



December 16, 2020

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Town Council, Town of Coaldale  
c/o Mathews Dinsdale & Clark LLP  
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Calgary, AB T2P 4H2

***Attention: Mr. Michael Vos, Counsel***

Dear Mr. Vos:

**Re: Letter Outlining Process and Credentials**

You have asked for information regarding the recent Workplace Culture Audit, to further explain the background and timelines for the recently submitted Workplace Culture Audit Report (the “Report”), dated December 10, 2020. You have also asked for further information regarding my credentials.

**1. Background and Credentials**

I have attached my recent resume, which outlines my credentials. I work exclusively as a neutral in the area of labour relations and employment and hold both an undergrad degree in law (L.L.B.) and also a graduate degree in Labour Relations and Employment Law (L.L.M.). Provincially, I hold appointments to the Arbitration Roster and the Mediator’s Roster. I also hold an appointment under an Order in Council to the Roster maintained by the Minister of Education under the *School Act* and form a Board of Reference to adjudicate certain disputes in the K-12 school system. Federally, I hold an appointment to the roster of External Adjudicators for the Canada Industrial Relations Board, to adjudicate unjust dismissal and wage recovery complaints for industries governed by the *Canada Labour Code* (such as airlines, banking and telecommunications). I also hold appointments from the Federal Public Sector Integrity Commissioner’s Office as Senior Conciliator to resolve “whistle-blowing” reprisal complaints in the Federal Public Service, across Western Canada.

I am a frequent conference and workshop speaker in the area of Labour Relations and Employment Issues to various stakeholder groups.

**2. The Audit and Process**

I was retained on November 2, 2020 to conduct a Workplace Culture Audit (the “Audit”) for the Town of Coaldale’s workplace (the “Town”). This Audit sought the perspective of both current and also former town employees, (employed since 2015).

I pause to note that including former employees from five years previously in an Audit process represents a comprehensive approach to assessing a workplace environment. The voices of former employees regarding how a workplace “used to be” are often not as valuable to an Employer in assessing current practices. Often issues faced by former employees are resolved and no longer impact the current workplace environment. In my view, the Town engaged in a robust and comprehensive Audit process with its decision to include former employees dating back five years.

In terms of communication and timelines, management sent out a memo to all staff on October 30 advising of the Audit process. It also published a website announcement for former employees. The timeline for contact was November 17, 2020 (former employees) and November 21, 2020 (current employees).

All individuals who made contact within this time frame were interviewed, with the exception of two individuals: one had to cancel her interview due to a family emergency. While I offered to reschedule her interview after the emergency, she decided not to take part. The second was a former employee who contacted me and indicated in that contact that she had recently been involved in litigation with the Town. She provided information concerning her small claims wrongful dismissal suit and provided notes she had prepared for her case. Given she mentioned this, I contacted counsel for the Town and was advised that the individual had settled the dispute and in fact executed a full release of all claims against the Town. It was therefore determined that the individual should not be interviewed as part of the Audit, given that the matter was resolved.

There were two individuals who made contact outside the window of time open for the Audit and so were not interviewed. One individual missed the deadline by almost two weeks (contacted me November 30; should have contacted me by November 17). I mention this individual’s experience in particular as she also complained that notification of the Audit process was difficult to find on the website, as an explanation for her delay. I reviewed the website and was able to navigate easily to information regarding the Audit. The other individual did not have any particular reason for missing the deadline and chose to provide quite extensive detail of his experience in his first email to me. While I read through the email, I did not interview that individual, as the contact was made outside the established timeframe for the Audit.

The Audit was to focus on “themes”. The Town was concerned with allegations the workplace was “toxic”, but was also interested in a far-reaching examination of both strengths and areas of concern and patterns of decision-making. It had a particular concern whether management was responsive to any complaints of bullying, harassment, intimidation or workplace violence.

The development of the process and what questions were to be asked were left entirely to my discretion. Neither the Town nor its legal counsel had any input into that function. Likewise, neither the Town nor its legal counsel had any input into the substance of the findings or conclusions contained in the Report.

Participation from 33 individuals from a workplace of less than 50 employees was considered a significant participation rate for this Audit. Seven former employees chose to take part, indicating former employees were in fact able to find out about the Audit process and to make contact appropriately. 48% of those who responded were either current or former employees who worked at the Town office; 52% were associated with other “workplaces” of the Town, such as the shop and the fire hall.

As a last point, I wish to emphasize that my only affiliation with the Town of Coaldale was to act as a government appointed Mediator for their collective bargaining several years ago. It was one of over 180 tables I have Mediated in the last 10 years.

Best Regards,

A handwritten signature in blue ink, appearing to read "Cheryl Bartel". The signature is fluid and cursive.

Cheryl Yingst Bartel, B.A., L.L.B., L.L.M. (Lab. Rel. & Empl.)  
/cyb

*Attached: Curriculum Vitaé*

***CURRICULUM VITAE***  
**Cheryl Yingst Bartel**

*Education:*

- May 1987      Bachelor of Arts (BA), University of Calgary
- May 1990      Bachelor of Laws (LLB), University of Ottawa
- Oct 2018      Master of Laws (LLM), Osgoode Hall Law School, York University (Labour Relations and Employment Law)

*Relevant Work Experience:*

**Designated Member, Board of Reference Roster (Alberta, Ministry of Education)**  
**(Appellate Tribunal, School Act)**  
*June 2018 – Present*

**Designated Grievance Arbitrator, Grievance Arbitration Roster**  
**(Alberta, Ministry of Labour)**  
*January 2017 – Present*

- Conduct labour arbitrations in both the public and private sector
- Grievance Arbitration Appointments including the following parties:
  - o Alberta Health Services, United Nurses of Alberta, Government of Alberta, Unifor, U.F.C.W., CU.P.E., Covenant Care, City of Calgary, City of Edmonton, A.U.P.E., Government of Alberta, Sobey's, U.F.C.W., Teamsters, Diversified Transportation, Clean Harbors, Suncor Energy, Coca-Cola Bottling; Health Sciences Association of Alberta
  - o Named Arbitrator in multiple collective agreements

**Designated Roster Mediator (Alberta, Ministry of Labour)**  
*October 2010 to Present*

- o collective bargaining mediation in public and private sectors including health care, education, municipal government, (including City of Calgary inside and outside workers, City of Calgary Police, City of Calgary Firefighters), manufacturing, utilities, accommodation, hospitality, transportation;
- o Designated Mediator for first local teacher bargaining procedure across the province: 2018/2019;
- o Mediated over 180 collective agreements to resolution
- o Experience mediating in multiple strike situations

## **Arbitrator and Mediator, Principal of Yingst Bartel ADR Inc.**

*2008 to Present*

- Consensual Labour Arbitration and Grievance Mediation Appointments with the parties as noted above;
- Appointments as Senior Level Conciliator, Office of the Public Sector Integrity Commissioner (Government of Canada) (whistleblowing reprisal disputes in the federal public service) across Western Canada;
- Mediation Appointments from the Alberta Labour Relations Board, Government of Alberta and Occupational Health and Safety Division;
- Multiple Appointments as neutral Investigator, including for sexual assault and harassment allegations in the post-secondary sector;
- Multiple Consensual Appointments as Enhanced Mediator
- Multiple Appointments as Essential Services Umpire

## **Designated List of Labour Arbitrators, Adjudicators, Referees and Mediators (Canada)**

*February 2008 to Present; as of 2020 position changed to **External Adjudicator for the Canada Industrial Relations Board***

- Arbitrations and Mediations in federal industries governed by the *Canada Labour Code*, Part I (Grievance Arbitrations), Part III, Division XIV (Unjust Dismissal Adjudications) and Part III, Division XVI (Wage Recovery Referee)

## **Essential Services Umpire Roster, Alberta Labour Relations Board**

*2016 to Present*

- Act as Essential Services Umpire for multiple parties;
- Designated Specialty Umpire, A.U.P.E. and Government of Alberta Collective Agreement (Court Matters Specialty Roster; Corrections Specialty Roster);
- Designated umpire in several health care first agreements

## **Chair, Technical Working Group (Labour Relations), Government of Alberta (Bill 6 Consultations)**

*April 2016 to December 2016*

- Facilitating consultations regarding integration of agricultural workers into the *Alberta Labour Relations Code*; building consensus among a diverse group of participants

## **Legal Consultant**

*April 1999 to 2016*

- extensive legal writing and legal analysis work (only as neutral in labour relations matters); edit arbitration decisions; write for publication

## **Informal Labour Arbitration and Mediation Training with Senior Labour Arbitrators**

*July 2005 to July 2008*

### **Associate, Litigation Department, McCarthy Tétrault (Calgary)**

*July 1991 to February 1996 (full time)*

*February 1996 to April 1999 (part-time)*

- civil litigation practice: employment law, administrative law, personal injury, corporate litigation, labour relations (management and union);
- appearances in the Court of Queen's Bench, Court of Appeal and Supreme Court of Canada

## **Research Assistant to Don McRae, Dean of the University of Ottawa, Faculty of Law**

*September 1988 to May 1990*

### Publications:

Chapter 13, "Non-Culpable Terminations", in *Collective Agreement Arbitration in Canada*, 4<sup>th</sup> ed., Palmer & Snyder, 2009 (research and writing, with Richard Hornung, Q.C.)

*The SEF 44 Endorsement and Multiple Plaintiffs: Are We Getting What We Paid For?*, The Barrister, Issue 64, June 2002. Copy Available Upon Request

*Case Comment: Alberta Court of Appeal Decision in McLaren v. McLaren Estate*, 2011 ABCA 299, The Barrister, Issue 106, December 2012 (lead author, with Brent Handel, Q.C.).

- Significant Research Paper, LLM program: The Intersection of the use of Medical Marijuana and the Duty to Accommodate, September 2016

### Recent Presentations:

Conference Advisory Committee, 2020 Calgary Labour Arbitration & Policy Conference (Lancaster House); *June 2020*

Panelist (Arbitrator), "Objection! Practical Advice on Pre-Hearing Issues"; 2019 Calgary Labour Arbitration & Policy Conference (Lancaster House)

Workshop Speaker (Arbitrator), "Winning Cases at Grievance Arbitration"; 2018 Calgary Labour Arbitration & Policy Conference (Lancaster House); *June 2018*

Skills Workshop Leader (Arbitrator), "Dealing with Impairment in the Workplace: Balancing Safety, Accommodation and Employee Rights" (Lancaster House) (full day); *April 2018*

Presentation to the Council of Industrial Relations Executives, The Conference Board of Canada

Mid-Winter Meeting: “Emerging Issues in Alberta Labour Law”; *February 2018*

Mock Arbitrator, The 23<sup>rd</sup> Annual Alberta Labour Law Review Conference;  
*November 2017*

Panelist: (Arbitrator) “Legislative Changes to Power of Arbitrators: Emerging  
Issues; Canadian Industrial Relations Association (South) Conference; *November 2017*

Workshop Leader and Arbitrator Representative, “Taking Safety Seriously:  
Managing the Risks of Marijuana, Opioids, and other Drugs in the Workplace”  
Calgary Labour Arbitration & Policy Conference (Lancaster House) (full day); *June  
2017*

Mock Arbitrator, The 2017 Accommodation Law Conference; *April 2017*

Presentation to the Alberta General Counsel Association: “Duty to Accommodate  
Issues Arising from the Use of Medical Marijuana”; *April 2017*

Presentation: “Accommodating the Use of Medical Marijuana in Safety Sensitive  
Workplaces; an Arbitrator’s Perspective”, Calgary Bar Association, ADR Sub-  
Section; *January 2017*

Workshop Leader, “Tips & Tricks for Collective Bargaining” (Mediator); Edmonton  
Bargaining in the Public Sector Conference (Lancaster House) (full day); *October 2016*

Panelist Speaker (Medical Marijuana, as Arbitrator)) and Workshop Leader,  
“Streamlining the Grievance Process”, 2016 Calgary Labour Arbitration & Policy  
Conference (Lancaster House); *May 2016*

Leader, Mediation Workshop, Alberta Teachers’ Association Summer Conference,  
*August 2015*

Calgary Bar Association, ADR Sub-Section guest speaker on Mediation in Labour  
Relations and Employment Law; *Fall 2015*

Panelist, Canadian Industrial Relations Association, (Arbitrator); Recent legal  
developments in drug and alcohol testing; *Fall 2013*

Professional Memberships:

The Law Society of Alberta  
ADR Institute of Alberta

ADR Institute of Canada

Community Involvement:

*September 2007 to June 2016*

Member, Human Resources and Compensation Committee, for a non-profit  
organization; (over 100 FTE’s)

*September 2000 to September 2001*

Member, Calgary Regional Neonatal Care Committee (Calgary Health Region)

*October 1997 to September 2001*

Member, Co-Chair, Chair, Parents-In-Partnership Committee, NICU and Special Care (Calgary Health Region)

*September 1994 to June 1995*

Director, Calgary Distress Centre/Drug Centre

*Winter 1994 to February 1996*

Member, Alberta Children's Hospital and Foothills Hospital, Cytogenetics Committee

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*References Available on Request*

**WORKPLACE CULTURE AUDIT  
FOR TOWN COUNCIL,  
TOWN OF COALDALE**

Submitted to:  
Mathews Dinsdale & Clark LLP,  
on behalf of Town Council

Consultant:  
Cheryl Yingst Bartel, B.A., L.L.B., L.L.M. (Lab Rel. & Empl.)

Date of Report:  
December 10, 2020

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## **A. Background and Audit Process**

- 1) Cheryl Yingst Bartel (the “Consultant”) was retained on November 2, 2020 to conduct an independent Workplace Culture Audit (the “Audit”) of the Town of Coaldale (the “Town”) as a workplace. The Consultant was tasked to determine areas of strength around organizational culture and to assess if there were weak points or areas of opportunity or concern. The Audit was to achieve an “independent assessment” of the “overall workplace culture” of the Town. It is by nature a “snapshot” of the health of an organization.
- 2) The Consultant was also asked to focus on “themes”. For this reason, the comments noted in this Report will not be attached to any particular names.
- 3) The Audit process was open to both current and former employees who worked for the Town between January 1, 2015 and October 31, 2020. Both current and former employees were provided the Consultant’s contact name and email. To test the veracity of the information provided to employees (both current and former), the Consultant conducted a search on the Town website and was able to easily locate information and instructions on how to participate in the Audit.
- 4) Thirty-three (33) interviews were conducted by telephone between November 2, 2020 and November 27, 2020. The interviews ranged in length from 45 minutes to over two hours, depending on the answers given and the discussions which followed. Individuals were asked to only discuss what they personally had seen or experienced at the Town, rather than bringing forward the experience of another employee.
- 5) A framework of questions was asked, depending on whether the individuals were management or front-line employees. The Consultant also asked follow-up questions, depending on the answers given.
- 6) Those interviewed included both management and in-scope staff who worked out of the main Town office, the fire station or were associated with other work departments, including the operations shop (public works, parks and recreation, recreation staff). Both current and former employees took part in the Audit.
- 7) At the end of each interview, employees were given the opportunity to add “anything else” they wanted the Consultant to know that had not been covered in the discussion, to ensure ample opportunity for each employee to raise any concerns not brought out by the questioning.
- 8) No employees identified any incidents of bullying, harassment, intimidation, discrimination or workplace violence as between workplace colleagues at the Town, except for Mr. Mikado, whose

complaint is separately addressed in Appendix “A”. Several employees identified an incident involving a Town resident harassing Town staff, which was quickly and appropriately addressed.

- 9) As part of this Audit, the following documentation was reviewed:
- a. The Town of Coaldale Respectful Workplace Policy (#ARG-024); dated June 10, 2019
  - b. The Town of Coaldale Occupational Health and Safety Manual, March 27, 2019;
  - c. Collective Agreement between the Town of Coaldale and the AUPE, Local 118, c. 001;
  - d. The Employee Handbook and Core Practices;
  - e. The *Occupational Health and Safety Act*, S.A. 2017, c. O-2.1
  - f. *Alberta Human Rights Act*, S.A. 2000, c. A-25.5

## **B. What is Workplace Culture?**

10) An organization’s workplace culture defines how employees are expected to behave in an organization, including shared beliefs and values which are first established by leaders and are then communicated through the organization. The culture of an organization sets what is the context for an organization and encompasses the style of leadership, the vision and values of that leadership, workplace procedures and the workplace environment.

## **C. Legislated Requirements**

11) Section 7 of the *Alberta Human Rights Act* states:

(1) No employer shall

(b) discriminate against any person with regard to employment or any term or condition of employment,

Because of the race, religious beliefs, colour, gender, gender identity, gender expression, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation of that person or of any other person.

12) The *Occupational Health and Safety Act* states:

3(1) Every employer shall ensure, as far as it is reasonably practicable for the employer to do so,

(a) the health and safety and welfare of

(i) workers engaged in the work of that employer

...

- (c) that none of the employer's workers are subjected to or participate in harassment or violence at the work site

This Act requires an employer to not only protect workers engaged in the work of the employer from harassment or violence, but to have safe work practices and to ensure the timely investigation of complaints.

#### **D. Policy and Procedure Review**

- 13) The Town has robust and thorough policies and procedures with respect to workplace safety.
  - a. The *Occupational Health and Safety Manual* sets out the Town's commitment to a "culture of safety" "with a support system that encourages occupational health and safety improvement" (at p. 4). This Manual includes a comprehensive section on "Harassment and Violence Prevention", including a commitment to protecting both the "psychological health" and the "physical health" of the employees. The Manual contains explanations of "workplace harassment" and "workplace violence", as well as a definition of "psychological health". It also sets out a comprehensive section on "Management Responsibility", including ensuring a health and safety management system exists and that reported incidents are investigated;
  - b. Since the hiring of the Safety Officer, new employees have been trained extensively on the *Occupational Health and Safety Manual* and on procedures for the reporting of complaints so that investigations can be undertaken. Employees are advised to first discuss issues with the supervisor who is above the individual with whom they have a complaint. If they wish to make a formal complaint, they are advised to file an Incident Report, which triggers a formal investigation;
  - c. The Respectful Workplace Policy (#ARG-024) is a lengthy and detailed policy containing specific definitions for "bullying", "harassment" "discrimination" "inappropriate or disrespectful behavior" "intimidation" "respectful workplace" "sexual harassment" "unproductive/aggressive Conflict" and "violence". It indicates that such behaviours will not be tolerated or condoned. It also includes detail on responsibilities of leaders, and that formal complaints are "taken seriously, documented and that steps are taken to resolve the matter effectively and expediently". The Policy also includes extensive examples of "inappropriate or disrespectful behaviour". All employees are required to "sign off" on the policy to not only "confirm understanding" but also to confirm "commitment to compliance with it".
  - d. There is one area for improvement around these policies, which is noted under "Human Resources Support", at p. 9 this Report

## **Strengths**

### The Quality of the Work Undertaken at the Town:

- 14) The Town was consistently described as a growing, vibrant municipality with an interesting, and fast-paced working environment that for the most part has served to energize and invigorate employees. It was mentioned by several employees that this working environment exceeded their expectations when they began to work at the Town, and was unexpected for a government workplace.
- 15) Major projects and upgrades are being undertaken by the Town and the community is on a growth track, which was also attractive to employees when considering the Town as a workplace.

### Leadership:

- 16) The workplace culture at the Town is a high-performance culture. The work pace of the Town environment, the growth of the Town – and the excitement of the projects undertaken by the Town – have all served to attract and retain top performing individuals who are energized by the challenges this type of culture presents.
- 17) The Town leadership has done a commendable job of attracting high performing senior managers, with strong management skills, many of whom indicated they were attracted to work at the Town due to the leadership – and vision - of the current CAO and for the exciting work projects being undertaken by the Town.
- 18) The strength of the senior leadership has contributed to a workplace organizational culture where individuals feel their career can be advanced and their skills developed. Several employees noted the high quality of leadership that they can be mentored by at the Town. This was true for both management and non-management personnel.
- 19) Senior management felt their team was respectful, cohesive and worked well together. Mr. Hastings leadership was strongly praised by the management team. He was described as intelligent, approachable and friendly. It was felt that Mr. Hastings made considerable efforts to understand the various work departments and spent time with those departments to do so, where possible.
- 20) Senior management felt their voice was welcomed by the CAO and that they shared in the decision-making process. It was also felt that management was able to disagree with the CAO and that their voice would be “heard” by the CAO as part of the decision-making process.
- 21) The style of decision-making is collaborative. One individual mentioned that under Mr. Hastings leadership, the Town office had gone from having friction and division to the various departments working together and developing a more collaborative approach where managers are more aware of what each other is working on. Mr. Hastings had seen that individuals were not appropriately communicating, so took steps to improve communication among the staff and

departments, such that the approach is now more collaborative and each department does not work in a “silo”.

22) It was also felt that managers “walked the talk” of appropriate and respectful behaviour. One individual in the Town office indicated this was the first office where they had worked where there is no one who yells when they are upset, and that people are respectful and kind and are happy to come to work. The majority of employees felt the Town was a “desirable” place to work and that they enjoyed the people they worked with.

23) It was felt Mr. Hastings “had the back” of the employees when it came to respectful treatment – whether by residents towards staff or by other employees towards each other. It was felt that both Town Council and Mr. Hastings quickly and appropriately responded when the front office staff experienced “harassing” behaviour from a resident and so “walked the talk” that disrespectful behaviour would not be tolerated at the Town. A “Zero Tolerance” policy as part of the Respectful Workplace Policy was “fast-tracked” as a result of this incident and the speed of the Town’s response was appreciated by staff.

24) Middle management described senior leadership as approachable and supportive. Managers felt they could bring issues to their senior manager and have those issues addressed. The management style of the majority of the managers was described as “open door”.

25) While certain front-line staff felt the Town was “top heavy” with managers – or “more brain than brawn” – it became clear this attitude was based on a faulty assumption that managing employees was the only task each manager undertook at the Town. This attitude does not account for the breadth of responsibilities that the management team undertake as part of their roles – in addition to managing staff. These duties were described to the Consultant as part of this Audit.

#### Morale:

26) The majority of employees described the morale at their workplace as “very good” at the Town office and fire hall, and variously “very good” “good” “improving” or “poor” at the shop, depending on the individual and whether they were a current or former employee.

27) The majority of employees involved in the Audit felt their workplace had been misrepresented in social media, that the representations in the media were not truthful, that the Town was a good place to work, that it was a friendly environment and not “toxic” and that they enjoyed coming to work each day.

28) Many individuals chose to participate in the Audit to ensure their positive voices were heard, to combat the negativity and misinformation that was present about the Town in social media. The misrepresentation that was occurring in the media was variously described by these employees on a

spectrum from frustrating to offensive. The social media negativity is causing considerable stress to the employees at the Town.

29) It was expressed that people at the Town do not have a mentality of “that is not my job when asked to help out”. While the Town had previously had a “silo” mentality, it was described that this had changed under Mr. Hastings leadership, that people do not work in “silos” anymore and that people step up to help each other in their work.

30) Comments were made that the shop has undergone changes in this regard; for example there is “cross-fertilization” of employees whereby parks staff will help operations staff with snow removal. The morale of the shop was said to depend to some degree on weather events and the increased workload and stress that came with such events.

31) Several employees had come to the Town from toxic environments with their last employer which uniquely situated them to judge the culture at the Town. Each indicated that the difference between those toxic environments and that of the Town was “night and day”. Certain individuals raised issues with the skill level and suitability of past management employees, but those employees are no longer employed by the Town.

#### Appropriate Policies, Procedures and Training for Addressing Bullying, Harassment and Intimidation:

32) The Town has a Respectful Workplace Policy and a comprehensive Occupational Health and Safety Manual. The Town has in place appropriate procedures to address inappropriate behaviour, as explained previously in this Report.

33) The majority of employees were able to identify what to do if they experienced or saw such behaviour. The Town has a robust Respectful Workplace Policy and appropriate training has been given on that policy.

34) Although certain individuals had “grievances” about why they – or other employees - were restructured, the Consultant did not find any evidence through 33 interviews of any behaviour which would qualify as bullying, harassing, intimidating, threatening discriminatory or as constituting any form of workplace violence – whether between management and front-line employees, or as between employees.

35) There is no factual basis for the description of this workplace as “toxic” or “unsafe”. The majority of employees do not consider that to be case.

#### Hiring of Safety Officer:

36) The Safety Officer was an important hire and has considerably improved the quality and consistency of safety training at the Town, which has been an important contribution to a positive workplace culture. Training policies are now more robust and comprehensive.

## **Areas for Improvement:**

### Morale at the Shop:

37) There are distinctions between morale at the main Town office and fire hall and morale at the operations shop. The morale at the shop was described by the majority of employees as “good” and “improving” and was moving from the “silo” mentality that had existed in the past towards a greater “team” mentality, but morale at the shop was recognized by management as an area of concern and several initiatives for improvement are in process. Certain former employees described morale at the shop to be “poor”. These employees had considerable sympathy for the individuals who have been recently restructured. While sometimes describing the shop as “toxic”; when asked to describe what that meant, these employees were unable to do so.

38) It was felt that the source of some of the morale issues at the shop resulted from the last round of union negotiations, where in-scope staff did not achieve the gains that were desired. As well, it was noted that this round of negotiations went on for quite some time before an agreement was reached, and the employees had contemplated a strike. The majority of in-scope employees work out of the shop.

39) It was not the case that the concern with morale at the shop was universal among shop employees. The majority of employees felt the morale at the shop was “good” or “improving”.

### Communication:

40) Several employees indicated that communication at the Town could be improved. A common complaint was that individuals who work for the Town find out about Town initiatives from residents they encounter, as opposed to being told about such initiatives by the Employer. This is also the case if responsibility has been changed from one manager to another for a particular aspect; an employee may find this out through the “grapevine” instead of in a communication from the Town itself.

41) There is also misunderstanding of the work managers do – besides managing front-line staff, as illustrated by the comment that the Town has “more brains than brawn”.

42) Miscommunication also existed around the purpose for the recent restructuring. Several employees indicated they did not receive enough information on the purpose for this action by the Town, which may have led to a perception among certain employees and former employees that it did not have a cost-saving purpose, or that it was a “disguised” attempt to rid the Town of employees with a negative attitude.

### Inconsistent Human Resources Support

43) The Town has had a checkered experience with human resources support. This type of support has been sporadic and inconsistent in the past. While the Town did have a human resources manager, since that individual has left, that role has been shared among several individuals who had

other roles in the Town and did not have demonstrated experience in human resources. The Town has therefore had a knowledge void with respect to human resources support.

44) Recently, a human resources consultant has been hired. It is expected that individual will provide the support necessary to fill this knowledge void, but it is too early in that process to make this determination.

45) The *Respectful Workplace Policy* requires that the Manager of Human Resources “establish procedures for the creation and maintenance of a Respectful Workplace which includes a mechanism for resolution of issues, concerns and/or complaints as well as criteria for when investigations will be undertaken”.

46) There is no longer a manager of Human Resources at the Town. The Safety Office has indicated that a formal complaint (an Incident Report) will trigger an investigation. It is not clear, however, if other “procedures” as contemplated by this section have been instituted.

#### Employee Handbook:

47) Not all employees have received a copy of the Employee Handbook when they were onboarded. Several employees indicated it was being revised and so has not recently been distributed.

48) It is expected the conclusion of the current revision will be addressed by the new human resources consultant.

#### Performance Evaluations:

49) There does not appear to be consistency in the requirements for performance evaluations.

50) While some managers have commendable performance evaluation practices; others have practices which are either inconsistent or non-existent. Some individuals have not had a performance evaluation for several years.

51) This lack of performance feedback may feed the fear from “turnover” which is noted below. Individuals may not feel they have been given the opportunity to address any deficiencies in their work before decisions are made to either change their role or completely restructure their work.

#### Impact of “Turnover”:

52) In a small workplace such as the Town, any restructuring of staff would be expected to result in stress and uncertainty for remaining employees, especially when the workers impacted are long-service employees with deep roots in the Town, as has recently happened in the Town in March of 2020 in the shop.

53) The recent turnover in the shop staff has created a fear among a minority of employees of “who might be next”. There is also a perception among some former operations staff that “restructuring” is a disguised tactic to dismiss employees that do not agree with management. Among

a few former employees, the perception was that anyone who has left the Town was “forced out” in this way.

54) Not all of what is assumed as “turnover” was initiated by the Town or resulted from issues in the workplace. Due to privacy issues, the Town has been unable to defend itself from the charges of “excessive turnover”. The interviews with management regarding the actual turnover that has occurred and the reasons for that turnover have not borne out the fear that the turnover has been excessive or unwarranted, or has focused on those who disagree with management. Reasons were provided for the recent restructuring, and the reasons for the exit of various staff over the past several years was discussed.

55) The changes in management which have occurred in the Town over the past several years have overall been beneficial for the Town.

#### **E. Recommendations:**

- a. That a consistent performance evaluation system be adopted and followed by the organization as a whole;
  - i. That the performance evaluation system that is adopted include not only the setting of performance goals, but a system to follow-up with whether those goals are achieved;
  - ii. That all employees be made aware of any performance issues and that meaningful goals be established for any areas of concern, with a system of coaching/follow-up implemented;
  - iii. That all managers be apprised of the system and follow the same system, with appropriate coaching if the manager is not experienced in conducting performance evaluations;
- b. That communication to employees be improved:
  - i. Communication regarding the need for restructuring/what has changed after restructuring;
  - ii. Communication of what managers “do” in their role, besides the management of front-line staff;
  - iii. Town initiatives communicated to staff so they do not hear about initiatives or changes from residents first;
  - iv. Continuation of the “get to know the manager” snippets at safety meetings; incorporation of these type of snippets in the all-staff breakfast meetings post-covid.
- c. That the revision of the Employee Handbook be completed and communicated to all staff;
- d. That the Town continue with the initiatives it has established to try to incorporate Shop employees into the organization;
- e. That once covid allows, the all-staff breakfast meetings be continued;

- f. That if there are any employees who were hired before the Safety Officer was hired and who have not yet received the comprehensive training on the *Occupational Health and Safety Manual*; that they be given this training by the Safety Officer;
- g. That the Human Resources consultant review the Respectful Workplace Policy in conjunction with the Safety Officer to ensure clear procedures are being maintained for when investigations will be undertaken (i.e. only when a formal complaint is filed? When a supervisor becomes aware of an incident?)

Dated this 10th day of December 2020 at Calgary, Alberta



Cheryl Yingst Bartel, B.A., L.L.B., L.L.M. (Lab. Rel. & Empl.)

## APPENDIX “A”

### WORKPLACE COMPLAINT: KRIS MIKADO

#### **A. Background**

1. Mr. Mikado’s employment ended as part of a restructuring of the Facilities Department in March of 2020. Mr. Mikado (the “Complainant”) wrote a letter of Complaint dated October 4, 2020 (the “Complaint”), seven months after this occurred.
2. As the Complainant accepted a severance package under the AUPE collective agreement and left the employment of the Town, the Consultant was asked to focus on whether the Town maintained the proper procedures and processes such that the Complainant *could* have brought forward his complaints when employed, and also whether there was anything that interfered with the Complainant accessing those procedures.
3. Many of the issues raised in the Complainant’s letter relate to issues of other employees and not his issues personally. This Investigation considers the allegations raised which relate to the Complainant personally.

#### **B. Allegations**

- a. One of the managers sat with his feet up on the desk and played with his phone when the Complainant was “terminated”;
- b. “[U]pper management attitudes” towards him made the Town a “toxic” workplace for him;
- c. The Complainant has been discriminated against on the basis of a disability;
- d. If you disagreed with management, your job was restructured;
- e. There was “constant bullying” by management; and
- f. The Complainant felt intimidated and feared reprisal from the Town

#### **C. Findings and Conclusions:**

4. During the Complainant’s employment, the Employer had appropriate policies and procedures for the Complainant to raise any of his complaints of bullying, harassment, intimidation or any type of discrimination. The Complainant could have:
  - a. raised any issues with either Mr. Coccimiglio to be advanced to Mr. May, or raised the issues with Mr. May directly as the manager of his department (as noted at pages 12 and 13 of the *Occupational Health and Safety Manual*);
  - b. filed a grievance under Article 11 of the collective agreement, as he was an in-scope employee;
  - c. filed an Incident Report with the Safety Officer for violation of the Respectful Workplace Policy and/or violation of the *Occupational Health and Safety Manual* (harassment and violence prevention; p. 12), which would have triggered an investigation of the complaint;

- d. filed a complaint of “unhealthy” or “unsafe” working conditions with Occupational Health and Safety (“OHS”) (Government of Alberta); or
  - e. filed a complaint of discrimination under the *Human Rights Act*, S.A., 2000, C. A-25.5.
5. The Complainant did not take any of these steps to have his complaint addressed while employed.
    - a. Mr. May was in fact very surprised with the Complainant’s complaints and had not heard of any of the Complaints during the time the Complainant was employed.
    - b. Mr. Vanrobaeys indicated the Complainant did not file an Incident Report for any inappropriate behaviour during his employment.
    - c. No grievance was filed by the Complainant.
    - d. There were no facts brought forward by the Complainant of any interference with the Complainant’s ability to have his complaints addressed through any of these mechanisms.
  6. The Complainant indicated that he had no issue with Mr. May, and that he did not raise these complaints with Mr. May or lower levels of management, as his complaints were against the CAO and involved “upper management” attitudes and behaviours towards him which were “toxic” and “bullying”, rather than those of Mr. May. Raising them with Mr. May or other managers would therefore not have been fruitful.
  7. The only specific fact the Complainant was able to provide to support this allegation was that he expressed to management that he wanted to have a less physical role at the Town, yet he was not chosen for the jobs for which he applied at the Town that were less physical. The Complainant expressed that he felt management’s toxic attitude and behaviour was to “keep you in your place [in your job]”.
  8. The Complainant was unable to provide any other details of any “upper management attitudes” that made the Town a “toxic” workplace for him, nor any examples of management’s “constant bullying” towards him.
  9. Upon investigation, the allegations of the Complainant against “upper management” are without merit for the following reasons:
    - a. Being limited to your current job – and not getting other jobs for which you apply - does not make a workplace “toxic” to an employee. The Complainant’s viewpoint represents a significant misunderstanding and minimizing of what type of behaviour makes a workplace “toxic”.
    - b. The Complainant did not have any issues with the manager of his department, Mr. Terry May. Mr. Hastings indicated that as late as January 2020, the Complainant was able to speak with him privately as CAO regarding the Complainant’s desire to change roles at the Town. The Complainant had no difficulty speaking to Mr. MacPherson, who was Mr. May’s manager. The Complainant was given opportunities by management to do other work in the department when those opportunities arose (such as computer work) on an *ad hoc* basis.

- c. The Complainant has not established any basis or facts that would support he was “intimidated” by management.
10. The Consultant did not find the Complainant’s allegation that Mr. MacPherson had his feet on the desk and was on the phone during his lay off interview to be credible:
  - a. Both Mr. Hastings and Mr. MacPherson denied this occurred.
  - b. The information of both individuals was that Mr. MacPherson took notes at the meeting, which he would not have been able to do if he had his feet on the desk and was on his phone.
  - c. From the multiple interviews conducted, the Consultant did not find it credible that Mr. Hastings was the type of leader who would have tolerated disrespectful conduct from Mr. MacPherson in this meeting.
    - i. Multiple individuals interviewed indicated Mr. Hastings “had their back” with respect to any type of disrespectful behaviour in the workplace and that he is highly respected by the management team in this regard.
  - d. It is more likely than not that both Mr. McPherson and Mr. Hastings acted professionally in that meeting and that Mr. MacPherson took notes during that meeting with his feet on the floor and was not on his phone;
11. The Complainant felt his job still exists and that restructuring was a way to “get rid” of him. This was not factually established by the Complainant:
  - a. The Complainant was unable to provide the name of any one individual who continued to do his work;
  - b. Management interviews indicated that both the Complainant and Mr. Coccimiglio’s roles have been consolidated and reassigned to other employees, resulting in significant efficiencies in the nine months since March of 2020.
12. The Complainant specifically indicated in his interview that he was able to “get rid” of the former CAO and that he would “get rid” of Mr. Hastings as well. He was unable to point to any specifics of any behaviour of Mr. Hastings that would motivate that attitude, however.

#### **D. Summary**

13. The Town had appropriate policies, procedures and processes in place which allowed the Complainant to bring his complaints forward while he was employed, had he chosen to do so.
14. There was nothing that interfered with the ability of the Complainant to access those dispute mechanisms.
15. There are sufficient and robust policy and management frameworks in the Town to protect against these behaviours and there exists no need to strengthen these frameworks.
16. While the Complainant wants to be able to “get rid of” Mr. Hastings, he was unable to provide any specifics of any behaviour by Mr. Hastings – or by any other manager or employee - towards himself that was inappropriate in the workplace.