

Under its governing statute, the Toronto Waterfront Revitalization Corporation Act, the Corporation is required to comply with the open meeting law requirements of the City of Toronto which are set out in Section 190 of the City of Toronto Act (“COTA”), a copy of which is reproduced in the Appendix.

As applied to the Corporation and the meetings of its directors and committees, Section 190 of COTA requires that:

- All meetings of the Board and its committees shall be open to the public, with certain limited exceptions;
- The exceptions permit or require discussion of the following matters in closed session:
  - matters relating to the security of the property of the Corporation;
  - personal matters about an identifiable individual;
  - a proposed or pending acquisition or disposition of land;
  - labour relations or employee negotiations;
  - litigation or potential litigation including matters before administrative tribunals affecting the Corporation;
  - advice that is subject to solicitor-client privilege;
  - a request under Freedom of Information legislation; and
  - education/training of the Board that does not materially advance the business or decision-making of the Corporation

There is, at present, no specific exemption that applies to confidential discussions with governments.

The process to be followed with respect to matters to be discussed in the closed session is as follows:

- For matters to be discussed in closed session, the meeting agenda which is posted on the Corporation’s website must provide a description of the general nature of each item to be discussed in the closed session and list the exemption relied upon.
- At the meeting, a motion must be passed to go in to the closed session along with the list of items to be discussed in the closed session and the exemptions to be relied upon. On passage of the resolution, members of the public are to leave the meeting so that the meeting can proceed in the closed session.

- On an exception basis, where individual board members may, at the meeting, request additional items to be discussed in the closed session that are not listed on the meeting agenda, then the nature of the item and the exemption relied upon must be included in the motion to go in to the closed session.
- No resolutions may be passed in the closed session of the meeting.
- If the Board wishes to go “deep in camera” and exclude members of management from the closed session, it can request management to leave the meeting.
- When the discussion of the closed session is completed, a resolution must be passed to go back in to the open session and the public and members of management, if applicable, are to be invited back in to the meeting.
- Once back in the open session, any resolutions relating to the business of the closed session must be presented and voted on.
- After the resolutions have been passed, the meeting may be adjourned.

## APPENDIX

### Section 190- City of Toronto Act

#### Meetings open to public

190. (1) Except as provided in this section, all meetings shall be open to the public. 2006, c. 11, Sched. A, s. 190 (1).

#### Exceptions

(2) A meeting or part of a meeting may be closed to the public if the subject matter being considered is,

- (a) the security of the property of the City or local board;
- (b) personal matters about an identifiable individual, including a city employee or a local board employee;
- (c) a proposed or pending acquisition or disposition of land by the City or local board;
- (d) labour relations or employee negotiations;
- (e) litigation or potential litigation, including matters before administrative tribunals, affecting the City or local board;
- (f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose; or
- (g) a matter in respect of which the city council, board, committee or other body may hold a closed meeting under another Act. 2006, c. 11, Sched. A, s. 190 (2).

#### Other criteria

(3) A meeting shall be closed to the public if the subject matter relates to the consideration of a request under the *Municipal Freedom of Information and Protection of Privacy Act* if the city council, board, commission or other body is the head of an institution for the purposes of that Act. 2006, c. 11, Sched. A, s. 190 (3).

Note: On January 1, 2016, the day named by proclamation of the Lieutenant Governor, subsection (3) is repealed and the following substituted: (See: 2014, c. 13, Sched. 9, ss. 18, 24 (1))

#### Other criteria

(3) A meeting or part of a meeting shall be closed to the public if the subject matter being considered is,

- (a) a request under the *Municipal Freedom of Information and Protection of Privacy Act*, if the city council, board, commission or other body is the head of an institution for the purposes of that Act; or
- (b) an ongoing investigation respecting the City, a local board or a city-controlled corporation by the Ombudsman appointed under the *Ombudsman Act*, the Ombudsman appointed under subsection 170 (1) of this Act, or the investigator referred to in subsection 190.2 (1). 2014, c. 13, Sched. 9, s. 18.

#### Educational or training sessions

(3.1) A meeting of the City council or local board or of a committee of either of them may be closed to the public if the following conditions are both satisfied:

1. The meeting is held for the purpose of educating or training the members.
2. At the meeting, no member discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of the council, local board or committee. 2006, c. 32, Sched. B. s. 42 (1).

## **Resolution**

(4) Before holding a meeting or part of a meeting that is to be closed to the public, the City or local board or committee of either of them shall state by resolution,

- (a) the fact of the holding of the closed meeting and the general nature of the matter to be considered at the closed meeting; or
- (b) in the case of a meeting under subsection (3.1), the fact of the holding of the closed meeting, the general nature of its subject-matter and that it is to be closed under that subsection. 2006, c. 11, Sched. A, s. 190 (4); 2006, c. 32, Sched. B, s. 42 (2).

## **Opening meeting**

(5) Subject to subsection (6), a meeting shall not be closed to the public during the taking of a vote. 2006, c. 11, Sched. A, s. 190 (5).

## **Exception**

(6) Despite subsection 194 (2), a meeting may be closed to the public during a vote if,

- (a) subsection (2) or (3) permits or requires the meeting to be closed to the public; and
- (b) the vote is for a procedural matter or for giving directions or instructions to officers, employees or agents of the City, to officers, employees or agents of a local board or of a committee of either of them or to persons retained by or under a contract with the City or local board. 2006, c. 11, Sched. A, s. 190 (6).

## **Non-application**

(7) This section does not apply to a police services board or a public library board. 2006, c. 11, Sched. A, s. 190 (7).

## **Record of meeting**

(8) The City, a local board or a committee of either of them shall record without note or comment all resolutions, decisions and other proceedings at a meeting of the body, whether it is closed to the public or not. 2006, c. 32, Sched. B, s. 42 (3).

## **Same**

(9) The record required by subsection (8) shall be made by,

- (a) the clerk, in the case of a meeting of the council; or
- (b) the appropriate officer, in the case of a meeting of a local board or committee. 2006, c. 32, Sched. B, s. 42 (3).

## **Record may be disclosed**

(10) Clause 6 (1) (b) of the *Municipal Freedom of Information and Protection of Privacy Act* does not apply to a record of a meeting closed under subsection (3.1). 2006, c. 32, Sched. B, s. 42 (3).