. The Board also requested that I take on that responsibility fully in the interim, including Chairing any future BIA Board meetings, until a new BIA Chair is selected at the first meeting of the new Board.

The Board appreciates your full compliance with the above decision.”

As noted above, only City Council has the authority to remove a member of a BIA. The process set out in Section 10 of the BIA Governance By-law requires a resolution from the Board, that is “approved by two thirds of the directors present at a duly called meeting of the Board to which notice specifying the intent to pass such a resolution has been given,” to recommend to Council the removal of a director. Subsection 14(a), cited in the resolution considered by the MBIA Board, speaks to the removal of the Chair from their officer role. Setting aside procedural issues with the manner in which the vote was conducted, the MBIA Board only had the authority to remove Respondent 3 from her role as Chair, not as a director of the Board. Relying on the above-noted provisions of the BIA Governance By-law, I determined the resolution did not properly remove Respondent 3 from the MBIA Board.

At no time during the intake process was it suggested that Respondent 3 had resigned from the MBIA Board. In fact, communications between Respondent 3 and my Office indicated that she was engaged in BIA activities up until November 21, 2022, at which point Respondent 3 raised concerns that she had been improperly removed from the MBIA Board.

In the absence of a formal resignation and/or proper removal from the MBIA Board by City Council, I determined Respondent 3 was a “sitting” member of the MBIA Board when the formal complaint was filed on December 2, 2022.

## **(ii) Objections raised by Respondent 3**

On March 29, 2023, legal counsel for Respondent 3 contacted my Office with several questions, including what jurisdiction I had to investigate Respondent 3 given her resignation from the MBIA Board in November 2022.

In my response to Respondent 3’s legal counsel on March 31, 2023, I confirmed that I had not received any documentation indicating Respondent 3 had resigned from the Manotick BIA Board in November 2022, but that Respondent 3 was welcome to submit that documentation and I would take it into consideration.

In a series of communications between March 31 and April 6, Respondent 3’s legal counsel raised several issues, including:

- A query into when/if Respondent 3 had resigned from the MBIA Board would reveal that Respondent 3 had in fact resigned in October 2022.
- The complaint was received after the removal of Respondent 3 from the MBIA Board on November 21, 2022.

- A determination I had made in respect of one of the other formal complaints, where I deemed the matter to be outside my jurisdiction because the member had resigned from the MBIA Board, was the “exact same situation”<sup>11</sup>.
- My jurisdiction did not hinge on whether there was a resignation or a removal because in either instance, notwithstanding what Council may or may not have done, Respondent 3 was no longer a member of the MBIA Board effective November 21, 2022.
- Respondent 3 effectively resigned as of November 21, 2022 as she was barred from attending future meetings as a result. Legal counsel indicated that I could treat the circumstances as a resignation effective November 21, 2022, and if I required the resignation in writing to that effective date, it could be provided (i.e. retroactively).
- If I did not reconsider my position on jurisdiction, Respondent 3’s legal counsel intended to file a court application for judicial review regarding my jurisdiction and a stay pending the Court’s determination.

After the initial emails, I replied to Respondent 3’s legal counsel indicating that the information provided did not change my determination with respect to my jurisdiction. In my final response on April 6, 2023, I restated that I had no documentation verifying that Respondent 3 had formally resigned before the formal complaint was filed on December 2, 2022. I also stated that I confirmed with the City Clerk that City Council had not approved a resolution to properly remove Respondent 3 from the MBIA Board.

I did not receive any further communications from Respondent 3’s legal counsel on the matter of my jurisdiction until Respondent 3’s formal response to the allegations was submitted on April 28, 2023. Exhibit “B” of the submission was a resignation letter from Respondent 3, stating that she resigned from all positions on the MBIA Board effective November 21, 2022. The letter did not include a date or any tracking information indicating when it had been submitted (Appendix 1). Respondent 3’s legal counsel advised that the letter would be sent to officials at the City on or about April 28, 2023.

Witness 2, a representative of the City’s Economic Development Office, confirmed Respondent 3 had provided a copy of the resignation letter by email on April 28, 2023. In the email to Witness 2, Respondent 3 commented that she did not understand why a copy of her resignation letter was not on file with the City and so she was sending it again (Appendix 2). Again, the letter was not dated, nor did it include any tracking information to confirm it was submitted before the formal complaint was filed on

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<sup>11</sup> In that case, documentation received from Respondent 3 during the intake process confirmed the member had formally resigned from the MBIA Board approximately three months before the formal complaint was filed.

December 2, 2022<sup>12</sup>. Accordingly, my determination on jurisdiction did not change, and I continued with the investigation.

Three months later, on August 1, 2023, Respondent 3 attended my Office for an interview as a respondent in the investigation. Before the interview could begin, Respondent 3's legal counsel again raised the matter of my jurisdiction. When I stated that my determination had not changed, Respondent 3's legal counsel indicated Respondent 3 would not answer any questions that day and asked that the investigation be suspended pending a court decision. I advised Respondent 3 that the interview was her opportunity to respond to the allegations in more detail and that I would be continuing with my investigation. Through her legal counsel, Respondent 3 confirmed she would not answer my questions that day. Legal counsel advised an application would be filed.

On August 1, 2023, Respondent 3's legal counsel advised my external legal counsel that he intended to file an application for declaratory relief, seeking to have the court declare Respondent 3 was removed as a member of the MBIA Board on November 21, 2022 or, in the alternative, that Respondent 3 resigned from the Board effective November 21, 2022.

As of the date of this report, I have not been served with an application for declaratory relief.

## **Response to the allegations**

The Complaint Protocol sets out the process for receiving, investigating, and reporting on formal complaints. As part of this process, I provided the complaint and supporting material to the member whose conduct was in question, and I requested that the member provide a written response to the allegations within ten business days. This step provides respondents with the initial opportunity to respond substantively to the allegations set out in the formal complaint and to provide relevant information, background, and documentation.

On March 9, 2023, Respondent 3 informed me she would be out of the country and unable to respond to correspondence before March 24.

On March 10, 2023, I provided all three Respondents with Notices of Inquiry and copies of the formal complaints respecting their behaviour. To Respondents 1 and 2, I requested their responses to the allegations by 5 p.m. on March 24.

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<sup>12</sup> The document properties indicate the resignation letter was created and edited at 6 p.m. on April 5, 2023 (see Appendix 3). A corporate director may not retroactively resign. Resignation of a corporate director is effective on the date that the corporation receives the resignation in writing or on a later stated effective date.

On March 13, Respondent 1 provided a written response with three supporting files.

On March 15, Respondent 2 requested an extension, due to being out of the country. In response, I extended the deadline for Respondent 2's reply to March 31. Respondent 2 provided a written response with six supporting files on March 31.

In consideration of Respondent 3's notice to me about being unable to respond to correspondence before March 24, I requested Respondent 3 provide a response to the allegations by 5 p.m. on April 10 to allow sufficient time for the Respondent to receive and respond to the allegations.

On April 4, Respondent 3's legal counsel requested an extension to the deadline. On April 5, I replied, extending the deadline for Respondent 3's response to April 28, 2023.

On April 28, 2023, I received a written response, in the form of a sworn affidavit with exhibits, from Respondent 3, through her legal counsel.

## **The investigative process**

On May 4, 2023, I notified the parties that I was proceeding to the next stage of the inquiry.

During my investigation, I reviewed relevant records of the MBIA, including but not limited to:

- Manotick BIA Procedure By-law;
- Manotick BIA Hiring Policy and Procurement Policy;
- Manotick BIA Annual Reports (2018-2022);
- Minutes of meetings of the Manotick BIA Board of Management, 2018-2022; and
- Financial records of the Manotick BIA (2020-2022).

After reviewing that information, I interviewed one subject matter witness<sup>13</sup> and one witness who, given the nature of that individual's relationship with the complainants, respondents, and other relevant parties in the investigation, provided information about key events relevant to the allegations in the three formal complaints.

Next, I interviewed the two complainants separately. The complainants initiated complaints against each other. Accordingly, I intended to interview each of the two individuals twice: first, at the beginning of the investigation phase, in their capacity as

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<sup>13</sup> The individual works in the City's Economic Development Office and is specifically assigned to oversee BIA matters.

complainants, and again near the end of the investigation in their capacity as respondents.

The focus of each of the complainant's interviews was solely on the individual's complaint. Through the complainants' interviews, I gained further information and context about the allegations set out in their respective formal complaints.

Following the complainants' interviews and based on the information they provided about other individuals who had been involved with, or witnessed the respondents' alleged actions and behaviour, I interviewed thirteen witnesses.

Finally, I interviewed Respondent 1 and Respondent 2 to provide those individuals the opportunity to respond to the allegations concerning their actions and behaviour.

The following is a breakdown of all parties interviewed in the investigation:

Respondent 1 (also Complainant 2) – Vice-Chair of the MBIA

Respondent 2 – MBIA Board director

Respondent 3 (also Complainant 1) – former Chair of the MBIA

Witness 1, 2, and 5 – City official

Witness 3, 4, 7, 8, 9 – former or current MBIA Board director

Witness 6, 10, 11, 13 – MBIA staff/contractor

Witness 12 – former MBIA Board director, professional colleague of Respondent 3 outside of the MBIA

I conducted the interviews between May 24 and August 11, 2023. I conducted most interviews in-person and several virtually. All evidence provided during the interviews was done under affirmation, and my Office recorded and produced transcriptions of all interviews.

As noted above, Respondent 3 attended my Office for an interview on August 1, 2023. Before the interview could begin, however, Respondent 3's legal counsel raised the matter of my jurisdiction. When I stated that my determination on jurisdiction had not changed, Respondent 3's legal counsel indicated Respondent 3 would not be answering any questions. I advised Respondent 3, with her legal counsel present, that I would be continuing with my investigation with or without her answers to my questions.

I continued with my investigation and completed my investigation and draft report on October 4, 2023. In accordance with subsection 11(2) of the Complaint Protocol, the respondents were provided the opportunity to provide comments on the relevant portions of a draft of this report. The draft report was provided to the respondents, by way of a secure file transfer application on October 4, 2023. Respondent 1 accessed the draft report that same day. Respondents 2 and 3 accessed the draft report on

October 5, 2023. On October 11, 2023, Respondent 1 and Respondent 3 provided written comments. Respondent 2 did not provide a response to the draft report.<sup>14</sup>

In her 11-page response, Respondent 3 took the opportunity to respond to some of the allegations and provide documentation. Typically, this opportunity to respond is not one to allow new evidence to be submitted for consideration. That said, I exercised my discretion to consider the information/documentation Respondent 3 submitted. Where Respondent 3 provided new information and/or documentation, I carefully considered the evidence. Because Respondent 3 declined to be interviewed, I did not have the opportunity to ask her questions about her new evidence or properly test the evidence with other witnesses. However, where I determined Respondent 3's evidence was relevant to an allegation, I have considered it in my analysis and/or my findings.

I conducted a thorough review of comments from two respondents and took into consideration all matters raised therein when finalizing my report.

## **Duty of confidentiality**

As a municipal Integrity Commissioner, I am bound by a duty of confidentiality set out in Section 223.5 of the *Municipal Act, 2001* as follows:

### **Duty of confidentiality**

223.5 (1) The Commissioner and every person acting under the instructions of the Commissioner shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her duties under this Part.

In preparing this report, I am mindful of subsection 223.6(2) of the *Municipal Act, 2001* which provides that I may, “disclose in the report such matters as in the Commissioner’s opinion are necessary for the purposes of the report.”<sup>15</sup> I am aware that, in the course of the investigation, some witnesses expressed hesitation about their participation and requested that their identities not be disclosed. I have determined that it is not necessary to disclose the names of witnesses in the report. As such, I exercised my discretion to remove all names about the witnesses mentioned in the course of the investigation. That said, those who are familiar with the MBIA or aware of the events detailed in this report, may be able to identify the individuals involved.

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<sup>14</sup> On October 5, 2023, Respondent 2 confirmed he was able to access the report, and inquired whether it would be correct to respond to me directly. That same day, my Office confirmed that was the correct process. On the morning of October 13, 2023, I contacted Respondent 2 to state that I had not received a response from him regarding the draft report by the deadline of 5 p.m. on October 12, 2023, and I was proceeding to finalize the report. I did not receive a response from Respondent 2 by 5 p.m. on October 13, 2023, and I proceeded to finalize the report.

<sup>15</sup> [Subsection 223.6 \(2\)](#) of the *Municipal Act, 2001*.



# Analysis and Findings

## Credibility and reliability assessments

In respect of a number of the allegations, the assessment of the credibility and reliability of the complainants, the respondents and the witnesses, is integral to reaching a factual finding on a balance of probabilities. In respect of other allegations, the facts were clear and undisputed; my analysis in those instances turned on whether the alleged misconduct violated a provision of the Code.

In *Re Novac Estate*, the Nova Scotia Supreme Court sets out the following helpful summary of the available tools for assessing credibility:

36 There are many tools for assessing credibility:

- a) The ability to consider inconsistencies and weaknesses in the witness's evidence, which includes internal inconsistencies, prior inconsistent statements, inconsistencies between the witness' testimony and the testimony of other witnesses.
- b) The ability to review independent evidence that confirms or contradicts the witness' testimony.
- c) The ability to assess whether the witness' testimony is plausible or, as stated by the British Columbia Court of Appeal in *Faryna v. Chorny*, ...it is "in harmony with the preponderance of probabilities which a practical [and] informed person would readily recognize as reasonable in that place and in those conditions", but in doing so [not relying] on false or frail assumptions about human behavior.
- d) It is possible to rely upon the demeanor of the witness, including their sincerity and use of language, but it should be done with caution.
- e) Special consideration must be given to the testimony of witnesses who are parties to proceedings; it is important to consider the motive that witnesses may have to fabricate evidence.

37 There is no principle of law that requires a trier of fact to believe or disbelieve a witness's testimony in its entirety. On the contrary, a trier may believe none, part or all of a witness's evidence, and may attach different weight to different parts of a witness's evidence. (Citations omitted)<sup>16</sup>

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<sup>16</sup> 2008 NSSC 283, at paragraphs 36-37

In *FH v McDougall*, the Supreme Court of Canada explained:

As ... in the context of the criminal standard of proof, where proof is on a balance of probabilities there is likewise no rule as to when inconsistencies in the evidence of a plaintiff will cause a trial judge to conclude that the plaintiff's evidence is not credible or reliable. The trial judge should not consider the plaintiff's evidence in isolation, but must look at the totality of the evidence to assess the impact of the inconsistencies in that evidence on questions of credibility and reliability pertaining to the core issue in the case.

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...in civil cases in which there is conflicting testimony, the judge is deciding whether a fact occurred on a balance of probabilities. In such cases, provided the judge has not ignored evidence, finding the evidence of one party credible may well be conclusive of the issue because that evidence is inconsistent with that of the other party. In such cases, believing one party will mean explicitly or implicitly that the other party was not believed on the important issue in the case. That may be especially true where a plaintiff makes allegations that are altogether denied by the defendant ...<sup>17</sup>

The Ontario Court of Appeal in *R v Morrissey*<sup>18</sup> noted the difference between the assessment of credibility and that of reliability:

Testimonial evidence can raise veracity and accuracy concerns. The former relate to the witness's sincerity, that is his or her willingness to speak the truth as the witness believes it to be. The latter concerns relate to the actual accuracy of the witness's testimony. The accuracy of a witness's testimony involves considerations of the witness's ability to accurately observe, recall and recount the events in issue. When one is concerned with a witness's veracity, one speaks of the witness's credibility. When one is concerned with the accuracy of a witness's testimony, one speaks of the reliability of that testimony. Obviously a witness whose evidence on a point is not credible cannot give reliable evidence on that point. The evidence of a credible, that is honest witness, may, however, still be unreliable.

I have applied these tools for assessing credibility and considered the reliability of the evidence of each witness, recognizing that I may “attach different weight to different parts of a witness’s evidence.”

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<sup>17</sup> [2008] 3 SCR 41, at paragraphs 58 & 86

<sup>18</sup> (1995), 1995 CanLII 3498 (ON CA), 97 C.C.C. (3d) 193 (C.A.) at p. 205

In both the formal complaint and her interview as the complainant, Respondent 1 offered that she had not personally observed some of the alleged misconduct and had learned of the alleged misconduct from others. Respondent 1 was forthcoming in providing details, documentation and names of witnesses who would have relevant evidence.

Witness interviews indicated that Respondent 1 and several of the witnesses had discussed the alleged misconduct before the formal complaint was filed. In particular, I understand that after some of the incidents, multiple individuals who had been present spoke about the incidents and what steps might be taken to remove the Chair from the Manotick BIA (MBIA). Despite these conversations, I did not find any evidence of collusion. Each witness demonstrated their own recollection of events. I tested the evidence and found that there were some differences in the individual recollections to make it obvious to me that these were truthful recollections and did not suggest advertent or inadvertent collusion.

In making my findings, I carefully considered the reliability of each witness's evidence in respect of each allegation. Given the breadth of my investigation, I was able to rely on witness evidence from those with first-hand knowledge of an incident. Accordingly, I did not rely on the hearsay evidence provided by Respondent 1 or any other witnesses to make my factual findings.

In the case of Witness 12, who is a friend and work colleague of Respondent 3, it was necessary to consider what evidence reflected her personal knowledge at the time. Witness 12 admitted that she had helped prepare Respondent 3's response to the formal complaint. Throughout her interview, Witness 12 repeatedly referred to a collective 'we' and many of her answers closely reflected the language used in Respondent 3's submission.

That is not to say that Witness 12 did not provide any credible evidence. At times Witness 12 acknowledged what she understood at the time differed from what she understood after seeing the formal complaint and helping with the submission. As with the other witnesses, I carefully considered the reliability of Witness 12's evidence in respect of each allegation. As explained below, in those instances where Witness 12's testimony was not relevant or credible, I did not accept it.

Where my findings turned on accepting the evidence of some witnesses and rejecting the evidence of others, I have addressed the credibility of witnesses below.

## Analysis

As noted above, five formal complaints were filed by two individuals, who were in turn respondents in other complaints. The complaints were filed near the end of the 2018-2022 term of office for the Manotick BIA (MBIA) Board. During the interviews, it became clear there were a few incidents that motivated each complainant to file a formal complaint(s). These events are relevant to various allegations directed against one or all three respondents and are summarized below.

## Factual Timeline

### January - March 2020

In late 2019, concerns about the Chair's behaviour were brought to the attention of the Vice-Chair of the MBIA. These concerns were raised by various Board members and BIA staff. Concerns included:

- the Chair's conduct towards staff members or contractors of the MBIA;
- the Chair's lack of respect for the Board as evidenced by her unilateral decisions to hire contractors; and/or
- the Chair committing the Board to expenses paid for by the MBIA.

In January 2020, a couple members of the Board brought their concerns to the Ward Councillor. The Ward Councillor provided guidance on how to proceed and offered to speak with the Chair. On January 30, 2020, a group of Board members held a "secret" meeting that did not include the Chair or Witness 12.<sup>19</sup> The group discussed the concerns and agreed to accept the Ward Councillor's offer to speak to the Chair on their behalf. The group's decision was communicated to the Ward Councillor at some point in February 2020.

On or about March 11, 2020, the Ward Councillor had a telephone conversation with the Chair. During the telephone conversation, the Councillor alerted the Chair that the Board had lost confidence in her, and members were planning to bring a motion to remove her from the MBIA Board at the next Board meeting.

The MBIA Board held a regular meeting on March 13, 2020. A motion to remove the Chair from the MBIA Board was prepared for the meeting. However, a limited number of Board members attended the meeting, given the proximity to the March Break. The

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<sup>19</sup> In her response to the draft report, Respondent 1 clarified that the Ward Councillor had recommended the Board gather for an *in camera* meeting to discuss the concerns. Respondent 1's position is that the "secret" meeting was an *in camera* meeting with the majority of the Board present. I address the matter of the characterization of the meeting later in the report.

group of Board members who wanted to remove the Chair, and who were present at the meeting, opted not to move a motion to remove the Chair.

It is understood the Chair brought a letter of resignation to the meeting but did not submit it.<sup>20</sup> The meeting concluded with no removal or resignation. The COVID-19 pandemic was declared in the following days and the focus of the MBIA Board members shifted to other matters.

### **Hiring of new Executive Director**

In 2021, the Executive Director indicated she would be retiring by the end of 2022. On September 17, 2021, the Board struck a hiring committee of three Board members and added a fourth Board member at the next Board meeting in October. The hiring committee was responsible for establishing a job description and work hours for the position and evaluating potential candidates for the role.

The hiring committee conducted its work between November 2021 and May 2022. In June 2022, the hiring committee advised the Board of their selected candidate. At some point in time, the Chair was approached with concerns about the hiring process. The Chair reached out to the City's Economic Development Office to confirm the process for hiring a new Executive Director. With this information, the Chair began to take over the hiring process.

The Chair called for a meeting of the Board to vote on the selected candidate and emphasized that all Board members needed to understand the process that was followed by the hiring committee. In a series of emails, members of the hiring committee insisted a decision should be made without delay, and the Chair maintained that there was a proper process to be followed.

These exchanges contributed to tension that began to rise between the Chair and the members of the hiring committee. It was apparent that members of the hiring committee did not understand the reason or motivation for the Chair's involvement at this stage in the hiring process. Members described feeling as though the hiring committee had been "fired". For her part, the Chair felt it was her responsibility to ensure the hiring had been conducted appropriately.

Following a decision of the Board in favour of the recommended candidate, the Board moved on to the formal offer and contract finalization. At this stage of the process, relations between members deteriorated further. There was confusion and

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<sup>20</sup> At the time, Witness 11 confided in other Board members that the Chair had brought a resignation letter to the meeting. In her interview for this investigation, Witness 11 confirmed the Chair had shown her the letter of resignation. As Respondent 3 declined to be interviewed, I was unable to confirm directly with her if she had brought a letter of resignation to the meeting and under what circumstances she intended to submit it.

disagreement about specific employment details and general frustration about the development of an employment contract. Many emails were exchanged between Board members and side conversations were occurring between various Board members and the selected candidate. Ultimately, an employment contract was agreed to, and the new Executive Director began working for the MBIA on October 11, 2022.

## **November 2022**

Compounding with the rising tension over the hiring process, concerns respecting certain expenditures were brought to the attention of the Vice-Chair in the first two weeks of November 2022. After gathering details and documentation respecting the expenditures, the Vice-Chair suggested to a select group of Board members that a meeting was necessary to discuss the expenses.

During the morning of November 21, 2022, a group of Board members met to discuss the concerns about the expenses. The gathering was described by those in attendance as an “*in camera* meeting” of the Board. Alternatively, the Chair and Witness 12<sup>21</sup>, who were intentionally excluded from the meeting, referred to it as a “secret” meeting.

The Board members present were informed of the concerns related to the expenses. The group discussed what should be done to address the concerns. The discussion concluded with the decision to remove the Chair from the MBIA Board. Witness 9 volunteered to prepare the resolution and notice to the Chair.<sup>22</sup>

On November 21, 2022, the Vice-Chair circulated an e-mail to the members of the Board. At this point in time, there were seven members remaining on the Board. The e-mail provided high-level comments about financial anomalies, and set out the following resolution for Board approval:

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<sup>21</sup> Witness 12 was serving as Treasurer for the Manotick BIA Board at the time.

<sup>22</sup> In her response to the draft report, Respondent 1 clarified that Witness 9 is well versed in policy and the Board was very appreciative of his offer to prepare the documents as others would not have felt confident in their ability to do so.

**“Resolution of the Board of Directors to Remove [Respondent 3] as the Manotick BIA Chair and Board Director and the appointment of an interim Chair:**

I agree, that due to certain anomalies in expenditures charged to the BIA under the leadership of [Respondent 3], that she be removed immediately from her functions of Chair of the Manotick BIA and also as a Board Director of the BIA until a full and proper investigation can be completed.

This being done under the authority of Section 14(a) of Bylaw No. 2021-255 governing BIAs, enacted by the Ottawa City Council.

In the interim, [Respondent 1] is to be appointed Acting Chair until a new Chair is elected at a Board meeting following the AGM.

I, \_\_\_\_\_ vote in favour of passing this resolution or

I, \_\_\_\_\_ vote against this resolution”

While the email suggested that individual votes would remain confidential, two members voted publicly by copying all Board members. The Chair operated under the impression that she did not have a vote because of her role as Chair. It is understood that the four remaining members voted privately. A second email was sent to the attention of the Chair, advising them of the Board’s decision as follows:

“It has come to the Board's attention that there have been a number of anomalies found relating to expenditures charged under the Petty Cash category and perhaps other categories, during your leadership as Chair of the Manotick BIA. As a consequence, and until these financial anomalies can be fully and properly investigated, the Board felt it was in the best interests of the BIA and its membership, that you should be temporarily relieved of your Board functions as a Director and Chair of the BIA. The Board voted on November 21, 2022 and a majority of Directors passed a resolution to remove you immediately as a Board Chair and Board Director as outlined in Section 14(a) of Bylaw No. 2021-255 governing BIAs, enacted by the Ottawa City Council.

As a result, you will not be permitted to Chair or co-Chair the AGM this week. The Board also requested that I take on that responsibility fully in the interim, including Chairing any future BIA Board meetings, until a new BIA Chair is selected at the first meeting of the new Board.

The Board appreciates your full compliance with the above decision.”

After receiving the email, the Chair raised concerns over her apparent removal from the MBIA with the Ward Councillor and the City. The Chair did not attend the AGM later that week.

## **Respondent 1**

### **Allegation 1**

*Improperly received/failed to disclose a payment of \$500 from the MBIA for volunteering as Vice-Chair during the MBIA Christmas festivities on two occasions (November 2019 and December 2022).*

Complainant 1's<sup>23</sup> evidence is that Respondent 1 received payment, multiple times, for fulfilling a voluntary role as part of the annual Manotick BIA (MBIA) Christmas festivities. Complainant 1 explained that one year, the individual who was usually hired to fulfill the role of Mrs. Claus was unable to do so because of knee surgery and Respondent 1 was asked to step in. Complainant 1's evidence is that Respondent 1 was fulfilling the role on a voluntary basis, similar to how other MBIA directors occasionally volunteer for BIA activities. According to Complainant 1, Respondent 1 fulfilled the role on a voluntary basis for the first two years. In the three subsequent years she was paid \$100 (breakfast and lunch incl.), \$200 (breakfast and lunch incl.) and \$500 (breakfast and lunch incl.). Complainant 1 also alleged that Respondent 1 had referred members of the public to her business while volunteering in the role, even though BIA directors are expected to refrain from promoting their businesses while fulfilling BIA duties.

In respect of how the payments contravened the Code of Conduct, Complainant 1's evidence is that former Integrity Commissioner Marleau attended an MBIA meeting to explain members' obligations under the Code of Conduct for Members of Local Boards. Complainant 1 claimed that Commissioner Marleau indicated that payments over \$100 received by BIA directors as a board member, must be claimed/reported. Complainant 1 understood that this rule relates to provisions around conflict of interest.

Complainant 1's evidence is that Respondent 1 received payments over the last 6-7 years and never reported the payments as required. According to Complainant 1, the payments kept increasing for what was supposed to be a volunteer position, and that Respondent 1 is the only MBIA director receiving payment for BIA activities. Complainant 1 also believes payment was always in cash, except for the last time when an invoice may have been submitted to the City for payment by cheque.

When presented with the minutes of the December 6, 2019 MBIA meeting, which indicated the MBIA supported a \$500 payment to Respondent 1 for her services,

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<sup>23</sup> Respondent 3 is Complainant 1 who filed the formal complaint respecting the conduct of Respondent 1.



Complainant 1 called into question the accuracy of the documentation and expressed her firm belief that the Board never approved payment of \$500. Her recollection is the Board approved a \$100 payment.

Respondent 1's evidence is as follows:

- The MBIA participates in annual Christmas festivities in the Village. The Board is not involved in approving the finer details of the Christmas festivities, including payments for specific services. The Executive Director plans the event, hires the characters, and makes other arrangements.
- In 2018, the individual who was normally hired to fulfill the role of Mrs. Claus was injured and could not fulfill the role that year. Respondent 1's evidence is that when declining the role, the individual suggested to the Executive Director that Respondent 1 would be a good fit for the role. Respondent 1 agreed to take on the role of Mrs. Claus and to be paid the same fee as the former Mrs. Claus (and current Santa).
- After fulfilling the role in 2018, Respondent 1 realized how intensive the work was. It is a full day, approximately 7 a.m. to 4 p.m. The characters are required to be on their feet all day, in full character, walking around the Village greeting people and helping create social media for all of the local businesses. When the Board debriefed about the Christmas festivities at their next meeting, Complainant 1 informed Respondent 1 that the role would be taken away from her and the Board would look to fill it with an actor the following year. This did not bother Respondent 1, as she had resolved she would not take on the role again for \$150.
- When planning for the 2019 event, the Executive Director had difficulty finding an actor to take on the role for anything less than \$1000. The Executive Director approached Respondent 1, described the difficulties she was encountering and asked if Respondent 1 would consider fulfilling the role for \$500. Respondent 1 agreed but mentioned Complainant 1's earlier objections. The Executive Director said she would speak with Complainant 1.
- Respondent 1 asserted that the Executive Director had determined the new fee because after having searched for an actor to hire, it was clear the Board was not paying a fair market wage. The individual who took on the role of Santa was also paid \$500 in 2019.

- At the request of Respondent 1, the Executive Director also checked with the City and confirmed it was okay to hire Respondent 1 for the role. The Executive Director confirmed for the MBIA Board that Respondent 1 did not have a conflict of interest in being paid to fulfill the role during a Board meeting on December 6, 2019. The MBIA Board did not vote to approve the \$500 payment to Respondent 1.
- There were no Christmas festivities in 2020 and 2021 due to the pandemic. Respondent 1 took on the role again in 2022. In total, Respondent 1 was paid to fulfill the role of Mrs. Claus three times: 2018 (\$150), 2019 (\$500), and 2022 (\$500).
- Respondent 1 was always clear that she was not taking on the role in a volunteer capacity and was being paid to fulfill a service. Respondent 1 recollected making this clear on at least two occasions at Board meetings.

During interviews, one witness commented that the initial payment to Respondent 1 was problematic. The witness did not recall that the Board as a whole was aware that Respondent 1 would be paid to fulfill the role in the first year (2018). The witness suggested that better rules and/or procedures regarding expenses would be helpful, especially in situations where Board members are compensated or benefitting from BIA resources.

In terms of documentation, I reviewed the December 6, 2019 MBIA Board minutes where the Board confirmed Respondent 1 did not have a conflict of interest in receiving \$500 payment for her services. I initially received a copy of the December 6, 2019 MBIA Board minutes as part of Respondent 1's response to the allegations. After Complainant 1 expressed suspicion about the accuracy of the document, a copy of the minutes was independently obtained from the Executive Director of the MBIA; the two copies of the minutes were identical.

I also received a copy of an invoice, filed with the formal complaint, that confirms Respondent 1 was paid \$500 in 2019. Additional financial records obtained independently from the City through the investigation confirm that Respondent 1 and the individual who was hired for the Santa role were each paid \$500 in 2022.

Under MBIA policies, the Executive Director has authority to incur expenses up to a threshold of \$2,500. The payments made to Respondent 1 (and other individuals working the event) fall well below that threshold. It would be within the Executive Director's authority to pay Respondent 1 for fulfilling the service without express Board authority.

The December 6, 2019 Board minutes indicate there was some discussion about Respondent 1's role as Mrs. Claus, including a payment of \$500. I accept Respondent 1's evidence that members of the Board understood Respondent 1 was paid for the service in 2019 and did not volunteer for the role. Respondent 1 did not believe the Board discussed the matter again in 2022 and no documentation was submitted to suggest otherwise. That said, I accept that the majority of MBIA members who remained on the Board in 2022, including Complainant 1, were aware that Respondent 1 was paid for this service.

The payments in 2018, 2019 and 2022 were to compensate Respondent 1 for a service she fulfilled for the MBIA outside of her role as Vice-Chair and member of the Board. Previously, the Executive Director had hired and compensated an individual (not affiliated with the MBIA) for this service. It was not a gift or benefit a member of a local board would be required to disclose.

The allegation is that Respondent 1 improperly received and failed to disclose a \$500 payment for volunteering (while Vice-Chair) during the MBIA Christmas festivities on two occasions (November 2019 and December 2022). Having considered the totality of the evidence, I conclude that the Vice-Chair was not an MBIA volunteer in this particular circumstance but agreed to perform a service at a rate lower than the market rate. Whether an MBIA Board member should be allowed to provide a service for payment is something I recommend the MBIA expressly address in a policy document.

This allegation, on a balance of probabilities, is not substantiated.

## **Allegation 2**

*Harassed the complainant through emails (some of which were curt and aggressive), manipulation and use of threats.*

It is Complainant 1's evidence that Respondent 1 sent Complainant 1 emails that were "curt" and "aggressive." Complainant 1 further described experiencing aggression from members of the MBIA Board who comprised the hiring committee for the MBIA's new Executive Director, including Respondent 1.

Complainant 1 described that Respondent 1's alleged conduct began during the process of hiring the MBIA's new Executive Director and as elections for the 2022-2026 Term and the Annual General Meeting (AGM) approached. The material Complainant 1 provided about this allegation focused on examples of Respondent 1's communications regarding two specific matters: (a) the incoming Executive Director's contract, and (b) the upcoming 2022 AGM.

*(a) Respondent 1's communications regarding the incoming Executive Director's contract*

On October 12, 2022, Complainant 1 emailed MBIA Board members stating, among other matters, that the new Executive Director accepted the MBIA's employment contract and had started working for the MBIA.

Respondent 1 replied two days later, on October 14:

"Hi [Name of Complainant 1]

I'm not sure if you received my request so I am sending another email.

Can you please send the Board the signed contract from [name of incoming Executive Director].

I would prefer to have it come from you rather than asking [name incoming Executive Director] for a copy.

Thanks

[Name of Respondent 1]"

Complainant 1 replied to Respondent 1 approximately 30 minutes later. Complainant 1's email stated:

"Good morning [name of Respondent 1],

With all due respect,

I do not get paid for this position.

It is completely voluntary.

I work as a [profession] and have my [family member] in the hospital for the past 10 days.

My auto reply asked for 48 hours.

I do not have to email or answer your questions immediately as I am not paid to answer nor be bullied or threatened. [Respondent 2]'s email to me<sup>24</sup> have set a very, very disrespectful tone and starting right now, I will not be taking any emails sent to be in threatening or bullying tactics very lightly. To which the Board fully accepted and never whatsoever called [Respondent 2] out on.

[Name of incoming Executive Director] has sent the contract, signed it and I will send it to you.

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<sup>24</sup> Discussed separately in the "Respondent 2" section of this report.

The terms are exactly what were emailed and discussed at three of our previous meetings, (t)he take it or leave it.

Regards,

[name of Complainant 1]

Approximately 40 minutes later, Respondent 1 replied to Complainant 1:

“You may want to check to make sure your auto reply is turned on as I have not received one from you.

Technology and wifi are magic in the air but many times fail which is why I have sent the second request.

Historically your email reply has been within 24 hours. This email request has been 28 hours old.

Hardly falls under bullying or threatening.

In the time it took you to pen that email, you could have attached the contract and forwarded it to the Board.

Also, lets drop “with all due respect” as it is abundantly clear, you have zero respect for me.

[Name of Respondent 1]”

Complainant 1’s evidence is as follows:

- Complainant 1’s emails include things like: “with all due respect.” Commenting on the part of Respondent 1’s second email that states: “it is abundantly clear, you have zero respect for me”, Complainant 1 stated in the interview: “I don’t know how [Respondent 1] would feel that. I don’t understand this line.”
- When Complainant 1 did not send the document Respondent 1 requested, Respondent 1 emailed Witness 12 to request the documents.
- Complainant 1 provided copies of email replies from other MBIA Board members who were copied on the October 14 email exchange between Respondent 1 and Complainant 1.

For example, Witness 12 addressed Respondent 1 in an email defensive of Complainant 1, indicating she didn’t understand why Respondent 1 is “so aggressive” with Complainant 1, why it is such an urgent matter and that it is not a “reasonable expectation” that a volunteer position take precedence over work and other life activities. From the email records available to me, it appears Witness 12 sent the email in reply to Complainant 1’s response that began: “With all due respect...”

- I pause here to comment on Witness 12's credibility. As noted above, Witness 12 is a friend and colleague of Complainant 1, and she confirmed to me that she helped Respondent 3 [who is Complainant 1] prepare her response to the formal complaint. With that in mind, I accept this piece of evidence accurately reflects Witness 12's position at the time. However, there is no evidence of any other Board member responding in a similarly defensive manner of Complainant 1.

Witness 1 replied to Witness 12's email, asking that "we cease these types of communication" and that everyone "...engage on a professional level only." Complainant 1 replied to Witness 1's email stating her thanks, as well as: "I am not obligated to answer emails or to be at everyone's beck and call."

Respondent 1's evidence is as follows:

- As a general practice, when emailing any Member of the MBIA, Respondent 1 addresses the email to all members of the BIA and not one person individually. Respondent 1 had no recollection of bullying or threatening an individual on the Board.
- Regarding Complainant 1's indication that Respondent 1's treatment of Complainant 1 changed during the latter half of 2022, with the alleged conduct beginning at that time, Respondent 1 stated: "My treatment of [Complainant 1] has not changed in the entire last term." Respondent 1 referred to a time in 2020 when she asked another Board member to speak to Complainant 1 about stepping down because Complainant 1 was bullying and harassing an MBIA staff member and was being insulting and not behaving appropriately. Respondent 1 was disappointed that Complainant 1 was aware of these concerns and had been asked twice to step down but had not. Respondent 1 was informed that Complainant 1 had written a resignation letter. Her knowledge of the letter came from a staff member that had apparently been shown the letter by Complainant 1. However, the resignation letter was never submitted.<sup>25</sup>

Respondent 1 stated:

"I do not trust [Complainant 1]. I do not believe a single thing that comes out of [Complainant 1's] mouth. I've seen [Complainant 1] be incredibly rude to lots of other board members and businesses, and I don't like [Complainant 1], but my treatment of [Complainant 1] has always been professional."

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<sup>25</sup> Contextual information regarding the resignation letter is provided in footnote 20.

- Respondent 1 emailed Complainant 1 on October 14, 2022, requesting Complainant 1 send the Board the new Executive Director’s signed contract. Respondent 1 made this request because the new Executive Director only had a copy of the contract that featured edits and marked-up information. For that reason, Respondent 1 asked Complainant 1 for the Complainant’s copy, which Respondent 1 understood to be a “clean” version of the signed contract.

Complainant 1’s email usually sends an autoreply that indicates Complainant 1 will reply within 24 hours. Respondent 1 did not receive an autoreply. After 28 hours had elapsed with no response, Respondent 1 thought Complainant 1 might not have received the email. Respondent 1 therefore sent another email to Complainant 1 to request the signed contract.

Complainant 1’s reply to Respondent 1 included the language: “...I am not paid to answer nor be bullied or threatened” and “...I will not be taking any emails sent to be in threatening or bullying tactics very lightly.”

Respondent 1 commented on the broader context. At the time of these emails, Board members had questions about Complainant 1’s involvement in several specific MBIA financial matters, all of which created “drama” at the time. Respondent 1 did not trust Complainant 1.

- Regarding the portion of Respondent 1’s email that states, “...let’s drop “with all due respect” as it is abundantly clear, you have no respect for me”, Respondent 1 indicated Complainant 1 had spoken poorly of Respondent 1 during the last term (2018-2022), and part of the previous term (2014-2018). Respondent 1 stated Complainant 1 did not once call on Respondent 1 in Respondent 1’s capacity as a member of the MBIA Executive. Respondent 1 now plays a different role in the MBIA, including hosting meetings at times and serving on different committees.

Respondent 1 stated: “It’s abundantly clear there is no respect for me to [Complainant 1] and [Complainant 1] to me.”

*(b) Respondent 1’s communication regarding the upcoming 2022 AGM<sup>26</sup>*

On November 8, 2022, the Executive Director circulated an email on behalf of Complainant 1 to MBIA Members. The email referred to the upcoming AGM, stating, “I will be visiting all of the MBIA Businesses this week to personally invite you to the AGM.”

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<sup>26</sup> The communications discussed in this section were sent prior to the “removal” of the Chair from the MBIA.

Respondent 1 replied approximately one hour later the same day. Respondent 1's email reply stated:

"Good Morning Everyone,

As this is [name of outgoing Executive Director] last season with the MBIA and [name of incoming Executive Director] is our new ED, I think it would be in the best interest of the BIA if our awesome EDs hand out the invitations. That's what we pay them for.

[Name of Complainant 1] as your term is over Nov 14 and you have repeatedly been asked to step down from this board, you are not the best representative of the BIA for either handing out invitations or hosting the AGM.

Our EDs are event planners and this is a great opportunity for both of our paid employees to organize this event.

Thanks

[Name of Respondent 1]"

Complainant 1 included in her formal complaint another email from Respondent 1 on the subject of the upcoming AGM. On November 15, 2022, Respondent 1 sent an email<sup>27</sup> stating:

"Hello All,

As the other elected executive of the BIA Board,

I also will be joining the hosting of the AGM.

As this board has become fractured, I believe it is in the best interest of the bia, that all voices are represented.

[Name of Complainant 1] and I can speak to the business community together.

[Name of Complainant 1], if you would prefer for our two employed, experienced event planners to host the meeting over sharing the floor with me, I have full confidence [name of incoming and outgoing Executive Directors] can easily take the reins."

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<sup>27</sup> In the email documentation available to me, the list of recipients of Respondent 1's November 15, 2022 email is not listed. For the purposes of my analysis, I assume it was sent to the Complainant and other MBIA Board Members.



Complainant 1's evidence is as follows:

- For the previous seven years Complainant 1 had personally hand-delivered invitations to businesses to attend the Annual General Meeting.
- Respondent 1's November 8 email referred to multiple requests of Complainant 1 to step down from the Board. Complainant 1 indicated there had never been discussions on the matter.
- On the afternoon of November 8, 2022, Complainant 1 forwarded Respondent 1's email of November 8 as well as Respondent 2's reply<sup>28</sup> to Witness 2 with the message:

“Here is another message

[Name of Witness 2], I am tired of being bullied and harassed”

- Several days after Respondent 1's email of November 8, Complainant 1 was asked to represent the MBIA by laying a wreath during a Remembrance Day ceremony. In the formal complaint, Complainant 1 described:

“I was okay to represent the MBIA as Chair for a very, very public function on November 11, 2022; however, according to the emails dated November 8, 2022 – I was an absolute embarrassment to the organization.”

Complainant 1 described how she felt about attending the ceremony:

“I was scared. [Respondent 1] told me I was terrible and stuff so I thought she was going to show up to lay the wreath, but just in case she didn't show up and she didn't realize that that's what I do as well, I showed up.”

Neither Respondent 1, nor any other representative from the MBIA, attended the ceremony. Complainant 1 stated to me in the interview: “If I'm not the best person to represent the BIA on the 8<sup>th</sup>, then why am I laying the wreath on the 11<sup>th</sup>?”

- Complainant 1 provided a November 18, 2022 email written by Witness 9 in response to Respondent 1's November 15 email. The email, addressed to MBIA Board members and the outgoing Executive Director, states:

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<sup>28</sup> Discussed separately in the “Respondent 2” section of this report.

“Hi All:

There appears to be too much in-fighting and intolerance going on in this Board. I don't purport to understand all the dynamics going on here. But looking at this only from the perspective of the official functions of a Chair, I really think that [name of Complainant], who is still the BIA Chair should be permitted to carry out [her] responsibilities in Chairing this last AGM. This is usually the normal practice on Boards that I have been a part of.

[Name of Complainant 1] is stepping down from this role soon enough. Can we not allow this to be a graceful exit?”

Respondent 1's evidence is as follows:

- When asked about the portion of the November 8, 2022 email to Complainant 1 that referred to Complainant 1 having been “repeatedly” asked to step down from the Board, Respondent 1 confirmed it was her understanding that Complainant 1 had been asked to step down three times:
  - On two separate occasions over the phone, by one Board Member, and that Complainant 1 subsequently brought a letter of resignation to the March 2020 MBIA Board meeting but did not present the letter to the Board<sup>29</sup>; and
  - On one occasion in an email sent by another Board Member to Complainant 1 in June 2022, which expressed that the Board had lost confidence in Complainant 1.
- Regarding the portion of the November 8, 2022 email which referred to it being in the best interest of the BIA for the Executive Directors to hand out invitations for the AGM, Respondent 1 stated Complainant 1 would not “relinquish control” to let the staff hand out invitations. Respondent 1 stated the Board did not believe Complainant 1 was the best representative for the MBIA because:
  - Complainant 1 was not well-liked in the Village [Manotick]<sup>30</sup>;
  - When distributing the invitations to businesses, Complainant 1 had not been speaking well of either staff member to the business owners; and
  - Complainant 1 had been talking badly to the new BIA staff member about the Board, including negative comments about specific members of the Board.

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<sup>29</sup> Contextual information regarding the resignation letter is provided in footnote 20.

<sup>30</sup> This was Respondent 1's opinion. When asked, Respondent 1 did not provide specific business or individuals' names.

Respondent 1 heard complaints from business owners in the community, from MBIA Board members, and from the staff members, about Complainant 1 handing out invitations to the AGM, instead of the BIA staff members.

- Respondent 1 stated that her email of November 8, as well as a reply by Respondent 2<sup>31</sup>, were not bullying and harassment. Respondent 1 stated that Complainant 1 may not like the emails, but it is a conversation, and it is not threatening.
- Respondent 1 commented on the context of the November 15 email Respondent 1 sent to Complainant 1 and other Board members:
  - The Board did not support Complainant 1;
  - One Executive Director (about whom Complainant 1 was speaking badly) was retiring;
  - Complainant 1 was speaking badly about the Board to the incoming Executive Director; and
  - The Board did not want Complainant 1 to be “the face” of the BIA because they wanted a fresh new start.

Respondent 1 thought if Complainant 1 and Respondent 1 hosted the 2022 AGM in tandem, that would work for the community.

- Respondent 1 did not know that the MBIA was involved with the Remembrance Day event in Manotick and was unaware of the wreath laying. During my interview with Respondent 1, I put to her Complainant 1’s comment:

“I was okay to represent the MBIA as Chair for a very, very public function on November 11, 2022; however, according to the emails dated November 8, 2022 – I was an absolute embarrassment to the organization.”

Respondent 1 stated her point of view that Complainant 1 was not the best representative to speak to business owners; however, as Chair of the MBIA, she was an appropriate representative to lay the wreath at the Remembrance Day ceremony, as that role did not involve talking to anybody.

The evidence of Complainant 1 and Respondent 1 illustrates that, in late 2022, tensions were high among MBIA Board members. Respondent 1 referred to the “drama” of the period. The hiring process for the new Executive Director – a process that itself had been marked with tension among Board members – was concluding. A group of Board

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<sup>31</sup> Discussed separately in the “Respondent 2” section of this report.

members were concerned with the Chair's alleged misspending of BIA funds.<sup>32</sup> Efforts were underway to remove the Chair.<sup>33</sup>

I have considered the evidence of Complainant 1 and Respondent 1 in this context. One could describe Respondent 1's email communication to Complainant 1 as curt and aggressive (*"lets drop "with all due respect" as it is abundantly clear, you have zero respect for me"*). One could also, however, describe Complainant 1's email communication to Respondent 1 in the same way (*"I do not have to email or answer your questions immediately as I am not paid to answer nor be bullied or threatened."*)

Emails sent by other Board members in reply to messages exchanged by Complainant 1, Respondent 1 and Respondent 2<sup>34</sup> show those members reacting to the tension and inappropriate tone of the exchanges. For example, as described above, one member asked for "these types of communication" to cease, and for everyone to "engage on a professional level only." Another commented about too much "in-fighting and intolerance" on the Board.

Several witnesses interviewed during the investigation confirmed Respondent 1 often did not agree with Complainant 1's actions and approach to managing MBIA matters. One witness commented that, "toward the end", through Respondent 1's body language and email communications, "you could just tell [Respondent 1] didn't like [Complainant 1]." Another said of Respondent 1 and Complainant 1: "they didn't get along at all." According to Witness 12, Complainant 1 did not have any problems with Respondent 1 until the end of the hiring process for the new Executive Director. Witness 12 referred specifically to Respondent 1's emails and questions related to the HR firm that had prepared the contract. The remainder of witnesses interviewed did not witness conduct by Respondent 1 towards Complainant 1 that they felt was concerning.

I find the tone of the emails between Respondent 1 and Complainant 1 to be inappropriate, and I do not condone this type of communication amongst local board members. With that said, I believe both Complainant 1 and Respondent 1 to be at fault for creating and sustaining the inappropriate tone. After reviewing all evidence available to me, I am not of the view that Respondent 1's emails constituted harassment of Complainant 1. Furthermore, I received no evidence to support the aspect of the allegation that Respondent 1 used threats and manipulation against Complainant 1.

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<sup>32</sup> This allegation is discussed in the "Respondent 3" section of this report.

<sup>33</sup> This matter is discussed in the "Respondent 1/Allegation 3" section of this report.

<sup>34</sup> This matter is discussed in the "Respondent 2/Allegation 1" section of this report.

I have carefully considered the evidence of Complainant 1 and Respondent 1, witness testimony, as well as the documentary evidence in relation to this allegation. I conclude that this allegation, on a balance of probabilities, is not substantiated.

### **Allegation 3**

*Failed to follow due process when she allegedly self-appointed herself as Chair of the MBIA and attempted to remove the complainant as Chair and director of the MBIA Board of Management.*

As noted above, a series of events transpired on November 21, 2022 which involved an effort to remove the Chair of the MBIA Board. The following is a detailed timeline of what transpired that day:

- At 8 a.m. on November 21, 2022, a select group of MBIA Board members gathered to discuss concerns related to the Chair's conduct related to specific expenses. Though the group believed the gathering was an *in camera* meeting of the Board, Complainant 1 and Witness 12, who was also a member of the Board and serving as Board Treasurer, were expressly excluded.
- The group discussed their concerns with the expenses in question. Following the discussion, a decision was made to remove the Chair. Witness 9 offered to draft a resolution for the Board to approve and notice of the (pending) decision. Witness 9 provided the drafts to Respondent 1 at 12:26 p.m.
- At 12:49 p.m., Respondent 1 circulated the first e-mail to all members of the MBIA Board. The e-mail generally refers to "certain anomalies found in Petty cash charges that were never disclosed or approved by the Board" and proposed a resolution to immediately remove Complainant 1 as Chair and director of the MBIA Board "until a full and proper investigation can be completed". The resolution further appoints Respondent 1 as interim Chair until a new Chair is selected at a Board meeting following the upcoming annual general meeting (AGM).
- At 3:18 p.m., Respondent 1 circulated the second email, addressed to Complainant 1 and copied to all other Board members. The e-mail advises Complainant 1 of the Board's decision to remove her immediately from her role as Board Chair and Board Director. Further, the e-mail advises Complainant 1 will not be permitted to Chair or co-Chair the upcoming AGM.

Complainant 1's evidence is that Respondent 1 demonstrated "absolute disregard for due process" when she self-appointed herself as Chair of the MBIA Board. Complainant 1 places responsibility for the events of November 21, 2022 almost entirely on Respondent 1 and questioned what gave Respondent 1 the right to tell her that she was no longer permitted to be Chair of the MBIA. In her interview as Complainant 1, she

challenged whether those who allegedly voted her off the Board even constituted a quorum of the MBIA and questioned the legality of the decision. She noted that these were elected positions and there should be due process for removing someone from the Board. Complainant 1 also expressed frustration that the City did not intervene.

As noted above, prior to the November 21, 2022 events, a couple of Board members had begun commenting on Complainant 1's suitability to continue as a representative of the Board and as Chair of the upcoming AGM. Complainant 1 referenced the email communications from November 8, 2022, where Respondent 1 asked her not to represent herself as Chair due to her failure in performing the role and asserted she had repeatedly been asked to step down from the Board. Complainant 1 was taken aback by these comments, questioning what made the 2022 AGM any different from previous years and commenting that only three days later she was asked to lay a wreath on Remembrance Day as a representative of the MBIA. Complainant 1's evidence is that there had not been repeated requests for her resignation.

Despite the comments made to the Chair about her suitability to continue in the role, Complainant 1 was unaware of the side conversations and gatherings that were occurring. In fact, Complainant 1 did not know what 'financial anomalies' led to her removal, confirming these concerns did not come to her attention during any Board meeting. Witness 12, a Board member and colleague of Complainant 1, confirmed she had also not been invited to the gathering on the morning of November 21, 2022. At the time, Witness 12 was serving as the Treasurer for the MBIA Board and had no indication that Board members had concerns about expenses until that day.

Ultimately, Complainant 1 did not attend the 2022 MBIA AGM. She explained that others had encouraged her to go, but she had too much anxiety over the matter. Complainant 1 also noted that she did not believe she was permitted to go to the AGM.

Witness 12 was also troubled when she learned of the secret meeting and did not want to be part of an organization that operated this way. Further, Witness 12 was displeased about the treatment of Complainant 1 and formally resigned from the MBIA Board the next day.

Respondent 1's evidence is that the "Board" held the November 21, 2022 meeting because some members were not aware of the financial anomalies. Prior to the meeting, Respondent 1 compiled the details and documentation of the questionable expenses. Respondent 1 asserted that she did not call the secret meeting for the purpose of removing the Chair. Rather, she felt that all Board members should be made aware of the financial irregularities.

Respondent 1 did not like the characterization of the gathering as a "secret" meeting because all but two of the Board members were in attendance. As indicated above, Respondent 1 referred to the meeting as an "*in camera*" meeting. Witness 3

acknowledged the gathering was a “secret” meeting, but maintained that all Board members who were attending Board meetings at the time were there (with the exception of Complainant 1 and Witness 12).

Witnesses who were present for the “secret” meeting confirmed it was a unanimous decision of the group that Complainant 1 should leave the Board before the end of the Term. It was also the group’s decision that Respondent 1 would chair the AGM.

When asked why the group felt it was necessary to remove the Chair only three days before the AGM and so close to the end of the Term, Respondent 1 explained there was concern the unauthorized spending would continue. The Board needed it to stop. Another witness suggested there was a lot of anger. There were only a few people left on the Board at this point, and they did not want to work with Complainant 1 any longer. The evidence of Respondent 1 and those witnesses who attended the “secret” meeting is that the intent was to remove Complainant 1 from the MBIA board permanently.

After a series of questions about whether the BIA Governance By-law had been consulted and which sections had been relied upon to remove the Chair, Respondent 1 acknowledged the Board members may not have done things the right way. Respondent 1 emphasized they followed what they understood to be the process<sup>35</sup> and tried their best to follow it properly. Witness 9 confirmed he had agreed to prepare the resolution and the notice to the Chair of the decision. Witness 9 conceded he was not entirely sure what the procedure was for removing a director permanently and thought it was possible the decision could be challenged. He confirmed that governance documents were not consulted when the group reached the decision to remove the Chair, but it was generally understood that a motion to remove the Chair was what was required. There was a firm belief the group was following the proper process.

As demonstrated in the November 21, 2022 emails and Respondent 1’s response to the formal complaint where specific sections of the By-law are cited, there is an awareness of the BIA Governance By-law among the MBIA board members. However, the evidence suggests that members did not fully understand the By-law or they consulted the By-law selectively, relying on sections of the By-law that fit their understanding of the proper process.

Section 14 of the BIA Governance By-law does speak to the removal of the Chair. To remove the Chair, only a resolution of the Board is necessary. However, Section 14 does not allow the Board to remove directors.

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<sup>35</sup> In March 2020, Board members had consulted with a credible source about how to remove the Chair from the MBIA. They were told that a motion approved by a simple majority is what was needed. For confidentiality reasons I will not name the individual, but I accept the individual as a credible source.

In contrast, sections 9 and 10 of the BIA Governance By-law set out how a BIA Board may recommend to Council the removal of a director. This process involves a resolution, “approved by two thirds of the directors present at a duly called meeting of the Board to which notice specifying the intent to pass such a resolution has been given”. This was not the process that was followed. There was no notice and no duly called meeting of the Board. Even at a duly called meeting, the Board would have no authority to remove Complainant 1 as a director of the MBIA.

Regardless of whether the Board members followed the proper process, Complainant 1 believed that she was removed from the Board. Complainant 1 challenged the decision by raising the situation with City officials, but the MBIA’s independent status as a local board made it difficult to address the procedural failure, and certainly not in time for the AGM three days later. Complainant 1 noted that she was never made aware of any financial anomalies and that no one had brought them to her attention or the Board’s attention in a proper meeting. In her interview, Complainant 1 expressed that receiving the email was very upsetting and was emotional when answering questions about this allegation.

I have carefully considered the witness testimony, the evidence of Complainant 1 and Respondent 1, as well as the documentary evidence in relation to this allegation. I acknowledge the impact of this series of events on Complainant 1 was significant. While proper procedure was not followed, this was not intentional as the Board members were wrongly relying on the information about the process from a credible source. I am not persuaded that Respondent 1 self-appointed herself as Chair and spearheaded the decision to remove Complainant 1 from the Board. Therefore, I conclude that on a balance of probabilities, this allegation is not substantiated.

## **Respondent 2**

### **Allegation 1**

*Bullied and harassed Complainant 1 in their role as Chair for the Manotick BIA.*

Complainant 1<sup>36</sup> asserts that Respondent 2’s bullying and harassment was exhibited through the following actions:

- (a) Absolute lack of respect for Complainant 1 as a human being, let alone the Chair;
- (b) Addressing Complainant 1 as “little girl” during Board meetings (despite the Complainant’s request that Respondent 2 address her as “Dr.” or “Chairperson”);

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<sup>36</sup> Respondent 3 is Complainant 1 who filed the formal complaint respecting the conduct of Respondent 2.



- (c) Sent aggressive, attack-style emails. Threats for Complainant 1 to resign if Complainant 1 did not “comply to [Respondent 2’s] demands”; and
- (d) Emailing Complainant 1 at 9:45 p.m., expecting an immediate reply

In addition to examining Respondent 2’s conduct towards Complainant 1 more generally, the investigation explored each of the above-noted actions.

*(a) Absolute lack of respect for Complainant 1*

In support of this allegation, Complainant 1 provided as evidence copies of emails and other documents regarding three matters:

- Complainant 1’s email signature;
- Complainant 1’s email inquiring about interest for the Chair position for the 2022-2026 Term; and
- The proper financial accounting of a deposit totalling \$23,131.11.

During her interview with me, Complainant 1 described other instances of Respondent 2’s alleged behaviour that exhibited Respondent 2’s lack of respect for her. These matters are described in detail below.

Complainant 1’s email signature

The first email exchange Complainant 1 provided had to do with the Complainant 1’s email signature block, which Complainant 1 included in emails sent regarding MBIA matters. It is Complainant 1’s evidence that, in March 2020, Respondent 2 made a complaint about Complainant 1’s signature block.

Complainant 1’s evidence is as follows:

- On March 5, 2020, the MBIA Executive Director sent an email on behalf of Complainant 1.<sup>37</sup> The email described an opportunity for Manotick businesses to purchase bike racks. At the end of the email, Complainant 1’s signature, comprised of seven lines, included the following information about Complainant 1:
  - Professional designation;
  - “Owner and [specific position] at [business name], [business website]
  - Chair, Manotick Business Improvement Area”; and

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<sup>37</sup> The copy of the email obtained by my Office does not include the list of recipients. In my interview with Respondent 2, he indicated his belief it was sent to all members of the MBIA.

- Four lines listing the Complainant’s positions on other professional associations.
- On March 6, 2020, Respondent 2 emailed the Executive Director, stating:
 

“[Name of Executive Director],

I want to go on record by saying the message to install bike racks could be a BIA initiative, but the self promotion by the Chair is a conflict of interest.

This should be presented to the rest of the MBIA executive and the City of Ottawa BIA regulatory authority for censure.

[Name of Executive Director], I would ask that you forward my comments to the board.”
- A short time after, a Board member sent an email reply to Respondent 2, referring to one aspect of the Board’s history with the bike rack proposal.
- Respondent 2 replied to the Board member, stating his agreement with the information in the Board member’s email. Respondent 2’s reply further stated:
 

“Where I take exception is how the Chair concludes MBIA communications with her “curriculum vitae.” The only position pertinent is her position as Chair. All other positions and titles, past and present, are irrelevant and should not added (sic) to official MBIA correspondence.”
- In her interview with me, Complainant 1 described her response to Respondent 2’s emails as “freaking out (...) I’m actually sick because (...) I’ve had this position for so long and no one’s ever mentioned anything.”
 

Complainant 1 sought assistance on this question from City staff, who recommended Complainant 1 contact the Integrity Commissioner. In March 2020, Complainant 1 sent emails to the former Integrity Commissioner requesting assistance.<sup>38</sup> Complainant 1 described telling the Integrity Commissioner “I am scared that I did something unknowingly. And I’m sick with worry (...) I don’t know if I’ve done something wrong.”

The Integrity Commissioner replied by email, confirming that Complainant 1’s inclusion of her professional title and signature in her email as Chair of the MBIA is not a breach of the Code of Conduct for Members of Local Boards and does not create a conflict of interest as set out in the *Municipal Conflict of Interest Act*.

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<sup>38</sup> I was not the Integrity Commissioner at the time. Complainant 1 corresponded with my predecessor. For that reason, in this section, references to “Integrity Commissioner” refer to the previous Integrity Commissioner of the City of Ottawa.

The Integrity Commissioner suggested:

- Creating a BIA-specific signature to be used on correspondence as Chair of the MBIA, as a step towards distinguishing between emails sent in Complainant 1's professional capacity and those sent in capacity as Chair or member of the MBIA; and
- Raising Respondent 2's concern at the next BIA meeting to clarify the matter, and that Complainant 1 was free to share the guidance the Integrity Commissioner provided with the Board.

Minutes of the MBIA Board Meeting of September 17, 2021:

- Reflect that Complainant 1 presented the Integrity Commissioner's interpretation;
- Include the following action: "The Executive Director will investigate the process, to create a BIA-specific email signature for the Chair of the Manotick BIA"; and
- Show that the Board resolved to create a BIA-specific email signature for the Chair of the MBIA.

Complainant 1 provided the following additional evidence on this matter:

- No BIA-specific email signature was ever created. Complainant 1 did not recall any follow-up on the matter.
- Complainant 1 had used the same signature since 2014, for all eight years that she was Chair of the MBIA, and it was never raised as an issue. Complainant 1 provided examples of emails she sent, using the same signature, to Respondent 2 in 2015, 2016, 2017, and 2019.
- When the Vice Chair sent two emails on November 21, 2022, (circulating the Resolution of the Board to remove Complainant 1 as the Chair and Board Director and informing Complainant 1 of the results of the Board vote to remove Complainant 1 as Chair and Director, respectively), both emails included the Vice Chair's business information at the bottom of the email. Complainant 1 indicated the inclusion of that information in the Vice Chair's email "was okay with everybody", and Respondent 2 did not report the Vice Chair to the City and the Board as he had done in 2020 in response to Complainant 1's email signature. Similarly, Complainant 1 described that another Board Member sent emails that included her business logo in the email signature, but Respondent 2 didn't raise that as an issue.

Complainant 1 stated that she does not include her business logo in her email signature, and never used her business email to correspond about MBIA issues. As Respondent 2 only complained about Complainant 1's signature, and no one

else's, Complainant 1 said it feels as if "it's just about me ... why is it just about my signature and nobody else's..."

Regarding Complainant 1's email signature, Respondent 2's evidence is as follows:

- As a Board Member, he "felt that the position as Chair did not entitle the position holder to exploit the M.B.I.A.'s advertising/communications expenditures to promote her business." Respondent 2 was of the opinion there "ought to be a ruling from the City."
- In his interview with me, Respondent 2 clarified that he was not concerned with emails the Chair sent to other MBIA Board members, or the MBIA membership in general, for "internal consumption". Respondent 2 described that everyone knew who everyone else was, and who the business owners were. However, Respondent 2 described that when it came to "communications outside of the BIA circle – newspaper ads, whatever – that is where I drew the line."<sup>39</sup>

Respondent 2 explained that the intent of the organization, and the general understanding, was not to allow anyone to take advantage of their position on the Board to further their business. The implication is that individuals participate on the Board as volunteers, and a member's business is "not supposed to benefit from what you do."

To that end, Respondent 2 described there had been discussions about the Executive Director being the "face" of the organization, as he described all the Executive Directors were in other BIAs across the City. He described that advertisements and information from other BIAs featured the names of the Executive Directors, not the elected Board members.

- When I asked why he did not raise it as an issue before 2020, Respondent 2 stated it should have been an issue earlier. In his opinion, and at that point, within the context of communications within the MBIA, he didn't worry about it. When it came to the newspaper advertisements, he "took umbrage."
- When I asked why he did not raise concern about other Board members' email signatures that included references to their businesses, Respondent 2 described that because they were emails internal to the MBIA – to the Board and within the Board – Respondent 2 did not find that to be of concern.

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<sup>39</sup> After his interview with me, Respondent 2 provided an example of such a newspaper advertisement from a June 2022 issue of the Manotick Messenger. This could not have been the specific advertisement that raised Respondent 2's concern about the signature issue, as he raised the concern approximately two years earlier, in March 2020. In the 2022 newspaper advertisement Respondent 2 supplied, Complainant 1's signature is comprised of three lines: name and title; business name; and "Chair, Manotick BIA".

- Respondent 2 acknowledged the Integrity Commissioner provided an interpretation to Complainant 1 on the signature issue “that stated it was not contrary to the rules, but he did offer an alternate way to sign off in the future. There was no further comment on my part.”
- Respondent 2 recalled that a Chair-specific signature was created, for “public use/ public consumption”, as he recalled seeing it in use by the Chair, and it only included reference to the Chair position.

Given Witness 11’s specific role in the context of the MBIA, I asked Witness 11 if, to her knowledge, an MBIA-specific email signature was created for the Chair. Witness 11 stated she did not know if a signature was ever created. It was her understanding that it was the Chair’s responsibility to create the signature block.

Complainant 1’s email inquiring about interest for the Chair position for the 2022-2026 Term

Complainant 1 provided a second email exchange as evidence of Respondent 2’s alleged “absolute lack of respect” for the Complainant.

It is Complainant 1’s evidence that, near the end of 2022, Respondent 2 asked her to circulate a request for interest among MBIA membership for Board positions for the next Term. Complainant 1 did so. Afterwards, Complainant 1 described that Respondent 2 “embarrassed” her and “called [her] out” for doing so, saying it was not the role of the Chair. In the formal complaint, Complainant 1 wrote: “I did what he asked me to do and then [was] publicly humiliated”.

Complainant 1 provided the following emails relevant to that exchange:

- On October 3, 2022 at 5:45 p.m., Respondent 2 emailed Complainant 1, two Executive Directors, and six Board members, stating:
 

“[Name of Complainant],

The Municipal election is when the M.B.I.A. has to have it’s next board established/elected, if I’m not mistaken. If I am correct, I would think that we ought to be “scouting” for NEW talent for the board starting ..... SOON..

Does the board need meet (sic) on this??”
- On October 3, 2022 at 7:04 p.m., Complainant 1 sent a reply to Respondent 2, cc’ing other Board members and the Executive Directors. The reply stated, “Excellent Point”, and noted the Executive Director had sent out a request for Chair and directors for the MBIA. The email indicated a letter would be circulated to encourage business owners or business landlords to consider putting their name forward for the Chair position.

- On October 4, 2022 Complainant 1 sent another reply to Respondent 2, cc'ing other Board members and Executive Directors:

“In keeping with strict guidelines for municipal elections;  
We needed to have something sent out 60 days prior to elections, which is what we have done.  
If you missed the email, [name of outgoing Executive Director] would be more than happy to resend it to you.  
The rules are very strict, as you know, as you were Chairperson for at (sic) 4 consecutive terms.”
- On October 19, 2022 Complainant 1 sent an email to the Executive Director, cc'ing 17 other Board members and other individuals and businesses. The email included the following:

“Good Morning Everyone  
As you know I am NOT seeking a third term for the position of Chair of the Manotick BIA.  
We have put out plenty of emails with no success.  
If you know someone who would  
Like to take this on, please ask them to reach out to me.  
I would ask that one of you on this email step forward as Chairperson, to keep some continuity to the Manotick BIA as there will be many changes occurring within the structure as [name of outgoing Executive Director] leaves, [name of incoming Executive Director] comes in and I leave.  
Please “reply all” so we know and can get the process in motion for the AGM in November, as my term is expiring VERY shortly.  
I have CC'd a few off the Board on this email whom I think may want to throw their hat into the ring.  
My contact is  
[contact information]  
Regards and Respect,  
[Name of Complainant 1]  
Chair, Manotick BIA”

- On October 21, 2022 Respondent 2 replied to Complainant 1's email of October 19, cc'ing the Executive Director and all 17 original recipients. The email stated:

“Just catching up on e-mail;

[Name of Complainant 1], if there are people interested in joining the board, they should be contacting [Names of the two Executive Directors].

In my opinion, finding a replacement for Chair, or any other executive position, is not a Chair's responsibility and/or is not a role for a Chair set out in any BIA's rules of governance.”

Complainant 1 hand-wrote on the copy of the email: “Harassment/Public shame.” In her interview with me, Complainant 1 described Respondent 2's October 21 email as “awful”, indicating that the people Respondent 2 cc'd on the email were those who she was reaching out to in the hopes they would “try to come on” to the Board.

Respondent 2's evidence related to this matter is as follows:

- “Historically, this activity had always been the E.D.'s sole responsibility”, and Complainant 1 acknowledged this in correspondence sent October 3, and October 19, 2022.<sup>40</sup>
- According to Respondent 2, his email reply to Complainant 1 was not harassment, but rather was: “me sort of saying, basically, it's not your job.” His email was not in any way meant to embarrass Complainant 1. It was a statement of fact, “it's not your job.”
- Whenever Complainant 1 was asked about the length of time it was taking to get the new Executive Director hired, her normal response was that “she had a business to run, she was busy”. Respondent 2 commented, “if she's saying she's busy, busy, busy, then why is she doing this stuff which would have been and had been the Executive Directors responsibility in all the years past?”
- Respondent 2's email expressed his opinion, which he indicated he was supposed to do as a Board member. Complainant 1 “could take it or leave it.”
- To the best of his recollection, when he wrote emails to Complainant 1, he copied people on the email. He did so because of the information flow. His objective was to support the MBIA and its existence. His email to Complainant 1 was not supposed to constitute public shame.

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<sup>40</sup> It is not clear which part of the October 19 email Respondent 2 intended, as that email does not clearly mention the ED's action.

### The proper financial accounting of a deposit totalling \$23,131.11

Complainant 1 described that \$23,131.11 had been in the possession of the MBIA at the time of the City of Ottawa's amalgamation, and the past Chair, Respondent 2, had not deposited the funds with the City. Instead, the amount had been retained in a bank account.

It is Complainant 1's evidence that:

- Sometime in 2018/19, Complainant 1, the Executive Director, and Treasurer met with one or more representatives from the City of Ottawa's Finance department, who informed Complainant 1 of the existence of the funds, and stated the money belonged to the City and had to be returned to the City. Accordingly, the Executive Director arranged for the amount to be returned to the City of Ottawa.
- At the beginning of the COVID-19 pandemic, the MBIA Board asked Complainant 1 where \$23,131.11 had been deposited, as they could not find it in financial statements. This question, posed by Board Members to Complainant 1, caused Complainant 1 stress, as she believed the Board Members insinuated she had taken the funds.
  - A copy of an email Complainant 1 included in her formal complaint indicates it was the Board Treasurer in particular, who was then new in the position, and not Respondent 2, who raised the question to Complainant 1.
- Wanting to clear any doubt that she had taken the money for her personal use, Complainant 1 immediately emailed a staff member within the City of Ottawa's Finance Services Department to request confirmation the cheque had been deposited with the City. The staff member confirmed the cheque had been deposited. Complainant 1 presented that information to the Board.
- The City of Ottawa staff member confirmed, in email reply to Complainant 1, that the full amount was deposited into the City's account for the MBIA in December 2018.

Respondent 2's evidence regarding this matter is as follows:

- Before BIA accounting functions were centralized, the MBIA, like other BIAs, had its own bank account. When the accounting function was taken over by the City, everything was transferred except \$23,131.11 "accumulated reserve."
- The MBIA Treasurer asked the Board why the \$23,131.11 was "no longer showing on the backup paperwork."
- In his response to the formal complaint, Respondent 2 wrote:



“The E.D. of the time advised the Chair and the Board as to the history of the deposit and where it was held. At no time did anyone imply or accuse [Complainant 1] of any malfeasance in regard to those funds.”

- In my interview with Complainant 1, I advised her of Respondent 2’s comment that no one implied or accused her of any malfeasance regarding the funds. Complainant 1 was emotional and expressed frustration, commenting that she could not refute what Respondent 2 stated because she did not have proof, but she did have the email she sent to the City asking for assistance because the Board asked Complainant 1 where the funds had been deposited.

*(b) Addressing Complainant 1 as “little girl”*

It is Complainant 1’s evidence:

- Respondent 2 addressed her as “little girl” in MBIA meetings since the first meeting that she held as Chair. This occurred frequently. Complainant 1 stated it “probably” occurred at every Board meeting.
- Regarding the context in which Respondent 2 used the term, Complainant 1 described: “...[Respondent 2]’ll say: “That’s enough little girl. Can we move on.” Complainant 1 further described:

“It made me feel so insecure to talk. I didn’t even know what I was going to say next and what he was going to do. My meetings when he wasn’t there were actually really productive and we were all OK. But when he was there it just...as time went off it just got more and more and like, the funny thing is nobody stopped him from saying that or acting that way.”

- Respondent 2 called Witness 11 “a little girl and stuff like that.” When Complainant 1 asked Witness 11 if she was OK with that, she would reply, “Well, that’s just [name of Respondent 2].” Complainant 1 stated that for the first little while, Witness 11 kept saying, “oh no, that’s just him.” Then Complainant 1 described thinking:

“If he keeps calling me little girl and smashing his arms on the desk every time he wanted to make a point or he didn’t get his point across, then everybody would start doing that and I have to stop him.”

- The initial context was precarious, because as the new Chair, she was a “female of colour taking over from a (w)hite (m)ale” who had held the position for 14 to 18 years. Due to that initial context, Complainant 1 did not correct Respondent 2. However, as Complainant 1 realized Respondent 2’s comments were undermining her position, she asked Respondent 2 “ultra politely and extremely respectfully” to stop calling her “little girl” and asked Respondent 2 to stop slamming the table when making a point or demanding her to stop talking “when he wanted to interrupt without proper meeting protocols.”
- Everyone who was present at Board meetings, including Members and the Executive Director, witnessed Respondent 2 addressing Complainant 1 this way.
- Complainant 1 had to ask Respondent 2 sternly, many times, to address her as “Dr. [Complainant 1’s surname], [Complainant 1’s first name], or “Chairperson”.
- Complainant 1 did not ask Respondent 2 to stop in front of other Board Members, not wanting to embarrass him or “create a bigger thing”, so after one meeting was over, she asked him to call her by professional title, name, or Chairperson. She communicated to Respondent 2 that calling her “little girl”, making comments like “stop sawing the sawdust” or smashing his hands on the table all intimidate her, and make her nervous which makes it difficult for her to proceed with the meeting. Complainant 1 asked Respondent 2 to please stop doing those things.

Complainant 1 stated that, in response, Respondent 2 said: “My bad. OK.” However, it is Complainant 1’s evidence that Respondent 2 “never stopped.”

Respondent 2’s evidence is as follows:

- He never called Complainant 1 a “little girl.” If he did so, he has no recollection of doing it.
- He was aware of the importance of the position and “perceived influence it carried within the context of the organization” and would not minimize the position by using the phrase “little girl.”
- He believes everybody should be left with their worth not being diminished “in any ways or means.” He would not diminish anybody in public. He does not do that and has never done that.
- His conduct during meetings was always appropriate. He was not inappropriate with his comments, demeanor, or addressing other people.
- From his perspective, it got to the point with Complainant 1 that unless you agreed with her, she was diminished or demeaned. “That was the vibe that she gave off.”

I asked seven witnesses, who participated in Board meetings with Complainant 1 and Respondent 2, if they had ever witnessed Respondent 2 call or refer to Complainant 1 “little girl”.

Witness 12 confirmed without hesitation that she heard Respondent 2 refer to Complainant 1 in that way more than once and stated that Respondent 2 had also called her “little girl”.

Witness 12 also confirmed she found Respondent 2 exhibited disrespectful behaviour in MBIA meetings and provided examples such as rolling his eyes and making dismissive vocal sounds. Witness 12 told me Respondent 2 said to Complainant 1 at a Board meeting: “Stop sawing the sawdust.”

- As noted above, I have reservations about the credibility of Witness 12’s account, as she is a friend and work colleague of Complainant 1 and confirmed to me that she had helped Respondent 3 prepare her response to the formal complaint.

However, two additional witnesses confirmed that they heard Respondent 2 address Complainant 1 as “little girl” once. It is unclear, from the witness testimony, if the comments that Witness 11 and Witness 3 heard were the same, or separate incidents.

Witness testimony on this matter is as follows:

- Witness 11: “Yeah, I think he did once, but he always called me “kid”, ya know? That was [name of Respondent 2]. He didn’t mean it disrespectfully. He calls me [nickname similar to Witness 11’s surname], you know. I don’t take offense to it. [laughing]”
- Witness 3: Confirmed, without hesitation, that she witnessed Respondent 2 refer to Complainant 1 as “little girl” and recalled he did so before the start of a Board meeting, when they were getting coffee and getting settled. Witness 3 stated her belief it was only a one-time occurrence.

Three other witnesses indicated that they did not recall hearing Respondent 2 refer to Complainant 1 as “little girl.”

When asked about this allegation, Witness 7 responded, without hesitation: “No, no.” While I found the testimony of this witness credible (i.e. that Witness 7 had not heard Respondent 2 use the words “little girl”), it is worth noting that Witness 7 had past business ties with Respondent 2.

*(c) Sent aggressive, attack-style emails. Threats for Complainant 1 to resign if Complainant 1 did not “comply to [Respondent 2’s] demands”*

Complainant 1 provided evidence of two emails Respondent 2 sent that the Complainant alleged exhibit this behaviour.

Example 1:

- On September 20 and 21, 2022, the incoming Executive Director, Respondent 2, and Complainant 1 exchanged emails about when the incoming Executive Director would receive her contract. On September 21, Complainant 1 replied:

“On it!

In process.

I will get it to you once I have it. Might not be today.

Regards,

[name of Complainant 1]”

Approximately eight minutes later, Respondent 2 replied to Complainant 1:

“If [name of incoming Executive Director] is not going to receive it today, the social etiquette would dictate that you contact her and advise her of the delay.

As an observation, / question; the hiring committee proposed [name of incoming Executive Director] at the end of June.....how as a Board can we justify the eleven (11) weeks it has taken to put a contract offer in front of her??.....ELEVEN (11) WEEKS 11111 (sic)”<sup>41</sup>

- Approximately twelve minutes later, Complainant 1 replied:

“Good Morning All,<sup>42</sup>

[name of Respondent 2], I do not appreciate the tone of your response.”

Complainant 1’s email described a specific aspect of the contract negotiation, and continued:

“The hiring committee was charged with this in November of 2021.

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<sup>41</sup> Complainant 1 described in her interview with me that where the Respondent used multiple “1”s, she believed that he intended to use exclamation marks.

<sup>42</sup> The copy of the email chain in my records does not state who the recipients were on Complainant 1’s message. The document does list the recipients of Respondent 2’s reply: Complainant 1 and six MBIA Board members.

The hiring committee and the candidate were miles apart. The candidate was not even available to work till [date].

I had to meet with the candidate on my own to discuss the issues.

The issue at hand, the contract will be sent to the board for approval then to the candidate.

It is with the HR company.

Regards,

[name of Complainant 1]

- Approximately two hours later, Respondent 2 replied:

“[Name of Complainant 1],

To be honest, I really don't care if you appreciate my tone or not! The facts are the facts; YOU have been dragging this out since the end of June; you have been setting the time table.

If we lose [name of incoming Executive Director] as a E.D., it's on you...and there isn't enough time to go through the process again before [name of outgoing Executive Director] is retired.

This has taken far too long and, in my opinion, stretched the credibility of the M.B.I.A.

In MY OPINION, either you fulfill your undertaking at the last Board meeting, to provide [name of new Executive Director] with the offer today, or submit your resignation.”

#### Example 2:

- Complainant 1 provided a copy of an email Respondent 2 sent on November 8, 2022, to Respondent 1, cc'ing Complainant 1, the outgoing Executive Director, and three other MBIA Board members. The email was sent in reply to Respondent 1's November 8 email which stated it would be in the “best interest of the BIA” if the Executive Directors, not Complainant 1, handed out invitations to the upcoming AGM, and that Complainant 1 was “not the best representative of the BIA...”<sup>43</sup>

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<sup>43</sup> Respondent 1's November 8, 2022 email is discussed in the above “Respondent 1/Allegation 2” section.

Respondent 2's reply stated:

"[Name of Respondent 1],

Your note sums up what should be happening and why; the E.D. is supposed to be "the face" of a BIA. As for [name of Complainant 1] leaving the Board; again your statement is valid. There are long time Manotick business people who will not join the Board as long as [name of Complainant 1] stays on. For the long term health and welfare of the Board and for the upside of businesses being more active in/ on the MBIA..... [name of Complainant 1] should gracefully step away; in my opinion."

It is Complainant 1's evidence:

- She received the above-quoted email from Respondent 2 on November 8, 2022; however, on November 11, 2022, she was requested to attend the Remembrance Day ceremony in Manotick to represent the MBIA. Complainant 1 did not indicate that Respondent 2 requested her to attend the ceremony; rather, she implied the organizers made the request.
- She accepts tone can be misconstrued in an email, but Respondent 2 commented (paraphrasing Respondent 2's email in Example 1): "If you do not give the contract in today then you just should put up your resignation", then "there's no other way to take that language (...) you can't negate the words in those emails. Those words are harsh."
- In her eight years as Chair there were no complaints received from businesses. Complainant 1 described efforts she made during the COVID-19 pandemic to support businesses in Manotick. When Respondent 2 wrote that the Complainant 1 should resign for the "health and welfare" of Manotick, that's "exactly the opposite."

As noted above<sup>44</sup>, in his response to the formal complaint, Respondent 2 stated:

"Depending on the frame of mind of the reader of an e-mail, the intent and the perception of what is on screen can be at variance. While I concede that some of the emails may be construed as being disrespectful; it was not my intent."

When I put Respondent 2's response to Complainant 1, she said: "I understand what he's trying to say", and she accepted his comment. She spoke generally about how tone can be misconstrued in emails, which, she said, is "the biggest problem with emails."

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<sup>44</sup> Respondent 2 provided this response specifically about the allegation "Absolute lack of respect for Complainant 1."

Complainant 1 stated, however, that she told Respondent 2, by email, that his tone wasn't right (as in Example 1, above), and in response Respondent 2 replied that he didn't care what she thought of his tone. Complainant 1 explained her belief that Respondent 2's email to her ("...I really don't care if you appreciate my tone or not") contradicts what Respondent 2 wrote in his response to the formal complaint.

- I put Complainant 1's comment to Respondent 2 and asked for his response to the matter of whether the email in question contradicts what he wrote in his response to the formal complaint. Respondent 2 indicated his agreement "that particular one does. The frustration shows."

Respondent 2 commented:

"Every once in a while, if you want to be noticed and make your point, one has to be a little more forceful about it."

Respondent 2 further commented, however, that there are other emails, before and after the email in question and on different matters in which the tone between Complainant 1 and Respondent 2 is "entirely normal."

Respondent 2 provided further evidence in response to the allegation he sent Complainant 1 aggressive, attack-style emails, including threats for Complainant 1 to resign if Complainant 1 did not "comply to [Respondent 2's] demands". Respondent 2's evidence is as follows:

- Regarding his emails to Complainant 1 about the length of time it had taken to complete the Executive Director hiring process (emails in Example 1, above), Respondent 2 wrote:
  - "...if she misconstrued them as a personal attack, it was not my intent. My intent was to have her understand that from an early JULY Board vote to approve the hire of the candidate and the final signing of her contract in OCTOBER, the time lag was excessive and I was worried the candidate might withdraw her offer of services."
  - When I put Respondent 2's response to Complainant 1, she expressed her view that any delay in the hiring process should be attributed to the Hiring Committee, which was comprised of Board Members including Respondent 2.
- In his interview with me, Respondent 2 re-iterated, with specific focus on his email of September 21, 2022 ("To be honest, I really don't care if you appreciate my tone or not! The facts are the facts..."), the email: "was the result of the length of time it took from the time the decision was made to hire the new Executive Director to the time the final contract was settled for."

Respondent 2 described that the Hiring Committee had chosen the successful candidate by the end of May, 2022. By the time the Board got to vote, it was July. A month had elapsed. Respondent 2's concern was that there would not be enough time for the incoming Executive Director to learn from the outgoing Executive Director before the outgoing Executive Director's retirement.

- With respect to his email of November 8, 2022 (Example 2, above), it is Respondent 2's evidence that two Treasurers left the Board because "it wasn't worthwhile working with [Complainant 1] – the angst." Respondent 2 further commented that when he suggested other business people in Manotick join the Board, they commented: "As long as [name of Complainant 1]'s there I'm not interested."

In his interview with me, Respondent 2 described the meaning of the portion of his email that said Complainant 1 should "gracefully step away." Respondent 2 indicated it had to do with Complainant 1 being at the end of her term, she's going to retire early and...not getting kicked out (...) It was maybe a nudge for her that she had an option to go out with her head held high..."

- I asked Respondent 2 for his response to Complainant 1's statements about no business having complained in her eight years as Chair. Respondent 2 replied: "Once again, the proof's in the pudding." Respondent 2 described that people resigned and would not go back on the Board because of Complainant 1. After Complainant 1 said she was not going to run again (for the position of Chair), new people volunteered. Respondent 2 also described his belief that the outgoing Executive Director could have stayed on but resigned. Respondent 2 indicated the Executive Director's resignation had to do with Complainant 1's treatment of her.<sup>45</sup>

*(d) Emailing Complainant 1 at 9:45 p.m., expecting an immediate reply*

Complainant 1 provided a copy of the email in question. Respondent 2 sent the email with subject line: "Re: Employment Terms" at 9:41 p.m. on September 2, 2022. Respondent 2 sent the email to Complainant 1, cc'ing the incoming Executive Director and a member of the hiring committee. The email stated:

"[Name of Complainant 1],  
??????"

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<sup>45</sup> This matter is examined in detail in the "Respondent 3" section of this report.



It is Complainant 1's evidence:

- The email was related to the hiring process of the incoming Executive Director.
- Only one day had elapsed since the email conversation on this matter began. The email thread started in the morning, but she did not reply because her family member was in and out of the hospital, and she didn't have a chance to get to the email. Then, Respondent 2 emailed her on a Friday night to make sure she got back to him.<sup>46</sup>

Complainant 1 commented that the timeline associated with the Executive Director hiring process was "their problem" (the Hiring Committee, which included Respondent 2). They had a year to complete it, and then Respondent 2 sent her the email at "the eleventh hour" to make sure everything was done. Complainant 1 did not know what to say about the matter, so she did not respond.

- Regarding the tone of Respondent 2's email, Complainant 1 commented: "...eight, seven question marks after my name (...) and then you've cc'd everybody on that (...) that's not fair to do that to me."

It is Respondent 2's evidence that his email did not request an immediate response.

I put Respondent 2's comment to Complainant 1, who responded:

"Then why email me at 9 o'clock at night with five question marks or seven question marks? What does that mean? That would normally mean somebody's screaming at you or wants an answer back. Why not wait 'till the Monday, then?"

Respondent 2 provided additional evidence on this matter:

- At 6:32 p.m. on September 2, 2022, Complainant 1 sent Respondent 2 an email attaching a copy of the employment contract for the incoming Executive Director. The document was unsigned and undated, and had significant red text, strikethroughs and what appear to be tracked changes throughout.
- Respondent 2 described feeling that the contract was not indicative of the work that the Executive Director had done for the BIA, or that the BIA represented.

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<sup>46</sup> Complainant 1 provided an email chain related to this message which begins with the subject line "Re: Employment Terms". Later in the chain, the subject line changes to "Re: Employment Terms Meeting". The chain includes three emails sent on September 2 between Respondent 2, the incoming Executive Director, and Complainant 1. Complainant 1 sent her email on September 2 at 10:36 p.m. The brief email stated a date and time Complainant 1 was available to meet. The email chain also includes two emails early in the morning of September 3 between Respondent 2 and a member of the hiring committee.

- Complainant 1 did not include an explanation of the document in her email, and Respondent 2 did not know if the document was the final version of the contract that was going to be sent to the incoming Executive Director.
- Respondent 2 viewed this as a reputational matter for the MBIA, indicating it was problematic to be sending out a document like that. Respondent 2 described it as “inappropriate” and “improper”, and said he was “frustrated”. He indicated at least part of his frustration had to do with the length of time that had elapsed since an early summer Board vote to hire the candidate. Respondent 2 said: “it doesn’t make sense, by any business standard, to be taking that long if you want somebody.”
- Respondent 2 confirmed the multiple question marks in his email had to do with the fact that Complainant 1’s email, and the version of the contract it attached, were unclear. He did not include multiple question marks to indicate he expected an immediate reply.

Respondent 2 described his understanding that Complainant 1 was working long hours. If Complainant 1 chose to read the email that evening, he couldn’t control that.

- When I asked Respondent 2 why he didn’t wait until Monday to write his email, he replied that he was worried the contract was going to be sent to the incoming ED, and he wanted to have the opportunity, as a Board member, to provide input.

### *Analysis of Allegation 1*

#### *Bullied and harassed Complainant 1 in her role as Chair for the MBIA.*

Complainant 1 asserted Respondent 2’s bullying and harassment was exhibited through several actions and specific matters. After careful consideration of the evidence, I find the allegation has been substantiated.

I do not find, however, that every example Complainant 1 provided substantiates the allegation. Specifically, two matters Complainant 1 raised – Respondent 2’s concern about Complainant 1’s email signature, and the proper financial accounting of the \$23,131.11 deposit – do not stand as compelling examples of the alleged behaviour.

I accept that the issue Respondent 2 raised about Complainant 1’s email signature caused Complainant 1 significant concern. She described “freaking out”, being “scared” and “sick with worry”. Having examined the evidence, including Complainant 1’s emails on the matter to the former Integrity Commissioner, I believe that to be an accurate description of how Complainant 1 felt at the time.

With that said, I do not find it unreasonable that Respondent 2 raised the issue. I do not find that the language and/or tone of the emails in which he expresses the concern are

offensive or are presented in a way that indicates the presence of bullying or harassment of Complainant 1 on the issue. In his capacity as MBIA Board member, Respondent 2 raised what he understood to be a concern related to potential conflict of interest in the use of MBIA resources. Complainant 1 sought the advice of the former Integrity Commissioner, who issued an interpretation that there was no breach of the Code but offered a suggestion going forward. Complainant 1's interpretation was brought to a Board meeting, and Respondent 2 indicated he had no further involvement with the issue.

Similarly, I accept that the question the Board raised to Complainant 1 about the \$23,131.11 deposit caused Complainant 1 stress, because, as she indicated to me, she believed the Board members insinuated she had taken the funds. The evidence indicates, however, that Respondent 2 did not ask Complainant 1 about the funds directly. Complainant 1's evidence indicates it was a different individual, the Board Treasurer, and/or the Board who raised the question about where the funds had been deposited. There is no evidence of Respondent 2's involvement with this issue in a manner that could be characterized as bullying or harassing of Complainant 1.

With respect to the matter of whether Respondent 2 addressed the Complainant 1 as "little girl", Complainant 1 stated Respondent 2 addressed her in that manner frequently, "probably" at every meeting. Respondent 2, however, stated he "never" referred to her as "little girl", but if he did so, he does not recall. He further stated he would not minimize Complainant 1's position by using the phrase.

I do not accept the evidence of Respondent 2 or Complainant 1 on this point. Rather, I accept the evidence of other witnesses who stated that Respondent 2 did, at least once, call Complainant 1 "little girl".

When I asked Witness 3 if she recalled Respondent 2 ever addressing Complainant 1 as "little girl" she confirmed, without hesitation, that she had, and that she believed it only occurred once. Responding to the same question, Witness 11, while less certain, said: "...Yeah, I think he did once..."

I have no reason to question the credibility of either witness on this matter. In fact, Witness 11's testimony was somewhat understanding, or even apologetic of Respondent 2 in respect of this specific question of whether Respondent 2 addressed Complainant 1 as "little girl". For example, Witness 11 stated: "He didn't mean it disrespectfully" and, describing nickname-type terms Respondent 2 has used to refer to her, laughed: "I don't take offense to it." I find it compelling that, despite those expressions of understanding, Witness 11 confirmed her belief Respondent 2 addressed Complainant 1 as "little girl" once. Given those considerations, and the certainty with which Witness 3 recalled Respondent 2 addressing Complainant 1 as "little girl", I conclude on a balance of probabilities this occurred at least once. This is a

disrespectful, belittling name to call another person, particularly one in the position of board Chair. Respondent 2 acknowledged that in his own evidence (and denied using the phrase).

Turning to the specific emails Respondent 2 sent Complainant 1 (excluding his emails regarding the Complainant's email signature): I find they exhibit a lack of respect for Complainant 1. For example, it was Complainant 1's evidence that she was "embarrassed" and "publicly humiliated" when Respondent 2 emailed Complainant 1 on October 21, 2022, cc'ing 17 other recipients, rebuking Complainant 1 for a previous email in which she had inquired among MBIA membership and other individuals/businesses about interest in Board positions for the coming Term. I accept Complainant 1's evidence respecting this matter: she found Respondent 2's action "awful", in part because the people Respondent 2 copied on the email were those to whom she was trying to reach out in the hopes they would "try to come on" to the Board.

It was Respondent 2's evidence that his email was not meant to embarrass Complainant 1, but rather to state the fact to her that encouraging business owners to come forward for Board positions was not her job. Respondent 2 could have emailed Complainant 1 directly to communicate his opinion. Doing so could have eliminated the embarrassment and would have eliminated the public humiliation that Complainant 1 described feeling upon receipt of his email.

I find that Respondent 2's emails to Complainant 1 and others demonstrate a lack of respect for Complainant 1. The language is disrespectful:

- "To be honest, I really don't care if you appreciate my tone or not!"
- "In MY OPINION, either you fulfill your undertaking at the last Board meeting, to provide [name of incoming Executive Director] with the offer today, or submit your resignation."

I acknowledge Respondent 2's comments about the context in which he sent emails about the Executive Director hiring process. By the end of September 2022, the process, which had been marked with tension among Board members, was nearing its end. I appreciate Respondent 2's honesty in admitting that his September 21, 2022 email ("...I really don't care if you appreciate my tone or not") shows his frustration.

With that said, I accept Complainant 1's statement: "there's no other way to take that language (...) you can't negate the words in those emails. Those words are harsh." Furthermore, I find Complainant 1's position compelling: that she accepts Respondent 2's explanation of how tone can be misconstrued by email, but when she advised Respondent 2, "I do not appreciate the tone of your response", he replied with "I really don't care if you appreciate my tone or not!"

While I appreciate that Respondent 2, as he described, was frustrated, and may have wanted to make his point heard, even when Complainant 1 brought to his attention the matter of his tone, Respondent 2 continued writing in a disrespectful manner to Complainant 1. In his email of September 21, 2022, for example, he accused Complainant 1 of dragging out the Executive Director hiring process and expressed his opinion Complainant 1 provide the Executive Director with an offer “today” or resign.

Finally, I find a lack of respect exhibited in Respondent 2’s 9:41 p.m. email containing only Complainant 1’s name followed by six question marks. It was Respondent 2’s evidence the email intended to convey that a previous email he had received from Complainant 1, and a version of the Executive Director contract that it enclosed, were unclear. He explained to me that he found the unfinished state of the contract to be “inappropriate” and “improper”, and that he was frustrated, both with those matters and with the length of time that had elapsed since the Board vote to hire the candidate.

None of these matters, however, are clear from a reading of Respondent 2’s email. In the absence of a precise communication, Complainant 1 made assumptions about the meaning of Respondent 2’s email, including that a late evening email with multiple questions marks after her name, and no other content, “...would normally mean somebody’s screaming at you or wants an answer back.”

Respondent 2 commented, with respect to his September 21, 2022 email (“...I really don’t care...”) that there are other emails on different matters in which the tone between Complainant 1 and Respondent 2 is normal, but that every once in a while, to make your point, “...one has to be a little more forceful about it.” During the investigation, I have seen examples of civil, professional email communication between Complainant 1 and Respondent 2. After a thorough review of the evidence, however, I conclude that the examples of Respondent 2’s emails to Complainant 1 examined in this report exhibit a clear lack of respect for Complainant 1.

There is a similarity in the email exchanges between Complainant 1 and Respondent 2, and those between Complainant 1 and Respondent 1 examined in this report. Both occurred during a time, in late 2022, when the evidence indicates tensions were high among Board members. As noted above, at that time, the hiring process for the new Executive Director – a process that had been marked with tension among Board members – was concluding. A group of Board members were concerned with the Chair’s alleged misspending of MBIA funds, and efforts were underway to remove the Chair. I believe those tensions are reflected in Respondent 1 and Respondent 2’s email communications with Complainant 1.

I find both Respondent 1 and Complainant 1's emails to each other were curt and aggressive. Both individuals initiated exchanges which contributed to the inappropriate tone. With that in mind, I determined Respondent 1's emails did not constitute harassment of Complainant 1.

To a certain extent, Complainant 1 used a pointed tone in her emails to Respondent 2. For example, in her September 21 email reply to Respondent 2, Complainant 1 indicated any delay in the Executive Director hiring process was attributable to the hiring committee, including Respondent 2 who formed a part of that committee. Critically, Complainant 1 did not initiate email exchanges with the disrespectful tone or language used by Respondent 2; rather, her responses indicated a defensive tone.

I find Respondent 2's emails to Complainant 1 were inordinately disrespectful. I find that disrespect exhibited in the following ways:

- Respondent 2's use of capital letters as well as multiple exclamation and question marks gives the impression of urgency that I do not believe is appropriate.
- When Complainant 1 advised Respondent 2 that she took issue with the tone of his email, he discounted it with the reply: "...I really don't care..."
- The meaning of Respondent 2's 9:41 p.m. email on September 2, 2022, was unclear. It contained no information other than multiple question marks. I can understand how, upon receiving the email late evening on a Friday, Complainant 1 understood the use of multiple question marks to indicate some action or response was required on her part. I agree with Complainant 1's description of the tone: "That would normally mean somebody's screaming at you or wants an answer back."
- As discussed above, by including 18 other recipients on a message to Complainant 1 in which he rebuked Complainant 1 for sending her October 19, 2022 email asking for interest in the Chair position for the upcoming Term, Respondent 2 embarrassed Complainant 1.

I have considered the evidence of Complainant 1 and Respondent 2, witness testimony, as well as the documentary evidence in relation to the allegation that Respondent 2 bullied and harassed Complainant 1 in her role as Chair of the MBIA. I conclude that, standing alone, Respondent 2 calling Complainant 1 a "little girl" substantiates this allegation. Respondent 2's email communications, at times, crossed the threshold from harsh but civil communication to demonstrate a level of disrespect not permitted by the Code. I conclude that on a balance of probabilities, this allegation is substantiated.

## Allegation 2 and 3

### Allegation 2

*Failed to declare a conflict of interest - Recused themselves from the hiring process [for the new BIA Executive Director] very late in the process; however, asserted their opinion at a Board meeting about the situation, and when reminded they had recused themselves from the process, denied it.*

### Allegation 3

*Sent all MBIA communications to their lawyer then threatened Complainant 1 about the contents of the communications.*

Given the overlapping relevant evidence, I have elected to report on allegations 2 and 3 in one section.

The key evidence relevant to allegation 2 and allegation 3 is as follows:

- On July 6, 2022, Complainant 1 sent an email addressed to “Everyone.”<sup>47</sup> The email stated this was the “final step” to finish the Executive Director hiring process and stated that a motion to trigger a vote was required. Shortly after on the same day, Respondent 2 replied with a motion that the application of [he named the successful candidate] be accepted as the MBIA’s new Executive Director. Beginning on July 7, 2022, a vote was held by email. On July 8, 2022, Respondent 2 voted by email in support of the specific candidate. After a period of negotiation with the successful candidate, the candidate provided confirmation by email of her acceptance of the offer. Several days later, the successful candidate emailed the outgoing Executive Director and two members of the hiring committee, stating she sent the contract to her lawyer with her notes.
- On October 6, 2022, Respondent 2 emailed Complainant 1 and other parties to advise that, because of his friendship with the incoming Executive Director’s legal advisor, he should recuse himself from further activities associated with that individual’s hire, effective immediately. His email further advised that the rationale for doing so was to preclude accusations of bias and conflict of interest. Respondent 2’s email indicated he had learned of this potential conflict, and had been advised to recuse himself, on the previous day: October 5, 2022.

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<sup>47</sup> The copy of this email I received does not list recipients. Given the context, I believe recipients had to be at least the MBIA Board members who comprised the hiring committee, and at most, all MBIA Board members.

- On the same day, Complainant 1 replied to Respondent 2, stating that she was confused because Respondent 2 had not recused himself when the Board voted for the candidate. Respondent 2 replied that his conflict began only after the vote, when the incoming Executive Director hired her legal advisor, with whom Respondent 2 had a personal relationship. Complainant 1 and Respondent 2 exchanged several emails on this matter on October 6, 2022. Finally, that evening, Respondent 2 replied to Complainant 1:

“As a response to your side note; [name of incoming Executive Director]’s lawyer has been forwarded M.B.I.A. e-mails, most of which have my name on them, yours, [name of another Board Member]’s or [name of another Board Member]’s, I would assume.”

Regarding Allegation 2 (that Respondent 2 failed to declare a conflict of interest, etc.), Complainant 1 provided the following information on the nature of the alleged conflict:

- In her formal complaint, Complainant 1 alleged Respondent 2 recused himself very late in the hiring process. The documentation Complainant 1 included with her formal complaint indicated the issue of Respondent 2’s alleged mismanagement of his conflict arose specifically with Respondent 2’s October 6, 2022 email in which he recused himself from further activities associated with the incoming Executive Director’s hire.
- In her interview with me, Complainant 1 described her position that Respondent 2’s conflict began earlier in the hiring process.
  - I pause here to note that the evidence Complainant 1 provided about Respondent 2’s alleged conflict from the beginning of the hiring process did and does not, in my assessment, indicate a potential conflict of interest under the *Municipal Conflict of Interest Act*.

Furthermore, in the course of my investigation, I found no evidence in support of the position that Respondent 2 had a conflict from the beginning of the hiring process that should have caused him to recuse himself from the beginning of the process.

For these reasons, I have assessed the alleged “conflict” as that articulated by Respondent 2 in his email of October 6, 2022: that which arose as a result of his personal relationship with the incoming Executive Director’s legal advisor.



Regarding Allegation 2 (that Respondent 2 failed to declare a conflict of interest, etc.), Complainant 1 provided additional evidence as follows:

- At the outset of the hiring process, Respondent 2 did not recuse himself when Complainant 1 asked if anyone had a conflict of interest with the hire.
- Subsequently, and near the end of the process, Respondent 2 recused himself.
- After Respondent 2 had recused himself from further activities associated with the new Executive Director's hire, Complainant 1 asked a City staff person how to manage the issue at an upcoming Board Meeting. The City staff person advised that, at the meeting, the Member in question would not be able to discuss the matter or vote on it, or the Member could leave.

At the Board meeting of October 26, 2022, the relevant issue arose. Complainant 1 shared the advice supplied by the City staff person: that because Respondent 2 recused himself, she suggested they talk about the matter after, or Respondent 2 could leave.

Respondent 2 then became angry and refused to leave the meeting. Complainant 1 recalled Respondent 2 saying something about how he was now not in a conflict anymore and was able to talk about it. Respondent 2 did not explain why he no longer had a conflict.

Complainant 1 asked him how he could talk to the point, given that he had declared a conflict of interest. Complainant 1 stated Respondent 2 replied: "I will talk to any point any time I want." Complainant 1 recalled that she said she did not have the material the Board was requesting with her at the meeting, so she offered to send it to Board Members after the meeting, which she did once the meeting was over.<sup>48</sup> She included Respondent 2 on the distribution.

The Minutes of the October 26, 2022 MBIA meeting show one item of "New Business" relevant to the incoming Executive Director contract:

**Executive Director Contract:** *ACTION – The Chair will forward to the Board of Management a copy of the final contract and the lawyer's invoice for reviewing the contract, including the name of the firm.*

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<sup>48</sup> Complainant 1 did not state the exact subject matter of the discussion at the Board Meeting that, in her view, was relevant to Respondent 2's declaration of a conflict of interest. However, the Minutes of the October 26, 2022 Board Meeting include an item about the Executive Director Contract with the Action item that the Chair will forward to the Board of Management a copy of the final contract and the lawyer's invoice for reviewing the contract, including the name of the firm.

Regarding Allegation 3 (that Respondent 2 sent MBIA communications to his lawyer then threatened Complainant 1 about the contents of the communications), Complainant 1's evidence is as follows:

- Complainant 1 confirmed her belief that Respondent 2 forwarded MBIA correspondence to the incoming Executive Director's lawyer. Complainant 1's belief is due to Respondent 2's October 6, 2022 email:

“As a response to your side note; [name of incoming Executive Director]'s lawyer has been forwarded M.B.I.A. e-mails, most of which have my name on them, yours, [name of another Board Member]'s or [name of another Board Member]'s, I would assume.”

Respondent 2's evidence regarding Allegation 2 and Allegation 3 is as follows:

- On the hiring committee, he had no conflict of interest. After negotiations and the final terms were agreed to, the incoming Executive Director attained the services of a lawyer to review the employment contract.
- As Respondent 2 passed by the lawyer at a golf course, the lawyer told Respondent 2 he was assisting the incoming Executive Director. The lawyer advised Respondent 2 that the new Executive Director had secured his services, and “because we were personal friends”, Respondent 2 should recuse himself from further involvement with the rest of the negotiations and the Board decision. The lawyer advised that until the incoming Executive Director's contract was finalized, Respondent 2 should have no input with regards to it. Respondent 2 and the lawyer did not discuss the matter further.

Respondent 2 followed his friend's advice. He recused himself from further negotiations that pertained to the Executive Director's hire.

- Respondent 2 then emailed the members of the hiring committee and Complainant 1 to advise he could not be involved any more, or he would be in conflict.
- Respondent 2 did not send MBIA communications to his lawyer. He did not threaten Complainant 1 about those communications. Respondent 2 strongly disagreed with Complainant 1's recollection.

The incoming Executive Director sent to her lawyer emails that she had exchanged with members of the hiring committee about negotiations and related discussions. She submitted them to her lawyer along with the contract. Respondent 2 knew this because the incoming Executive Director had copied him on an email to Complainant 1 in which, among other matters, the incoming Executive Director stated she sent the contract to her lawyer with her notes.

Respondent 2 had no contact with the incoming Executive Director's lawyer about the incoming Executive Director's contract.

- Respondent 2 did not engage a lawyer personally on this matter.
- In making the statement in his October 2, 2022 email about the lawyer having been forwarded emails, Respondent 2 intended to communicate that the incoming Executive Director had supplied emails to her lawyer, and that he had not done so.

### *Analysis of Allegation 2*

*Failed to declare a conflict of interest - Recused themselves from the hiring process [for the new BIA Executive Director] very late in the process; however, asserted their opinion at a Board meeting about the situation, and when reminded they had recused themselves from the process, denied it.*

The evidence indicates that Respondent 2 participated on the hiring committee for a new Executive Director for the MBIA. He participated in recruitment and interviewed the candidate who would ultimately be successful.

It is clear from the documentary evidence that Respondent 2 was advised by his friend, who was the employment lawyer acting for the incoming Executive Director, that Respondent 2 should recuse himself. The documentary evidence indicates this conversation took place on October 5, 2022.

On October 6, 2022, Respondent 2 advised members of the hiring committee and, separately, Complainant 1, that he was recusing himself from further activities associated with the incoming Executive Director's hire, effective immediately.

During my investigation, I did not find evidence Respondent 2 asserted his opinion about the matter at a Board meeting or denied having recused himself. I found no evidence that Respondent 2 was involved in the negotiation of the contract after he declared a conflict of interest and recused himself from the process.

The minutes of the October 26, 2022 MBIA Board meeting document that the Chair would forward to the Board of Management a copy of the final contract and lawyer's invoice for reviewing the contract. I accept that at that point, with the contract finalized, Respondent 2 no longer had a conflict. As Complainant 1 described, she forwarded the relevant documents to Board members directly following the meeting.

Having considered the evidence of Complainant 1 and Respondent 2, as well as the documentary evidence in relation to this allegation, I conclude that on a balance of probabilities, this allegation is not substantiated.

### *Analysis of Allegation 3*

*Sent all MBIA communications to their lawyer then threatened the complainant about the contents of the communications.*

The evidence indicates that Complainant 1 misunderstood the intended meaning of Respondent 2's October 2, 2022 email:

“As a response to your side note; [name of incoming Executive Director]'s lawyer has been forwarded M.B.I.A. e-mails, most of which have my name on them, yours, [name of another Board Member]'s or [name of another Board Member]'s, I would assume.”

Complainant 1 understood this to mean that Respondent 2 himself forwarded MBIA correspondence to the incoming Executive Director's lawyer.

Respondent 2 described he intended to communicate that the incoming Executive Director had supplied emails to her lawyer, and that he had not done so himself. I find this explanation to be compelling, considering the incoming Executive Director's October 5, 2022 email stating she sent the contract to her lawyer with her notes.

Respondent 2's email was sent as part of an exchange of multiple messages between the Complainant and Respondent 2 on October 6, 2022, that I would characterize as tense. I can understand how Complainant 1 could, in the context of a tense back-and-forth, believe Respondent 2's email to mean that he sent correspondence to the lawyer. The evidence indicates, however, that Respondent 2 did no such thing, and the allegation is based in Complainant 1's misunderstanding of Respondent 2's email.

I have considered the evidence of Complainant 1 and Respondent 2, as well as the documentary evidence in relation to this allegation. I conclude that on a balance of probabilities, this allegation is not substantiated.

## **Respondent 3**

### **Allegation 1**

*Bullied Executive Directors of the Manotick BIA (MBIA).*

The formal complaint describes Respondent 3's treatment of the outgoing and incoming Executive Directors. The following sections detail the allegations and evidence relevant to each of the individuals.

*(a) Treatment of Outgoing Executive Director (Witness 11)*

In the formal complaint, Complainant 2<sup>49</sup> refers to Respondent 3's "tyrannical behaviour" towards Witness 11. According to Complainant 2, Witness 11 was "repeatedly bullied and demanded to execute [Respondent 3's] requests with out (sic) question." The formal complaint also alleges that Respondent 3 was "aggressive in her language and tone with [Witness 11] and the Board."

In response to follow-up questions, Complainant 2 elaborated on Respondent 3's behaviour towards Witness 11:

"I believe the aggressive bullying and belligerent behaviour of [Respondent 3] towards our Executive Director [Witness 11] was a serious issue in the workplace for [Witness 11] for years. We, the remaining members of the Manotick BIA, believe [Respondent 3] regularly behaved aggressively towards [Witness 11] which made it harder for [Witness 11] to speak up. I have witnessed and received this aggressive behaviour (which is largely yelling and swearing), as have other board members, and it is demoralising when being on the receiving end of this aggression. With regular bullying from [Respondent 3], we believe [Witness 11] didn't ask certain questions in an attempt to keep from being verbally attacked."

During an interview, Complainant 2 explained that in the Fall of 2019, Witness 11 came to her and confided in her about Respondent 3's treatment of Witness 11. It was Complainant 2's recollection that things had gotten worse during Respondent 3's second term as Chair of the MBIA Board. Complainant 2 believed that Witness 11 may have tried to push back at one point and that things seemed to have quieted down for a bit.

In her response to the formal complaint, Respondent 3 stated that the allegations that she bullied, or otherwise harassed Witness 11 were false and vexatious. In her statement, she maintained that she had a "healthy, cordial, respectful and professional relationship" with Witness 11. Respondent 3 described how she first ran for Chair of the MBIA on Witness 11's suggestion and encouragement. According to Respondent 3, Witness 11 was contemplating retirement in 2017, but decided to stay on if Respondent 3 ran for another term as Chair. As part of her response to the allegations, Respondent 3 provided copies of emails and messages exchanged with Witness 11 over time and indicated that they demonstrated their "positive and friendly relationship". In her written response to the draft report, Respondent 3 maintained that her conversations with Witness 11 were "always cordial", and wrote: "I always asked her, I never demanded anything of her."

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<sup>49</sup> Respondent 1 is Complainant 2 who filed the formal complaint respecting the conduct of Respondent 3.

During interviews with former and current Board members, almost all witnesses commented on Respondent 3's troubling treatment of Witness 11. In some cases, the behaviour was observed during Board meetings, and in other cases, Witness 11 confided in a member about her working relationship with Respondent 3. Each witness was asked if they could provide specifics of the mistreatment, but most could only provide general comments about how poorly Respondent 3 treated Witness 11. The behaviour was described as belittling, dismissive and forceful. One member believed Witness 11 had to endure "a lot of angst and anxiety and harassment" when she didn't agree with what Respondent 3 wanted done or had to do something Respondent 3 wanted done. It was also suggested that the behaviour sounded like employment harassment.

In contrast, Witness 12 stated she had no concerns about Respondent 3's treatment of Witness 11 and described their working relationship as amicable. She explained how Witness 11 was comfortable dropping by Respondent 3's place of work, where Witness 12 also worked, when she had questions for Respondent 3 or to give her updates on upcoming events.

Witness 11 explained that during Respondent 3's first term as Chair, her working relationship with Respondent 3 was good and what someone would expect in a professional working relationship. Witness 11 confirmed that she had encouraged Respondent 3 to run for the MBIA Board, thinking she would be a good leader because she was involved in the community and owned a local business.

However, according to Witness 11, their working relationship changed near the beginning of Respondent 3's second term. Witness 11 felt like things started to get bad when she wasn't supportive of Respondent 3's hiring of a social media person. Respondent 3 started telling Witness 11 she had to get along with this person. Witness 11 raised concerns with Respondent 3 about hiring the social media person without Board approval, telling Respondent 3 she needed to get Board approval, a contract, etc. Witness 11 was worried the arrangement was going to impact her personally, because Witness 11 was involved in ensuring the individual was paid<sup>50</sup> (i.e., signing off on invoices) and was spending unbudgeted money.

Further, Witness 11 explained that the dynamics of the Board had shifted, and there was more conflict between Respondent 3 and other members of the Board. According to Witness 11, Respondent 3 began calling her more frequently and insisting they had to meet. Witness 11 described feeling "caught in the middle" of the conflict between Respondent 3 and other Board members. She noted that as Executive Director, she had a responsibility to her Board and at this stage, she felt the Chair was harassing her.

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<sup>50</sup> Documents submitted as evidence substantiate that Witness 11 signed off on invoices to the individual.

Witness 11 explained that Respondent 3 would often talk about her concerns with the Board and described the situation as constant conflict.

With respect to phone calls, Witness 11 stated that Respondent 3 would call her constantly, usually three to four times a week. These calls could be on a Saturday night or a Sunday morning. Sometimes the calls came through Facebook Messenger. Witness 11 explained that Respondent 3 would always call her on her personal cell phone, not the phone line that was assigned to the MBIA. When asked how other Board members contacted her, Witness 11 confirmed it was usually through the office email.

In one example of Respondent 3's frequent calls and messages, Witness 11 explained how she had taken a few days off in the summer of 2022 because her son was getting married and Respondent 3 was constantly calling her. A family member who was in the car with Witness 11 while she was receiving the calls asked, "Do they not ever leave you alone?" Witness 11 further noted that Respondent 3 would state, "this is the last time I'm going to contact you, I promise."

Witness 11 explained that she had never felt the need to explain boundaries in the past, stating that, "[i]t was understood. It just, you know, it was a matter of being professional and respectful of all of my time and their time. I mean, I don't work 24 hours a day or seven days a week." That said, Witness 11 shared one example where she did try to establish some boundaries. At some point in time, Witness 11 finally asked Respondent 3 to stop messaging her through her personal Facebook Messenger as this was her personal form of communication with friends and not for BIA business. According to Witness 11, Respondent 3 understood and stopped.

Witness 11 described Respondent 3 as confrontational and that Respondent 3 would speak to her like "I am your boss. You do what I tell you."

*(b) Treatment of incoming Executive Director (Witness 10)*

The formal complaint alleges Respondent 3 also bullied the incoming Executive Director, Witness 10. In response to follow-up questions, Complainant 2 described how Respondent 3 "repeatedly and aggressively spoke disparagingly about multiple members of the Board to [Witness 10]." According to Complainant 2, this was an attempt to influence Witness 10's opinion of other Board members.

In her response to the formal complaint, Respondent 3 maintains that she only ever met with Witness 10 when Witness 11 was also present and no disparaging comments were made about any former or current MBIA directors.

When asked about the allegation that Respondent 3 had bullied her as an Executive Director of the MBIA, Witness 10 stated that she did not report directly to Respondent 3. Witness 10 had not officially taken over the role of Executive Director yet. Witness 10 said Respondent 3 would have bullied Witness 11 more than her but admitted that she

did not observe the alleged bullying of Witness 11. According to Witness 10, she was aware of the alleged bullying because she had asked Witness 11 about Respondent 3 incurring certain expenses without proper authority and Witness 11 had told her that Respondent 3 would “harass her to put through those expenditures.”

In terms of specific examples, Witness 10 described attending an informal meeting with the outgoing Executive Director (Witness 11) and the soon-to-be Treasurer (Witness 12) where she alleged that Respondent 3 cut her off while she was speaking and “jumped down [her] throat”. She also described Respondent 3 as confrontational.

### *Analysis of Allegation 1*

#### *Bullied Executive Directors of the Manotick BIA (MBIA).*

Respondent 3 denied the allegation that she treated either of the MBIA’s Executive Directors poorly.

In respect of the outgoing Executive Director (Witness 11), Respondent 3 described a “positive and friendly” working relationship. Indeed, the documentation provided by Respondent 3 revealed amicable messages between the two of them.

In her written response to the draft report, Respondent 3 provided an example of an email she sent to Witness 11’s office email address at 12:14 a.m. on November 16, 2014, in which she requested specific information and documents. Respondent 3 wrote: “Did I expect her to return my email immediately? No.” While I accept Respondent 3’s example and explanation, the example of the 2014 email pre-dates the enactment of the Code of Conduct for Members of Local Boards, and also Respondent 3’s second term as Chair which is when Witness 11 explained her working relationship with Respondent 3 began to deteriorate. In addition, it does not address Witness 11’s comments about Respondent 3’s frequent calls and Facebook Messenger messages. For these reasons, I do not find Respondent 3’s 2014 email to be compelling evidence of what Respondent 3 described in her response to the draft report as “always cordial” conversations with Witness 11.

Both Executive Directors described Respondent 3 as confrontational. Witness 11 explained that she interpreted Respondent 3’s statements as “I am your boss. You will do what I say.” Witnesses described that Respondent 3 “belittled” or was “dismissive” of Witness 11.

With respect to receiving direction from Respondent 3, Witness 11 explained how Respondent 3 would direct her to execute demands, even when she raised concerns or challenged the direction (e.g., signing off on invoices for social media manager who was retained without Board approval). Witness 11 further explained that a lot of the harassment she experienced was largely attributed to the constant contact, often to her personal cell or Messenger.



While no one provided specific examples, most witnesses confirmed the mistreatment of Witness 11.

The incoming Executive Director (Witness 10) was employed with the MBIA for only two months before the end of the 2018-2022 term. She explained that she did not report directly to Respondent 3 and therefore did not experience the alleged bullying Witness 11 would have experienced.

This allegation was made by a third party who sometimes witnessed the alleged misconduct and other times heard about it from the individual(s) allegedly experiencing it. When the individuals were interviewed, neither provided compelling examples of the mistreatment. Like many of the Board members, Witness 11 spoke of her mistreatment by Respondent 3 in general terms, but she did not provide many specific examples of this conduct. The exception was the frequency and volume of calls and messages she received from Respondent 3 during the 2018-2022 term.

I find the general descriptions of Respondent 3's conduct to be troubling, and if established, would treat seriously any dismissive, belittling or aggressive conduct by a Chair of a local board against an employee. However, based on the evidence that was provided in the investigation, I was left only with general impressions of the conduct. It is difficult to assess the conduct when there was very little provided in terms of detailed examples or documentation. For this reason, I conclude that on a balance of probabilities, this allegation is not substantiated.

While I do not have sufficient evidence to find this allegation substantiated, I want to emphasize the importance of establishing and maintaining professional boundaries. Similar to changes made to the *Employment Standards Act, 2000* in December 2021, I encourage the MBIA Board to consider a written policy regarding "disconnecting from work" and establishing expectations for engaging in work-related communications outside of normal business hours.

## **Allegation 2**

*Exhibited inappropriate conduct in relation to other individuals, including other members of the MBIA Board of Management.*

The formal complaint details various examples of Respondent 3's alleged misconduct in relation to other individuals. The concerns raised by Complainant 2 and raised by many witnesses during the investigation, can be grouped into three categories: Respondent 3's (a) treatment of staff or contractors of the MBIA; (b) conduct during meetings; and (c) apparent lack of respect for the Board demonstrated by making decisions and incurring expenses outside of her authority and without input or approval of the Board.

While I get into the specific examples below, Witness 12 made a general comment at the outset of her interview that Respondent 3 is bound by her professional code of

conduct (implying Respondent 3 would never act inappropriately) and described Respondent 3's conduct as Chair of the MBIA as professional. Witness 12 confirmed she had never observed conduct that she thought was concerning.

*(a) Treatment of a contractor of the MBIA*

The formal complaint refers to Respondent 3's treatment of other individuals who performed work for the MBIA. Some of the conduct pre-dates the enactment of the Code of Conduct for Members of Local Boards and will not be used to evaluate the allegation.

In respect of one contractor who has worked for the MBIA since 2020, Complainant 2 explained that the Board decided they needed to have a "social media manager" for the BIA. Complainant 2, who was familiar with Witness 6's work and knew she had several "big" clients, brought her name forward to the Board. According to Complainant 2, when she put forth Witness 6's name, Respondent 3 said, "I am not hiring anyone whose name [Complainant 2] puts forward." However, Witness 6 was hired to manage the MBIA social media accounts.

In her formal response to the complaint, Respondent 3 stated that Witness 6 is a "social media advisor" to the MBIA who she has never met or interacted with in person. Respondent 3 explained that Witness 6 made several posts to the MBIA's social media accounts that were brought to her attention by members of the Manotick community that she had to request be removed. According to Respondent 3, "the posts contained incorrect information which caused stress for a (sic) several business owners in the Manotick area." Respondent 3 stated that she "did not agree that [she] was acting in an unprofessional manner by respectfully contacting [Witness 6] concerning various social media posts."

During their interviews, two witnesses commented specifically on Respondent 3's attitude concerning Witness 6, stating that Respondent 3 "continuously went after [the] social media [person]" and Witness 6 was "constantly being criticized" by Respondent 3.

Both Complainant 2 and Respondent 3 each raised a specific example illustrating interactions between Respondent 3 and Witness 6. Each example is described in more detail below.

April 2022

In her response to the allegations, Respondent 3 provided an example of an instance where she needed to intervene to have a post removed from an MBIA social media account. Respondent 3 explained that early in the morning of Sunday, April 24, 2022, another business owner brought to her attention a post on the MBIA social media account advertising the Executive Director job posting. Respondent 3 noted the post was published before the current Executive Director had a chance to announce her

retirement to the MBIA membership. Respondent 3's evidence is that "[t]he post received many negative comments and had to be removed and/or edited with comments turned off." Respondent 3 indicated she had tried to contact Witness 6 and other members of the MBIA about the situation as soon as possible and provided documentation of her Facebook Messenger messages and correspondence related to this social media post.

When asked about this social media post, Witness 6 confirmed the Executive Director had requested the job posting be published on the MBIA social media page. She didn't recall that the negative comments were about the Executive Director personally, but instead referred to "City of Ottawa stuff".

The documentation provided by Respondent 3 and Witness 6 reveals the following details:

- At approximately 7 a.m., Respondent 3 created a Messenger chat group between herself, Witness 6, the concerned business owner and another Board member. In the first message, Respondent 3 shared the concerned business owner's message, asked Witness 6 to delete the post and commented that she "just woke up and saw this message".
- Respondent 3 proceeded to send a couple more messages, including another message she received (presumably from the same concerned business owner) and additional requests to have the post removed. The concerned business owner joined the chat and expressed her appreciation to Respondent 3 for addressing the matter.<sup>51</sup>
- At 7:20 a.m., Respondent 3 sent an email to the Executive Director, copying Witness 3, Complainant 2 and the same Board member from the Messenger chat group. The email asked the Executive Director to call Witness 6 and ask to have the post removed. Respondent 3 noted she did not have Witness 6's contact information but had messaged her about the situation.
- At 7:22 a.m., Respondent 3 sent another message directly to Witness 6, requesting the removal of the post.

It is unclear from the documentation provided if the original post was ever deleted. However, Respondent 3 indicated that concerns about social media were discussed at a Board meeting on May 13, 2022. Shortly after that Board meeting, documentation shows that Witness 3 asked the Executive Director to post a new message on social

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<sup>51</sup> The documentation does not provide individual time stamps for each comment/message. However, one of the final messages is stamped 7:29 a.m.

media about the upcoming deadline for applications. Witness 3 suggests adding wording about the Executive Director's retirement to avoid negative comments.

### June 2022

In another example raised in the formal complaint, Complainant 2 alleged that Witness 6 had received messages and phone calls from Respondent 3 very early one morning. Complainant 2's evidence is that Respondent 3 was "demanding" a google image of Respondent 3's father's business be taken down from the MBIA social media page. After the fact, Complainant 2 spoke with Witness 6 to understand the situation. According to Complainant 2, Witness 6 said Respondent 3's behaviour was "unbelievably unprofessional".

In her response to the allegations, Respondent 3 stated that on or about June 10, 2022, Witness 6 made a post about her father's business that suggested he was offering a discount to customers. According to Respondent 3, this was not correct because, at the time, Respondent 3's father was closing his business and could not afford to provide this discount to customers. Respondent 3 insisted "[t]he post needed to be removed and/or edited" so she relayed that message to Witness 6 and other members of the Manotick BIA<sup>52</sup>. Respondent 3 noted the messages were sent on a regular business day and provided copies of correspondence sent that morning about the posting.<sup>53</sup>

Based on the statements from Complainant 2, Respondent 3, Witness 6 and documentary evidence provided by the various parties, the following is a factual summary of what transpired:

- On the morning of June 9, 2022, Respondent 3 messaged Witness 6 directly through Facebook Messenger, asking her to publish a post respecting the closing of her father's business. Respondent 3 shared a link to a post from her personal Facebook page announcing the closure, with the message "PLEASE POST IMMEDIATELY".
- Witness 6 responded and committed to posting something on the MBIA Facebook page quickly.
- The post was personal in nature, so Witness 6 created a different post that fit the style typically used on a business-oriented Facebook page. In doing so, Witness 6 affixed a photo of the business she found in Google Images. It was an older

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<sup>52</sup> Witnesses 3 and 11 were included on emails circulated by Respondent 3.

<sup>53</sup> In her response, Respondent 3 provided emails sent to the Executive Director and other Board members but did not include any of the Facebook Messenger messages between herself and Witness 6. These messages were obtained directly from Witness 6.

photo of the storefront which included a sign advertising a discount that was no longer offered.

- At 5:12 a.m. the next morning (June 10, 2022), Respondent 3 messaged Witness 6 to ask her to please share the post that day and let Respondent 3 know if there was a problem. Respondent 3 included a signature in this message, including her title as Chair of the MBIA.
- At approximately 6:20 a.m., Witness 6 responded to Respondent 3 and shared the post she had published the previous day.
- For the next ten minutes, there was a brief exchange of messages between Respondent 3 and Witness 6 in which Respondent 3 took issue with the picture included with the post, and specifically the discount that was no longer being offered. Respondent 3 requested that the post be deleted immediately. Witness 6 responded twice, to confirm where she obtained the picture and to indicate the number of comments already on the post.
- Following Witness 6's last message, Respondent 3 sent a series of messages requesting the removal of the post. The tone of the messages escalated, becoming more urgent and direct in nature. In one of the messages, Respondent 3 stated, "I am the Chair and I am instructing you to delete the post."
- At 6:34 a.m., Respondent 3 sent an email to another Board member (Witness 3) and the Executive Director, bringing the situation to their attention. In that email, Respondent 3 stated that Witness 6 would not remove the post, that Respondent 3 had told Witness 6 she was the Chair and claimed that Witness 6 "does not care".
- Five minutes later, Respondent 3 attempted to call Witness 6 through Facebook Messenger. The missed call was followed by another series of messages, one of which indicated Respondent 3 had also left a voicemail for the Executive Director.
- At approximately 7 a.m., Respondent 3 sent another email to Witness 3, again asking for her assistance in having the post removed.
- Later that afternoon, at 2:20 p.m., Witness 3 sent an email summarizing what occurred and confirmed the post was taken down by 6:30 a.m. In her message, Witness 3 noted to Respondent 3 that the "timing of your request was a little difficult, we should not expect our suppliers to answer a telephone call or post at 6 am. The provincial govt. just issued a mandate re not contacting individuals outside of office hours."

- In her response to Witness 3's email, Respondent 3 stated:

“All this stress could have been avoided if [Witness 6] had just posted what I gave her and not what she wanted to post from 10 years ago. It's our business to post what we want, not what she prefers.”

In closing, Respondent 3 stated, “If someone can ask her to post what businesses ask her to and then there is no need for her to create her own posts to avoid any misunderstandings in the future.”

When asked about the incident, Witness 6 noted that this particular day she was going in for dental surgery. She did acknowledge the request and, although she did not tell Respondent 3 she would action the request right away, she intended to action it once she'd had a chance to get out of bed. Witness 6 also indicated that part of her objection to taking down the post was that it had accumulated 66 comments in about 12 hours. She characterized the comments as “really nice comments from the community talking about their memories of shopping there, of using the service and the role [Respondent 3's] dad played in the community.” Witness 6 knew that deleting the post would also remove the comments.

Witness 6 contacted the Executive Director that morning, knowing Respondent 3 had “reported her”. She explained she'd be out of the office for the morning (because of her dental surgery), but that she had removed the post. Witness 6 indicated at that time that her role with the MBIA was going to be untenable if she was expected to receive phone calls so early in the morning from Board members. Witness 6 commented that this wasn't the first time she had been contacted by Respondent 3 in this manner.

As part of the investigation, Witness 6 provided documentation of other online interactions between herself and Respondent 3. These examples reveal other instances where Respondent 3 contacted Witness 6 about social media posts late at night or on the weekend. Witness 6 also noted that Respondent 3 always messaged her through her personal Facebook account and not through the MBIA Facebook account.

*(b) In-meeting conduct*

With respect to in-meeting conduct, Complainant 2 and witnesses described the atmosphere as defensive, confrontational and aggressive.

More than one witness stated that Respondent 3 would often clash with certain Board members. Both Respondent 3 and these Board members are reported to have raised their voices during these exchanges. Witnesses explained that Board members would often be asking legitimate questions, though sometimes forcefully, and Respondent 3 would raise her voice in response to these exchanges. Some witnesses described the conflict as personal, and some believed Respondent 3 felt attacked.

More than one witness explained that in-meeting conflict could not be attributed to Respondent 3 alone.

All witnesses agreed the tension and division between Respondent 3 and other Board members began during Respondent 3's second term as Chair.<sup>54</sup> Everyone believed the first term was relatively calm and without too much conflict. One witness commented about Respondent 3's level of enthusiasm and energy during the first term and acknowledged the Board experience was "not all negative".

According to Witness 12, the Board didn't always agree on everything, but the in-meeting conduct changed in the second term. In describing the change, Witness 12 explained that "we're at year eight and all of sudden, everything [Respondent 3] does is wrong". Witness 12 indicated that, at the time, she didn't know what was going on (that Board members were upset with Respondent 3) and did not understand why Board members were acting in the way they were towards Respondent 3.

*(c) Lack of respect*

Based on witness testimony, I understand that the in-meeting conflict was often fueled by the alleged lack of respect Respondent 3 had for the MBIA Board. According to witness testimony, members became increasingly concerned about Respondent 3 making decisions on her own and without regard for the rest of the MBIA Board.

Comments from witnesses included:

- "[Respondent 3] would just make decisions and run with them without including other people on the Board."
- Respondent 3 was not holding executive meetings<sup>55</sup>, she "was making all the decisions just on her own."
- "[Respondent 3] took control, she turned out to be quite assertive and quite condemning."
- "There were times when [Respondent 3] wanted to do things and the Board as a whole were not on side and it would generate a response."
- "[Respondent 3] has that kind of attitude. Like, 'You know what? You don't like it? Too bad that's my way.' Well, maybe sometimes it is, and you're only one of 10 or 11 on the Board anyway."

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<sup>54</sup> Respondent 3, in her interview as a complainant, also stated that the dynamics of the Board changed in the second term. Respondent 3 alleged that the group would not let other interested people join the Board as members.

<sup>55</sup> In her interview as a complainant, Respondent 3 alleged that Complainant 2 would never come to Executive meetings and for this reason they couldn't have Executive meetings.

- “At some point the Board, the board in general and certainly the small executive group, felt that [Respondent 3] was perhaps doing some things that weren’t in the best interests of the BIA.”
- “There was a lot of anger towards [Respondent 3] and the way she did some BIA business.”
- (In reference to a specific expense) “You would think that would/should be approved by more than one individual as opposed to [Respondent 3] going and making those decisions.”

The following are specific examples raised either in the formal complaint or repeatedly by witnesses during the investigation.

### Example 1

The minutes of the January 30, 2020 “secret” meeting allege that Respondent 3 hired an individual to run social media for the MBIA without approval or knowledge of the Board. The minutes indicate members had attempted to obtain clarity about how this individual was being paid and from what budget item the funds were coming from. Finally, the minutes suggest Respondent 3 was aware of how Board members felt about the quality of work, but publicly endorsed this individual’s work anyway, identifying herself as Chair of the MBIA and “disrespecting and not supporting the Boards (sic) view”.

In her response to the formal complaint, Respondent 3 explained that the individual was not hired by the MBIA Board and was not an MBIA employee. Respondent 3 stated that the individual was a contractor who was contracted “to assist ED [redacted] with social media and event promotion as this was not in ED [redacted]’s skill set.”

Respondent 3 alleged that the individual was introduced to the MBIA by Complainant 2 and two other individuals. However, Complainant 2 provided a copy of a public endorsement from Respondent 3 which reads as follows:

“As Chair of The Manotick BIA, I brought [redacted] on as a promoter and Social Media Expert to Manotick.

...

As Chair of the Manotick BIA, I want to Thank [redacted] for pouring her heart to Manotick and letting us benefit from all her hard work!! It was fantastic and I urge you to contact her if you want to capitalize on your Business!”

In another piece of documentation provided by Complainant 2, the individual writes to Respondent 3 advising that her access to the MBIA social media accounts was removed. Respondent 3 apologizes and explains she was not informed about the removal of access. Respondent 3 promises a letter of reference for the individual and



thanks her for her work for the MBIA. This documentation is indicative of the close working relationship between Respondent 3 and the individual.

Almost all witnesses raised the issue of the hiring and Respondent 3's ongoing support for the individual in their interview. According to witness testimony, this was one of the first instances where Respondent 3 acted outside her authority and without the knowledge or support of the Board. One witness explained that Respondent 3 lost a lot of credibility over this matter.

Respondent 3's evidence in relation to this matter is not credible. I believe Respondent 3 was involved in retaining the contractor and directing the payment of her invoices. I accept the evidence of Complainant 2 and the witnesses that Respondent 3 did so without consulting the Board and ignored the concerns raised by other Board members.

#### Example 2

The formal complaint alleges that Respondent 3's "harassment and behaviour" were the reasons two of the MBIA Treasurers resigned from their positions. In her response to the formal complaint, Respondent 3 refuted the allegation and provided her understanding of why each of the former members had resigned.

Both former members were interviewed as part of the investigation. Each explained their reasons for resigning. While I will not divulge the personal details shared by the two individuals, I find that Respondent 3's evidence is credible and that her conduct was not the motivating or only reason the former Treasurers resigned from their roles.

#### Example 3

The formal complaint alleges that Respondent 3 had a meeting with Witness 10 (the incoming Executive Director) in which Respondent 3 was "completely unprofessional for a Chair" and used expletives in reference to other Board members. It is also alleged that Respondent 3 referred to the Board as "a bunch of 80 year olds".

Respondent 3 asserted that she never met with Witness 10 alone. She did meet with Witness 10 in September 2022, before Witness 10 officially assumed the role of Executive Director, but the outgoing Executive Director was also present and "no disparaging comments were made about any former or present members of the MBIA".

In her interview, Witness 10 explained that the particular encounter where disparaging comments and expletives were used occurred informally outside the restaurant before the planned meeting. Witness 11 (the outgoing Executive Director) had some

recollection of this encounter, but it is not clear this was her personal recollection as opposed to what she may have heard from others.<sup>56</sup>

In her written response to the allegations Respondent 3 maintains she never met with Witness 10 alone. As Respondent 3 did not participate in an interview as respondent, I did not have the opportunity to question Respondent 3 on this matter further to inquire whether she and Witness 10 encountered each other before the meeting which included Witness 11. I can only assess what was provided in the written response. While I accept that Witness 10 and Respondent 3 did not have a formal meeting alone, I accept Witness 10's evidence that (i) Witness 10 and Respondent 3 had an exchange outside of the restaurant where they met with Witness 11 and (ii) Respondent 3 used expletives in reference to other Board members and called them "a bunch of 80 year olds".

Accordingly, I determine on a balance of probabilities that Respondent 3 made the alleged disparaging remarks.

#### Example 4

In an interview with Complainant 2, she referred to a parking lot encounter between Respondent 3 and Witness 3 as an example of Respondent 3's misconduct. The incident followed a Board meeting where another Board member told Respondent 3 to "shut up" while she was chairing the meeting. Respondent 3 was allegedly upset with Witness 3 for not defending her during the meeting and could not understand why other Board members were acting this way towards her.

Witness 3 confirmed the parking lot encounter occurred. Witness 3 recalled there was a tense exchange between the Board member and Respondent 3 during the meeting and that Respondent 3 was furious with her for not protecting her. Witness 3 believed there was no need for her to interfere in the exchange between the Board member and Respondent 3 because Respondent 3 was not under any threat. According to Witness 3, Respondent 3 was livid with her and noted that the interaction garnered the attention of a customer walking down the street who asked her if she was okay. Witness 3 stated that Witness 12 was also present but didn't say anything.

Witness 12 did not recall Respondent 3 ever having a fight with Witness 3 but confirmed Respondent 3 had talked to Witness 3 in the parking lot to understand why Board members were acting out towards her. According to Witness 12, Respondent 3 was crying and asking Witness 3 why a member would tell her to shut up and no one would say anything about it. Witness 12 recalled that Witness 3 told Respondent 3 that she's not used to being yelled at (in her job) and that she believed Respondent 3 was under a lot of stress and was misinterpreting the situation. Witness 12 maintained that

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<sup>56</sup> Witness 11 took a few moments to recall the instance, and, when she did, indicated Respondent 3 may have made a particular comment because Respondent 3 sometimes said that about people.

Respondent 3 never yelled at Witness 3 and that she was not upset with Witness 3, but rather asking Witness 3 for advice.

I find the evidence of both Witness 3 and Witness 12 to be credible. While each interpreted the encounter differently, they reported the facts consistently. This incident formed part of the allegations that Respondent 3 raised her voice inappropriately at another Board member. After speaking with the two witnesses, I find that this was a charged and emotional exchange, but that Respondent 3 was not bullying or intimidating Witness 3.

#### Example 5

The formal complaint refers to an interaction in which Respondent 3 allegedly threw papers at two other Board members when she was asked to provide clarification with respect to the hiring contract of the incoming Executive Director.

Respondent 3 did not speak to this example in her response to the formal complaint.

Based on witness testimony, I understand that Respondent 3, on behalf of the MBIA, had hired a Human Resources firm to prepare a contract for the incoming Executive Director and a couple Board members raised concerns about the quality of the contract, questioning whether the firm had any legal expertise. These concerns were raised before and during an October 2022 Board meeting. Witnesses confirmed that a couple of Board members were forceful or direct when questioning Respondent 3 at the Board meeting, maybe even accusatory that Respondent 3 had mismanaged the hiring process. A couple witnesses believed Respondent 3 felt attacked and confirmed she raised her voice when responding to the questions/comments.

Multiple witnesses explained that Respondent 3 came to the meeting with a large stack of papers. On top of the stack was a yellow file folder with “[Respondent 2] Harassment” written on the top. The witnesses’ testimonies reveal that when the Board members were questioning or challenging Respondent 3 with respect to the HR firm, Respondent 3 took out copies of emails sent by Respondent 2 from the file folder and either distributed or threw the papers.

Witness 3, who was one of the Board members Respondent 3 allegedly threw the papers at, did not agree with the characterization of Respondent 3’s actions. Witness 3 indicated she was not sitting directly in front of Respondent 3 and when Respondent 3 passed the papers, she was angry. Witness 3 agreed it might have looked like Respondent 3 was throwing the papers. Witness 3 recalls that it was more tossing the papers and she was not offended by the gesture. Other witnesses present at the meeting could not recall Respondent 3 throwing papers at anyone.

The evidence reveals that tensions between Respondent 3 and other Board members was quite high at this point in the term. I accept the witness evidence that Respondent 3 did not throw the papers at any Board member.

### *Analysis of Allegation 2*

*Exhibited inappropriate conduct in relation to other individuals, including other members of the MBIA Board of Management.*

#### (a) Treatment of staff or contractors

When describing her actions in respect of the Facebook post concerning her father's business, Respondent 3 comments that "these messages [to Witness 6] were sent on a regular business day." This may be true, but they were also sent outside regular, or even reasonable, business hours. Respondent 3's first message, inquiring as to whether the post had been published, was sent at 5:12 a.m. to Witness 6's personal Facebook account. Sending business-related messages outside of regular business hours to someone's personal social media account is not respectful of professional boundaries. As is demonstrated by the evidence, this was not the first or only time Respondent 3 contacted Witness 6 outside regular business hours/days and through her personal social media. That said, I note that the evidence reveals this was not a regular practice in the case of Witness 6 but did occur on at least four occasions over the course of 2.5 years.

The evidence also reveals that Respondent 3 attempted to use her position and title as Chair to intimidate or coerce Witness 6 to comply with her demands. The evidence demonstrates that when Witness 6 objected to Respondent 3's requests, or failed to acknowledge or action them immediately, Respondent 3 would escalate the situation – sending multiple messages, phone calls, emails and phone calls to other individuals (usually the Executive Director) and using her title as Chair of the BIA Board to exert influence.

Regarding her treatment of other MBIA staff, I find that Respondent 3 made unreasonable demands that Witness 6 execute directives or respond immediately to messages sent late in the evening, early in the morning or on weekends.

#### (b) In-meeting conduct

In respect of Respondent 3's in-meeting conduct, I find that Respondent 3 was not the only member contributing to this conflict. I accept the witness testimony that Respondent 3 would raise her voice in response to the conduct of other Board members. The evidence reveals that the tension and conflict between Respondent 3 and certain Board members had gotten to a point where these exchanges were the "new norm". By this time, the behaviour of Respondent 3 and certain other Board

members was uncivil and discourteous to each other; however, the evidence is not clear who initiated each incident.

Respecting in-meeting conduct, I find the conduct described by multiple witnesses fell below the standard of appropriate decorum, but I am not persuaded that Respondent 3 acted differently than other Board member or that she acted out without provocation.

(c) Lack of respect

In respect of Respondent 3's apparent lack of respect for the MBIA Board, the witness testimony indicates that the conflict between Respondent 3 and other Board members began in 2019 when Board members became aware of the payments to the social media manager retained by Respondent 3.

Taking the totality of the evidence into consideration, I find that Respondent 3 was making decisions without consulting the Board (e.g., retaining a social media manager). I accept that these actions led to anger and frustration on the part of other Board members. The Chair's role is to provide general oversight of the affairs of the BIA and to lead Board meetings. The Chair does not have authority to enter into contracts or otherwise exercise Board functions or functions delegated to the Executive Director without the approval of the Board.

When asked if any of these concerns were ever raised directly with Respondent 3, several of the witnesses indicated they did not wish to confront Respondent 3. One witness explained that Respondent 3 was not open to suggestions or ideas of how things could be done differently. Respondent 3 would simply ignore what the person had to say. In contrast, Witness 12 stated that Respondent 3 did not have a problem with people criticizing her and would regularly give Board members an opportunity to voice concerns during Board meetings.

The allegation is that Respondent 3 exhibited inappropriate conduct in relation to other individuals, including other members of the MBIA Board of Management. The evidence reveals that Respondent 3 acted inappropriately towards a contractor of the MBIA and executed Board tasks without consulting with the Board or seeking Board approval.

Having carefully considered the witness testimony, the evidence of Complainant 2 and Respondent 3, as well as the documentary evidence in relation to this allegation, I conclude that on a balance of probabilities, this allegation is substantiated.

### **Allegation 3**

*Misspent MBIA funds, including on personal gifts that other members of the MBIA received.*

The formal complaint alleges that Respondent 3 misspent Manotick BIA (MBIA) funds by, “spending hundreds of dollars at Village stores on flowers, jewelry, and clothing as gifts from [Respondent 3] but charged to the MBIA. [Witness 12] has been a recipient of some of the purchases including the jewelry and clothing.”

The following is a series of examples of alleged misspending provided by Complainant 2 and examined through the investigation. Other expenses cited in the formal complaint were incurred before the Code of Conduct for Members of Local Boards came into effect. Respondent 3 addressed these expenses in her response to the formal complaint. Witnesses were also asked about these expenses to the extent that their testimony might help assess credibility. I have not considered any allegations relating to alleged misconduct that occurred before the Code of Conduct came into effect.

As noted above, Respondent 3 did not participate in an interview as a respondent in this investigation. Therefore, I rely on her response to the allegations at the outset of the inquiry process to present her evidence in relation to the following expenses.

#### *Restaurant expenses*

In the formal complaint, Complainant 2 alleged that Respondent 3 “regularly submitted receipts for restaurants under petty cash for the BIA.” Complainant 2 stated her belief that Witness 12 was in attendance for most of the restaurant “meetings” as well as Respondent 3’s husband.

According to Complainant 2, if the restaurant receipts were for BIA meetings, or more specifically the Board executive, she should have also been invited or in attendance at most of these meeting because she has served in the role of Vice-Chair for the 2018-2022 term. Complainant 2 asserted, “it now appears there are easily thousands of dollars of restaurant receipts, but [Complainant 2] only attended two executive breakfast meetings in the past four year term.”

In her formal response, Respondent 3 firmly rejected this allegation, stating, “I have never submitted receipts for visits to restaurants to petty cash under the MBIA.” Respondent 3 further stated that her partner never attended any MBIA executive or board meetings, and she had never sought reimbursement from the BIA for his meals.

Witness 11, who was responsible for the petty cash, did not recall that Respondent 3 had ever expensed a meal that Witness 11 had not been present for.

Like Respondent 3, Witness 12 took strong exception to this allegation. Witness 12 explained that she and Respondent 3 conduct various types of business during lunch

meetings, including their own business meetings. They eat out, on average, two to three times a week. According to Witness 12, when Respondent 3 became Chair of the MBIA, Respondent 3 personally resolved to patronize local businesses when eating out. Witness 12 agreed they could often be seen eating out, but insisted these meals were not charged to the MBIA.

As part of the investigation, I reviewed financial documents for the MBIA including a sampling of petty cash invoices. The documentation does reveal that restaurant receipts for local businesses were submitted but does not indicate who submitted the receipts and who was reimbursed for the expense.<sup>57</sup>

#### October 20, 2022 – Budget meeting

One specific restaurant receipt was cited in the formal complaint. Complainant 2 explained there was a Budget meeting involving the Treasurer (Witness 12) and the two Executive Directors (Witnesses 10 and 11) in the Fall of 2022. According to Complainant 2, Respondent 3 came into the restaurant where the Budget meeting was being held (“Restaurant A”) and discussed some matters not relevant to the Budget meeting. Complainant 2 alleged that Respondent 3 then told Witness 11 (the Executive Director) that she would be submitting a receipt from another local restaurant where Respondent 3 and her husband were having lunch (“Restaurant B”). Respondent 3 allegedly felt she should be compensated for leaving her lunch with her husband to attend the Budget meeting, which Complainant 2 argued she was not needed for.

In her response to the formal complaint, Respondent 3 confirmed she did attend the Budget meeting on October 20, 2022. Respondent 3 explained her attendance was necessary because Witness 12 had not formally taken on the role of Treasurer and would not do so until the next Board meeting on October 26. Her evidence is that the City had advised that her presence was necessary until the Treasurer had been formally installed. Respondent 3’s evidence is that her husband was having lunch at a local fast-food restaurant (“Restaurant C”). Respondent 3 stated that the receipt provided by Complainant 2 was not for her husband’s lunch and provided a copy of a transaction record for Restaurant C on October 20, 2022.<sup>58</sup>

Witnesses 10’s recollection was that the Budget meeting took place around noon at Restaurant A. Witness 10 confirmed it was her understanding that Witness 12 had invited Respondent 3 to the meeting. Witness 10 agreed Witness 12 had not yet assumed the role of Treasurer but since no official decisions were being made at the meeting, she did not understand why it was necessary for Respondent 3 to attend. Witness 10 recalled that when Respondent 3 arrived at the meeting, Respondent 3 said

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<sup>57</sup> Petty cash expenses are attributed to the Executive Director on the form submitted to the City.

<sup>58</sup> The transaction record provided only the date of the transaction and not the time.

she thought the meeting was at Restaurant B. When Respondent 3 got up to leave at the end of the Budget meeting, Respondent 3 said she was going to go finish her lunch at Restaurant B and would be submitting her receipt for Restaurant B because she had left her lunch to attend the Budget meeting. Witness 10 understood that Respondent 3 had submitted the receipt and been reimbursed.

Witness 11 confirmed she had arranged the Budget meeting at Restaurant A over lunch and that she ordered lunch for the three meeting participants including herself, Witness 10 and Witness 12. According to Witness 11, Respondent 3 came into the room, for no apparent reason, and Respondent 3 told Witness 11 that Witness 11 would be paying for the meal at Restaurant B. Witness 11 agreed that it made sense that Respondent 3 would have been present at the meeting because Witness 12 was not yet Treasurer but didn't recall that Respondent 3 was specifically invited. It was Witness 11's recollection that Respondent 3 did not contribute much to the Budget meeting.

Witness 12 confirmed the Budget meeting occurred at Restaurant A. Witness 12 corroborated Respondent 3's evidence that the City had advised that Respondent 3 must be present if Witness 12 was participating in any meeting related to her future role as Treasurer until she was formally appointed by the Board. Witness 12 stated everyone understood that Respondent 3 had to be present for the meeting. Witness 12 believed Respondent 3 had been included on the emails arranging the meeting or if not, that she had shared the meeting details with Respondent 3. Either way, Witness 12 understood that Respondent 3 knew when and where the meeting was taking place. Further, according to Witness 12, the meeting did not (and could not) start until Respondent 3 arrived and that Respondent 3 stayed for the whole meeting.

Witness 12 did not recall Respondent 3 telling Witness 11 that she would be submitting a receipt for Restaurant B. According to Witness 12, Respondent 3's husband had lunch at Restaurant C, because he always had lunch at Restaurant C.

Complainant 2 provided a copy of the receipt for Restaurant B with the formal complaint, including some handwritten comments about the Budget meeting. Respondent 3 also provided a copy of the receipt for Restaurant B with her own notations, specifically noting the receipt listed only one customer. I independently obtained a copy of the transaction receipt for Restaurant A. The following is a summary of the relevant details:



#### Restaurant A (Appendix 4)

- Time stamped at 2:06 p.m. on October 20
- Does not include details about food and beverage purchased
- Total (with tip) was just over \$41

#### Restaurant B (Appendix 5)

- Time stamped at 1:51 p.m. on October 20
- Indicates only 1 customer
- Includes charges for four drinks (2 Perrier and 2 coffee, a large appetizer/sharing plate and a salad (\$43 for food, \$8.98 for beverages)

As noted above, I did not have the opportunity to question Respondent 3 about this expense. As such, I can only consider her written response to the formal complaint and the documents she provided.

The evidence confirms that two restaurant receipts were submitted for October 20, 2022 and paid for by the MBIA. The restaurant receipts align with the two restaurants mentioned by all parties and are both time stamped near the end of the time period of lunch.

In her response to the formal complaint, Respondent 3 does not deny that the receipt for Restaurant B is hers, only that it did not include her husband's lunch.

In her response to the draft report, Respondent 3 again did not deny that the charge for lunch at Restaurant B is hers; however, she denied that she asked to be reimbursed for the meal and that she was ever reimbursed. Respondent 3 further maintained that her husband did not have lunch at Restaurant B, as at that time the restaurant was undergoing renovations and her husband was "not able to navigate the entrance" of the restaurant. Respondent 3 maintains that her husband had lunch at Restaurant C.

I accept that Respondent 3's husband may not have had lunch at Restaurant B. While I accept the possibility that Respondent 3 may not have been reimbursed for the expense, there is clear evidence that the MBIA paid the bill. Witness 11 could not recall if, in that specific instance, she (Witness 11) walked over and paid the bill directly at Restaurant B, or if Respondent 3 paid the bill and submitted it for reimbursement. Accepting that Respondent 3 was not reimbursed, it becomes clear that Witness 11 must have paid the bill directly as an MBIA expense.

I do not accept Respondent 3's evidence that the receipt for Restaurant B was for one customer. According to Respondent 3, her attendance was required at the Budget meeting at Restaurant A and Witness 12 confirmed Respondent 3 was present for the entire Budget meeting. I have difficulty accepting that the amount of food and beverage

charged at Restaurant B could be consumed by Respondent 3 alone before or after she attended the Budget meeting. Further, it is uncommon for a restaurant to charge a single customer for more than one coffee or keep a table open for a long period time while waiting for payment. These details, along with the witness testimony, suggest Respondent 3 was at Restaurant B with someone and charged a meal to the MBIA that was not directly associated with BIA business.

*Gift of sympathy/condolences following house fire*

Complainant 2's evidence is that in February 2022, Witness 12 had a house fire and the Board agreed to send Witness 12 a fresh flower arrangement. Complainant 2 noted that historical purchases from the Board for flower arrangements were up to \$150. Complainant 2 explained that Respondent 3 wanted Complainant 2's store to send Witness 12 a planter valued at \$400, but that she did not feel comfortable with the purchase and did not pursue Respondent 3's request. According to Complainant 2, Respondent 3 repeatedly approached her about the \$400 planter, after Board meetings in May and June.

Complainant 2 alleged that instead of following through on the floral order, Respondent 3, using her influence, went to a local business and selected two pieces of jewelry for Witness 12, valued at \$220. Complainant 2 further alleged that Respondent 3 picked up the jewelry without paying for it. According to the Complainant, the local business did not invoice the MBIA at the time and she became aware of the purchase when the BIA's new Executive Director was visiting local businesses in October 2022 and staff showed her the outstanding invoice and requested payment.

In her response to the formal complaint, Respondent 3 explained that after Witness 12 had her home damaged by fire, she sought Board approval to send Witness 12 a flower arrangement with the Board's condolences. Respondent 3 provided a copy of the email in which she wrote:

“Dear Executive and Board Members,

Last Friday, [Witness 12's] house burned down.

I will be asking [Complainant 2] to send her flowers to her workplace to let her know we are thinking about her. I usually do this for all other board members.

I do not want to be reported for conflict of interest as she is also my friend.

This is why I am sending out a quick email.

If you think this is unreasonable, please reply as I would like to send her flowers as soon as possible.”

Further documentation shows several Board members responded and expressed their support for the gesture.

Respondent 3 explained that at the May 2022 Board meeting she approached Complainant 2 about the flowers as Witness 12 had still not received them. According to Respondent 3, Complainant 2 told her that she did not have any of the requested containers and that they were on back order. Respondent 3 stated that she again approached Complainant 2 at an August 2022 Board meeting and was told the containers were still on back order.

Respondent 3 stated that on or about October 20, 2022, she informed the Executive Director that Complainant 2 had never arranged for a flower arrangement to be delivered to Witness 12. Respondent 3's evidence is that the Executive Director, "then approved a budget of \$225 for [Witness 12] to purchase herself something from any MBIA shop. [Witness 12] selected some bags at [local business] for herself which were paid for by the MBIA by cheque. The invoice was approved by [the Executive Director]." Finally, Respondent 3 stated that she did not select any pieces of jewelry and provided a note from the manager of the local business confirming same.

Witness 12 confirmed she had a house fire in February 2022. Witness 12 was aware the Board had agreed to purchase flowers and explained that Respondent 3 was aware Complainant 2's flower shop was her favourite. Witness 12 explained that the flowers never came. She did not know what was going on but thought maybe there was a legitimate reason the flowers were not delivered.

According to Witness 12, Witness 11 approached her in the Fall and asked about the flowers, which still hadn't come. Witness 12 alleged that Witness 11 told her to go get flowers from somewhere else but Witness 12 didn't feel comfortable with purchasing the flowers from a shop other than Complainant 2's. She thought that might create animosity when she thanked the Board for the gesture. Witness 12's evidence is that Witness 11 suggested she go to any other local shop and purchase something. Witness 12 also stated that Witness 11 and Respondent 3 had a conversation and looked at comparables to determine how much she could spend. Witness 12 ultimately purchased two purses and a bag at a local shop, within the budget that was set for her. Witness 12 acknowledged this was not a usual practice.

Witness 11, who served as Executive Director at the time, did not specifically recall the Board approving the gift of a flower arrangement or receiving direction from Respondent 3 about changing the gift to a purchase at a local shop. Witness 11 explained that it wouldn't be unusual for the Board to send flowers. According to Witness 11, she was out in the community in August 2022 and talked to the manager of the local shop. She recalled the manager informing her of the outstanding invoice and not knowing what it was for.

The documentation confirms there was a purchase of \$221 at a local shop. The date on the receipt can be read either as April 11, 2022 or November 4, 2022. Witness 12's evidence is that she made the purchase in late October, early November.

Members of the Board agreed that a flower arrangement was an appropriate gesture to recognize Witness 12's hardship and loss. This was an accepted practice of the Board. However, there was not Board consideration or agreement that, in lieu of flowers, Witness 12 ought to have a budget to make a purchase at any local shop of her choice. Witness 12 suggests Respondent 3 and Witness 11 together made the decision. Witness 11 had no recollection of the original agreement of a floral arrangement or the change. She was surprised and confused when the shop manager informed her there was an outstanding charge. I found both witnesses to be credible and believe there is truth in both accounts.

All that said, I cannot conclude, on a balance of probabilities, that it was Respondent 3 who directed that the gesture change from a flower arrangement to a budget of \$225 for her friend and colleague to purchase an item(s) from a local shop.

#### *Gifts of flowers – November 3, 2022*

The formal complaint refers to "multiple FB posts from the receivers of flowers that mention [Respondent 3] and her business but not the MBIA. One FB post, [Respondent 3] reposted the praise to her own business [redacted] without mentioning the MBIA". When asked for clarification, Complainant 2 stated the belief that purchases were "Thank you" flowers, purchased on [Respondent 3's] birthday. Complainant 2 believed there were four recipients: two individuals who were not BIA members or local business owners, the Executive Director and another individual whose local business provided services to the MBIA. A copy of Facebook posts and a November 3, 2022 invoice from a local florist were provided as documentation to support the allegation.

In her response to the formal complaint, Respondent 3 explained that she had personally sent and paid for the flowers that were received by the two individuals who were not associated with the MBIA. As evidence, Respondent 3 provided a November 3, 2022 invoice which identified the two individuals as recipients, as well as proof of payment.

Further, Respondent 3's evidence is that the invoices included with the formal complaint were only for the flowers she ordered for the Executive Director and a local business owner. She explained that she sent flowers to the Executive Director for her retirement from the MBIA. Respondent 3 further explained that the Executive Director had left a recent Board meeting feeling "underappreciated" when Board members had not been "particularly enthusiastic or appreciative in their comments" as they relayed memories of working with the Executive Director over the years. Respondent 3 commented that, "[i]n

the circumstances, and as Chair, I thought it was appropriate to send flowers.” A copy of a message of thanks from the Executive Director was also provided as evidence.

In respect of the second order of flowers, Respondent 3 explained that she ordered the flowers for the local business owner as thank you for “preparing and delivering an oversized card for [the Executive Director] to thank her for her service to the MBIA upon her retirement.” According to Respondent 3, the business owner refused to bill the MBIA for the expense, had expedited the order so the card could be signed in time for the upcoming AGM, and had personally delivered the card. Respondent 3 provided a copy of the card included with the flowers which read:

“Thank you so much for [the Executive Director’s] retirement card. Thank you for your complimentary service to the MBIA. I would also like to (sic) for all the times you have gone the extra mile for the MBIA. We are lucky to have you in the Village [redacted]. Thank you for getting [the Executive Director’s] card to me so fast. I really appreciated (sic)! She will be so surprised! With regards and respect, [Respondent 3], Chair MBIA and all our directors of the MBIA.”

Several witnesses acknowledged or agreed that it was an accepted practice to send flowers as tokens of appreciation or to express condolences.

The documentation demonstrates that Respondent 3 personally paid for the flower arrangements sent to the two individuals who were not BIA members or local business owners. I accept that the other two flower arrangements were purchased by Respondent 3 for reasons she believed were associated with the MBIA and not a private interest.

#### *Floral arrangements/centrepieces*

Another example cited in the formal complaint involves a large purchase of seven centerpieces or flower arrangements from a local florist valued at almost \$520. In the course of the investigation, I received three different copies of the invoice with various notations. I was also presented with two different explanations for this invoice.

The first explanation, provided by Complainant 2, is that Respondent 3 ordered the centerpieces for a retirement party for the outgoing Executive Director (Witness 11) that was later cancelled because Witness 11 did not want a party. According to Complainant 2, the MBIA had already paid for the flowers and Witness 11 understood the BIA would have a credit at the local shop. When Witness 11 tried to use the credit to pay for another purchase, Witness 11 was told the credit had been used by Respondent 3. Complainant 2, Witness 11 and Witness 10 all made efforts to clarify why the BIA no longer had a credit, but all three were unable to confirm the exact details.

Witness 11 confirmed it was her understanding that the centrepieces were ordered for the planned retirement party. When she received the invoice from the local shop, the

party had not been called off yet. Witness 11 proceeded to pay the invoice as she was always diligent to ensure BIA members were paid promptly. According to Witness 11, Respondent 3 had gone ahead and ordered the flowers, and then after they were paid, the party was cancelled. Witness 11 understood the flower order had been cancelled and was under the impression the MBIA would have a credit at the local shop. When Witness 11 started getting other invoices from the local shop, she went in to inquire about using the credit for these new expenses. That is when she was told the credit was spent.

In the second scenario, Respondent 3 explained that the centerpieces were ordered for the November AGM and not for a retirement party for Witness 11. Respondent 3 noted that the invoice was approved by Witness 11. Furthermore, in her response to the draft report, Respondent 3 wrote that the AGM always had a budget amount approved with every budget process, and the 2022 AGM was no different.

According to Respondent 3, she did not know what to do with the flowers after she was removed from the MBIA Board 36 hours before the AGM. Respondent 3 explained the flowers were already scheduled to be picked up at noon the day before the AGM and so they were picked up and sat in the lobby of her business until they were thrown out. Respondent 3 stated she was transparent about the situation and provided a copy of a November 22, 2022 email she sent to the City, indicating she had picked up the flowers, but did not know what to do with them.

Witness 12 confirmed she helped Respondent 3 pick up the flowers. She explained that usually, the AGM was held in one of the local restaurants that is beautifully decorated. However, this time, the restaurant could not accommodate the AGM and a different location was secured. The new location was not decorated, so the plan was to pre-order flowers, to make sure they were available, and use them as centerpieces.

Witness 12 explained that the florist could not deliver the flowers before the early-morning meeting, so the flowers needed to be picked up ahead of time. According to Witness 12, she and Respondent 3 arranged to pick up the flowers so Witness 11 did not have to and because their office was close to the meeting location.

The day that Witness 12 and Respondent 3 picked up the flowers was the same day Respondent 3 received the email that she had been removed from the Board (November 21, 2022). Respondent 3 wrote to the City about the flowers, but did not get a response. So they left the flowers in the lobby of their business until they began to wilt and were thrown away. Witness 12 did not know who was or wasn't aware that the flowers were at their office.

When asked about whether she knew if the centerpieces had been picked up for the AGM, Witness 11 seemed confused, stating she was not aware if flowers were picked up for the AGM and that there were no flowers at the AGM. Witness 11 stated that no

one ever told her the centerpieces had been picked up. She was always under the impression the flower order had been cancelled.

The following facts are consistent in both accounts:

- Flowers were ordered in early September;
- Planned retirement party was cancelled;
- No evidence the flowers were cancelled (though it was assumed they were); and
- After inquiries were made<sup>59</sup>, vendor confirmed flowers were picked up and there was no credit.

Ultimately, I find that Respondent 3 ordered the centerpieces in September and picked the centerpieces up. Respondent 3 appears to have done so unilaterally (without the proper authority) and did not inform others that the flowers were ordered for the AGM as she claimed. Instead, others believed that the flower order was for the retirement party and had been cancelled. This is demonstrated by their efforts to confirm why the MBIA did not have a credit for the cancelled flowers.

#### *Retirement gift for outgoing Executive Director*

In the formal complaint, Complainant 2 alleges that Respondent 3 was organizing a \$1,000 gift certificate at a local shop for the retiring Executive Director (Witness 11). According to Complainant 2, Witness 11 had already received a gift and felt uncomfortable with the gift certificate. Witness 11 allegedly spoke with the manager at the local shop, who also did not feel comfortable with the situation, and they agreed not to move forward with credit. Complainant 2 stated that the matter was brought to her attention by Witness 11.

According to Witness 11, Respondent 3 told her about the credit at the local shop. Witness 11 confirmed she was not comfortable with the offer and went to local shop to tell them she didn't want it. Witness 11 noted this gift was not Board-approved.

With respect to a retirement gift, Witness 11 explained that Respondent 3 wanted to throw her a big retirement party that was going to cost thousands of dollars. Witness 11 did not want a party and suggested that, in lieu of the party, she would appreciate a gift certificate for travel, but did not mention any specific amount. Witness 11 was present at the Board meeting when the Board discussed a motion respecting the gift and noted that the gift was approved by the Board and in the minutes. Witness 11 recalled the proposed \$1,000 credit at a local shop was discussed at some point before the Board approved the gift in the amount of \$2,400.

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<sup>59</sup> Documentation submitted as evidence suggests inquiries were made after the MBIA AGM on November 23, 2022.

In her response to the formal complaint, Respondent 3 explained that on or about October 17, 2022, she spoke with a City representative about two matters for the upcoming Board meeting on October 26, 2022. One of these matters was the “gifting process for MBIA members”. The discussion, according to Respondent 3, went as follows:

“I informed [Witness 2] that [Witness 11] was retiring after 24 years of service to the MBIA. I was informed by [Witness 2] that as Chair, I could spend up to \$2,500.00 from the City without Board approval for the gift. However, it would be better if I sought and received Board approval. With that in mind, I sought and received Board approval for a gift for [Witness 11] in the amount of \$2,400.

The October 26, 2022 meeting minutes indicate the Board approved a motion to present the outgoing Executive Director with a gift in the amount of \$2,400, representing \$100 for each year of service to the MBIA. Respondent 3’s evidence is that there were no other gift ideas mentioned at the time. Respondent 3 adds that the invoice for a gift certificate was never submitted to the City for payment as she was unable to complete the gifting process. Documentation obtained through the investigation reveals that a travel voucher from a local business was purchased on November 21, 2022.

On a balance of probabilities, I conclude that Respondent 3 may have talked about a \$1,000 credit to a local shop, but this was never actioned. I accept that the \$2,400 gift, approved by the Board, was the only gift presented to the outgoing Executive Director for her retirement.

#### *Manotick Messenger advertisement*

The formal complaint contained an allegation about an inappropriate Manotick Messenger article or advertisement. Complainant 2’s evidence is that Respondent 3 wrote and submitted a full-page article about the Manotick Women’s Day event in November 2022. Complainant 2 explained that the article only speaks of Respondent 3 and her business, thanks Witness 12, her colleague and friend, and does not mention the BIA’s two Executive Directors of the MBIA Board. The Complainant alleged that Respondent 3 asked for the article to run twice and billed to the MBIA.

Complainant 2 explained that Respondent 3 and Witness 12 are not involved in the organizing of Women’s Day in Manotick and this event has nothing to do with individual businesses. Complainant 2 felt strongly that the Executive Directors needed to be thanked for their work. According to Complainant 2, the article was brought to her attention by another local business owner who indicated other business owners were upset by the article because it wasn’t properly thanking people who should have been thanked.



A copy of the invoice for the article was obtained through the investigation. The invoice confirms the MBIA paid for the November 18 article but does not indicate whether the article was expected to run in one or two cycles of the newspaper.

In response to the allegation, Respondent 3's evidence is that she placed an article/advertisement in the December 16, 2022 issue of the Manotick Messenger and it was not related to Manotick's Women's Day events. Respondent 3 indicated the article was a personal advertisement in which Respondent 3 thanked members of the community for their support during her time as Chair for the MBIA. Respondent 3 provided documentation that confirmed that she personally paid for one cycle of the December 16<sup>th</sup> advertisement. As the article was paid for personally, Respondent 3 maintained that she was under no obligation to mention the executive directors of the MBIA in the advertisement.

The evidence confirms there were two separate advertisements: one on November 18 and another on December 16. As Complainant 2 described, the November 18 advertisement speaks of Manotick's Women's Day event. The article makes general reference to the significant effort required to organize the event and a general thank you to the local businesses. The article also includes a general thank you to volunteers and specifically names three individuals, including Witness 12. The two Executive Directors are not named in the article. The article ends with Respondent 3's signature which includes her professional title and business, followed by her title as Chair of the MBIA.

As Respondent 3 described, the December 16 advertisement was a thank you/farewell letter to the community. In the advertisement, Respondent 3 recognizes many groups and individuals who supported her and the MBIA during her eight years as Chair. The advertisement concludes with Respondent 3's signature, this time only including her professional title and business.

While the November 18 advertisement mentions Respondent 3's business and her professional colleague (Witness 12), I do not find that this constitutes misconduct.

### *Analysis of Allegation 3*

*Misspent MBIA funds, including on personal gifts that other members of the MBIA received.*

In assessing whether this allegation is substantiated, I considered whether the evidence demonstrated that Respondent 3 incurred expenses without the proper authority and/or for personal benefit (including the personal benefit of family or friends).

### Incurring expenses without proper authority

The evidence reveals that Respondent 3 independently incurred expenses as Chair of the MBIA without the proper authority. According to documentation obtained during the investigation, including official policies and procedures of the MBIA, the Chair does not have authority to incur expenses without the approval of the Executive Committee or the Board as whole.

As part of her interview, the Executive Director (Witness 11) described instances where she would receive invoices for expenses she was not aware of. Specific examples cited above include the invoice for Witness 12's purchase of bags and the invoices for flowers that followed the large order of centrepieces. In addition to the specific examples explored through the investigation, Witness 11 described gifts she had received from Respondent 3, for her birthday or Christmas, that she later received invoices for. According to Witness 11, these invoices were paid for through MBIA funds.

Respondent 3 did not address the fact that she incurred expenses without the proper authority in her written response to the formal complaint. Because she declined to answer questions in an interview as a respondent, I was unable to question Respondent 3 directly about this unauthorized spending.

That said, in her response to the allegation, Respondent 3 provides a justification for each of the expenses referenced in the formal complaint. In her mind, the expenses incurred on behalf of the MBIA were all linked to MBIA business and therefore appropriate. For example, Respondent 3 argued that gifting a floral arrangement as an expression of thanks or condolences was customary. In fact, the evidence reveals this was an accepted practice among MBIA Board members. However, I find that Board members were unaware the extent to which Respondent 3 was incurring expenses for floral arrangements without consulting the Board as a whole.

With reference to specific instances of gift-giving, in her response to the draft report, Respondent 3 stated that during her eight years as Chair, the Executive Director always received flowers for Christmas and a gift for her birthday from the Board. Respondent 3 wrote that the expenses "were approved and acknowledged by the Board." Respondent 3 did not provide evidence of the Board's approval of those expenses. Based on evidence obtained during the investigation, even if I accept that Respondent 3 had received Board approval for Christmas flowers and birthday gifts for the Executive Director, I maintain my finding that Board members were not fully aware of the extent to which Respondent 3 was incurring expenses for other floral arrangements without consulting the Board as a whole.

Furthermore, in her response to the draft report, Respondent 3 wrote that when she was elected in 2014, at Respondent 3's request, the Executive Director arranged for a City of Ottawa liaison to speak to the Executive Director and Respondent 3 about processes

and procedures. According to Respondent 3, among other information, the liaison conveyed that the Chair is allowed to spend up to \$1000 without Board approval. Respondent 3 did not provide any official documentation to this effect. As described above, however, according to documentation reviewed during the investigation (including official policies and procedures of the MBIA, such as the Manotick BIA Procurement Policy), the Chair does not have authority to incur expenses without the approval of the Executive Committee or Board as a whole.

#### Incurring expenses for personal benefit

The allegation specifically claims that Respondent 3 misspent MBIA funds on personal gifts. Having reviewed the examples provided in the complaint, I conclude that Respondent 3 did not pay for personal expenses through the MBIA.

With respect to the gift received by Witness 12 in respect of her house fire, the evidence is that members of the Board initially agreed to send a gift of flowers. I cannot conclusively determine how that gift resulted in the purchase of some items from a local shop.

Regarding the restaurant receipts, Complainant 2 suggested there must be “thousands of dollars of restaurant receipts”. I find that Respondent 3 did inappropriately expense a meal on October 20, 2022. As discussed above, it seems likely that the outgoing Executive Director paid the bill directly at Restaurant B. Respondent 3 did not deny the receipt was hers and took the time to add comments to the document as part of her written response to the allegations. In her response to the draft report, Respondent 3 again did not deny that the restaurant charge in question was hers. That said, I cannot determine this was part of a pattern of expensing meals unrelated to MBIA business, as alleged by Complainant 2.

Taking the totality of the evidence into consideration, I find that Respondent 3 was inappropriately incurring expenses without the proper authority and/or Board approval (e.g., centerpieces). While I do not find that Respondent 3, with minor exception, was doing so to the private advantage of herself or others who are close to her, she did not have the appropriate authority (or delegated authority) to incur these expenses.

In my assessment of the allegation, I determined that not every example Complainant 2 provided could be attributed to the alleged misconduct. Specifically, one matter Complainant 2 raised – the purchase of flowers for Respondent 3’s friends on her birthday – was not an example of the alleged misconduct because Respondent 3 personally paid for those flower arrangements.

Having carefully considered the witness testimony, the evidence of Complainant 2 and Respondent 3, as well as the documentary evidence in relation to this allegation, I conclude that on a balance of probabilities, this allegation is substantiated.

## Findings

### Determination on the allegations

In determining findings of fact, I have used the standard of proof required of fact finders in civil cases, the balance of probabilities. The balance of probabilities standard requires that the evidence be “clear, convincing and cogent”<sup>60</sup> and that I “scrutinize the relevant evidence with care to determine whether it is more likely than not that an alleged event occurred.”<sup>61</sup>

To determine whether each respondent’s alleged actions or behaviour breached the Code of Conduct for Members of Local Boards, the first step is to make factual determinations on a balance of probabilities. Where I find that the alleged misconduct occurred, I examined whether the actions and behaviour of the respondent breached the Code of Conduct. The following is a summary of my findings for each respondent.

#### Respondent 1

As noted in the Analysis section above, I determined that all three allegations respecting Respondent 1’s conduct were not substantiated. Accordingly, I find that Respondent 1 did not breach the Code of Conduct for Members of Local Boards.

#### Respondent 2

Regarding the one substantiated allegation – Allegation 1 – I examined whether the actions and behaviour of Respondent 2, as established by the investigation, breached Sections 4, 5 and 7 of the Code of Conduct for Members of Local Boards. Here, I only analyze the section of the Code of Conduct I deemed relevant to the substantiated allegation.

#### Section 7 – Discrimination and Harassment

For the reasons set out below, **I find that Respondent 2 has breached Section 7 of the Code of Conduct** in respect of Allegation 1.

Section 7 reads as follows:

All members of local boards have a duty to treat members of the public, one another and staff of the local board with respect and without abuse, bullying or intimidation, and to ensure that their work environment is free from discrimination

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<sup>60</sup> F.H. v. McDougall, 2008 SCC 53 at paragraph 46

<sup>61</sup> Ibid. at 49

and harassment. The Ontario Human Rights Code applies as well as any other applicable board policy on the matter.

Allegation 1 is that Respondent 2 bullied and harassed Complainant 1 in her role as Chair of the MBIA. I determined Allegation 1 was substantiated.

The Merriam Webster dictionary defines “bully” (verb) as follows:

(1) *to treat (someone) in a cruel, insulting, threatening, or aggressive fashion : to act like a bully toward;*

(2) *to cause (someone) to do something by means of force or coercion.*<sup>62</sup>

In response to the allegation that he addressed Complainant 1 as “little girl”, Respondent 2 acknowledged the importance of the Chair position and the “perceived influence it carried within the context of the organization”. His evidence was that he would not minimize the position by using the phrase “little girl.”

In fact, Respondent 2 had served in the Chair role for an extended period (roughly 14 to 18 years). This would suggest he is a respected member of the MBIA Board and business community, and ought to have known that his words and actions carried weight.

I find that Respondent 2 was aggressive and disrespectful in some of the emails examined in the investigation. By his own admission, Respondent 2 intended to get his point across when he wrote to Complainant 1 in the manner that he did. For these reasons, I find Respondent 2’s actions amounted to bullying of Complainant 1.

The Ontario Human Rights Code s. 10 (1) defines harassment as:

*“harassment” means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome”*

I am of the view that Respondent 2 ought reasonably to have known that addressing Complainant 1 as “little girl” was inappropriate and unwelcome. Complainant 1, as Chair of the MBIA, held a leadership position in the organization. While I acknowledge Respondent 2 disagreed with ways in which Complainant 1 managed MBIA affairs, as an adult in that position of leadership, it is reasonable to conclude that addressing Complainant 1 as “little girl” was disrespectful.

Further, with specific focus on Complainant 1 and Respondent 2’s email exchange of September 21, 2022, even after Complainant 1 brought to Respondent 2’s attention the issue of his email tone, Respondent 2 persisted:

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<sup>62</sup> “Bully.” Merriam-Webster.com Dictionary, Merriam-Webster, <https://www.merriam-webster.com/dictionary/bully>. (25 September 2023)

- [Respondent 2]: "...how as a Board can we justify the eleven (11) weeks it has taken to put a contract offer in front of her??.....ELEVEN (11) WEEKS..."
- [Complainant 1]: "I do not appreciate the tone of your response."
- [Respondent 2]: "To be honest, I really don't care if you appreciate my tone or not!" and "In MY OPINION, either you fulfill your undertaking at the last Board meeting, to provide [name of new ED] with the offer today, or submit your resignation."

Respondent 2 knew Complainant 1 took issue with the tone of his email yet dismissed her concern and continued to write and send her an email, in the same tone, that accused her of dragging out the Executive Director hiring process and raised the issue of Complainant 1 submitting her resignation.

For these reasons, I find Respondent 2's actions amounted to harassment of Complainant 1.

In considering the totality of the evidence related to substantiated Allegation 1, as detailed in this report, I find that Respondent 2 bullied and harassed Complainant 1. For this reason, I find that Respondent 2 breached Section 7 of the Code of Conduct for Members of Local Boards.

## Respondent 3

Regarding the two substantiated allegations – Allegation 2 and Allegation 3 – I examined whether the actions and behaviour of Respondent 3, as established by the investigation, breached Sections 4, 6, 7, 8 and 9 of the Code of Conduct for Members of Local Boards. Here, I only analyze those sections of the Code of Conduct I deemed relevant to the substantiated allegations.

### Section 4 – General Integrity

Section 4 of the Code of Conduct is an established rule within the Code of Conduct that sets out a high standard of ethics members are expected to uphold.

For the reasons set out below, **I find that Respondent 3 has breached Section 4 of the Code of Conduct** in respect of Allegation 2 and Allegation 3.

Section 4 reads as follows:

- (1) Members of local boards are committed to performing their functions with integrity, accountability and transparency.
- (2) Members of local boards are responsible for complying with all applicable legislation, by-laws and policies pertaining to their position.
- (3) Members of local boards recognize that the public has a right to open government and transparent decision-making.

- (4) Members of local boards shall at all times serve and be seen to serve the interests of the City in a conscientious and diligent manner and shall approach decision-making with an open mind.
- (5) Members of local boards shall avoid the improper use of the influence of their position and shall avoid conflicts of interest, both apparent and real.
- (6) Members of local boards shall not extend in the discharge of their official duties preferential treatment to any individual or organization if a reasonably well-informed person would conclude that the preferential treatment was solely for the purpose of advancing a private or personal interest.

To determine whether Section 4 of the Code has been breached, I focussed my analysis on subsections 4(1) and 4(2) of the Code of Conduct as I believe they are the most relevant provisions.

#### **Subsection 4(1)**

*Members of local boards are committed to performing their functions with integrity, accountability and transparency.*

Allegation 2 is that Respondent 3 exhibited inappropriate conduct in relation to other individuals, including other members of the MBIA Board of Management. I found this allegation to be substantiated and concluded Respondent 3 was incurring expenses outside of her authority.

The investigation revealed that Respondent 3 incurred expenses and the invoices were submitted to the Executive Director for approval. In most cases, the service was fulfilled (e.g. delivery of flower arrangements) or the items were already in the possession of the recipient (e.g. gift for Witness 12). The Executive Director understood that Respondent 3 was directing her to pay the expenses and felt that she had no choice but to approve the expense and ensure the local business was compensated.

In her formal response, Respondent 3 defends her actions by pointing out that the expense was approved by the Executive Director. I find that by doing so, Respondent 3 is ignoring the power dynamics in the relationship between her and the Executive Director and avoiding accountability for incurring an expense without approval from the Executive Committee or Board. I also find that by incurring the expenses without the knowledge of the Executive Director, or other members of the Executive Committee, Respondent 3 failed to fulfill her function as Chair in a transparent manner.

For these reasons, I find that Respondent 3 breached Subsection 4(1) of the Code of Conduct for Members of Local Boards.

## **Subsection 4(2)**

*Members of local boards are responsible for complying with all applicable legislation, by-laws and policies pertaining to their position.*

Allegation 3, which I have found to be substantiated, is that Respondent 3 misspent MBIA funds. In assessing whether the allegation was substantiated, I concluded that Respondent 3 incurred expenses as Chair of the MBIA without the proper authority.

As Chair of the MBIA, Respondent 3 had a general responsibility to oversee the affairs of the MBIA. That said, the Chair did not have spending authority in any applicable Board policy. Expenses are to be incurred by the Executive Director up to an identified monetary threshold. Beyond that monetary threshold, expenses must be approved by the Executive Committee (which includes the Chair, Vice-Chair and Treasurer) or the Board as a whole.

Using the large order of centerpieces as an example, such an expense should have been considered by the Executive Director (in accordance with an approved budget) or approved by the Executive Committee before it was incurred. The investigation revealed that the Executive Director was not aware the centerpieces were for the AGM (the purpose expressed by Respondent), nor were other members of the Executive Committee or MBIA Board. This is demonstrated by multiple individuals approaching the flower shop about use of an outstanding credit.

In her response to the formal complaint, Respondent 3 makes a point of stating that the expense was approved by the Executive Director. However, by incurring expenses without the knowledge of the Executive Director or the approval of the Executive Committee or the MBIA Board and committing MBIA funds, Respondent 3 was in violation of the Manotick BIA Procurement Policy. For this reason, I find that Respondent 3 breached Subsection 4(2) of the Code of Conduct for Members of Local Boards.

## **Section 7 – Discrimination and Harassment**

For the reasons set out below, **I find that Respondent 3 has breached Section 7 of the Code of Conduct** in respect of allegation 2.

Section 7 reads as follows:

All members of local boards have a duty to treat members of the public, one another and staff of the local board with respect and without abuse, bullying or intimidation, and to ensure that their work environment is free from discrimination and harassment. The Ontario Human Rights Code applies as well as any other applicable board policy on the matter.



Allegation 2, which I have found to be substantiated, is that Respondent 3 exhibited inappropriate conduct in relation to other individuals, including other members of the MBIA Board of Management.

In respect of Respondent 3's conduct towards the MBIA's social media manager (Witness 6), I find that Respondent 3 ought to have known her conduct was inappropriate. It was not necessary for the witness to make it known to Respondent 3 that her messages about MBIA business to her personal accounts or outside regular business hours were inappropriate or unwelcome. In reference to one particular instance, Respondent 3 maintained that her communications to the social media manager were sent "on a regular business day". Accordingly, I find that Respondent 3 ought to be aware that her communications sent on weekends or well outside regular business hours (e.g. 10:00 p.m. or 5:12 a.m.), were not appropriate. I find that by messaging the social media manager's personal accounts and outside regular business hours, Respondent 3 failed to maintain professional boundaries and was disrespectful towards the social media manager.

The investigation also revealed that Respondent 3 attempted to use her position and title as Chair to intimidate or coerce the social media manager to comply with her demands. Respondent 3 only referred to her role and title when her demands were not acknowledged or actioned immediately. This was a deliberate attempt to leverage her position to exert influence on the social media manager. The Chair does not have a supervisory role over the social media manager as BIA staff and contractors report to the Executive Director. I find that using her role and title in this way was an improper use of Respondent 3's position as Chair that amounted to bullying.

Respecting the in-meeting conduct, I do not find that Respondent 3's conduct was bullying or harassing. The in-meeting conduct of multiple members of the MBIA during Board meetings fell well below the acceptable standard of decorum. The investigation did not reveal that Respondent 3 was the one who instigated the exchanges, nor that she acted without provocation. I recognize the Chair has a role to maintain decorum during Board meetings. That said, the investigation revealed the in-meeting conduct had devolved to a point where I do not believe that Respondent 3 could restore decorum as Chair; it appears that she was no longer trusted or respected by the full Board.

In considering the totality of the evidence related to substantiated allegation 2, as detailed in this report, I find that Respondent 3 bullied the social media manager and did not show respect for her. For this reason, I find that Respondent 3 breached Section 7 of the Code of Conduct for Members of Local Boards.

## **Supplementary observations**

### **BIA Governance**

As this is the first investigative report respecting a BIA in Ottawa, I wanted to use this opportunity to highlight a few observations regarding the MBIA that might also be beneficial in improving how other BIAs are operating. BIAs are public bodies and are funded through public funds (levies). BIAs Boards are composed of representatives from local businesses within the BIA district who serve on the Board in a volunteer capacity.

In 2019, the Ottawa Coalition of Business Improvement Areas (OCOBIA) and the City conducted a governance review that resulted in the BIA Governance By-law and minimum standards for the policies BIAs must adopt as local boards. The BIA Governance By-law was enacted by Council in July 2021 and BIAs were required to adopt the mandatory policies by end of Q2 2022.

The alleged misconduct in this investigation involves actions or issues dating back to 2019. Accordingly, the rules under which the MBIA was operating may have changed when the Board adopted the new policies. In my opinion, some of the dysfunction that evolved over the years resulted from a lack of understanding of the MBIA's governance and operational procedures.

Most witnesses in the investigation advised that they did not receive training when they became BIA Board members. However, the City's Economic Development Office provided evidence of communications and training that took place after City Council approved the recommendations coming from the BIA Governance Review. I also provided a presentation earlier this year during an OCOBIA meeting attended by BIA Executive Directors and Board members (both new and returning). This is positive momentum and I encourage OCOBIA and the City's Economic Development Office to continue to explore ways to support BIAs and develop additional training for BIA members.

### **Open Meetings/Voting**

As Integrity Commissioner for the City of Ottawa, I also fulfill the role of Meetings Investigator. In this capacity, I am responsible for oversight of the open meeting rules which require all municipal councils and local boards to hold meetings that are open to the public (except in specific circumstances). The investigation revealed some problematic meetings practices that contributed to the Board's dysfunction.

First, the investigation revealed that MBIA members are not fully aware of the open meeting rules. As noted in this report, groups of MBIA members held "secret" meetings

on at least two occasions. I received testimony suggesting these were not “secret” meetings, but rather “*in camera*” meetings of a majority of Board members.

The *Municipal Act, 2001* (the “Act”) defines a meeting as “any regular, special or other meeting of a council, of a local board or a committee of either of them, where, (a) a quorum of members is present, and (b) members discuss or otherwise deal with any matter in a way that materially advances the business or decision-making of the council, local board or committee.” The open meeting rules include the following requirements:

- Public notice of the meeting, including time and place;
- Open to the public (except properly closed as permitted under the Act); and
- Minutes and records of all decisions.

A local board may only close a meeting to the public for certain reasons set out in the Act. There is a procedure that must be followed to close a meeting properly, including public notice and a resolution to move *in camera*. All members of the board are entitled to be present for a closed (*in camera*) meeting.

The two “secret” meetings discussed in this report were not advertised through public notice and specifically excluded two members of the MBIA Board. In my opinion both “secret” meetings involved a quorum of members materially advancing the business of the MBIA. In particular, the November 2022 “secret” meeting concluded with unanimous agreement amongst the members present to vote to remove the Chair from the MBIA. Holding these meetings contravened the open and closed meeting rules set out in the Act and the MBIA’s Procedure By-law (Sections 2-10).

I recommend MBIA members refrain from informally gathering in this manner and reaching agreements or decisions outside of a proper open Board meeting.

Secondly, documentation and witness testimony revealed the MBIA has a long-standing practice of voting by email. Witness testimony confirmed this was not a practice that began in response to the Covid-19 pandemic, when so many of our interactions moved online, but had been an MBIA practice well before the pandemic.

As a local board and public body, the MBIA is obligated to make decisions in an open forum as part of a public meeting that any member of the public is entitled to attend. During the Covid-19 pandemic, the Act was amended to permit municipal councils and local boards to enact procedural by-laws providing for electronic participation at meetings. This provision does not permit voting by email but provides councils and local boards with the flexibility to hold (public) online or hybrid meetings.

Finally, more than one Member was under the impression that the Chair of the MBIA was not permitted to vote. While this may have been the case under former procedure by-laws of the MBIA, this is not the case under the MBIA’s current procedure by-law.

Among the outcomes of the BIA Governance Review, Council directed that each BIA adopt a procedure by-law with the minimum provisions established in a template provided to every BIA. Consequently, the MBIA Board enacted its current procedure by-law in December 2021. Section 19, the “Duties of the Chair”, requires that the Chair “vote on all matters, which are moved, or necessarily arise in the course of the proceedings.”

I recommend that MBIA members review the procedure by-law to ensure they understand the open meeting requirements as well as their roles and responsibilities during MBIA Board meetings.

## **Policies and procedures**

As the investigation concluded and I prepared this report, it was evident that the lack of policies and procedures contributed to the MBIA Board’s dysfunction during the 2018-2022 term. Several witnesses who remain on the MBIA Board commented that the MBIA Board is functioning well since the new Board took over and appeared confident the dysfunction of the 2018-2022 term was history.

The investigation revealed that the lack of clearly articulated policies and procedures led to confusion, misunderstanding, conflict and tension. As a result, the conduct of multiple members of the MBIA was called into question by other members.

My responsibility as Integrity Commissioner is the application and oversight of the Code of Conduct for Members of Local Boards. It is outside my jurisdiction to examine or investigate whether a BIA has implemented mandatory and/or necessary policies and procedures. That said, my observation is that clear and detailed polices and procedures, specifically with respect to expenses and human resources matters, could improve MBIA operations and mitigate the risk of a member (or members) facing allegations of misconduct.

Regarding a policy related to expenses, I would encourage the MBIA to consider specific rules or procedures where a Board member or their business is to be compensated for fulfilling a service (which is not related to their voluntary role on the BIA Board).

Understandably, BIAs make an effort to patronize their member businesses, including those of BIA Board members. BIA Board members have existing obligations under the *Municipal Conflict of Interest Act* to refrain from influencing or voting on a decision that would impact them or their business financially. That said, this investigation revealed examples of a Board member or their business benefitting from purchases within the Executive Director’s delegated authority (e.g. payment for fulfilling a service, purchase of merchandise). BIAs could enact policies requiring that whenever a Board member or their business is to be paid for a service or merchandise, the expense must be

approved by the BIA Board (with the relevant Board member declaring a conflict of interest and not participating in the decision). This would provide additional transparency to those instances where a BIA Board member is compensated through BIA funds.

## Conclusion

Section 16 of the Code of Conduct for Members of Local Boards and Section 223.4(5) of the *Municipal Act, 2001* authorize the Integrity Commissioner to make recommendations to Council or the local board regarding sanctions and other remedial action when the Integrity Commissioner is of the opinion that there has been a violation of the Code of Conduct.

Section 16 of the Code of Conduct reads as follows:

### Section 16 - Compliance with the Code of Conduct

- (1) Members of local boards are expected to adhere to the provisions of the Code of Conduct. The *Municipal Act, 2001* authorizes the local board, where it has received a report by its Integrity Commissioner that, in his or her opinion, there has been a violation of the Code of Conduct, to impose one of the following sanctions:
  - a. A reprimand; and
  - b. Suspension of the remuneration paid to the member in respect of his or her services as a member of a local board for a period of up to 90 days, where the member is remunerated as a member of the local board.
- (2) The Integrity Commissioner may also recommend that the local board impose one of the following sanctions:
  - (a) Removal from membership of a committee of the local board;
  - (b) Removal as chair of the local board or a committee of the local board;
  - (c) Written or verbal public apology; and
  - (d) Return of property or reimbursement of its value or of monies spent;
- (3) The Integrity Commissioner may also recommend that City Council revoke the member's appointment to the local board.
- (4) The Integrity Commissioner has the final authority to recommend any of the sanctions above or other remedial action at his or her discretion.

Ultimately, I found the conduct of two of the respondents contravened section(s) of the Code of Conduct.

BIA members serve on the Boards of Management in a voluntary capacity. For this reason, I have not considered a suspension of remuneration as a potential penalty in either case.

Respondent 2 has been a member of the MBIA for many years. He occupied the role of Chair for four terms and held the position in high regard. However, Respondent 2 undermined and bullied the Chair on several occasions. Respondent 2 acknowledged I, that in one instance his lack of email etiquette showed his frustration, and indicated that, on occasion, to make a point, “one has to be a little more forceful about it.” Respondent 2 continues to sit on the MBIA Board.

I recommend that the MBIA issue a reprimand to Respondent 2. This is a fair sanction in light of the repeated violation of decorum rules in place to ensure a safe and respectful environment for board members, and for staff.

In respect of Respondent 3, I do not recommend any penalty or remedial measures in response to contraventions of the Code of Conduct. Respondent 3 is no longer a member of the MBIA. For this reason, issuing a reprimand does not serve a practical purpose and imposing remedial measures is beyond the authority of the MBIA.

Beyond penalties and remedial measures, I recommend the development of training and policies to support BIA members in their public function. The investigation revealed that many members misunderstood roles and meeting procedures. The investigation also identified areas where detailed policies and procedures would establish better accountability and transparency (e.g., appropriate expenses, expectations for engaging in work-related communications outside of normal business hours, procedures for hiring BIA staff, etc.).

Therefore, I recommend that City Council:

1. Receive this report, including the finding that:
  - (a) Respondent 2 contravened Section 7; and
  - (b) Respondent 3 contravened Sections 4 and 7 of the Code of Conduct for Members of Local Boards;
2. Direct the City’s Economic Development Office to work with OCOBIA to develop additional training materials for BIA Board members on matters including Procedure By-law, open and closed meeting procedures, and human resource management including procedure for the hiring of BIA staff.

I further recommend that the MBIA Board:

1. Receive this report, including the finding that:
  - (a) Respondent 2 contravened Section 7; and
  - (b) Respondent 3 contravened Sections 4 and 7 of the Code of Conduct for Members of Local Boards;
2. Reprimand Respondent 2 in accordance with Section 16 of the Code of Conduct for Members of Local Boards;
3. Provide for education sessions for Respondent 2 and the current MBIA Board on the Code of Conduct for Members of Local Boards and matters such as meeting procedure;
4. Review the BIA Governance By-law and other relevant governance documents to ensure members understand roles and procedures; and
5. Review and update the Board's administrative and financial policies to ensure they properly reflect the accepted practices of the Board.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'KES', with a long horizontal line extending to the right.

Karen E. Shepherd  
Integrity Commissioner

# Appendix 1

[REDACTED]

To The Manotick BIA and Board of Directors,

I resign from the Manotick BIA, from all positions, effective November 21, 2022.

Sincerely,

[REDACTED]



## Appendix 2

**From:** [REDACTED]  
**To:** [REDACTED]  
**Subject:** Re:Resignation letter  
**Date:** April 28, 2023 9:43:33 AM  
**Attachments:** [Resignation letter .docx](#)  
[REDACTED]

---

CAUTION: This email originated from an External Sender. Please do not click links or open attachments unless you recognize the source.

ATTENTION : Ce courriel provient d'un expéditeur externe. Ne cliquez sur aucun lien et n'ouvrez pas de pièce jointe, excepté si vous connaissez l'expéditeur.




I am not sure why the city did not have this letter.  
I am sending it again

Regards,

[REDACTED]

## Appendix 3



Properties ▾

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# Appendix 4



Appendix 5

**OCTOBER 20**

**Hand written note on Invoice by**

\*NOT FOR RESALE\*

[Redacted]

[Redacted] asked for reimbursement for this receipt.

This is for a lunch her & her husband [Redacted] had but [Redacted] went to another restaurant. where [Redacted] were talking budget. Because [Redacted] interrupted their meeting to say a few things, she felt she should be reimbursed for lunch with her husband

**OCTOBER 20, 2022**

Table #108

Trans #: 173255      Serv: [Redacted]

10/20/2022 1:51 PM      # Cust: 1

Quan	Descript	Cost
2	Perrier	\$3.98
2	Coffee	\$5.00
1	Breaded Zucos Stix	\$17.00
1	Cranberry Walnut Salad	\$20.00
1	->Grilled Chicken	\$6.00
Net Total:		\$51.98
HST:		\$6.76
<b>TOTAL:</b>		<b>\$58.74</b>
<b>Amount Due:</b>		<b>\$58.74</b>
Food: \$43.00		
Beverage: \$8.98		

+ TIP 11.26

70\$

Thank you!

Good People, Good Food, Good Times

\*NOT FOR RESALE\*

↑ 541 57 900