

**Report to  
Rapport au:**

**Council  
Conseil**

**13 July 2016 / 13 juillet 2016**

**Submitted on July 8, 2016  
Soumis le 8 juillet 2016**

**Submitted by  
Soumis par:**

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**Ward: CITY WIDE / À L'ÉCHELLE DE LA VILLE      File Number: ACS2016-CMR-CCB-0048**

**SUBJECT:   REPORT TO COUNCIL ON AN INQUIRY BY THE LOBBYIST  
              REGISTRAR: PLAYGROUND PARTNERSHIP PROJECT AT  
              MOONEY'S BAY PARK**

**OBJET:     RAPPORT AU CONSEIL SUR UNE ENQUÊTE DU REGISTRATEUR  
              DES LOBBYISTES : PROJET DE PARTENARIAT VISANT  
              L'AMÉNAGEMENT D'UN TERRAIN DE JEUX AU PARC DE LA BAIE  
              MOONEYS**

**REPORT RECOMMENDATIONS**

**That Council receive the attached report for information.**

**RECOMMANDATIONS DU RAPPORT**

**Que le Conseil prenne connaissance du rapport ci-joint.**

## **BACKGROUND**

On July 11, 2012, City Council approved the establishment of the Integrity Commissioner position. The Integrity Commissioner fulfills the role of Integrity Commissioner, Lobbyist Registrar and Meetings Investigator, and has an oversight function that lies strictly with the Code of Conduct for Members of Council and its related policies, the Lobbyist Registry (ensuring compliance with the Lobbyist Registry By-law and Lobbyist Code of Conduct) and concerns related to open meetings of City Council, specific local boards or a committee of either.

The attached report relates to an Inquiry undertaken by the Integrity Commissioner in his role as Lobbyist Registrar and in accordance with the Lobbyist Registry By-law and the *Municipal Act, 2001* (the “Act”). The report is submitted to Council under subsections 223.12(4) and 223.12(5) of the Act and Section 9 of the Lobbyist Registry By-law.

Subsection 223.12(4) of the Act provides that if the Lobbyist Registrar makes a report to the City in respect of an Inquiry, the Registrar may disclose in the report such matters as in the Registrar’s opinion are necessary for the purposes of the report. Subsection 223.12(5) of the Act requires that the City ensure that reports received from the Registrar are made available to the public. Section 9 of the Lobbyist Registry By-law sets out the responsibilities of the Integrity Commissioner as Lobbyist Registrar, including but not limited to: conducting, in private, investigations or inquiries to determine whether contraventions of the By-law have occurred, as permitted under section 223.12 of the Act; the enforcement of the By-law; overseeing the administration of the lobbyist registration system; providing advice, opinions and interpretations pertaining to the administration, application and enforcement of the By-law; advising Council on lobbying matters and recommending improvements and amendments to the By-law; and providing an annual report to Council and any periodic reports and information as the Registrar considers appropriate.

The Lobbyist Registrar and all people acting under his instructions are bound by a duty of confidentiality under which secrecy is to be preserved with respect to all matters that come to his or her knowledge in the course of conducting an Inquiry, in accordance with subsection 223.12(3) of the Act, as well as Section 223.5 of the Act, 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. 2006, c. 32, Sched. A, s. 98.*

***Exception***

*(2) Despite subsection (1), information may be disclosed in a criminal proceeding as required by law or otherwise in accordance with this Part. 2006, c. 32, Sched. A, s. 98.*

***Section prevails***

*(3) This section prevails over the Municipal Freedom of Information and Protection of Privacy Act.*

Section 223.12(3) of the Act states that Section 223.5 applies, with necessary modifications, with respect to the Lobbyist Registrar and every person acting under the instructions of the Registrar in the course of conducting an Inquiry. As a result, any documentation or records related to an Inquiry are not subject to disclosure under the *Municipal Freedom of Information and Protection of Privacy Act*.

**DISCUSSION**

On May 13, 2016, the City of Ottawa announced that it was partnering with Toronto-based Sinking Ship Entertainment to build a playground in Mooney's Bay Park.

On May 29, 2016, the Integrity Commissioner received a complaint from a member of the public who requested that the Integrity Commissioner investigate whether unregistered lobbying occurred between Sinking Ship Entertainment and public office holders as defined in the Lobbyist Registry By-law, prior to the signing of a partnership agreement.

Specifically, the complaint addressed the following issues:

- that the complainant had searched the City's Lobbyist Registry and did not find a registration by Sinking Ship Entertainment;
- that the complainant believed a press release issued by the City suggested that Sinking Ship Entertainment had lobbied specific public office holders; and

- that the complainant believed an agreement between the City and Sinking Ship Entertainment likely developed over the previous six months, and therefore the complainant requested that the Integrity Commissioner investigate.

Following a preliminary review, the Integrity Commissioner proceeded with an Inquiry into this matter in his capacity as Lobbyist Registrar, in accordance with the Lobbyist Registry By-law and the *Municipal Act, 2001*. The main and narrow focus of this Inquiry was to determine whether unregistered lobbying took place in relation to the Mooney's Bay Park playground project and whether public office holders at the City of Ottawa advised representatives of Sinking Ship Entertainment to register any communications as lobbying activities.

The Integrity Commissioner conducted interviews and requested documentation from two members of City staff in Parks, Recreation and Cultural Services. He also interviewed two representatives of Sinking Ship Entertainment as well as one member of City Procurement staff.

There were no external costs to undertaking this Inquiry. The Inquiry was undertaken by the Integrity Commissioner with the support of existing Clerk's resources.

The attached report includes the Integrity Commissioner's findings and action taken with respect to this Inquiry.

## **RURAL IMPLICATIONS**

There are no rural implications associated with this report.

## **CONSULTATION**

As this is considered an internal administrative matter, no public consultation was undertaken.

## **COMMENTS BY THE WARD COUNCILLOR(S)**

This is a city-wide report.

## **LEGAL IMPLICATIONS**

There are no legal impediments to City Council receiving this report.

## **RISK MANAGEMENT IMPLICATIONS**

There are no risk management implications associated with this report.

**FINANCIAL IMPLICATIONS**

There are no financial implications associated with this report.

**ACCESSIBILITY IMPACTS**

There are no accessibility impacts associated with this report.

**TERM OF COUNCIL PRIORITIES**

This report has no direct impacts on the City's strategic priorities or directions identified for the current Term of Council.

**SUPPORTING DOCUMENTATION**

Document 1 – Integrity Commissioner and Lobbyist Registrar – Report to Council on an Inquiry by the Lobbyist Registrar: Playground Partnership Project at Mooney's Bay Park

**DISPOSITION**

The Integrity Commissioner and the City Clerk and Solicitor Department will undertake the implementation of any decisions made by Council as a result of this report.