

# Licensing Tribunals & Delegation of Authority

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# Licensing Tribunals & Delegation of Authority

## - Points for Discussion -

- Legislative Framework
- Delegation of Authority
- Tribunals/Committees
  - Licensing Tribunals
  - Animal Control Tribunal
- Composition of Tribunal/Committee
- Rules of Procedure
- Tribunal Counsel
- Role of Chief License Inspector/Counsel for CLI
- Questions

# Legislative Framework: Licensing Enabling Legislation

## ➤ Authority to License

- *Municipal Act, 2001* – Part IV (ss.150-166)
- *City of Toronto Act, 2006*, ss. 86-96

# Issuance, Conditions, Suspension, & Revocation

## ➤ Issuance

- Licensing regulations set out conditions precedent for issuance of a license

## ➤ Conditions

- Impose conditions (including special conditions)

## ➤ Suspension

- Can suspend up to 14 days w/o Hearing

## ➤ Revocation

# Delegation of Authority

## ➤ Section 23.1 *Municipal Act, 2001*

- a municipality can “delegate its powers and duties under this or any other Act to a person or body subject to the restrictions set out in this Part.”

# Restrictions on Delegation of Authority

**23.2 (1)** Sections 9, 10 and 11 do not authorize a municipality to delegate legislative and quasi-judicial powers under any Act except those listed in subsection (2) and the legislative and quasi-judicial powers under the listed Acts may be delegated only to,

- (a) one or more members of its council or a council committee;
- (b) a body having at least two members of whom at least 50 per cent are,
  - (i) members of its council,
  - (ii) individuals appointed by its council,
  - (iii) a combination of individuals described in subclauses (i) and (ii);

or

- (c) an individual who is an officer, employee or agent of the municipality

# Restrictions on Delegation of Authority

23.2 (4) No delegation of a legislative power shall be made to an individual described in clause (1) (c) [an individual who is an officer, employee or agent of the municipality] unless, in the opinion of the council of the municipality, the power being delegated is of a minor nature and, in determining whether or not a power is of a minor nature, the council, in addition to any other factors it wishes to consider, shall have regard to the number of people, the size of geographic area and the time period affected by an exercise of the power.

(5) Without limiting subsection (4), the following are examples of powers considered to be of a minor nature:

...

2. The power to issue and impose conditions on a licence.

# Suspension of a License

## Municipal Act, 2001: Power to suspend a licence

- 151 (2) .... if a municipality is satisfied that the continuation of a business poses an immediate danger to the health or safety of any person or to any property, the municipality may, for the time and on such conditions as it considers appropriate, without a hearing, suspend a licence subject to the following:
  - 1. Before suspending the licence, the municipality shall provide the licensee with the reasons for the suspension, either orally or in writing, and an opportunity to respond to them.
  - 2. The suspension shall not exceed 14 days.

# Licensing Tribunals / Committees

Tribunal options include:

- Members of Council only
  - (e.g. City of Ottawa License Committee)
- Members appointed by Council
  - (e.g. City of Toronto Licensing Tribunal)
- A combination of Members of Council and appointments
- Individual who is an officer, employee, or agent of the municipality
  - (e.g. akin to City of Ottawa Animal Control Tribunal)

# Composition of Tribunal Pros/Cons – Points for Discussion

## ➤ Members of Council

- A quasi-judicial tribunal
- Bias & “incapable of a being persuaded test”
- Profile
- Challenging a decision

## ➤ Appointed by Council

- lay persons & lawyers
- *Municipal Conflict of Interest Act*
- Profile
- Challenging a decision

# Animal Control Tribunals

## *Municipal Act, 2001* --- Muzzling of dogs

105. (1) If a municipality requires the muzzling of a dog under any circumstances, the council of the municipality shall, upon the request of the owner of the dog, **hold a hearing** to determine whether or not to exempt the owner in whole or in part from the requirement.

(e.g.) City of Ottawa Animal Control Tribunal:  
hearings are before a City employee: Director of  
By-law Services

# Rules of Procedure

- Licensing By-law
- Need for formal rules or code of procedure?
- Rely on SPPA (*Statutory Powers & Procedure Act*)?
- Common Law (principles of natural justice & procedural fairness)

# Tribunal Counsel

- Does the Tribunal need independent counsel?
- What is the role of Counsel?
  - Attend the hearing in person, on stand-by?
  - Role of Tribunal Counsel in decision?
  - Train members of Tribunal?

# Role of CLI / counsel for CLI

- Unrepresented Licensees
- Onus is typically on the Licensee at the hearing
- Quasi-judicial tribunal members have limited legal training
- Presentation of the Case & Procedural Fairness

# Licensing Tribunals & Delegation of Authority

*QUESTIONS?*

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