

Municipalities Act Review

The Conflict of Interest sections of the Municipalities Act, 1999 needs greater clarity and direction.

- Section 207 of the Act indicates that a councillor shall not vote or speak on a matter in which the councillor has a monetary interest either directly or indirectly. This part of the Act needs to be expanded to explain that while monetary interest refers to money but can also refer to a change in asset value which can be converted to cash. A conflict of this kind is much more difficult to determine and measure.
- There should be a judiciary or some independent tribunal to which allegations of conflict should be referred who will examine the facts and make the determination if a conflict exists and declare the councillors seat vacant if necessary. A councillor should retain his/her seat until the judiciary rules on the conflict. The Department of Municipal Affairs should have more direct involvement in the process. The current process is adversarial, time consuming and cost prohibitive for municipalities.
- The Department should consider a range of penalties based on the seriousness of the conflict. Declaring a seat vacant may be too severe for minor conflicts.
- The Act should state that a councillor is not in conflict due to the street they live on or a family member lives on for example, a councillor should not be in conflict due to general repairs being done to their street or because a neighbor has requested a development permit for their property.
- The Act should set a time limit to accept an allegation of conflict of interest of between 5-10 years after the date of the alleged breach. There should also be a time limit of 60-90 days to act once an allegation is presented to a council.

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