


Title:	Preventing Conflicts of Interest	
Doc No:	4 - Administrative Monetary Penalty	
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Date:	September 1, 2016	
Prepared by:	Rita L. Hardy Supervisor of Parking Services	
Approved by:	Vito Tolone, Director of Transportation Services	

SYNOPSIS:

The purpose of this document is to provide policies to: define what constitutes a conflict of interest to prevent such conflicts of interest; and to redress such conflicts should they occur, pursuant to the City's Parking Administrative Monetary Penalties By-law 40-2016.

1. APPOINTMENT OF SCREENING AND HEARING OFFICERS

By-law 41-2016, sets out the rules regarding the appointment of Screening and Hearing Officers.

Screening Officers are City employees, who work in Parking Services and are appointed by Council. Council Members or their relatives are not permitted to be Screening Officers.

Hearing Officers are independent third parties who conduct the hearings in the public interest. City employees, Council members or any of their respective relatives are not permitted to be Hearing Officers. Hearing Officers are also appointed by Council.

These rules are consistent with legislation and the rules of other municipalities and are meant to preserve the integrity of the Administrative Monetary Penalty Program.


2. CONFLICT OF INTEREST:

Screening Officers are employees of the City of Burlington and therefore must abide by the City's Code of Conduct (Policy No. 2-52). If Screening Officers are appointed in the future and are not City employees, they shall nonetheless abide by the City's Code of Conduct.

Screening Officers must BE and APPEAR TO BE impartial at all times. Therefore, it would be inappropriate for a Screening Officer to review a Penalty Notice for their friends or any relative. A conflict of interest includes an ACTUAL conflict and a POTENTIAL conflict.

Hearing Officers are not employees of the City of Burlington, but they have stricter legal obligations to conduct hearings in an impartial manner. Not only are they bound by the *Statutory Powers and Procedures Act* R.S.O. 1990, c. S.22, but they are bound by general administrative common law principles (i.e. procedural fairness, natural justice, impartial and unbiased decision maker, legitimate expectation, etc.).

Hearing Officers must BE and APPEAR TO BE impartial at all times. Depending on the circumstances, it might be inappropriate for a Hearing Officer to review a Screening Decision for an acquaintance.

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3. PREVENTING CONFLICTS OF INTEREST

The key to preventing conflicts of interests are: 1) disclosure and 2) withdrawal from the decision making process.

The need for disclosure and withdrawal from a Screening or Hearing decision applies to financial interests and includes any personal benefit, or any benefit to the Officer's family and friends.

Screening Officers shall:

1. follow the process in the City's Code of Conduct and notify the Supervisor of Parking Services if they believe there is, or could be a conflict of interest.
2. request for another Screening Officer to conduct the review to avoid actual or potential conflicts of interest.


Hearing Officers shall:

1. disclose any actual or potential conflicts of interest to the Director of Transportation Services (the "Director") and withdraw from the decision making process.
2. request another appointed Hearing Officer to review the Screening Decision in the event of a conflict.

If all appointed Screening or Hearing Officers have a conflict with a particular file, then the Director or his/her designate shall retain another Screening or Hearing Officer, with City Council's approval, to handle the conflict in question.

Screening Officers and Hearing Officers are not permitted to challenge their own Penalty Notices and are expected to pay the fee for the parking infraction in a timely manner.

If there are any further questions or if staff are looking for further guidance, the City Solicitor should be contacted.

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4. ADDRESSING CONFLICT IF THEY OCCUR

The City's Code of Conduct has a process that deals with the enforcement and ramifications for breaches of the Code. These steps shall be followed in the event a Screening Officer engages in a conflict of interest.

If someone suspects that a Hearing Officer handled a file where there was a conflict of interest, that person may make a formal complaint to the Designated Complaints Investigator, as per the City's *Public Complaints Against the Administration of the System* document (AMP- 8).

The situation regarding the alleged conflict of interest shall be investigated and the Director shall recommend to Council appropriate disciplinary action.

5. INFLUENCE

No person shall attempt, directly or indirectly, to communicate for the purpose of influencing a Screening Officer or a Hearing Officer respecting the determination of an issue respecting a Delegated Power of Decision in a proceeding that is or will be pending before the Screening Officer or Hearing Officer.


Exceptions include:

1. a person who is entitled to be heard in the proceeding or the person's lawyer or licensed paralegal; and
2. only by that person or the person's lawyer or licensed paralegal during the hearing of the proceeding in which the issue arises.

If someone attempts to influence a Screening or Hearing Officer, contrary to the rules above, the Screening or Hearing Officer shall report the incident to the Director as soon as possible. No action will be taken against the Screening or Hearing Officer for making any such report in good faith.

6. CHARGES UNDER THE CRIMINAL CODE OR OTHER STATUES OR REGULATIONS

Where a Screening or Hearing Officer is charged with an offence under the Criminal Code of Canada or any other federal statute or regulation that is dealt with under the Criminal Code of Canada, such charge shall be disclosed forthwith to the Director.

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Where a Screening or Hearing Officer is charged with an offence under other federal or provincial statutes or regulations and where continuing to perform his or her duties may erode public confidence in the administration of justice, the charge shall be disclosed to the Director.

A determination will be made as to whether or not an actual or perceived conflict exists or if public confidence in the administration of justice has been compromised and, if so, the Screening or Hearing Officer may be removed from his or her duties until final disposition of the charge.

Such review for Screening Officers will include compliance with City of Burlington document 5-120. Failure to disclose a criminal conviction to Human Resources shall result in discipline, up to and including dismissal.

REFERENCE AUTHORITIES:

Municipal Act, 2001, S.O. 2001, c. 25

Ontario Regulation 333/07 (Administrative Penalties)

City of Burlington By-law (AMP 40-2016)

City of Burlington By-law (Appointment of Screening and Hearing Officers 41-2016)