

BY-LAW NUMBER 80-2007
OF
THE REGIONAL MUNICIPALITY OF DURHAM

being a by-law to adopt a Closed Meeting Investigation Process pursuant to s. 239 of the *Municipal Act, 2001, S.O. 2001, c. 25, as amended* and to provide for a process for the handling of requests for closed meeting investigations by the Office of the Regional Clerk.

WHEREAS effective January 1, 2008, Section 239.1 of the *Municipal Act, 2001* permits a person to request an investigation of whether a municipality or local board has complied with section 239 of the *Municipal Act, 2001* or a procedure by-law under subsection 238 (2) in respect of a meeting or part of a meeting that was closed to the public;

AND WHEREAS Council deems it desirable to set out a procedure governing the complaint handling process on behalf of the Municipality and its Local Boards;

NOW THEREFORE BE IT ENACTED AND IT IS HEREBY ENACTED as a by-law of the Regional Municipality of Durham through its Council as follows:

1. The Closed Meeting Investigation Process, attached as Schedule A, is hereby adopted and every request for an investigation by a person shall be made in accordance with that process.
2. This By-law shall come into force and take effect immediately upon the final passing thereof.

BY-LAW read a first time this 12th day of December 2007.

BY-LAW read a second time this 12th day of December 2007.

BY-LAW read a third time and passed this 12th day of December 2007.

Roger Anderson, Regional Chair

P.M. Madill, Regional Clerk

SCHEDULE A

Closed Meetings Investigation Process

- 1) A person (the "Complainant") may request an investigation of any meeting of the Regional Council and its Committees, Durham Region Transit and any other local board of the Regional Municipality of Durham.
- 2) The request ("Investigation Request") must be made in writing, must be dated and must properly identify who is making the request and include as much contact information as possible including full name, address, telephone number, fax number and email.
- 3) The request must be received by the Region of Durham within 2 years of the date that the meeting being investigated took place and must relate to a meeting which took place on or after January 1, 2008.
- 4) All such requests shall be directed to the Office of the Regional Clerk.
- 5) The Complainant will be provided with an Investigation Request form which must be completed in writing. The Complainant will receive a copy of the Investigation Request together with a copy of the by-law which details the procedures for making a complaint.
- 6) In the Investigation Request form the Complainant must provide in writing:
 - a) the reasons for the request;
 - b) address, telephone number, name of the Complainant, signature of the Complainant or in the case of a corporation a duly authorized officer; and
 - c) identification of the closed meeting in question.
- 7) The Complainant must also pay any applicable fees as may be set by Regional Council from time to time.
- 8) Upon receipt of a completed Investigation Request and appropriate background material, the Region of Durham will review the materials to verify that:
 - a) the name, address and identity of the Complainant are valid;
 - b) the complaint is complete; and
 - c) the complaint is the first and only complaint by that Complainant in respect of the meeting in question.
- 9) In the event that the Investigation Request form is deficient, same will be returned to the Complainant to complete. The Region of Durham will provide the Complainant with a precise description of the reasons for the return of the Investigation Request and specific instructions as to how to complete the Investigation Request, if applicable.
- 10) The Complainant shall have 30 days to return the completed Investigation Request or a new Investigation Request.
- 11) In the event that the Complainant fails to return the completed Investigation Request or a new Investigation Request, the Region of Durham shall record the name of the Complainant and the meeting complained of and close the file. No further notice will be provided to the Complainant.
- 12) Once completed, the Region of Durham will forward the completed Investigation Request and supporting materials to the Investigator as appointed by the Region of Durham.
- 13) The Region of Durham shall forward to the Investigator in relation to the meeting under investigation:
 - a) The completed Investigation Request;
 - b) A copy of the procedural by-law for the Region of Durham;
 - c) A copy of the agenda and all relevant attachments;

- d) A copy of the minutes of the meeting;
 - e) A contact list for all members of council, the local board or committee and for all other person present at the meeting if available;
 - f) Any other information the Regional Clerk deems relevant; and
 - g) Such other information as may be requested by the Investigator.
- 14) The Investigator shall have all powers, rights and duties as set out in subsections 223.13(6) and sections 223.14 to 223.18 of the *Municipal Act, 2001*, S.O. 2001, s. 25 and such power, rights and duties as may be assigned by the Region of Durham from time to time and in accordance with the *Municipal Act, 2001*.
- 15) The Investigator shall then report as follows depending upon the nature of the complaint:
- a) For complaints in respect of meetings of Council or its Committees, the report shall be made at a meeting of the Regional Council. The report shall be submitted in accordance with the procedural by-law and be considered at the next regularly scheduled Regional Council meeting for which proper notice of the report can be provided;
 - b) For complaints in respect of meetings of the Durham Region Transit Authority, the report shall be made at a meeting of the Durham Region Transit Commission. The report shall be submitted in accordance with the procedural by-law and be considered at the next regularly scheduled Durham Region Transit Commission meeting for which proper notice of the report can be provided;
- 16) The powers of the Investigator are paramount in accordance with Subsection 223.13(6) of the *Municipal Act, 2001*.