

LGLA - Local Government Law for Elected Officials

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LIDSTONE & COMPANY
BARRISTERS AND SOLICITORS

Overview

- Introduction
- Public Hearings
- Procedural Fairness
- Closed Meetings and Other Procedures
- Conflict of Interest and Gifts
- Personal Liability

Introduction

- Case law and legislation
- Case law – STARE DECISIS
- Legislation
- Local Government Act
- Community Charter
- Charter of Rights and Freedoms
- Ultra vires decisions
- Delegation
- Bylaws and resolutions, at meetings

Public Hearings

- Requirement to hold formal hearing
- Hearing held during Council meeting?
- Notice of hearing
- Disclosure of material to public
- Conduct of hearing

Public Hearings (c'd)

- Conduct of hearing
- General rules
- Speakers' sign-in
- Speaking order
- Emailed or advance sign-in
- Speaker time limit
- Speaker submission limit
- Speaker list

Public Hearings (c'd)

- Control of speakers' time
- Repetition of submissions
- Duration of hearing
- Continuation of hearing
- Submissions at Council Q & A
- Hearing Rules

Public Hearings (c'd)

- Information package
- Correspondence - what is included?
- Written submissions
- Counting submissions
- FOI documents
- Separate bylaws

Procedural Fairness Hearings

- Doctrine of fairness
- When applicable
- Rules of fairness
- Legitimate expectations

Other Meeting Procedures

- Confidentiality
- Closed meeting rules
- Community Charter rules
- Procedure bylaw

Conflict of Interest

- Disqualification from voting – case law
- Disqualification from office
- Community Charter
- Direct or indirect pecuniary interest
- Outside influence
- Inside influence
- Gifts
- Contracts
- Inside information
- exceptions

Conflict of Interest

- Disqualification from voting
 - Case law
- Disqualification from office
 - *Community Charter*
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 - Outside influence
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 - Inside information
 - Exceptions

Conflict of Interest – Continued

- Pecuniary interest
 - Property interest – Hawrelak
 - Competitor – Westend Services
 - Client – McCaghren
 - Contractor – Sacks
 - Developer – Casson
 - Business owner - Wannamaker

Conflict of Interest - Continued

- Resident/owner adjacent to works – Jackson
- Amount not an issue - \$19.66 – Letherby
- Ignoring solicitor opinion – Blake
- Campaign contribution – King
- Family members - Greene
- Lobbying or influencing Council

Conflict of Interest - Continued

- Disqualification from voting
 - Bias/reasonable apprehension of bias
 - Richmond; St. Boniface
 - Personal interest – client, family, patient, contractor, close friend and political agent.
 - L'Abbee case
- s. 122 Criminal Code – fraud/breach of trust
- Participation on other societies or entities

Gifts

- Community Charter – s. 105 – prohibition
- Disqualification from office
- Exceptions
- Incident of protocol/social obligations
- Compensation
- Lawful campaign contribution
- First exception subject to disclosure if over \$250

Personal Liability

- Case law and statute
- Statute
- s. 287 LGA – immunity for individual municipal officers
- Removes liability
- Municipality is vicariously liable
- Exceptions – gross negligence, misconduct, defamation

Personal Liability (c'd)

- s. 287.2 LGA – indemnification against proceedings:
 - ad hoc resolution
 - indemnification bylaw
 - insurance
 - exceptions:
 - Fine for offence (unless strict liability offence)
 - Dishonesty, gross negligence, malicious or wilful misconduct
- * s. 191 Community Charter*