



Ontario Land Tribunal

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Code of Conduct

Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009

Introduction

The purpose of the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009* (the “ATAGAA”) is to ensure that adjudicative tribunals are accountable, transparent and efficient in their operations, while remaining independent in their decision-making. The Ontario Land Tribunal has developed documents to meet the legislative requirements of the ATAGAA.

Section 7 of the ATAGAA requires that every adjudicative tribunal shall develop a member accountability framework. The framework must contain, among other things, a code of conduct for the Members of the tribunal.

The Code of Conduct (the “Code”) for the Ontario Land Tribunal (“OLT”) provides guidance on the appropriate standard of conduct for Members of the OLT. It addresses the principles of good conduct and collegial responsibility for all Members.

Definitions

“Member” is a person appointed by the Lieutenant Governor-in-Council to the OLT and is a public servant, and includes the Chair, Vice-chair, Alternate chair, and Members.

“Proceeding” in the Code includes:

- Adjudicating a case
- Mediating a case
- Assigning a case to a mediator or Member
- Participating in discussions of an ongoing case or issue before or concerning the tribunal, and
- Making case management decisions or recommendations.

Application

- The Code sets out the standard of conduct governing the professional and ethical responsibilities of Members throughout their term of appointment.
- The principles set out in the Code are founded on the professional and ethical values of fairness, impartiality, integrity, respect for diversity and public service - values which uphold the public trust and address the principles of good conduct, collegial responsibility and personal conduct. Members are responsible for applying an appropriate standard of conduct and acting in an ethical and professional manner.
- The Code does not stand alone. It complements and supplements the OLT's Conflict of Interest Rules, the Rules of Procedure of the OLT, statutory standards in relation to political activity rights and obligations, and other legal obligations or professional requirements.
- The Code constitutes an important element of the accountability framework within which OLT and Members operate.
- The Code has been developed in recognition of the fundamental and over-riding responsibility of all Members to maintain the integrity, competence, and effectiveness of OLT. OLT is committed to ensuring that its core values are adhered to in all adjudicative and dispute resolution processes and proceedings, and that parties before the tribunal are provided an impartial determination under the law.
- The Code is intended to ensure that Members behave towards members of the public, OLT staff and other Members in a courteous, professional and respectful manner.
- The Code is intended to assist Members by establishing appropriate standards of conduct in an administrative justice and public service environment. However, the Code cannot anticipate all possible circumstances in which Members may be called upon to exercise judgment. It remains the responsibility of Members to consider the appropriate standard and to conduct themselves in an ethical and professional manner. Members should seek direction/clarification from their Ethics Executive when uncertain about the appropriate standard.
- The Code may be amended from time to time.

Principles of Conduct

Compliance with Laws

- Members shall act in accordance with all applicable laws and comply with the spirit and intent of all laws.
- Members shall not commit or condone an unethical or illegal act or encourage another to do so.

Fairness

- Members have an obligation to comply with the principles of procedural fairness and natural justice and to act impartially in the conduct of proceedings.
- Members shall treat those who appear before them without discrimination or favouritism.
- Members shall treat each person with dignity, courtesy and respect and in a manner that builds trust and confidence in the OLT, and the administration of justice.
- Members shall conduct proceedings in a way that those who appear before them understand procedures and practices and have a reasonable opportunity for informed and effective participation in the proceeding, whether or not they are represented.
- Members shall foster mutual respect among those participating in hearings and their decisions shall show respect for those participating in hearings.

Diversity and Inclusiveness

- Members are expected to be aware and respectful of social and cultural differences and value the diversity of Ontarians who appear before them.
- Members are expected to be aware of barriers that may restrict access and participation for persons with disabilities. In the course of their duties, Members shall act in a manner that demonstrates an understanding of diversity and inclusion and be self-aware about the potential for unintended barriers.
- Members must be alert to potential barriers to informed access and be familiar with and give effect to the OLT's policies on inclusion and diversity.

Timeliness

- Members are expected to take reasonable steps to ensure that proceedings are concluded in a timely manner, avoiding unnecessary delays.
- Members are expected to release decisions as soon as possible after the completion of a hearing, and are expected to meet applicable timelines, policies and standards.

Quality and Consistency

- Members are expected to be fully prepared for a proceeding and ensure that proceedings are conducted in an orderly manner, in accordance with applicable rules and guidelines.
- Members shall maintain the integrity of the hearing process.
- Members shall ensure that decisions are prepared in accordance with the tribunal's policies and guidelines, reflect an understanding of the issues, relevant law and policies, and meet the tribunal's standards for quality decision-making.
- Members are expected to recognize the value of consistency and predictability in the exercise of their independent decision-making authority. OLT Members should consider relevant facts and evidence as well as the law, jurisprudence, policies, rules and guidelines.

Transparency

- Members are expected to ensure that proceedings are conducted fairly and expeditiously, and in a manner that is transparent, understandable, and subject to rules or legislative requirements designed to protect confidentiality.
- Members are expected to conduct their personal affairs and professional responsibilities in a manner that would bear close public scrutiny.

Expertise and Competence

- Members are expected to be expert and current with the legislation, regulations, policies and jurisprudence that apply to their work and the work of the tribunal.
- Members are expected to participate in tribunal members' meetings, OLT wide events and OLT ongoing professional development.
- Members are expected to be willing to share their skills, experience and knowledge with other members and staff and the broader community to enrich the work of the OLT and enhance the effectiveness of the services it provides.

Responsive Resolution

- Where appropriate, Members shall provide parties with opportunities to resolve issues before them without a formal hearing.
- Members are expected to ensure that proceedings are conducted fairly, effectively and expeditiously, and the procedures employed are appropriate and proportionate in the circumstances of the dispute. Where appropriate, Members should employ an active adjudicative approach.

Integrity

- Members shall act with honesty, integrity and high ethical standards. Members should treat those who appear before them, other Members and staff with courtesy and respect.
- Members shall not engage in conduct that exploits their position as a Member.

- Members shall conduct themselves personally and professionally in a manner consistent with the nature of their responsibilities and the maintenance of public confidence in the administration of justice.
- Members shall act, personally and professionally, so as to avoid bias or the appearance of bias.

Ethics

- Members shall abide by the procedures established to address matters related to conflicts of interest including the OLT's Conflict of Interest Rules and must comply with the directions given by their Ethics Executive.

Collegiality

- Members are expected to foster a collegial working environment and conduct themselves in a manner that reinforces the integrity and professionalism of the OLT.
- Members are expected to conduct themselves in a manner that demonstrates respect for the views and opinions of colleagues and staff.
- Members are expected to share their knowledge and expertise with other Members and staff as requested and appropriate.

Professional Activities Outside OLT and Public Comment

- Members are expected to be mindful of relationships and activities outside of the OLT and have regard to the fundamental importance of impartiality and integrity and the appearance of impartiality in all the tribunal does.
- Members shall exercise discretion and good judgment with respect to all professional associations and outside activities to ensure that they maintain the highest standards of integrity and avoid situations that may give rise to bias or appearance of bias.
- All professional associations and outside activities that could reasonably be perceived to relate to any of the matters which could come before the OLT must be disclosed to an individual's Ethics Executive before the individual is recommended for appointment or reappointment to the OLT. Proposed new associations or activities, including directorships, public speaking engagements, and planned publications thereafter should be discussed with the Ethics Executive before they are undertaken.
- Members shall not comment publicly on another Member's conduct, or on another Member's decision (except respectfully in a decision or in the course of their duties as a Member). Nor should OLT Members comment publicly on the law, government policy, or any matters before the OLT.

Impartiality

- Members must be and should appear impartial in their decision and decision making.
- Members are expected to approach every proceeding and every issue arising in a proceeding with an open mind and avoid doing or saying anything to cause any person to think otherwise.
- Members are expected to maintain independence in their decision-making.
- In the conduct of proceedings, Members' decisions are expected to be based on an application of the relevant law to the evidence presented in each case. Reasons should be clear, concise and intelligible, and provide a clear, logical path to the conclusion.
- Members shall apply the law to the evidence in good faith and to the best of their ability. The prospect of disapproval from any person, institution, or community must not deter a Member from making the decision which she/he believes is correct based on the law and the evidence.

Confidentiality

- Members shall consider the privacy interests of individuals in the conduct of hearings and decisions, and act in accordance with applicable laws.
- Members must not disclose information that the OLT considers to be confidential.
- Members must not take advantage of confidential information obtained through official duties to obtain a personal benefit.
- Members are expected to follow the OLT protocols for communication with the media and should not communicate with the media regarding a decision.

Acknowledgment

- Each Member must adhere to this Code of Conduct and commit to supporting standards set out in applicable legislation, policies or guidelines.
- Members are expected to review and reaffirm their commitment to and compliance with this Code of Conduct upon initial appointment and on an annual basis thereafter.
- I acknowledge that I have read and understand this Code of Conduct and agree to conduct myself in accordance with the Code of Conduct.

Signature of Member

Signature of OLT Witness

Date

Date