

# Jill Dougherty and Barnet Kussner speak to the Toronto Star about powers the city has to impose stricter rules to fight COVID-19

October 5, 2020

Jill Dougherty and Barnet Kussner, Partners at WeirFoulds LLP, recently provided comment to Toronto Star's Jennifer Pagliaro on the topic of the City of Toronto's Medical Officer of Health, Dr. Eileen de Villa, asking the province to impose stricter rules to fight COVID-19 and the powers of the City to do so.

When Dr. de Villa wrote to the province recently asking for stricter measures to protect residents in her care, she made one thing clear: she has "limited" authority to act on her own. The article raises questions as to why the city itself doesn't act and whether the existing legislation allows either council or Dr. de Villa to do so.

According to Jill Dougherty, Chair of the Regulated Professions and Industries Practice Group, the provincial Health Protection and Promotion Act (HPPA) gives a local medical officer of health "fairly sweeping powers."

"The structure of the Act is in part premised on the concept that different health units might have differing issues and therefore they need their own medical officer of health," said Jill.

The Act allows the medical officer of health to make specific orders telling an individual or business to do or not do something as it relates to communicable diseases.

They can also make "class orders" thanks to amendments made to the legislation in response to the SARS outbreak, Jill said. Those orders can apply to a group of people within a medical officer of health's unit.

Barnet Kussner, Member of the Municipal Law Practice Group, said that municipal councils also have their own authority to regulate such matters under separate legislation — the Municipal Act or, in Toronto's case, the City of Toronto Act.

Councils, he said, can pass by-laws and also have "broad" powers to deal with the health and safety of their residents. While provincial regulations would take precedence in the event of a conflict, this would likely not preclude a municipality from enforcing stricter rules on matters such as the total numbers of patrons in bars and restaurants.

Visit the [thestar.com](https://www.thestar.com) to read the full article.



[www.weirfoulds.com](http://www.weirfoulds.com)

#### Toronto Office

4100 – 66 Wellington Street West  
PO Box 35, TD Bank Tower  
Toronto, ON M5K 1B7

Tel: 416.365.1110  
Fax: 416.365.1876

#### Oakville Office

1320 Cornwall Rd., Suite 201  
Oakville, ON L6J 7W5

Tel: 416.365.1110  
Fax: 905.829.2035