

April 3, 2006

Code of Conduct for the Toronto Licensing Tribunal

(Approved by the Tribunal at its business meeting on April 27, 2006)

Preamble:

Improving the quality of public administration and governance can be achieved by encouraging high standards of conduct on the part of all government officials and citizen appointees who serve on City boards. To this end, the adoption of a Code of Conduct by the Toronto Licensing Tribunal (Tribunal) for its members (which includes the Chair) sets standards of conduct that protect and maintain the City of Toronto's reputation and integrity. The Code of Conduct, set out below, supplements and is compatible with the relevant statutory requirements governing the conduct of members of City boards.

The key statements of principle that underline this are as follows:

- (i) Members of the Tribunal shall serve and be seen to serve in a conscientious and diligent manner;
- (ii) No member of the Tribunal shall use the influence of the office for any purpose other than for the exercise of official duties;
- (iii) Tribunal members are expected to perform their duties in a manner that promotes public confidence and will bear close public scrutiny; and
- (iv) Tribunal members shall seek to serve the public interest by upholding both the letter and the spirit of the laws and policies established by the Federal Parliament, Ontario Legislature, or the City of Toronto Council.

I. Statutory Provisions Regulating Conduct:

The following provincial legislation governs the conduct of Tribunal members:

- (i) Sections 238 and 239 of the *Municipal Act, 2001* (and any successor legislation that sets out requirements for passing a procedure by-law and holding meetings that are open to the public);
- (ii) the *Municipal Conflict of Interest Act, 1990*;
- (iii) the *Statutory Powers Procedure Act, 1990*; and
- (iv) the *Municipal Freedom of Information and Protection of Privacy Act, 1990*.

II. Gifts and Benefits:

Other than remuneration paid by the City, no member shall accept a fee, advance, gift or personal benefit that is connected directly or indirectly with the performance of his or her duties of office.

Exceptions to the non-acceptance of gifts or personal benefits by members in relation to their official duties are:

- (i) compensation authorized by law;
- (ii) such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol, custom, or social obligations;
- (iii) suitable memento of a function honouring the member;
- (iv) food, lodging, transportation and entertainment provided by provincial, regional and local governments or political subdivisions of them, or by the federal government; and
- (v) food and beverages consumed at banquets, receptions or similar events.

III. Confidential Information:

Confidential information includes information in the possession of the City that the City is either prohibited from disclosing, or is required to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act*, (MFIPPA) or other legislation. Generally, MFIPPA restricts or prohibits disclosure of information received in confidence from third parties of a corporate, commercial, scientific or technical nature, information that is personal, and information that is subject to solicitor-client privilege.

The *Municipal Act* (section 239) allows information that concerns personnel, labour relations, litigation, property acquisitions, the security of the property of the City or a local board, and matters authorized in other legislation, to remain confidential. For the

purposes of the Code of Conduct, “confidential information” also includes this type of information.

No member shall disclose or release by any means to any member of the public, any confidential information acquired by virtue of the office, in either oral or written form except when required by law or authorized by Council to do so. Nor shall members use confidential information for personal or private gain, or for the gain of relatives or any person or corporation. No member should directly or indirectly benefit, or aid others to benefit, from knowledge respecting bidding on the sale of City property or assets.

Under the *Municipal Act*, where a matter that has been discussed at an in-camera (closed) meeting remains confidential, no member shall disclose the content of the matter, or the substance of deliberations, of the in-camera meeting.

The following are examples of the types of information that a member of the Tribunal must keep confidential:

- (i) items under litigation, negotiation, or personnel matters;
- (ii) information that infringes on the rights of others (e.g., sources of complaints where the identity of a complainant is given in confidence);
- (iii) price schedules in contract tender or Request For Proposal submissions if so specified;
- (iv) information deemed to be “personal information” under the *Municipal Freedom of Information and Protection of Privacy Act*; and
- (v) statistical data required by law not to be released (e.g., certain census data).

IV. Use of City Property, Services and Other Resources:

No member should use, or permit the use of City land, facilities, equipment, supplies, services, staff or other resources (for example, City-owned materials, web sites, transportation delivery services) for activities other than the business of the Tribunal on behalf of the City. Nor should any member obtain financial gain from the use or sale of City-developed intellectual property (for example, inventions, creative writings and drawings, computer programs, technical innovations, or other items capable of being patented), since all such property remains exclusively that of the City.

V. Election Campaign Work:

No member shall use the facilities, equipment, supplies, services or other resources of the City for any election campaign or campaign-related activities. No member shall

undertake campaign-related activities on City property during regular working hours. No member shall use for campaign purposes the services of persons during hours in which those persons receive any compensation from the City.

VI. Business Relations:

No member shall act as a paid agent before Council, its committees, or an agency, board or commission of the City except in compliance with the terms of the *Municipal Conflict of Interest Act* nor shall any member refer third parties to a person, partnership, or corporation in exchange for payment or other personal benefit.

VII. Conduct Respecting Current and Prospective Employment:

No member shall allow the prospect of any potential future employment by a person or entity to detrimentally affect the performance of his or her duties to the Tribunal.

VIII. Conduct At Meetings:

Members shall conduct themselves with decorum at meetings in accordance with the provisions of the Tribunal's Procedural By-law.

IX. Conduct Respecting Staff:

Only Council as a whole has the authority to direct staff. Council establishes by-laws, sets policy, approves the budget for the Tribunal and establishes the mandate of the Tribunal and parameters for its authority. However, the Tribunal, by majority vote at its business meetings, may request the preparation of a staff report on issues related to its mandate and processes within approved budget and staff responsibilities. These directions to staff are co-ordinated by the relevant staff attending the meeting. The Tribunal shall direct requests outside of Council approved budget, process or policy, to the appropriate Standing Committee, in accordance with the Council-approved Relationship Framework that defines the governance relationship between the City and the Tribunal.

Individual members of the Tribunal, including the Chair, are not empowered by Council to direct staff in carrying out their duties. Under the direction of the City Manager, staff serve the Tribunal as a whole. Members shall be respectful of the role of staff to advise based on political neutrality and objectivity and without undue influence from any individual member or faction of the Tribunal or of Council.

Accordingly, no member shall maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff, and all members shall show respect for the professional capacities of the staff of the City.

No member shall compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities. Nor shall any member use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff member with the intent of interfering with that person's duties, including the duty to disclose improper activity.

In practical terms, there are distinct and specialized roles carried out by the Tribunal as a whole and by the Chair and members when performing their roles. Similarly, there are distinct and specialized roles expected of City staff in both the carrying out of their responsibilities and in dealing with the Tribunal.

X. Conduct Respecting Lobbyists:

All purchasing for Tribunal purposes shall be conducted by staff. Any purchases shall be made in accordance with the provisions of the Toronto Municipal Code, Chapter 71, Financial Control, and Chapter 195, Purchasing. In addition, any such purchasing shall also be conducted in accordance with relevant City procedures and policies, including the Lobbying Disclosure Policy for City Tenders/Quotations Calls or Requests for Proposals.

The term "lobbyist" includes the following:

- (i) "consultant lobbyist" means a person who, for payment, lobbies on behalf of a client and includes, but is not limited to, government relations consultants, lawyers, accountants, or other professional advisors who provide lobbying services for their clients;
- (ii) "corporate in-house lobbyist" means an employee of a corporation that carries on commercial activities for financial gain and who lobbies as a significant part of their duties;
- (iii) "organization in-house lobbyist" means an employee of a non-profit organization, when one or more employees lobby public office holders and where the accumulated lobbying activity of all such employees would constitute a significant part of the duties of one employee; and
- (iv) "volunteer lobbyist" means a person who lobbies without payment on behalf of an individual, corporation, or organization.

Lobbying is usually defined as direct or indirect efforts to solicit a member's support and influence government decisions on behalf of another party or an organization, often away from public scrutiny. Lobbying activity is to be distinguished from advice seeking by members of the public, or contacts by members or employees of government conducting official business. Lobbying is also distinguishable from matters that are the subject of

committee deputation, or other processes that are a matter of public record where individuals are named and their interest and organizational affiliation identified.

Members shall be vigilant in their duty to serve public interests when faced with lobbying activity. Members can use the following as a guide to assist in identifying whether they are being lobbied:

- (i) Has the contact person attempted to influence you personally in any legislative or administrative action that would have benefited him or her or his or her employer financially?
- (ii) Does the contact person do business or seek to do business with the City?
- (iii) Is the contact person seeking to influence outcomes outside a public forum on a matter involving a license, permit or other entitlement for use currently pending before the City?
- (iv) Is the contact person a provincially or federally registered lobbyist employer or a client of a registered lobbyist?
- (v) Is the contact person a provincially or federally registered lobbyist or lobbying firm?
- (vi) Does the contact person fall within the definitions provided above?

XI. Communications With the Tribunal:

Written communication to the Tribunal shall take place only through the Tribunal Administrator, and shall be copied to all parties or their representatives. Oral communication with the Tribunal about a current proceeding shall take place only in the presence of or with the consent of all parties.

Where a party is represented by a representative, all communication between the Tribunal and the party shall be through the representative, with the exception of notices of hearing which shall be served upon all parties known to the Tribunal.

The Tribunal shall not be copied on correspondence and documents exchanged by parties, unless the Tribunal Administrator has given prior approval to such copying.

XII. Media Communications:

The Chair shall serve as the media contact for the Toronto Licensing Tribunal. Should the media contact a member of the Tribunal directly, such member shall refer the enquiry to the Chair or, in the absence of the Chair, to the Chair's designate. The Chair may identify another member as the media contact for a specific issue.

XIII. Discreditable Conduct:

All Tribunal members have a duty to treat members of the public, one another and staff fairly and to ensure that their proceedings are free from discrimination and harassment. The Ontario Human Rights Code applies, as does the Human Rights, Harassment and Hate Activity Policy Framework adopted by Council at its meeting of December 16 and 17, 1998.

XIV. Compliance with the Code of Conduct:

This Code of Conduct is an agreement by Tribunal members on their expected conduct. It is adopted as a resolution of the Tribunal, as opposed to a specific by-law with an offence provision (that could be enforced under the *Provincial Offences Act* and could result in a fine). While they may not be prosecuted or fined under it, members acknowledge the importance of the principles contained in this Code of Conduct and agree to support and adhere to it.

Complaints or concerns from any person regarding alleged non-compliance with this Code of Conduct by a Tribunal member may be made to the Mayor in writing. As the head of the Council, the Mayor has as one of his or her duties, to be vigilant and active in causing the laws for the government of the municipality to be duly executed and obeyed.