

## **Municipal Conflict Of Interest Act What You Need To Know**

Ontario's *Municipal Conflict of Interest Act* came into effect on March 1, 1983. It replaced conflict legislation originally passed in 1972. The *Act* requires local government representatives to disclose pecuniary (i.e. financial) interests and to abstain from decision-making on matters in which they have such interests.

Note: A number of amendments to the Municipal Conflict of Interest Act will come into force and effect on March 1, 2019. Detailed information will be provided to all candidates prior to May 1, 2018.

### Application:

Members of the following local government bodies are covered by the *Act*:

- municipal councils
- school boards
- police services boards
- committees of adjustment
- other local boards defined in the *Act*, such as public library boards, conservation
- authorities and boards of health.

### Three Pecuniary (Financial) Interests:

Member's pecuniary interests include:

- Direct Interest
- Indirect Interest
- Deemed (*i.e.* family) Interest

### Members Deemed (Family) Interest:

A Member's deemed or family interest includes the interest, direct and indirect of the Member's:

- spouse
- parents
- children (regardless of age)

This only applies if the Member knows about the interest. Other relatives are not covered.

### Exempt Interests:

Council and local board Members are not required to disclose an interest if the interest is exempted by the *Act*. There are nine specific exemptions and the following two general exemptions:

- a pecuniary interest which is in common with electors generally; and
- a pecuniary interest which is so remote or insignificant that it cannot reasonably be regarded as likely to influence the Member.

### Disclosure Of Pecuniary Interest:

At least five legal responsibilities arise when the Member has a pecuniary interest in a matter under consideration. A Member shall:

- disclose the general nature of the interest before any discussion occurs
- not participate in discussions
- not attempt to influence
- not vote
- if the meeting is closed to the public – leave the meeting.

### Record Of Pecuniary Interest:

The municipal Clerk or board Secretary must record a Member's disclosure in the minutes of the meeting.

If the Member is absent from the meeting, the Member must follow this procedure at the first meeting that the Member attends.

### Enforcement:

The right and responsibility to make an allegation that a Member has contravened the *Act* lies with an elector. An elector alleging that a breach has occurred may apply to a Judge of the Superior Court of Justice by an originating Notice of Motion. The Member will then have the right to reply to this application.

### Penalties:

If the Judge determines that a breach has occurred, the Judge is required to declare the Member's seat vacant. The Judge may also disqualify the Member from holding local public office for a period of up to seven years and may require a Member to make restitution. However, the Member cannot be suspended under this *Act*.

### Savings Provisions:

Where a Judge determines that the contravention was committed by reason of

inadvertence or an error in judgment, the Member is not subject to any penalty.

Insurance:

Insurance to reimburse Members for actions under the *Act* is available in two forms. A municipality or local board may provide coverage to reimburse Members that are found to have *not* contravened the *Act*.

As an individual, a Member may purchase insurance to reimburse themselves if they are found to have breached the *Act* but are not removed from office.

Quorum:

If, by operation of this *Act*, the number of remaining Members does not constitute a quorum, the remaining Members shall be deemed to constitute a quorum - provided the number is not less than two Members.

Where only one Member is not prevented from participating at a meeting, the council or local board may apply to a Judge for an Order authorizing them to act subject to any conditions the Judge considers appropriate.