

PERSONAL AND CONFIDENTIAL
ATTORNEY-CLIENT PRIVILEGE

LEGAL MEMORANDUM

To: City of Madison
Attn: Deputy City Attorney - Patricia Lauten
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From: Atty. Emil Ovbiagele

Date: October 24, 2024

Subject: **Supplemental Investigation Report – ██████ Charles Myadze**

BACKGROUND AND CONTEXT

This supplemental report is issued following the completion of additional investigation into the allegations made by ██████ ██████ ██████ ██████ (“█████ ██████” against ██████ Charles Myadze (“Myadze”), with a focus on whether his actions violated the City of Madison’s Administrative Procedure Memorandum No. 3-5 (APM 3-5), which prohibits harassment, hostile work environment, and sexual harassment.

In the August 29, 2024, initial investigation report, we found that Myadze’s conduct towards ██████ ██████ constituted a violation of APM 3-5, specifically in creating a hostile work environment. The key basis for this conclusion centered on the April 7, 2022, car incident, where ██████ ██████ reported feeling cornered and scared after Myadze locked the car doors and confronted her about comments she had allegedly made regarding his behavior. At that time, we concluded that the incident, when combined with subsequent interactions, met the threshold for a hostile work environment under APM 3-5. (*See* Appendix H).

However, after receiving and reviewing new information, including supplemental interviews, text messages, and additional materials from both parties, we have carefully reconsidered the original findings. This supplemental report outlines why, in light of the new evidence, we are changing the conclusion regarding a violation of APM 3-5 as it relates to ██████ ██████ allegations.

TIMELINE OF KEY EVENTS

Below is a timeline summarizing the critical dates and events relevant to both the initial and supplemental investigations:

- **April 7, 2022:** The car incident in which [REDACTED] alleged that Myadze locked the doors and confronted her about prior comments. [REDACTED] reported feeling “cornered” and “frozen” during this interaction.
- **April 2022 – May 2024:** After the car incident, [REDACTED] and Myadze continued their professional relationship, exchanging multiple text messages and working together on council matters.
- **April 2024:** [REDACTED] made a formal complaint, alleging inappropriate conduct and a hostile work environment stemming from her interactions with Myadze. This followed increased social media chatter about allegations against Myadze initiated by an ex-girlfriend.
- **June 2024:** Initial investigative interviews were conducted with [REDACTED] Myadze, and relevant witnesses. [REDACTED] described the April 7 car incident and other interactions that contributed to her complaint. Myadze denied the allegations and expressed concern about the timing of the complaints.
- **August 30, 2024:** Attorney Erlandson, representing Myadze, submitted additional materials, including text messages and images, and raised concerns about the due process in how the investigation was conducted.
- **September 5, 2024:** The City of Madison authorized the reopening of the investigation to consider additional information submitted by both parties.
- **September 20, 2024:** [REDACTED] was informed that the investigation was being reopened to review the new information.
- **September 24, 2024:** Attorney Erlandson was informed that the investigation had been reopened, and supplemental materials would be reviewed.
- **September 26, 2024:** Supplemental interview conducted with Myadze, where he reiterated his concerns about the timing of the allegations and provided further context for the April 7 car incident.

- **October 2, 2024:** Supplemental interview conducted with [REDACTED] [REDACTED] where she elaborated on the April 7 car incident, her professional relationship with Myadze, and how the events unfolded after the alleged confrontation.
- **October 9, 2024:** A follow-up interview with [REDACTED] [REDACTED] during which she provided additional context for her allegations and submitted more supporting documents, including a timeline of interactions, her text message history with Myadze, and an unsent email she drafted to confront Myadze.
- **October 10, 2024:** Investigation closed after reviewing all supplemental materials and conducting final interviews.
- **October 24, 2024:** The supplemental report is issued, revising the initial conclusion based on new evidence.

SUPPLEMENTAL MATERIALS PROVIDED

In addition to the supplemental interviews conducted, as part of the supplemental investigative process, Myadze and [REDACTED] [REDACTED] submitted the following written documents:

1. Myadze's Supplemental Submission:

- Additional text messages between himself and [REDACTED] [REDACTED] from March 2022 to May 2024, reflecting ongoing communication post-incident. (*See Appendix E*).
- A written declaration from Myadze expressing concerns about the timing of the allegations and social media chatter driven by an ex-girlfriend. (*See Appendix D*).
- Supplemental images and a copy of the City of Madison's Elected and Appointed Official Code of Ethical Conduct, which his counsel referenced to argue that [REDACTED] [REDACTED] should have addressed her concerns informally. (*See Appendices F, G*).

2. [REDACTED] [REDACTED] Supplemental Submission:

- Text messages between herself and Myadze from April 2021 to May 2024, providing further context for their interactions. (*See Appendix B*).
- A drafted but unsent email in which she confronted Myadze about his behavior, urging him to apologize and resign. (*See Appendix C*).

- A detailed timeline of allegations, supported by references and documents. (*See Appendix A*).

**SUMMARY OF SUPPLEMENTAL INTERVIEWS & REVIEW
OF ADDITIONAL DOCUMENTS**

Following the initial investigation, at the request of Myadze (and based on the submission of additional materials for consideration), the City of Madison requested that we reopen the investigation and consider the new submissions and take supplemental interviews. As part of this process, [REDACTED] and Myadze submitted additional information. Specifically, we conducted supplemental interviews and received significant additional documentation from both parties. These include:

A. [REDACTED] Myadze Supplemental Interview- September 26, 2024

- ❖ **Background.** During his supplemental interview on September 26, 2024, Myadze provided more context surrounding the allegations, particularly focusing on the timing of events and materials submitted by both parties. He also elaborated on the April 7, 2022, car incident and his general relationship with [REDACTED]
- ❖ **Discrepancies in Timing of Apology.** Myadze pointed out what he believed were discrepancies in the timeline of events presented by [REDACTED] specifically regarding her apology. According to Myadze, [REDACTED] claimed to have apologized to him earlier than what actually occurred. He highlighted that after the April 7, 2022, car incident, [REDACTED] continued to interact with him in ways that were inconsistent with someone who had experienced significant discomfort or fear. For instance, he mentioned that [REDACTED] asked him for a ride to Green Bay, which he declined, noting that he had “always been very careful” in his interactions with her. He emphasized that this showed his conscientiousness regarding their relationship and his effort to avoid any situations that could be misconstrued.
- ❖ **Details of the April 7, 2022 Car Incident.** In re-addressing the car incident, Myadze reiterated that there was no discussion about the allegations concerning inappropriate comments during the Washington, D.C., conference while they were in the car. He emphasized that this conversation about allegations only took place later in October 2022, at a different event in Green Bay. During the car ride on April 7, 2022, he said [REDACTED] had asked him for a ride to meet colleagues, [REDACTED] which he did. He denied any improper behavior or intimidating conversation during this ride.

- ❖ **Concerns About Timing of Allegations.** Attorney Erlandson, representing Myadze, raised serious concerns about the timing of the allegations. He noted that in April 2024, around the same time that these complaints were made, social media chatter about Myadze surfaced, driven by an ex-girlfriend from over 14 years ago. This ex-girlfriend, who had broken up with Myadze, posted a video accusing him of abusive tendencies. Erlandson claimed that this video, coupled with records about a 2002 criminal case involving domestic abuse, significantly influenced the narrative against his client. He suggested that the sudden emergence of complaints from [REDACTED] and others was not coincidental but part of a broader, coordinated effort to tarnish Myadze's reputation.
- ❖ **Declaration and Additional Materials Submitted.** In addition to his verbal testimony, Myadze submitted a written declaration outlining his belief that a campaign was being orchestrated to discredit him. He emphasized that the allegations from [REDACTED] [REDACTED] and others had surfaced only after the social media posts about his past. He also provided text messages and other documents to support his claim that there was no hostile work environment between him and [REDACTED] [REDACTED] (*See* Appendix E, F).

B. [REDACTED] [REDACTED] Supplemental Interview- October 2, 2024

- ❖ **Background.** In her supplemental interview on October 2, 2024, [REDACTED] [REDACTED] reiterated her account of the April 7, 2022, car incident and provided additional details regarding her relationship with Myadze following the alleged confrontation. Her testimony remained consistent with her original account but also introduced new reflections on the professional strain that emerged over time.
- ❖ **April 7, 2022 Car Incident.** [REDACTED] [REDACTED] described the car incident as one of the most pivotal moments in her working relationship with Myadze. She explained that she had asked for a ride from him to discuss a development project in her district. However, when she got into his car, he insisted on taking a detour through his district. She claimed that, at this point, he locked the car doors, a gesture that immediately made her feel “cornered” and “frozen.” [REDACTED] [REDACTED] recalled how, while the car was parked on Dayton Street, Myadze confronted her about previous comments she had allegedly made, saying, “If I ever hear you saying that again, we’re done...I’m a father and I see you as a daughter, I would never do that.” According to [REDACTED] [REDACTED] this statement was deeply unsettling, and she felt trapped in the moment.

- ❖ **Disclosing the Incident.** [REDACTED] [REDACTED] explained that shortly after the car incident, she disclosed what had happened to her colleagues, [REDACTED] [REDACTED] [REDACTED] [REDACTED]. However, she admitted that she had not gone into great detail in those initial conversations. She also noted that she no longer had access to these messages, so they were unavailable for review.
- ❖ **Impact on Relationship with Myadze.** [REDACTED] [REDACTED] described how her relationship with Myadze changed after the car incident. Although their working relationship continued, [REDACTED] [REDACTED] said she deliberately avoided meeting with him one-on-one, opting to conduct business over the phone or in public places. Despite this, she acknowledged that their text messages remained friendly and professional, a contradiction she attributed to the necessity of maintaining some semblance of professionalism on the council. [REDACTED] [REDACTED] also stated that she had tried to “keep her distance” from Myadze but noted that their relationship became increasingly strained as time went on, particularly during discussions about chemical emissions and other policy issues.
- ❖ **Professional “Hostage” Situation.** [REDACTED] [REDACTED] elaborated on how the unresolved tension affected her work. She mentioned that Myadze’s refusal to move past the car incident had left her feeling as though her work on the council was being “held hostage.” She recalled one exchange during which she asked Myadze for his support on a policy matter, only for him to cut her off and state, “I don’t feel like I can trust you.” [REDACTED] [REDACTED] described this moment as one of the most frustrating in their relationship, as she felt she was being punished for something that had happened long ago and had since been addressed.

C. [REDACTED] [REDACTED] Follow-Up Interview- October 9, 2024

- ❖ **Background.** At [REDACTED] [REDACTED] request, we conducted a follow up interview on October 9, 2024. [REDACTED] [REDACTED] reiterated many of the points from her earlier testimony, but also provided additional context for her decision to file a formal complaint and the broader impact the situation had on her work.
- ❖ **Reflection on Professional Interactions.** [REDACTED] [REDACTED] acknowledged that, despite the tension between her and Myadze, they had continued to communicate in a professional manner. She explained that much of their correspondence took place via text messages, which often appeared friendly. However, she felt that these interactions were superficial and did not reflect the true state of their working relationship. She also noted that while the text messages might appear normal to an outside observer, in reality, they masked a deeper strain. “The way he talked over text is not the same in person,” she stated, explaining that while their digital

communications were cordial, their in-person interactions were more challenging and tense.

- ❖ **Decision to File a Complaint.** █████ █████ explained that her decision to come forward with a formal complaint in April 2024 was partly influenced by the stories circulating about Myadze’s past behavior with other women. She had heard from other █████ and community members who had experienced similar discomfort in their interactions with him. While she had originally hoped to avoid drawing attention to the situation, █████ █████ felt a sense of responsibility to speak out, especially after hearing about other women who had been affected. “I couldn’t stay silent anymore,” she said. “It’s not doing me any favors, but I had to come forward.”

D. Summary and Analysis of Text Messages and Supplemental Documents

- ❖ **Text Messages Between █████ █████ & Myadze (April 2021-May 2024).** The text messages exchanged between █████ █████ and Myadze during the period between April 2021 and May 2024 play a critical role in understanding their ongoing relationship and the context of the allegations. After carefully reviewing the content of these communications, several key observations emerge that impact the assessment of the alleged hostile work environment:
 - **Cordial and Professional Tone Throughout.** The text messages reflect an overall cordial and professional tone, even after the April 7, 2022, car incident. Both █████ █████ and Myadze exchanged pleasantries on several occasions, often offering congratulatory remarks and seasonal greetings. For example, in December 2022, █████ █████ sent a text saying, “Merry Christmas, Charles. Hope you and your family are doing well.” Such exchanges suggest a level of professionalism and respect that would not typically be present in a hostile work environment. Moreover, these messages continued throughout the two years following the car incident, without any clear sign of animosity. (*See Appendix B*).
 - **Continued Professional Collaboration.** Despite █████ █████ discomfort during certain interactions, the text messages show that she and Myadze continued to collaborate on council matters. For instance, in October 2023, █████ █████ asked Myadze to join her in a ride to a conference, stating, “I think it would be great if we could go together and talk about some of the policy stuff I’ve been working on.” This invitation indicates that, despite her claims of intimidation, █████ █████ felt comfortable enough to engage with Myadze professionally and seek his support on policy issues. It suggests that while the car incident caused

personal tension, it did not severely alter the conditions of their working relationship, as required under the reasonable person standard for a hostile work environment claim. (*See* Appendix B).

- **No Clear Signs of Hostility.** The messages do not show any overt hostility, intimidation, or inappropriate behavior. In fact, many of the messages reflect a collaborative working relationship, with both parties focusing on council business and policy discussions. For example, in one exchange in January 2024, [REDACTED] [REDACTED] expressed her appreciation for Myadze’s feedback on a policy issue, stating, “Thanks for your input on the emissions policy, Charles. Your perspective really helped me see things from a different angle.” These types of exchanges further support the conclusion that their professional relationship remained functional and productive, even after the car incident. (*See* Appendix B).
- **No Evidence of a Hostile Work Environment.** If viewed objectively, the text messages alone would not suggest that a hostile work environment existed. In fact, the professional and friendly nature of the messages would lead an impartial observer to believe that [REDACTED] [REDACTED] and Myadze had a positive working relationship. There are no indications in the text messages of harassment, intimidation, or behavior that would be considered severe or pervasive enough to meet the standard for a hostile work environment under APM 3-5.
- **Conclusion of Text Message Review.** While [REDACTED] [REDACTED] personal feelings of discomfort and tension are valid, the text messages reflect a continued professional relationship that was largely unaffected by the car incident. There is no evidence in the text messages to support a finding that [REDACTED] [REDACTED] work environment was hostile or that the conditions of her employment were altered to the degree required to sustain a violation of APM 3-5. The professional tone of the text messages, combined with ongoing collaboration, suggests that the work environment was not so hostile as to interfere with [REDACTED] [REDACTED] ability to perform her duties.

❖ Other Supplemental Documents

- **Drafted But Unsent Email.** One of the key supplemental documents provided by [REDACTED] [REDACTED] was a drafted but unsent email that she had written to confront Myadze about his behavior. In this email, [REDACTED] [REDACTED] expressed her discomfort with his actions and urged him to take

responsibility, stating, “Your behavior towards me and others is unacceptable, and I believe you owe us all an apology.” The email also called for Myadze to resign from his position, citing his behavior as unbecoming of a public servant.

While this document provides insight into [REDACTED] [REDACTED] internal struggle and her discomfort with the situation, the fact that the email was never sent suggests that [REDACTED] [REDACTED] may not have been ready or willing to formally confront Myadze about the incident at the time. This further supports the idea that while [REDACTED] [REDACTED] felt unsettled by certain interactions, these feelings did not manifest in the work environment to the extent necessary to prove a hostile work environment. (*See Appendix C*).

- **Timeline of Allegations.** [REDACTED] [REDACTED] also submitted a timeline of allegations, outlining various incidents between herself and Myadze from April 2021 to April 2024. This timeline references specific interactions, such as the April 7 car incident, and provides context for her growing discomfort with Myadze. However, when cross-referenced with the text messages, it becomes clear that many of these interactions did not affect their ability to work together professionally. Despite the personal tension, the timeline does not demonstrate a pattern of behavior that would meet the threshold for harassment under APM 3-5. (*See Appendix A*).

REVIEW AND ANALYSIS OF SUPPLEMENTAL EVIDENCE

The key evidence that led us to reconsider our initial conclusion includes the text messages, the continuing professional relationship between [REDACTED] [REDACTED] and Myadze, and a deeper application of the reasonable person standard and preponderance of evidence. This new information required a more nuanced and careful analysis of the context surrounding the alleged incidents.

A. Text Messages and Contextual Evidence

The text messages exchanged between [REDACTED] [REDACTED] and Myadze between April 2021 and May 2024 provide significant insight into their ongoing relationship after the April 7, 2022, car incident. Upon reviewing these messages carefully, several key observations directly impacted our assessment:

- **Cordial and Professional Tone:** The majority of the text messages between [REDACTED] and Myadze reflect a cordial, professional, and at times friendly tone. They regularly exchanged pleasantries (e.g., “Merry Christmas” and congratulating each other on personal achievements), discussed council business, and even coordinated rides to conferences. Notably, these messages occurred **after the car incident**, suggesting that their working relationship did not reflect ongoing hostility or intimidation, which is essential when applying the **reasonable person standard**.
- **No Evident Hostility:** The text messages do not reflect a work environment characterized by hostility, intimidation, or fear. In fact, if one were to review these messages without the context of the allegations, it would be difficult to detect any personal animosity or dysfunction between the two [REDACTED]. This strongly suggests that the **conditions of employment were not materially altered** in a way that would lead a reasonable person to conclude that a hostile work environment existed.
- **Collaboration Continued:** Despite [REDACTED] [REDACTED] feelings of discomfort regarding the car incident, the messages show that she continued to engage with Myadze in a professional and collaborative manner. For example, [REDACTED] [REDACTED] organized a ride with Myadze to a conference in **October 2023** and had ongoing discussions about policy matters, showing that the working relationship continued without a significant breakdown. This continued engagement, despite the personal tension, indicates that the incident did not **severely alter** her ability to work effectively.

B. April 7, 2022 Car Incident Reconsideration

The April 7, 2022, car incident was a focal point of the initial report, which concluded that the locking of the doors and confrontation created a hostile work environment. In re-evaluating this incident with the new evidence, several factors have come to light:

- **No Immediate Change in Working Conditions:** Despite [REDACTED] [REDACTED] feelings of fear during the car incident, her subsequent actions suggest that her ability to work was not immediately affected. She continued to engage with Myadze, both professionally and personally, following the incident. In the months after April 2022, the text messages reflect that their interactions remained professional, with no overt signs of hostility or intimidation.
- **Friendly and Professional Text Exchanges:** The text messages following the car incident are critical to understanding how their working relationship evolved. The continued cordial and professional nature of the messages strongly suggests that the incident did not create a hostile work environment that altered the conditions of

employment as required under APM 3-5. If viewed objectively, these communications would not suggest to a reasonable person that a hostile environment existed.

- **No Severe or Pervasive Conduct:** To meet the threshold for a violation of APM 3-5, the conduct must be severe or pervasive enough to alter the conditions of employment. While the car incident was troubling, it appears to have been an isolated event that did not persistently affect [REDACTED] [REDACTED] ability to perform her duties. Importantly, [REDACTED] [REDACTED] herself continued to collaborate with Myadze on council matters, further demonstrating that the incident did not result in a hostile or untenable work environment.

C. [REDACTED] [REDACTED] Allegation of Intimidation and “Held Hostage” Comments

[REDACTED] [REDACTED] described feeling “held hostage” by Myadze’s refusal to move past the car incident during subsequent policy discussions. She claimed that his distrust of her impacted her ability to work effectively and collaborate on council matters.

While [REDACTED] [REDACTED] feelings are valid, they do not meet the reasonable person standard for a hostile work environment under APM 3-5. Disagreements between colleagues, particularly in a political context, are not uncommon and do not alone constitute harassment. The ongoing policy disagreements between [REDACTED] [REDACTED] and Myadze, though frustrating, do not rise to the level of severe or pervasive conduct that would create a hostile environment. Both continued to work on policy issues, and [REDACTED] [REDACTED] continued to interact with Myadze despite the tension.

CREDIBILITY ASSESSMENT

[REDACTED] [REDACTED] discomfort with certain interactions, particularly the car incident, is acknowledged, and her account of the events is consistent. Additionally, the timing of Myadze’s submission of supplemental materials, particularly after being asked to provide information earlier, is noted and raises concerns about procedural delay.

It is also important to acknowledge that, at a minimum, the allegations and behaviors lodged against Myadze are concerning, likely even troubling. However, under the reasonable person standard and the preponderance of evidence, the behavior, while odd and discomfoting to [REDACTED] [REDACTED] does not rise to the level of severe or pervasive conduct as required by APM 3-5.

APPLICATION OF APM 3-5 STANDARDS

The reasonable person standard and the preponderance of evidence are critical to evaluating whether a hostile work environment existed. For conduct to violate APM 3-5, it must be severe or pervasive enough to interfere with an employee's work performance or create an environment that a reasonable person would find hostile or intimidating.

- A. Friendly and Cordial Interactions Post-Incident:** The text messages reflect a working relationship that remained professional and functional after the alleged car incident. The ongoing collaboration and amicable exchanges undermine the assertion that a hostile work environment existed.
- B. Preponderance of Evidence Does Not Support Hostile Environment:** After carefully reviewing all the evidence, including new submissions, the preponderance of evidence does not support the conclusion that the conditions of employment were altered or that a hostile work environment existed. The initial findings, which focused on the car incident, have been re-evaluated in light of the new evidence, leading to a deviation from the original conclusion.
- C. Reasonable Person Standard:** When applying the reasonable person standard, a neutral observer would likely conclude that the working relationship between [REDACTED] and Myadze, while strained at times, did not reach the level of hostility or intimidation required to establish a violation of APM 3-5. The continuation of professional and friendly interactions further supports this conclusion.

CONCLUSION

Based on the careful review of the new evidence, including text messages, supplemental interviews, and additional documents, we conclude that no violation of APM 3-5 can be sustained as it relates to [REDACTED] allegations against Myadze. While the initial investigation found a violation based on the car incident, the new evidence has led to a revised conclusion.

The text messages and the continued professional relationship between [REDACTED] and Myadze demonstrate that the conditions of employment were not altered to the degree required to meet the standards of a hostile work environment under APM 3-5. This conclusion does not negate the discomfort [REDACTED] experienced, but when viewed through the lens of the reasonable person standard and the preponderance of evidence, it is clear that the evidence does not support a finding of a violation.

This investigation has been conducted with careful attention to the facts, ensuring that all sides were thoroughly considered, and the decision reflects a conscientious effort to apply the standards fairly and impartially. The conclusions are based on the preponderance of the evidence,

taking into account the severity, persistence, and impact of the conduct on each complainant's work environment and performance.

Very Truly Yours,

OVB Law & Consulting, S.C.

/s/

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