

# 3<sup>rd</sup> Advanced

# Creating and Enforcing Municipal By-Laws

Best practices for creating, reviewing and enforcing by-laws

APPLICABLE TOWARD CPD REQUIREMENT

April 18 & 19, 2012, Toronto

Two-Day Event!

*Workshop Included: Drafting Enforceable By-laws Step-by-Step*

## participating organizations

Blake, Cassels & Graydon LLP  
City of Hamilton  
City of Niagara Falls  
City of Toronto  
City of Vaughan  
Davis LLP  
Osler, Hoskin & Harcourt LLP  
Regional Municipality of York  
Town of Fort Erie  
Town of Whitby  
WeirFoulds LLP

## who should attend

Provincial & Municipal In-house Counsels; Municipal Solicitors; Municipal/City Clerks, Corporate Officers & Council Members; Municipal Law Enforcement Officers; Lawyers

## course highlights

- Hear city solicitors from some of the country's most innovative and progressive municipalities
- Look at the remedy options available to municipalities for ensuring the effective enforcement of their by-laws
- Examine determining limits and scope of jurisdictional authority granted to municipalities
- See how by-laws can be used to address issues stemming from emerging social problems
- Examine advanced drafting techniques used for creating enforceable by-laws
- Examine the concept of sustainability and the drafting of municipal by-laws that stand the test of time

*"Overall, presentations well done. A good selection of topics provided a good overview."*

*"Well presented and up-to-date. The expertise of the speakers was evident!"*

*"Absolutely awesome! Learned a lot of very valuable info."*

*"Engaging presentations!"*

*"Very helpful!"*



**Course Leader**  
Janice Atwood-Petkovski,  
City of Vaughan



**Course Leader**  
Chris Barnett,  
Davis LLP



Gerald  
S. Swinkin,  
Blake, Cassels  
& Graydon LLP



Lisa Pasternak,  
City of Hamilton



Kenneth  
L. Beaman,  
City of Niagara  
Falls



Christina  
Hueniken,  
City of Toronto



Michael  
H.D. Bowman,  
Osler, Hoskin &  
Harcourt LLP



Hans  
J. Saamen,  
Regional  
Municipality  
of York



Heather  
A. Salter,  
Town of  
Fort Erie



Debi A. Wilcox,  
Town of Whitby



Kim Mullin,  
WeirFoulds  
LLP

# FACULTY

## COURSE LEADERS

### JANICE ATWOOD-PETKOVSKI

Janice Atwood-Petkovski is Commissioner of Legal and Administrative Services and City Solicitor for the **City of Vaughan**.

### CHRIS BARNETT

Chris Barnett is a partner at **Davis LLP** and practises in the areas of administrative and regulatory law.

## CO-LECTURERS

### GERALD S. SWINKIN

Gerald S. Swinkin is a partner in the Litigation Department of **Blake, Cassels & Graydon LLP**.

### LISA PASTERNAK

Lisa Pasternak is a Senior Solicitor for the **City of Hamilton**.

### KENNETH L. BEAMAN

Kenneth L. Beaman is the City Solicitor for the **City of Niagara Falls**.

### CHRISTINA HUENIKEN

Christina Hueniken is a senior Solicitor in the Municipal Law Group of the Legal Services Division at the **City of Toronto**.

### MICHAEL H.D. BOWMAN

Michael H.D. Bowman is a partner in the Litigation Department of **Osler, Hoskin & Harcourt LLP**.

### HANS J. SAAMEN

Hans J. Saamen, is Senior Counsel-Prosecutions for **The Regional Municipality of York**.

### HEATHER A. SALTER

Heather A. Salter is Director of Legal and Legislative Services and Town Solicitor for the **Town of Fort Erie**.

### DEBI A. WILCOX

Debi A. Wilcox is currently the Town Clerk for the **Town of Whitby**.

### KIM MULLIN

Kim Mullin is a partner with **WeirFoulds LLP**.

# COURSE PROGRAM

## ADVANCED TECHNIQUES FOR DRAFTING ENFORCEABLE BY-LAWS: AVOIDING THE RISK OF NON-ENFORCEABILITY

This session will examine advanced drafting techniques used for creating enforceable by-laws while overcoming the daunting challenges being faced by municipalities today.

- Drafting enforceable by-laws despite insufficient funding and inadequate resources
- Process for reviewing drafts to ensure they can withstand intense legal scrutiny
- Dealing with ambiguity and avoiding vagueness
- Best practices for avoiding the risk of non-enforceability
- Drafting by-laws that assist in the prosecution of by-law offences
- Knowing potential legal challenges to by-laws

## CREATING SUSTAINABLE BY-LAWS

This session will examine sustainability in terms of understandable and durable by-laws that are designed to achieve the desired result.

- Addressing issues that require governance and avoiding issues that are “nanny state” in nature
- Developing buy-in through a capable communication program
- Clarity in public education of the by-law’s purpose through various channels of communication
- Municipal leadership
- First contact enforcement and opportunity to cure

## SUPPLEMENTARY COURSE MATERIAL

Federated Press is now providing delegates with access to an innovative new database containing at least 25 interactive multimedia presentations by leading experts and approximately 20 hours of lectures on the topics covered by this course, including all slides and speakers’ papers. See the list of presentations on page 4.

Delegates will also receive a trial subscription to the Government Channel, a much broader resource representing hundreds of hours of interactive multimedia lectures on leading edge Government topics as delivered at our many recent Government conferences and courses.

- *This program can be applied towards 9 of the 12 hours of annual Continuing Professional Development (CPD) required by the Law Society of Upper Canada. Please note that these CPD hours are not accredited for the New Member Requirement.*
- *For Alberta lawyers, consider including this course as a CPD learning activity in your mandatory annual Continuing Professional Development Plan as required by the Law Society of Alberta.*
- *Attendance at this course can be reported as 12.0 hours of Continuing Professional Development (CPD) to the Law Society of B.C.*
- *The Barreau du Québec automatically accredits training activities held outside the Province of Quebec and accredited by another Law Society which has adopted MCLE for its members.*

## MUNICIPAL BY-LAW JURISDICTIONAL ISSUES

This session will look at determining limits and scope of jurisdictional authority granted to municipalities.

- Understanding the limits and scope of wider jurisdictional authority being granted to municipalities
- The trend toward enhancing municipal powers
- Determining exactly the extent of powers your municipality has in creating by-laws
- Overlapping jurisdictional issues and conflicts
- Limitations imposed on municipalities by provincial authorities

## DRAFTING & ENFORCING BY-LAWS: THE PROSECUTOR'S PERSPECTIVE

Unless a by-law infraction can be successfully prosecuted, the by-law itself is less than effective. By-law infraction prosecution can fail for a number of reasons. This session will examine strategies for overcoming challenges to the traditional enforcement of municipal by-laws from a prosecutor's point of view.

- Strategies for the successful enforcement of by-laws
- Impact of poorly drafted by-laws
- Tools for improving prosecution of by-law infractions
- Revising poorly drafted by-laws to avoid prosecutorial difficulties

## BY-LAW ENFORCEMENT PRACTICES: A CITY OF NIAGARA FALLS CASE STUDY

This session will highlight some of the successful by-law enforcement practices that have been followed in recent years at the City of Niagara Falls.

- Enforcement philosophy: give it purpose
- The cases that support what you do
- Developing and establishing the difference between regulatory and criminal law
- Shutting down the diversionary defence

## LEGAL REMEDY OPTIONS FOR BY-LAW INFRACTIONS: IMPLEMENTATION OF MUNICIPAL ADMINISTRATIVE PENALTIES

This session will look at the remedy options available to municipalities for ensuring the effective enforcement of their by-laws, focusing on the strides that the City of Vaughan have been making in this area.

- The range of civil remedies available
- The creation and use of municipal administrative penalties
- Creating a fair and efficient system of administrative penalties
- Effective remedies to deal with the challenges inherent in the traditional enforcement of municipal by-laws

## BEST PRACTICES FOR REVIEWING AND REVISING EXISTING BY-LAWS

This session will look at best practices for creating a process for the regular review and revision of existing by-laws.

- Reasons for conducting a review of existing by-laws
- Essential steps to a review of an existing by-law
- Ensuring that by-laws comply with provincial standards
- Harmonizing different systems of regulations

## USING MUNICIPAL BY-LAWS TO ADDRESS SOCIAL PROBLEMS: CURRENT CHALLENGES

This session will look at the effectiveness of the increasingly popular practice of using municipal by-laws to address issues stemming from emerging social problems.

- Tips for using by-laws to address social issues impacting municipalities
- The effectiveness of using by-laws to deal with social issues
- Pros and cons of using municipal by-laws to remedy social ills
- Social issues most conducive to being remedied by the enactment of municipal by-laws

## COURT CHALLENGES TO MUNICIPAL BY-LAWS: PRE-EMPTING CHALLENGES AT THE DRAFTING STAGE

This session will examine Charter issues in the municipal by-law context and provide you with drafting techniques that will help protect against court challenges.

- Overview of recent challenges to municipal by-laws: lessons learned
- The growing occurrence of municipal by-laws being challenged in the courts
- Common challenges to municipal by-laws
- Strategies for defending against court challenges to by-laws
- Drafting practices that can guard against Charter challenges

## BALANCING INDIVIDUAL AND COMMUNITY RIGHTS IN THE BY-LAW PROCESS

This session will examine methods for drafting fair by-laws and applying them in a manner that balances individual versus community rights.

- Areas where community rights come into conflict with the rights of individuals
- The process for implementing by-laws for addressing neighbourhood disputes
- Best practices for drafting property standards by-laws

## THE PARTICIPATORY PROCESS IN BY-LAW APPROVAL

This session will examine how to get community input in the by-law process, in order to achieve greater acceptance of government actions.

- Getting community input in the creation of by-laws dealing with politically sensitive issues
- Determining the type of by-laws best suited for community participation
- Establishing an effective process for eliciting a community response
- Incorporating community feedback into the by-law drafting process

## WORKSHOP

### DRAFTING ENFORCEABLE BY-LAWS STEP-BY-STEP

This interactive workshop will teach attendees how to write a by-law "from scratch." Topics covered include:

- The essential (and non-essential) elements of a by-law: alternatives to by-laws
- How to "create" an offence: different enforcement mechanisms
- Checklists and tips for content and proofreading
- Tips about grammar and plain language
- The workshop will also include three "hands-on" group work exercises on "understanding your instructions," drafting a short and simple "stand alone" by-law, and drafting an amending by-law

Your registration includes an interactive multimedia database comprising the following presentations from recent Federated Press courses and conferences. They are presented in their entirety with complete audio or video and accompanying slides. You may also purchase the multimedia proceedings of the course which will be available on CD-ROM 60 days after the course.

### Municipal Bylaw Jurisdictional Issues

Laura Bisset,  
Davis LLP

### Legal Remedy Options For By-Law Infractions: Implementation of Municipal Administrative Penalties

Luis Ferreira, *Town of Oakville*;  
Janice Atwood-Petkovski, *City of Vaughan*

### Best Practices For Reviewing and Revising Existing By-Laws

Bernard P. Hermsen,  
MHBC Planning

### Using Municipal By-Laws to Address Social Problems: Current Challenges

George H. Rust-D'Eye & Kim Mullin,  
WeirFoulds LLP

### Court Challenges and Preventing them at the Drafting stage

Christina Hueniken,  
City of Toronto

### Drafting Enforceable By-Laws Step-By-Step

Rosalie A. Evans,  
City of Thunder Bay

### Drafting Sustainable Bylaws

Jean Monteith,  
Monteith Brown Planning Consultants

### Advanced Techniques For Drafting Enforceable By-Laws: Avoiding The Risk Of Non-Enforceability

N. Edward (Ted) Davidson,  
Ted Davidson (Consultants) Inc.

### The Participatory Process in Bylaw Approval

Michelle Smibert, *City of Stratford*;  
Debi A. Wilcox, *Town of Whitby*

### The Evolution of Zoning

Jim Dymont,  
Meridianplan

### Media Relations for Municipal Leaders

Donna Kell,  
City of Burlington

### Ontario's Municipal Performance Measurement Program

Larry Clay,  
Ministry of Municipal Affairs and Housing, Ontario

### Challenges to Public Engagement

Nancy Jackson,  
City of Ottawa

### Considerations for Choosing and Implementing Public Involvement Techniques

Brenda Pichette,  
Health Canada

### Online Tools for Effective Public Participation

Boyd Neil,  
Hill & Knowlton Canada

### Legal Duty to Consult

Bruno Steinke,  
Indian and Northern Affairs

### Public Consultations and Engagement in Canada

Stephanie Kelly,  
Canadian Blood Services

### Managing Stakeholders Relationships

Kathy Kennedy,  
Human Resources and Social Development Canada

### Collaborating with Provincial and Municipal Governments to Move your Issue Forward

Dan Donovan,  
Ottawa Life Magazine; NRG-FX Inc.

### The Participatory Process in By-Law Approval

Chris Barnett,  
Davis LLP

### Balancing Individual and Community Rights

Heather A. Salter,  
Town of Fort Erie

### By-Law Enforcement Practices: A City of Niagara Falls Case Study

Kenneth L. Beaman,  
City of Niagara Falls

### Creating Sustainable By-Laws

Gerald S. Swinkin,  
Blake Cassels & Graydon LLP

### Drafting & Enforcing By-Laws: The Prosecutor's Perspective

Hans J. Saamen Sr.,  
Regional Municipality of York

### Advanced Techniques: Drafting Enforceable By-Laws

Lisa Pasternak,  
City of Hamilton

**Registration:** To reserve your place, call Federated Press toll-free at 1-800-363-0722. In Toronto, call (416) 665-6868 or fax to (416) 665-7733. Then mail your payment along with the registration form. Places are limited. Your reservation will be confirmed before the course.

**Location:** Novotel Toronto Centre Hotel, 45 The Esplanade, Toronto, ON, M5E 1W2

**Conditions:** Registration covers attendance for one person, the supplementary course material as described in this document, lunch on both days, morning coffee on both days and refreshments during all breaks. The proceedings of the course will be captured on audio or video. Multimedia proceedings with all slides and handouts can be purchased separately on a CD-ROM which will also include the course material.

**Time:** This course is a two-day event. Registration begins at 8:00 a.m. The morning sessions start promptly at 9:00. The second day ends at 4:00 p.m.

**Cancellation:** Please note that non-attendance at the course does not entitle the registrant to a refund. In the event that a registrant becomes unable to attend following the deadline for cancellation, a substitute attendee may be delegated. Please notify Federated Press of any changes as soon as possible. Federated Press assumes no liability for changes in program content or speakers. A full refund of the attendance fee will be provided upon cancellation in writing received prior to April 5, 2012. No refunds will be issued after this date.

**Discounts:** Federated Press has special team discounts. Groups of 3 or more from the same organization receive 15%. For larger groups please call.

Payment must be received prior to April 11, 2012

Phone: 1-800-363-0722 Toronto: (416) 665-6868 Fax: (416) 665-7733

## TO REGISTER FOR ADVANCED CREATING AND ENFORCING MUNICIPAL BY-LAWS

## REGISTRATION COSTS

Name \_\_\_\_\_

Title \_\_\_\_\_ Department \_\_\_\_\_

Approving Manager Name \_\_\_\_\_

Approving Manager Title \_\_\_\_\_

Organization \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ Province \_\_\_\_\_ Postal Code \_\_\_\_\_

Telephone \_\_\_\_\_ Fax \_\_\_\_\_ e-mail \_\_\_\_\_

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NUMBER OF PARTICIPANTS:

COURSE: \$1975

COURSE + PROCEEDINGS CD-ROM:  
\$1975 + \$175 = \$2150

PROCEEDINGS CD-ROM: \$599

NOTE: Please add 13% HST to all prices.

Proceedings CD-ROM will be available 60 days after the course takes place

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For additional delegates please duplicate this form and follow the normal registration process