

ONTARIO LAND TRIBUNAL CONFLICT OF INTEREST RULES

Interpretation

These Conflict of Interest Rules are to be interpreted in accordance with the core values of Ontario Land Tribunal (“OLT”), being accessibility, fairness, transparency, timeliness, professionalism, and independence.

These Rules apply to OLT employees, including Order-in-Council appointees to the OLT. Except as specifically noted, these rules apply to all OLT employees.

These Rules govern the conduct of OLT staff persons and Members from the commencement of their term of employment by or appointment to OLT. These Rules also set out the continuing responsibilities of former OLT staff persons and Members.

These Rules will be considered and applied by the Ethics Executive in setting performance objectives for OLT staff persons and Members, reviewing their performance, providing professional development opportunities, and determining whether to recommend reappointment of an OLT Member.

Under the *Public Service of Ontario Act, 2006* (“PSOA”) and the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009*, the Ethics Executive for OLT staff members is the Executive Director of OLT, and for OLT Members (other than the Chair) is the Chair. The Ethics Executive for former OLT staff members and former OLT Members, and for the Chair of OLT is the Integrity Commissioner.

These Rules are based on those set out in Ontario Regulation 381/07. If a provision in these Rules establishes a degree of ethical conduct that is lower than those set out in the regulation, the provision in the regulation prevails.

Definitions

“confidential information” means information that is not available to the public and that, if disclosed, could result in harm to the OLT or the Crown or could give the person to whom it is disclosed an advantage;

“conflict of interest” includes any interest, relationship, association or activity that is incompatible with an employee’s or Member’s obligations to OLT and to the Crown and includes both pecuniary and non-pecuniary interests;

“designated senior position” means the Executive Director;

“employment” includes appointment by Order-in-Council;

“gift” includes a benefit of any kind;

“Member” means an Order-in-Council appointee, including the Chair, the Vice-Chairs, and the Members of the OLT;

“PSOA” means *Public Service of Ontario Act*, 2006, S.O. 2006, c.35, Schedule A, as amended from time to time;

“spouse” means,

- a) a spouse as defined in section 1 of the *Family Law Act*, or
- b) either of two persons who live together in a conjugal relationship outside marriage.

“Tribunal” means the Ontario Land Tribunal.

Part I Prohibited Conduct

Benefiting Self, Spouse, Child, Parent, Sibling, or Close Associate

1. An OLT staff person or Member shall not use or attempt to use their employment in OLT to directly or indirectly benefit themselves, or their spouse, common-law partner, or any person with whom the person is living with as a spouse outside marriage; child, including stepchild; parent, including stepparent, and legal guardian; grandchild; siblings; aunt, uncle, nephew, niece, first cousins; in-laws, including mother-in-law and father-in-law, sister-in-law and brother-in-law and daughter-in-law and son-in-law; or any other person with whom they have a close business or personal relationship.
2. An OLT staff person or Member shall not allow the prospect of their future employment outside of OLT to detrimentally affect the performance of their duties to OLT and to the Crown.

Accepting Gifts

3. An OLT staff person or Member shall not accept a gift resulting from or that could be seen to be connected to their position or duties to OLT and to the Crown.
4. Rule 3 does not operate to prevent an OLT staff person or Member from accepting a gift of nominal value (\$50.00 or less) given as an expression of courtesy or hospitality if doing so is reasonable in the circumstances.
5. An OLT staff person or Member who receives a gift in circumstances described in Rule 3 that is not exempted by Rule 4, must inform their Ethics Executive.

Confidential Information

6. An OLT staff person or Member shall not disclose confidential information obtained in the course of their employment by OLT unless they are authorized to do so by the law or by the Crown.
7. An OLT staff person or Member shall not use confidential information in a business or undertaking outside of their work for OLT.
8. An OLT staff person or Member shall not accept a gift directly or indirectly in exchange for disclosing confidential information.

Preferential Treatment

9. When performing their duties to OLT and to the Crown, an OLT staff person or Member shall not give preferential treatment to any person or entity, including a person or entity in which the OLT staff person or Member, or a member of their family, or any other person with whom they have a close business or personal relationship, has an interest.
10. When performing their duties to OLT and to the Crown, an OLT staff person or Member shall endeavour to avoid creating the appearance that preferential treatment is being given to a person or entity.

Offering Assistance

11. An OLT staff person or Member shall not offer assistance to a person or entity in dealing with the OLT other than assistance given in the ordinary course of their employment.

Hiring and Contracting with Spouse, Child, Parent or Sibling

12. An OLT staff person or Member shall not, on behalf of OLT, hire or propose the hiring of their spouse, child, parent or sibling.
13. An OLT staff person or Member shall not, on behalf of OLT, enter into a contract with their spouse, common-law partner or any person with whom the person is living with as a spouse outside marriage; parent, including stepparent, and legal guardian; child, including stepchild; grandchild; siblings; aunt; uncle; nephew niece; first cousins; in-laws, including mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law and son-in-law, or any other person with whom they have a close business or personal relationship or any person appearing before the OLT, or with a person or entity in which any of them has a substantial interest.

Supervising Work of Spouse, Child, Parent or Sibling

14. An OLT staff person or Member who hires a person on behalf of the OLT shall ensure that the person does not report to, or supervise the work of the person's spouse, child, parent or sibling. An OLT staff person or Member who reports to, or supervises the work of their spouse, child, parent or sibling shall notify their Ethics Executive.

Engaging in Business, etc.

15. An OLT staff person or Member shall not become employed by or engage in a business or undertaking outside their employment by OLT in any of the following circumstances:
 - a) if the OLT staff person's or Member's private interests, in connection with the employment or undertaking, could conflict with their duties to OLT or to the Crown;

- b) if the employment or undertaking would interfere with the OLT staff person's or Member's ability to perform their duties to OLT or to the Crown;
 - c) if the employment is in a professional capacity and is likely to influence or detrimentally affect the OLT staff person's or Member's ability to perform their duties to OLT or to the Crown;
 - d) if the employment would constitute full-time employment for another person. However, this paragraph does not apply with respect to an OLT staff person or Member who is employed part-time by OLT. This paragraph also does not apply to an OLT staff person or Member who is on an authorized leave of absence from their position, so long as the employment is not contrary to or inconsistent with the terms of the leave of absence;
 - e) if, in connection with the employment or undertaking, any person would derive, or may appear to derive, an advantage from the OLT staff person's or Member's employment by OLT; and
 - f) if government premises, equipment or supplies are used in the employment or undertaking.
16. An OLT staff person or Member shall disclose, in a timely way, to their Ethics Executive any existing or proposed outside undertaking or employment which could fall within the provisions of Rule 15.

Participating in Decision Making

17. An OLT staff person or Member shall not participate in decision-making by the OLT with respect to a matter that they are able to influence in the course of their duties if they or their spouse, child, parent, or sibling could benefit from the decision.
18. Rule 17 does not apply if an OLT Member obtains the prior approval of their Ethics Executive to participate in decision-making.
19. An OLT staff person or Member who, in the course of their duties to OLT, is a member of a body or group shall not participate in, or attempt to influence, decision-making by the body or group with respect to a matter if they could benefit from the decision or if, as a result of the decision, the interests of the body or group could conflict with the interests of OLT or the Crown.
20. An OLT staff person or Member shall inform the body or group if the circumstances described under Rule 19 exist.

Matters that Might Involve the Private Sector

21. If an OLT staff person or Member begins work on a matter that might involve the private sector as defined by section 10 of Ontario Regulation 381/07, they must make a financial declaration to the Integrity Commissioner, in accordance with section 11 of Ontario Regulation 381/07.

22. OLT staff persons and Members are subject to the restrictions on certain purchases as set out in section 12 of Ontario Regulation 381/07.

Part II

Prohibited Conduct for Former OLT Staff Persons and Former OLT Members

Application

23. The Rules in this section apply with respect to every former OLT staff person or Member who, immediately before they ceased to be a public servant, were employed by OLT, unless they ceased to be a public servant before the day on which these rules are posted by the Integrity Commissioner. In that event, the conflict of interest rules which formerly governed the individual, whether pursuant to specific rules approved by the Integrity Commissioner or by virtue of the application of Ontario Regulation 381/07, apply.
24. A former OLT staff person or Member has an obligation to notify their Ethics Executive of any potential issue with respect to the post service Rules or seek a determination from the Ethics Executive concerning their obligations under the *PSOA*.

Preferential Treatment

25. A former OLT staff person or Member shall not seek preferential treatment by, or privileged access to, public servants who work in a minister's office, a ministry, OLT, or any other public body.

Disclosure of Confidential Information

26. A former OLT staff person or Member shall not disclose confidential information obtained during the course of their employment by OLT to a person or entity unless authorized to do so by law or by the Crown.
27. A former OLT staff person or Member shall not use confidential information obtained during the course of their employment in the OLT in a business or undertaking.

Restriction on Lobbying

28. A former OLT Member or staff person who was employed in a designated senior position immediately before ceasing to be a public servant shall not, for 12 months after ceasing to be a public servant, lobby any of the following persons on behalf of a public body or another person or entity:
- a) a public servant who works in the OLT or in a ministry in which the former OLT staff person or Member worked at any time during the 12 months before they ceased to be a public servant;
 - b) the minister of any ministry in which the former OLT staff person or Member worked at any time during the 12 months before they ceased to be a public servant; or

- c) a public servant who works in the office of a minister described in paragraph b)

Restriction on Employment, etc.

29. A former OLT Member or staff person who was employed by the OLT in a designated senior position immediately before ceasing to be a public servant and who at any time during the 12 months before they ceased to be a public servant:

- a) had substantial involvement with a public body or another person or entity; or
- b) had access to confidential information that, if it were to be disclosed to the public body, person or entity, could result in harm to the Crown or to OLT, or could give the public body, person or entity an unfair advantage in relation to one or more third parties;

Shall not accept employment with the public body, person or entity or serve as a member of the board of directors or other governing body of the public body, person or entity for 12 months after ceasing to be a public servant.

30. A former OLT staff person or Member who, while employed by OLT, advised the Crown about a particular proceeding negotiation or other transaction shall not advise or otherwise assist any public body, person or entity in connection with the particular proceeding, negotiation or transaction until the Crown ceases to be involved in it. However, the former OLT staff person or Member may continue to advise or otherwise assist the Crown in connection with the particular proceeding, negotiation or transaction.

Part III

Additional Conflict of Interest Rules for OLT Staff Persons, Former Staff Persons, Members, and Former Members

Financial Interest

31. An OLT staff person shall not process and an OLT Member shall not adjudicate or otherwise participate in a proceeding or discussions of any matter in relation to a proceeding where the OLT staff person or Member or their spouse, child, parent, sibling, or close associate could benefit from the decision or has a significant financial interest in relation to one of the parties to the proceeding. The following do not constitute a significant financial interest for the purposes of this rule:

- a) Legal or beneficial interest in a mutual fund within the meaning of subsection 1(1) of the *Securities Act*, even where that mutual fund includes securities of a corporation or entity that is a party to a proceeding before OLT, provided that the mutual fund is not one described in subsection 11(1)4 of Ontario Regulation 381/07;
- b) Fixed-value securities issued or guaranteed by a government or a government agency;

- c) A guaranteed investment certificate or similar financial instrument issued by a financial institution entitled by law to issue such instruments; or
- d) A registered pension plan, an employee benefit plan, an annuity or life insurance policy or deferred profit sharing.

Personal Relationship

32. An OLT staff person shall not process and an OLT Member shall not adjudicate or otherwise participate in a proceeding or discussions of any proceeding involving a party or representative with whom they have a close personal relationship, including his or her spouse, child, parent, or sibling.

Prior Involvement

33. An OLT staff person shall not process and an OLT Member shall not adjudicate or otherwise participate in a proceeding or discussions of any proceeding in which the OLT staff person or Member, their spouse, child, parent, sibling, or any other person with whom they have had a close business, professional, or personal relationship has had any prior involvement.

Professional Relationship

34. An OLT Member shall not adjudicate or otherwise participate in a proceeding or discussions of any proceeding involving a party or representative with whom they had a former significant professional relationship until a period of 12 months has elapsed from the termination of the relationship, or while they retain any financial or other interest connected to that relationship.

Effect on Other Proceedings

35. An OLT staff person shall not process and an OLT Member shall not adjudicate or otherwise participate in a proceeding or discussions of any proceeding in which the outcome may have an impact on any legal proceeding in which the OLT staff person or the OLT Member or their spouse, child, parent, sibling, or close associate, has a significant personal or pecuniary interest.

Appearance before the OLT: General

36. When an OLT staff person, OLT Member, former OLT staff person, or former OLT Member has any dealings with or appears before OLT, they are obligated to ensure that the integrity of OLT is maintained.

Appearance before the OLT: Current Staff Persons and Members

37. (1) An OLT staff person or Member shall not appear before OLT as an expert witness or as a representative for a party.
- (2) An OLT staff person or Member shall not, other than in due course of their employment by OLT, provide legal, consulting, or technical services or advice to

anyone in respect of a matter that is, or may come before, OLT, or on an appeal or judicial review of a matter which was before OLT, whether the services are provided for remuneration or not.

38. An OLT staff person or Member or the spouse, child, or parent of an OLT staff person or Member may commence or respond to an application, appeal or other matter before OLT provided that they do so through counsel or a representative, immediately notify the Ethics Executive, refrain from any communication of or about the matter except as may be required by law or by the rules of OLT, and refrain from involvement in any case which is directly related to the matter in question.
39. On receipt of notice under Rule 40, the Ethics Executive shall take all reasonable measures to ensure the application or appeal is segregated and that internal access to the file is limited to appropriate individuals. The OLT staff person or Member who is a party to the application or appeal shall have no access to the file. An OLT Member will not be assigned to files which raise issues which are similar to those in the matter in question.
40. If, in order to protect their own rights or interests in a matter before OLT, an OLT staff person or Member must appear as a witness or otherwise make their identity known to OLT I, they shall notify their Ethics Executive.

Appearance before the OLT: Former Staff Persons and Members

41. A former OLT Member shall not appear as a representative or an expert witness before OLT for a period of 12 months from the end of their appointment or 12 months after the release of their last decision, whichever comes later.
42. A former OLT staff person shall not appear as a representative before the OLT for a period of six months from the end of their employment by OLT.