



House of Assembly  
Newfoundland and Labrador  
**Commissioner for Legislative Standards**

**OFFICE OF THE COMMISSIONER FOR LEGISLATIVE STANDARDS  
HOUSE OF ASSEMBLY  
PROVINCE OF NEWFOUNDLAND AND LABRADOR**

REPORT TO THE SPEAKER  
OF THE  
HOUSE OF ASSEMBLY OF NEWFOUNDLAND AND LABRADOR

BY VICTOR POWERS  
COMMISSIONER FOR LEGISLATIVE STANDARDS

IN THE MATTER OF A REQUEST BY YVONNE JONES, MHA (CARTWRIGHT -  
L'ANSE AU CLAIR) THAT THE COMMISSIONER INVESTIGATE ALLEGED  
CONTRAVENTIONS OF THE HOUSE OF ASSEMBLY ACT R.S.N.L. 1990 c. H-10  
AND THE HOUSE OF ASSEMBLY ACCOUNTABILITY, INTEGRITY AND  
ADMINISTRATION ACT S.N.L. 2007 c. H-10.1 BY DAVID BRAZIL, MHA  
(CONCEPTION BAY EAST - BELL ISLAND)

**August 9, 2013**

## EXECUTIVE SUMMARY

On September 20, 2012, Yvonne Jones, (MHA, Cartwright - L'Anse Au Clair), (hereinafter referred to as MHA Jones) wrote the Commissioner's Office requesting an investigation into the matter of the alleged involvement of David Brazil, (MHA, Conception Bay East - Bell Island), (hereinafter referred to as MHA Brazil) with the Level III Adult Basic Education (ABE) Program on Bell Island.

Included with the letter from MHA Jones was a copy of a letter received by her office from a former instructor with the Bell Island ABE Program. This letter raised several questions regarding the administration, operation and funding mechanism associated with the Bell Island ABE Program. The former instructor's letter was also copied to the Office of the Auditor General, the Minister of the Department of Advanced Education & Skills, to all opposition MHAs, to the Office of the Citizen's Representative, to the Department of Finance and to several local media outlets.

While acknowledging the seriousness of the issues raised by the former instructor, it must be stated that the statutory mandate of the Commissioner for Legislative Standards is to provide an opinion with respect to the compliance of a member with the provisions of the House of Assembly Act R.S.N.L. 1990 c. H-10 (hereinafter referred to as the HOA Act), the House of Assembly Accountability, Integrity and Administration Act S.N.L. 2007 c. H-10.1 (hereinafter referred to as the AI&A Act) and the Member's Code of Conduct.

In that regard, as a result of my review, I am of the opinion that:

- 1) MHA Brazil was in violation of s. 36 of the HOA Act, for failing to complete an accurate disclosure statement.
- 2) MHA Brazil was in violation of the Member's Code of Conduct in that he failed to take reasonable steps to remove himself from a conflict of interest situation in a timely manner.

In accordance with s. 45 of the HOA Act and s. 39 of the AI&A Act my recommendations to the House of Assembly are as follows:

- 1) That MHA Brazil be reprimanded by the House of Assembly for failing to file an accurate disclosure statement.
- 2) That MHA Brazil be reprimanded by the House of Assembly for violating the Member's Code of Conduct.

## COMMISSIONER'S REVIEW

### PROCEDURE FOLLOWED

The HOA Act and the AI&A Act each establish the authority of the Commissioner for Legislative Standards to examine and comment on the actions of elected members of the House of Assembly. These Acts have almost identical provisions respecting the investigative and reporting role of the Commissioner.

Subsection 42(1) in Part II of the HOA Act states as follows:

***42.(1) A member who has reasonable grounds to believe that another member is in contravention of this Part or a code of conduct may, by application in writing setting out the grounds for the belief and the nature of the contravention alleged, request that the commissioner give an opinion respecting the compliance of the other member with the provisions of this Part or a code of conduct.***

Subsection 36(1) of the AI&A Act states as follows:

***36.(1) A member who has reasonable grounds to believe that another member is in contravention of the code of conduct adopted under subsection 35 (1) may, by application in writing setting out the grounds for the belief and the nature of the alleged contravention, request that the commissioner give an opinion respecting the compliance of the other member with the provisions of the code of conduct.***

On receipt of a request for an opinion under either Act it is incumbent on the Commissioner to conduct an initial review of the matter to determine whether or not there is any substance to the allegations and whether or not it may be necessary to engage in a formal inquiry of the matter. A formal inquiry is generally a slow procedure that involves the expenditure of substantial public funds. Therefore, where possible the Commissioner will endeavor to investigate and review the matter in detail with a view to providing an opinion with respect to a member's compliance with the legislation and will only embark upon a formal inquiry when considered necessary by the Commissioner.

On the matter of the alleged involvement of MHA Brazil with the Bell Island ABE Program I am satisfied that the information gathered during my investigation is sufficient to allow me to formulate and offer my opinion on the issue without resorting to the formal inquiry process.

## **CHRONOLOGY OF EVENTS**

By way of background, the Bell Island Adult Education Association received provincial funding for, and delivered, adult basic education on Bell Island from 2009 to 2012.

As part of the program requirements the Bell Island Adult Education Association required a not for profit group in the community to administer and sponsor the program. The Bell Island Senior Hockey Association, and in particular, the Bell Island Senior Blues hockey team, agreed to assist in that capacity and established a sub-committee of the hockey team called the Bell Island Recreation and Social Commission to administer the program. MHA Brazil was, at various times, the general manager of the Bell Island Senior Blues hockey team, the chair of the Bell Island Recreation and Social Commission and had cheque signing authority on a dual signature chequing account operated by the hockey team where the funding for the Bell Island ABE Program was deposited.

On receipt of the request from MHA Jones, I exercised the statutory jurisdiction of the Commissioner contained in s. 42(1) of the HOA Act and s. 36(1) of the AI&A Act to investigate the matter for the purpose of providing an opinion as to whether or not MHA Brazil had contravened the aforementioned legislation.

On September 21, 2012 my Office issued a news release confirming receipt of a request from MHA Jones to investigate the matter and indicating that the Commissioner would be reviewing the matter in accordance with the mandate of his office.

Shortly after this news release several articles referring to the Bell Island ABE Program and MHA Brazil's alleged involvement with it appeared in the Telegram, a local newspaper in St. John's, Newfoundland.

On September 21, 2012, the Telegram reported "Tory MHA is under fire for role in program" and "Opposition politicians are raising serious questions about PC MHA David Brazil's direct involvement in government funding going to the Bell Island adult education program." Also, that "Documents provided to The Telegram show in the past year Brazil has been directly involved in aspects of an adult literacy program, in one case signing a teacher's record of employment, and in another instance agreeing to pay someone several dozen beer in exchange for installing programs on classroom computers."

On September 22, 2012 the Telegram reported that the Department of Advanced Education and Skills would be reviewing the Bell Island adult education program after opposition politicians raised questions about PC MHA Brazil's direct involvement in the matter.

On September 25, 2012, the Telegram reported, in an article entitled "Documents raise more questions for Brazil", that MHA Brazil's public disclosure form to the Commissioner for Legislative Standards had not disclosed his involvement with the Bell Island Senior Hockey Association.

On October 1, 2012, I wrote MHA Brazil to advise him of the allegations raised by MHA Jones and invite him to provide a written response to those allegations should he choose to do so.

On October 3, 2012, the Telegram reported, "Probe into adult education program delayed". This article reported that the community group which had been running the Bell Island ABE Program indicated they would no longer be operating the program. In this same article Minister Shea of The Department of Advanced Education and Skills indicated that her Department had decided there was no need to rush their investigation. "We're still going to do the review that we had promised. It's just going to take two or three weeks instead of one."

On October 11, 2012 MHA Brazil responded in writing to my office outlining his response to the allegations made by MHA Jones.

On Nov 9, 2012 I wrote Minister Shea of the Department of Advanced Education and Skills requesting access to all documents and correspondence in the Department's possession relating to the Bell Island ABE Program since 2006, and copies of all documents and correspondence relating to the Department's investigation as it proceeded. Minister Shea responded to my request offering the complete cooperation of her Department and staff on the matter.

Over the next several weeks meetings were held with staff of the Department and copies of all requested documents were supplied for my review.

On December 14, 2012, the Department of Advanced Education and Skills issued a news release indicating an internal review of the Bell Island Adult Education Association and the Bell Island ABE Program it administered had concluded and that officials of the Department recommended that the file be provided to the Royal Newfoundland Constabulary (RNC) to ensure that "the review is complete and thorough".

On Friday, May 3, 2013 the RNC issued a press release advising that their investigation of the Bell Island ABE Program had concluded and that no criminal charges had been laid in connection with their investigation.

## **COMMISSIONER'S ACTIONS ARISING AS A RESULT OF THE ABOVE NOTED EVENTS**

The fact that the issue of MHA Brazil's alleged activities respecting the Bell Island ABE Program received considerable attention and exposure in the public forum should not, and typically would not, affect the approach or focus of the Commissioner's Office when requested to investigate and provide an opinion on the conduct of a member. However, there were two issues raised in the above noted "Chronology of Events" that did have an impact on my review which I have chosen to address in this report.

First of all was the September 25, 2012 article in the Telegram which raised the question of MHA Brazil's non-disclosure to the Commissioner's Office of his involvement with the Bell Island Senior Hockey Association. While not addressed in MHA Jones original request to my office, this particular issue in and of itself must be considered by the Commissioner as it brings into question whether or not the member was in compliance with s. 36 of the HOA Act. This section of the legislation requires every elected member to file with the Commissioner a disclosure statement in the form set by the Commissioner.

When this particular allegation came to my attention it was necessary to review MHA Brazil's disclosure statement to determine whether or not he was in compliance with his disclosure obligations. On May 23, 2013 I wrote MHA Brazil to inquire as to whether he wished to make a submission to my office on this issue. On May 27, 2013 I received a letter from MHA Brazil outlining his position with respect to his disclosure statement.

The second development affecting my review was the announcement on December 14, 2012 by the Department of Advanced Education and Skills that their file on the matter had been referred to the RNC for review. At the time of this announcement I was in the process of reviewing documentation that had been provided by the Department of Advanced Education and Skills.

In keeping with the spirit and intent of the legislation and in recognition of the rights of individuals contained within the Canadian Charter of Rights and Freedoms, I decided that my review of the matter would be held in abeyance until the investigation by the RNC had been completed. Following the May 3, 2013 RNC press release advising that their investigation of the Bell Island ABE Program had concluded and that no criminal charges had been laid my review of the allegations surrounding MHA Brazil's involvement with the Bell Island ABE Program resumed.

## **COMMISSIONER'S FINDINGS**

MHA Brazil was first elected as a member of the House of Assembly in a by-election held for the district of Conception Bay East - Bell Island on December 2, 2010 and was officially sworn in as a member on December 20, 2010. He was subsequently re-elected as member for the same district in the October 11, 2011 General Election.

Prior to his election, MHA Brazil had been an employee of the Provincial Government for a number of years and he was well known as a community activist within the district of Conception Bay East - Bell Island.

In September 2008, The Bell Island Recreation and Social Commission submitted a proposal to the Division of Adult Learning and Literacy of the Department of Education to initiate an Adult Basic Education Level I program on Bell Island.

On March 13, 2009 an agreement for services contract was signed between the Department of Education and the Bell Island Recreation and Social Committee, Town of Wabana (the “Primary Contractor”) for delivery of the ABE Level I program. MHA Brazil signed this contract on behalf of the Bell Island Recreation and Social Committee.

On September 17, 2010 an agreement for services contract was signed between the Department of Education and the Bell Island Adult Education Association (the “Primary Contractor”) for delivery of an ABE Level II & III program. MHA Brazil also signed this contract on behalf of the Bell Island Adult Education Association.

The process for the renewal and/or continuance of these contracts was as follows:

Per Clause 22 of the contracts, the original contracts “may be extended before termination on an annual basis upon written agreement by both parties.”

On an annual basis, the Department, by way of letter from the Minister, would offer the contracting organization an option to renew the contract for the coming year. A signature from the organization’s signing authority on the offer letter would represent acceptance of the offer.

MHA Brazil signed several of these offer letters relating to the Level I Program on behalf of the Bell Island Recreation and Social Committee. The last contract or contract renewal letter signed by him was for the Level II & III contract in September of 2010 which was prior to his election and swearing in as a member of the House of Assembly.

An additional requirement for the continuance of these contracts was as follows:

Per Clause 6.1 of the contracts, “The Primary Contractor will submit for approval interim financial reports and statements” on various specified dates in November, February or June of each year.

The process followed in meeting the requirements for this continuance clause was that on or by the specified dates, the Primary Contractor was required to provide the Department with a statement of budgeted expenses for the upcoming period(s) to be followed by a statement of actual expenses once the actual figures were known.

The form used by the Department to satisfy this process contained two separate columns relating to each reporting period. The first column contained budget estimates for the upcoming period while the second column provided space to reflect actual expenses once they were known and to allow for comparison to the budgeted amounts.

At the bottom of both columns was a single space for the signature of a representative for the Primary Contractor. There was no additional space to indicate the date the estimates had actually been signed.

MHA Brazil signed several of these statements on behalf of the Primary Contractor. The last one signed by him was for a budget estimate relating to the December 1, 2010 to February 25, 2011 semester of the 2010/11 program. While the date of signing is not indicated on the estimate, it is reasonable to conclude that an estimate for a period which was to begin on December 1, 2010 was likely prepared and submitted before that date which was prior to his election and swearing in as a member of the House of Assembly.

In addition to examining the contracts, contract renewal notices, and various other financial reports relating to the Bell Island ABE Program, my investigation included examination of correspondence in the form of letters and e-mails between various parties and examination of other financial documents of the Bell Island Senior Blues hockey team including the cheque register, journals, and bank statements.

The correspondence examined indicated that for some time after his election MHA Brazil remained involved with the Bell Island ABE Program. During that time he had been in direct contact with a program instructor and with officials of the Department of Education on several occasions. On one particular occasion, in January of 2012, the correspondence indicated MHA Brazil had been directly involved in procuring program services by arranging payment to a third party for a service performed for the Bell Island ABE Program with beer, which according to MHA Brazil had been donated to the program sponsor, the Bell Island Senior Hockey Team.

Also of relevance to the allegations surrounding MHA Brazil's involvement with the program after his election were several transactions recorded in the association accounts. There were three cheques dated December 31, 2010, June 3, 2011 and February 7, 2012 to reimburse MHA Brazil for various expenditures he personally had incurred on behalf of, or relating to, the Bell Island ABE program. Furthermore, on June 24, 2012, MHA Brazil signed a Record of Employment for one of the program instructors.

## **MHA BRAZIL'S RESPONSE TO ALLEGATIONS**

On October 11, 2012 MHA Brazil provided my office with a written response to the allegations contained in the September 20, 2012 letter from MHA Jones.

In his response, MHA Brazil sets out the background and history of the Bell Island ABE Program and his involvement with it. On page two of his response he indicates the following:

*“During the 17 months that have now passed since my swearing in as a Member of the House of Assembly and the end of the program, I have endeavored, particularly since the Committee had contractual responsibilities to honour, to ensure the program continued while distancing myself from the responsibilities associated with it.”*

In answer to the questions posed by MHA Jones, MHA Brazil states in part as follows:



*“As the founder and the only person who had been involved, I was still advising and working to make the program successful while lobbying groups to take it over and assume the contractual responsibilities. Also, as the MHA I had enquiries from constituents regarding their participation, their potential funding supports and issues with the Instructor, all of which any MHA with no involvement with the program would have had to address”.*

*“As I have previously and publicly indicated, the hockey association group was still the host agency. Thus they paid the remittances under their employer’s number and the Record of Employment had to reflect the same. I signed the referenced ROE because the only 2 other members of the organization were out of the province and I was being hounded by both of the instructors and one of the instructor’s wives to get the ROE signed. As the instructors were in desperate need of their EI payments, I felt it was necessary and prudent to sign the ROE.”*

MHA Brazil also indicated in his response that he had experienced frustration with an instructor of the program which made it difficult for him to move the program to another agency. He concluded his response by advising that he is very proud of the work done in reference to the Bell Island ABE Program.

Earlier in this report I indicated an additional issue arose during my review with respect to the accuracy and completeness of MHA Brazil’s disclosure statement. I had written MHA Brazil on May 23, 2013 to inquire as to whether he wished to make a submission to my office on this matter. On May 27, 2013 I received a letter from MHA Brazil outlining his position on this matter.

*“As following up to your May 23, 2013 letter regarding media reports related to my involvement with groups I have not declared in my disclosure statement. I would like to outline the following, as you indicated Ms. Yvonne Jones made you aware to on September 21, 2012 that I was involved with the Bell Island Sr. Hockey Association. This was an oversight that I neglected to note in my 2012 Disclosure Statement.”*

*“It should be noted that I assumed President of the Avalon East Sr. Hockey League for the 2012-2013 season which I declared in my member’s statement, I have also declared that I serve as manager of the Bell Island Sr. Hockey Association.”*

## **COMMISSIONER’S OPINION**

MHA Brazil’s involvement with any aspect of the operation of the Bell Island ABE Program prior to his election to the House of Assembly on December 2, 2010 is not at issue and is not considered in offering this opinion.

It should be noted that the request from MHA Jones to investigate this matter is the first such request received by the Commissioner’s Office since implementation of the Member’s Code of Conduct.

The development of the Code of Conduct for members was in direct response to recommendations contained in the report authored by Chief Justice Derek Green entitled, "Rebuilding Confidence – Report of the Review Commission on Constituency Allowances and Related Matters" [hereinafter referred to as the "Green Report"]. This report contained numerous recommendations following the House of Assembly constituency allowance spending scandal.

Prior to the Green Report and the subsequent development of the Member's Code of Conduct, the HOA Act, and more particularly, Part II thereof, was the only written guide for members respecting conflict of interest matters.

The specific provisions of Part II of the HOA Act which I believe to be relevant to the situation currently being considered are listed below:

**20. In this Part**

*(e) "private interest" means*

*(iii) a position of director or officer in a corporation or association,*

- 21. *A member shall not make or participate in making a decision in his or her capacity as a member where the member knows or ought reasonably to know that in the making of the decision there is the opportunity to further, directly or indirectly, a private interest of the member or the member's family.***
- 22. *A member shall not use his or her office to seek to influence a decision made by another person to further, directly or indirectly, a private interest of the member or the member's family.***

**36.(1) *Every elected member and appointed minister shall,***

- (a) within 60 days of his or her election or appointment; and*
- (b) before the second April 1 occurring after the date of his or her election or appointment; and*
- (c) before each April 1 subsequent to the date referred to in paragraph (b),*
- file with the commissioner a disclosure statement in the form set by the commissioner.*

**36.(2) *The disclosure statement shall contain,***

- (a) a full statement of the member's private interests other than personal property referred to in subparagraph 20(a)(iv) where the possession,*

*ownership or use of that property does not give rise to the possibility of a conflict of interest;*

Based on my review of the facts of this case I am of the opinion that MHA Brazil has not violated Sections 21 and 22 of the HOA Act as there is no evidence to suggest that MHA Brazil furthered a private interest of either the member or his family through his actions and dealings with the Bell Island ABE Program.

However, I am of the opinion that MHA Brazil has violated s.36 of the HOA Act which requires every elected member and appointed minister to file with the commissioner a disclosure statement in the form set by the Commissioner.

In two disclosure statements filed by MHA Brazil following his election to the House of Assembly in December 2010 and his re-election in October 2011 he made no reference whatsoever to his involvement with the Bell Island Senior Hockey Association, the Bell Island Senior Blues Hockey Team, or the Bell Island Recreation and Social Commission.

It is clear to me that MHA Brazil played a significant executive role in the Bell Island Senior Hockey Association and the Bell Island Senior Blues Hockey Team and that this activity should have been included in his disclosure statement.

While I accept that MHA Brazil's failure to disclose the particulars of his involvement may indeed have been an oversight, I cannot accept oversight as an acceptable excuse for a non-disclosure.

My analysis of the conduct of MHA Brazil does not end with the HOA Act. The AI&A ACT establishes a Code of Conduct that members are to follow. Section 35 of the Act reads as follows:

**35. (1) The speaker shall, immediately after the coming into force of this Act, refer to the standing committee of the House of Assembly on Privileges and Elections the responsibility of developing and proposing to the House of Assembly the adoption, by resolution, of a code of conduct for members to assist members in the discharge of their obligations to the House of Assembly, their constituents and the public at large that**

**(a) provides guidance on the standards of conduct expected of members in discharging their legislative and public duties; and**

**(b) provides the openness and accountability necessary to reinforce public confidence in the manner in which members perform those duties.**

**(2) The code of conduct adopted under subsection (1) shall be**

**(a) treated as a standard against which the actions of a member may be judged for the purpose of censure by the House of Assembly and by the public; and**

**(b) in addition to other standards of duty and responsibility imposed on members by this Act and any other law.**

**(3)The commission shall, within 90 days of the coming into force of this Act, develop and adopt a code of conduct applicable to the officers and other persons employed in the House of Assembly service and in the statutory offices.**

Pursuant to the AI&A Act, the Code of Conduct shall be treated as a standard against which the actions of a member may be judged for the purpose of censure by the House of Assembly. When one reviews the facts of this case it is clear that the Code of Conduct is engaged. Principle 7 of the Code of Conduct states as follows:

*Members will base their conduct on a consideration of the public interest. They are individually responsible for preventing conflicts of interest and will endeavor to prevent them from arising. Members will take all reasonable steps to resolve any such conflict quickly and in a manner which is in the best interests of the public.*

While I find that MHA Brazil was not in a conflict of interest as the concept is statutorily set out in the HOA Act the principles set out in the Code of Conduct are not limited by that piece of legislation. In fact, in order to ensure accountability, transparency, and public trust in the administration of office a liberal interpretation of these guiding principles must be preferred to a narrow interpretation.

MHA Brazil was first elected to represent the district of Conception Bay East - Bell Island in a by-election held on December 2, 2010. He was subsequently re-elected MHA for the district in the October 11, 2011 General Election. In his written response to my office he indicates that, following his election, he endeavoured to distance himself from responsibilities associated with the program.

However, the evidence demonstrates that as late as January of 2012 MHA Brazil was directly involved in arranging for the payment of a service to the program using beer provided by the sponsoring group, in February of 2012 he was reimbursed for monies spent directly by him on items associated with the program's operation or administration and in June of 2012 he signed a Record of Employment for an instructor with the program.

The end result of MHA Brazil's actions was to place him in the middle of a highly public controversy surrounding the administration and funding of the Bell Island ABE Program.

His involvement with the program which continued after his election, in particular his direct involvement in procuring supplies and services for the program creates an image whereby a member of the House of Assembly may be perceived as providing benefits directly to his constituents.

I believe this is the exact type of situation that the Code of Conduct is intended to discourage. It is an activity by a member that is not acceptable and that must be avoided by all members.

As a result of his continued involvement with the program after he was elected and his failure to take reasonably available steps to address the situation, I am of the opinion that MHA Brazil is in violation of principle 7 of the Code of Conduct.

### **COMMISSIONER'S RECOMMENDATION**

It is my view that the disclosure provisions of the HOA Act are a vital element of the legislation which enables the Commissioner's Office to fulfill the role of advisor to members on conflict of interest questions and to monitor and ensure compliance with the legislation. A member's failure to disclose required information to the Commissioner's Office not only affects the ability of the Commissioner to perform an oversight role but contributes to the erosion of transparency and accountability as required from members.

Likewise, the Code of Conduct, while broader in scope than the specific provisions of the HOA Act, provides guidance to all members with respect to how they should behave when they are placed in a conflict of interest situation. The Code of Conduct provides advice to members that they should endeavor to prevent conflicts of interest from arising and take all reasonable steps to resolve such conflicts.

In the Green Report, Chief Justice Green discusses the importance of Codes of Conduct in fostering public trust in elected officials. At page 5-6 of his report he states as follows:

“I am satisfied that a code of conduct is an important element in fostering public trust in our elected officials and in the institutions in which they operate. By setting out guidelines as to the conduct expected of MHAs in fulfilling their duties, a code will reinforce the notion of accountability that should permeate the organization and set an appropriate tone in the House”.

Section 45 of the HOA Act and section 39 of the AI&A Act set out the penalties that the Commissioner may recommend when a member is in violation of Part II of the HOA Act or the Code of Conduct.

The penalty provisions of both Acts are similar and allow the Commissioner to recommend:

- (a) That the member be reprimanded;
- (b) That the member make restitution or pay compensation;
- (c) That the member be suspended from the House of Assembly, with or without pay, for a period specified in the report; or

(d) That the member's seat be declared vacant

From my review of the facts of this case it is clear to me that the member failed to file an accurate disclosure statement as required pursuant to s.36 of the HOA Act. It is also clear to me that the member failed in his endeavours to remove himself from a conflict of interest situation within a reasonable time as required by the Member's Code of Conduct.

Having said this, the evidence does not demonstrate any personal financial gain on the part of the member as a result of his actions. Furthermore, MHA Brazil has been forthright in both media interviews and in his responses to my office regarding his role in the administration of the Bell Island ABE Program since becoming a member of the House of Assembly. His support of the program prior to his election is quite evident and I accept that his interest in seeing the program continue after his election may indeed have clouded his judgement to some degree.

While I believe that any violation of the HOA Act and the Member's Code of Conduct is a very serious issue, I do not believe the particular actions of MHA Brazil in this case warrant a recommendation that the member be suspended or that his seat be declared vacant. Also, as there does not appear to have been any financial reward to the member or damage to others as a result of his actions the question of restitution or compensation is unnecessary. I am of the opinion that the member's actions do warrant my recommendation that the member be reprimanded.

Therefore, it is the recommendation of the Commissioner that the member be reprimanded pursuant to s. 45(1) (a) of the HOA Act for failing to file an accurate disclosure statement.

It is also recommended that the member be reprimanded pursuant to s. 39 (a) of the AI&A Act for violating principle 7 of the Code of Conduct.