

## **Update on the City of Ottawa’s Local Boards (Agencies, Boards, Committees and Commissions)**

City Council has broad authority and a statutory oversight role with respect to the certain “local boards” as defined in the *Municipal Act, 2001* (the *Act*) and the *Municipal Elections Act, 1996* (MEA), as described in more detail in the “Local Boards” section of the 2018-2022 Governance Review report. Given Council’s authority and oversight role, it is necessary to determine which local entities are considered to be “local boards” of the City for the purposes of legislative requirements under the *Act* and the MEA.

Below, staff have considered various entities against relevant legislative provisions, case law and the above-noted test in determining which are considered to be “local boards” for particular provisions of the *Municipal Act, 2001* and the MEA. The 2018-2022 Governance Review report also provides a status report on the compliance of the City’s local boards with respect to their policy and procedure by-law requirements under the *Municipal Act, 2001*.

**1. Entities that qualify as “local boards” of the City of Ottawa, in general or for the purposes of one or more provisions of the *Municipal Act, 2001* and/or *Municipal Elections Act, 1996* relating to procedure by-law, mandatory policies, codes of conduct for members of local boards and/or open meeting requirements, as well as rules and procedures with respect to the use of board resources during the election campaign period**

### **A. Board of Health for the City of Ottawa Health Unit**

#### Mandate and Responsibilities

The Board of Health for the City of Ottawa Health Unit is established pursuant to Section 48 of the *Health Protection and Promotion Act* (the “HPPA”) and Section 12 of the *City of Ottawa Act, 1999*. The Board of Health has various duties and responsibilities under both Acts.

On [October 22, 2008](#), Council approved in principle a new Board of Health governance model. Final approval of this governance model was referred to the Mid-Term Governance Review for the 2006-2010 Term of Council. On [June 24, 2009](#), Council considered the Mid-term Governance Review and approved a

recommendation to establish a separate Board of Health “and direct staff to take the necessary steps to effect change.”

Following provincial legislative changes required to proceed with the Board of Health, Council considered the report titled, “[Council Governance Review 2010-2014](#),” on [December 8, 2010](#), and approved next steps for the implementation of the Board of Health.

The Ottawa Board of Health, through Ottawa Public Health, seeks to improve and advocate for the health and wellbeing of Ottawa residents and ensure the effective delivery of public health programs and services. The core functions of the public health unit are surveillance, health promotion, disease prevention and health protection.<sup>1</sup>

### Size and Composition

The Board of Health consists of 11 members, as follows:

- Six Members of Council; and
- Five members of the public.

### Status as a “Local Board”

Under Subsection 1(1) of the *Municipal Act, 2001*, a board of health is a “local board”. However, boards of health are subsequently exempted from some specific statutory requirements in the *Municipal Act, 2001*.

Based on a review of relevant provisions and factors, it appears the Board of Health for the City of Ottawa Health Unit is as follows:

- **Is** a local board that is required to pass a procedure by-law in accordance with Subsection 238(2) of the *Municipal Act, 2001*;
- **Is** a local board that is required to adopt and maintain policies with respect to matters set out in Subsection 270(2) of the *Municipal Act, 2001*;
- **Is** a local board that is subject to the open meeting requirements in Section 239 of the *Municipal Act, 2001* and the City’s Meetings Investigator;
- **Is not** a local board that is subject to the requirements relating to codes of conduct for members of local boards, as set out in Section 223.2 of the *Municipal Act, 2001*, effective March 1, 2019. Specifically, Section 223.1 of

---

<sup>1</sup> As set out in the [Ottawa Public Health 2018 Budget Briefing Note](#).

the *Municipal Act, 2001* provides that a “local board” for the purposes of Section 223.2, as amended, does not include a board of health as defined in Subsection 1(1) of the *Health Protection and Promotion Act*,

- **Is not** a “local board” for the purposes of the Integrity Commissioner’s role as it relates to the *Municipal Conflict of Interest Act* (“MCIA”), as set out in Section 223.3 of the *Municipal Act, 2001*, effective March 1, 2019. Specifically, Section 223.1 of the *Act* provides that a “local board” for the purposes of Section 223.3, as amended, does not include a board of health as defined in Subsection 1(1) of the *Health Protection and Promotion Act* [that said, the board is generally subject to provisions of the MCIA as a “local board” as defined in the MCIA]; and
- **Is** a “local board” for the purposes of the requirement under the *Municipal Elections Act, 1996*, for certain local boards to establish rules and procedures with respect to the use of board resources during the election campaign period. Specifically, the definition of a “local board” under the *Municipal Affairs Act* includes a “board of health.”

**Table 1 – Board of Health for the City of Ottawa Health Unit – Status as a “Local Board”**

Subject to Procedure By-law Provisions	Subject to “Adopt and Maintain” Policy Provisions	Subject to Open Meeting Provisions	Subject to Code of Conduct Provisions	Subject to Integrity Commissioner provisions relating to <i>Municipal Conflict of Interest Act</i>	Subject to Election-related Rules and Procedures Provision of <i>Municipal Elections Act, 1996</i>
Yes	Yes	Yes	No	No	Yes

## **B. Business Improvement Areas**

### Mandate and Responsibilities

Under Section 204 of the *Municipal Act, 2001*, a municipality may designate an area as an improvement area and establish a board of management:

- a) to oversee the improvement, beautification and maintenance of municipally-owned land, buildings and structures in the area beyond that provided at the expense of the municipality generally; and
- b) to promote the area as a business or shopping area.

The following is a list of the 19 Business Improvement Area (“BIAs”) currently existing in Ottawa:

- Bank Street
- Barrhaven
- Bells Corners
- ByWard Market
- Carp Village
- Carp Road Corridor
- Downtown Rideau
- Glebe
- Heart of Orléans
- Kanata Central
- Kanata North
- Manotick
- Preston Street
- Somerset Street Chinatown
- Somerset Village
- Sparks Street
- Quartier Vanier
- Wellington West

- Westboro Village

### Size and Composition

Under Subsection 204(2) of the *Municipal Act, 2001*, a BIA is a corporation consisting of the number of directors established by the municipality. Subsection 204(3) of the *Municipal Act, 2001* further states that a board of management shall be composed of,

- (a) one or more directors appointed directly by the municipality; and
- (b) the remaining directors selected by a vote of the membership of the improvement area and appointed by the municipality.

The size and composition for each BIA in the City of Ottawa varies according to the establishing by-law for each BIA.

### Status as a “Local Board”

BIAs are expressly characterized as local boards under the *Municipal Act, 2001*. Subsection 204(2.1) of the *Municipal Act, 2001* states that “a board of management [of a BIA] is a local board of the municipality for all purposes.” Therefore, it appears that each BIA is as follows:

- **Is** a local board that is required to pass a procedure by-law in accordance with Subsection 238(2) of the *Municipal Act, 2001*;
- **Is** a local board that is required to adopt and maintain policies with respect to matters set out in Subsection 270(2) of the *Municipal Act, 2001*;
- **Is** a local board that is subject to the open meeting requirements in Section 239 of the *Municipal Act, 2001* and the City’s Meetings Investigator;
- **Is** a local board that is subject to the requirements relating to codes of conduct for members of local boards, as set out in Section 223.2 of the *Municipal Act, 2001*, effective March 1, 2019;
- **Is** a “local board” for the purposes of the Integrity Commissioner’s role as it relates to the MCIA, as set out in Section 223.3 of the *Municipal Act, 2001*, effective March 1, 2019; and
- **Is** a “local board” for the purposes of the requirement under the *Municipal Elections Act, 1996*, for certain local boards to establish rules and procedures with respect to the use of board resources during the election campaign period.

**Table 2 – Business Improvement Areas – Status as a “Local Board”**

Subject to Procedure By-law Provisions	Subject to “Adopt and Maintain” Policy Provisions	Subject to Open Meeting Provisions	Subject to Code of Conduct Provisions	Subject to Integrity Commissioner provisions relating to <i>Municipal Conflict of Interest Act</i>	Subject to Election-related Rules and Procedures Provision of <i>Municipal Elections Act, 1996</i>
Yes	Yes	Yes	Yes	Yes	Yes

### **C. City of Ottawa Superannuation Fund**

#### Mandate and Responsibilities

The City of Ottawa Superannuation Fund (“COSF”) is the municipal pension plan that provides pensions to former employees of the City of Ottawa who began their careers with the former municipality before June 30, 1965. Municipal employees hired after that date are enrolled in the Ontario Municipal Employees Retirement System (“OMERS”).

The COSF has a long history with the City of Ottawa and was originally established on September 8, 1931. Prior to the establishment of OMERS, the COSF was merged with the Ottawa Firemen’s Superannuation Fund on January 1, 1964, and with the Ottawa Police Benefit Fund Association on January 1, 1965. The resulting combined membership, together with the City, opted to remain as a separate fund and did not join OMERS.

After the Regional Municipality of Ottawa-Carleton was created in 1969, employees who transferred from the City of Ottawa, and who were members of the COSF, remained with the COSF in order to maintain their seniority and continuous service record.

The Plan and the Fund are administered under City of Ottawa Superannuation Fund By-law 7200, as amended and re-stated.

#### Size and Composition

The Board of the COSF includes as follows:

- The Mayor (ex officio);
- Three Councillors appointed by City Council;
- The City Treasurer (ex officio);
- One person for the Civic Institute of Professional Personnel, appointed by it;
- One person for the Ottawa-Carleton Professional Public Employees Union, Local 503, Canadian Union of Public Employees (C.L.C.), (formerly the Ottawa Municipal Employees Union), appointed by it;
- One person for the Ottawa Professional Fire Fighters Association appointed by it;
- One person for the Ottawa Police Association, appointed by it in consultation with the Ottawa Police Senior Officers' Association;
- One representative from the Ottawa-Carleton Pensioners Association; and
- One representative from the City named by its City Manager.

#### Status as a "Local Board"

Based on a review of relevant provisions and factors, the COSF meets the test for being a local board under the *Municipal Act, 2001*. The COSF was established under provincial law rather than provincial legislation. The purpose of the COSF is to carry on the affairs of the municipality. The entity also has a degree of autonomy, as well as some decision-making capabilities.

The COSF is under municipal control, although it must still comply with federal and provincial laws regarding pension benefits and income tax. With respect to the process for selection of board members, the COSF adheres to the appointment policy whereby three board members are appointed by City Council and other board members are appointed by various other bodies.

Specifically, it appears the COSF is as follows:

- **Is** a local board that is required to pass a procedure by-law in accordance with Subsection 238(2) of the *Municipal Act, 2001*;
- **Is** a local board that is required to adopt and maintain policies with respect to matters set out in Subsection 270(2) of the *Municipal Act, 2001*;
- **Is** a local board that is subject to the open meeting requirements in Section 239 of the *Municipal Act, 2001* and the City's Meetings Investigator;

- **Is** a local board that is subject to the requirements relating to codes of conduct for members of local boards, as set out in Section 223.2 of the *Municipal Act, 2001*, effective March 1, 2019;
- **Is** a “local board” for the purposes of the Integrity Commissioner’s role as it relates to the *Municipal Conflict of Interest Act*, as set out in Section 223.3 of the *Municipal Act, 2001*, effective March 1, 2019; and
- **Is** a “local board” for the purposes of the requirement under the *Municipal Elections Act, 1996*, for certain local boards to establish rules and procedures with respect to the use of board resources during the election campaign period.

**Table 3 – City of Ottawa Superannuation Fund – Status as a “Local Board”**

Subject to Procedure By-law Provisions	Subject to “Adopt and Maintain” Policy Provisions	Subject to Open Meeting Provisions	Subject to Code of Conduct Provisions	Subject to Integrity Commissioner provisions relating to <i>Municipal Conflict of Interest Act</i>	Subject to Election-related Rules and Procedures Provision of <i>Municipal Elections Act, 1996</i>
Yes	Yes	Yes	Yes	Yes	Yes

#### **D. Committee of Adjustment**

##### Mandate and Responsibilities

The Committee of Adjustment is a quasi-judicial tribunal appointed by City Council. The Committee is independent and autonomous from the City administration.

The Committee derives its jurisdiction from the *Planning Act*. Under Section 44 of the *Planning Act*, “If a municipality has passed a by-law under section 34 [zoning by-laws] or a predecessor of such section, the council of the municipality may by by-law constitute and appoint a committee of adjustment for the municipality composed of such persons, not fewer than three, as the council considers advisable.”

Specifically, the Committee’s mandate is to:



- Consider and make decisions on applications for Minor Variances from the provisions of a Zoning By-law;
- Consider and make decisions on applications for Consent to “sever” a property, or for any agreement, mortgage or lease that extends for more than 21 years;
- Consider and make decisions on applications for Permission, which deal with the enlargement or extension of a building or structure that is legally non-conforming, or a change in non-conforming use; and
- Consider and make decisions on applications for Validation of Title and Power of Sale.

The Committee of Adjustment and its application processes are separate and distinct from other municipal development approval processes, and one or more of these processes may occur at the same time.

#### Size and Composition

The Committee consists of 15 members, who are divided into three panels of five members each. Each panel hears applications for a different geographic area of the city. There are two panels for urban areas of the city and one panel for rural areas.

#### Status as a “Local Board”

Based on a review of relevant provisions and factors, it appears the Committee of Adjustment is as follows:

- **Is** a local board that is required to pass a procedure by-law in accordance with Subsection 238(2) of the *Municipal Act, 2001*;
- **Is** a local board that is required to adopt and maintain policies with respect to matters set out in Subsection 270(2) of the *Municipal Act, 2001*;
- **Is** a local board that is subject to the open meeting requirements in Section 239 of the *Municipal Act, 2001* and the City’s Meetings Investigator;
- **Is** a local board that is subject to the requirements relating to codes of conduct for members of local boards, as set out in Section 223.2 of the *Municipal Act, 2001*, effective March 1, 2019;
- **Is** a “local board” for the purposes of the Integrity Commissioner’s role as it relates to the *Municipal Conflict of Interest Act*, as set out in Section 223.3 of the *Municipal Act, 2001*, effective March 1, 2019; and

- **Is** a “local board” for the purposes of the requirement under the *Municipal Elections Act, 1996*, for certain local boards to establish rules and procedures with respect to the use of board resources during the election campaign period.

**Table 4 – Committee of Adjustment – Status as a “Local Board”**

Subject to Procedure By-law Provisions	Subject to “Adopt and Maintain” Policy Provisions	Subject to Open Meeting Provisions	Subject to Code of Conduct Provisions	Subject to Integrity Commissioner provisions relating to <i>Municipal Conflict of Interest Act</i>	Subject to Election-related Rules and Procedures Provision of <i>Municipal Elections Act, 1996</i>
Yes	Yes	Yes	Yes	Yes	Yes

## **E. Crime Prevention Ottawa**

### Mandate and Responsibilities

Crime Prevention Ottawa (“CPO”) was established by City Council on [February 1, 2005](#), as a “permanent crime prevention responsibility centre,” based on recommendations from a September 2004 report titled, “[Community Crime Prevention: Investing for a Safer Ottawa](#)”.

On [May 9, 2007](#), Council considered the report titled, “[Crime Prevention Ottawa – Terms of Reference](#).” Council approved CPO’s mandate, as set out in its Terms of Reference, and received CPO’s Strategic Plan. The Terms of Reference stated that CPO “has a mission to contribute to crime reduction and enhanced community safety in Ottawa through collaborative evidence-based crime prevention.” The Terms further reflected the concept that CPO is “a hybrid body half way between an independent NGO [Non-Government Organization] and a City body.”

CPO was incorporated on August 8, 2008, as a corporation without share capital.

### Size and Composition

CPO's Terms of Reference provide for a total of 16 members on the Board of Directors. The Board includes but is not limited to as follows:

- One elected municipal official as appointed by Council;
- The Mayor (or his/her delegate);
- The Deputy City Manager responsible for Community and Protective Services;
- The Chief of the Ottawa Police Service;
- One Director of Education (as appointed by the Ottawa Network for Education);
- The President of the United Way;
- The Executive Director of the Children's Aid Society of Ottawa;
- The Chief Executive Officer of Ottawa Community Housing Corporation; and
- General Representatives:

Up to four seven representatives of the community as appointed by Council. These representatives will include a selection from: business, community associations, community service providers.

At least one academic or researcher with expertise on matters related to community safety as appointed by Council.

#### Status as a "Local Board"

CPO likely falls within the definition of "local board" in Subsection 1(1) of the *Municipal Act, 2001*. CPO has a distinctly local character as it is an initiative that contributes to crime reduction and enhanced community safety in Ottawa through collaborative evidence-based crime prevention. It also provides funding to community organizations to address issues related to crime prevention. The purpose of the funding is to support community initiatives that address gaps in service, helping to prevent crime and victimization within the community and respond to identified crime priorities within the City.

CPO may exist as a local board while being incorporated, as long as it ensures that both its obligations under the *Municipal Act, 2001* and the *Corporations Act* are

being met. Over time, CPO has moved more towards a greater interdependence with the City of Ottawa as a result of administrative efficiencies.

Based on a review of relevant provisions and factors, it appears CPO is as follows:

- **Is** a local board that is required to pass a procedure by-law in accordance with Subsection 238(2) of the *Municipal Act, 2001*;
- **Is** a local board that is required to adopt and maintain policies with respect to matters set out in Subsection 270(2) of the *Municipal Act, 2001*;
- **Is** a local board that is subject to the open meeting requirements in Section 239 of the *Municipal Act, 2001* and the City's Meetings Investigator;
- **Is** a local board that is subject to the requirements relating to codes of conduct for members of local boards, as set out in Section 223.2 of the *Municipal Act, 2001*, effective March 1, 2019;
- **Is** a "local board" for the purposes of the Integrity Commissioner's role as it relates to the *Municipal Conflict of Interest Act*, as set out in Section 223.3 of the *Municipal Act, 2001*, effective March 1, 2019; and
- **Is** a "local board" for the purposes of the requirement under the *Municipal Elections Act, 1996*, for certain local boards to establish rules and procedures with respect to the use of board resources during the election campaign period.

**Table 5 – Crime Prevention Ottawa – Status as a "Local Board"**

Subject to Procedure By-law Provisions	Subject to "Adopt and Maintain" Policy Provisions	Subject to Open Meeting Provisions	Subject to Code of Conduct Provisions	Subject to Integrity Commissioner provisions relating to <i>Municipal Conflict of Interest Act</i>	Subject to Election-related Rules and Procedures Provision of <i>Municipal Elections Act, 1996</i>
Yes	Yes	Yes	Yes	Yes	Yes

#### **F. Manotick Mill Quarter Community Development Corporation**

## Mandate and Responsibilities

On [November 28, 2007](#), Council considered the report titled, “[Manotick Mill Quarter – The Proposed Acquisition of Land](#),” and approved the establishment of a Manotick Mill Quarter Corporation (holding company). As a result of the Auditor General's report titled, “[Audit of Carp River Watershed Study and Related Projects](#),” the creation of the corporation was delayed as Council first required City staff to investigate best practice studies regarding the disposal and development of municipal properties.

The Manotick Mill Quarter Community Development Corporation (“MMQCDC”) was incorporated as a not-for-profit corporation on August 24, 2009, with the City of Ottawa as the sole shareholder. The main object of the corporation is to implement the vision for a “Mill Quarter” centered on Manotick’s historic Dickinson Square. As part of this implementation, the Corporation will “plan, subdivide and develop properties within the Mill Quarter to accommodate commercial tourist and heritage uses including commercial accommodation, boutiques, galleries, craft and other specialty outlets, museums, restaurants and studios.”

It should be noted that on November 9, 2016, Council considered the report titled, “[Manotick Mill Quarter Community Development Corporation Dissolution \(MMQCDC\)](#),” and approved a recommendation that directed staff to proceed with the necessary steps for dissolution of the MMQCDC as soon as reasonably possible. On September 13, 2017, Council considered the report titled, “[Manotick Mill Quarter Community Development Corporation – 2016 Annual Report](#),” which stated as follows (emphasis added):

“In assessing the steps required to dissolve the MMQCDC, Legal Services has advised that it must first fulfill all of its contractual obligations as a Corporation or transfer its obligations to another corporate entity to fulfill. The MMQCDC has one remaining contractual obligation ... **staff propose that the Corporation be retained in 2018 and that dissolution be pursued following the completion of its contractual obligations.**”

Accordingly, dissolution will occur following the completion of the MMQCDC's contractual obligations.

## Size and Composition

The MMQCDC board of directors consists of as follows:

- The City Manager;
- One representative of Dickinson Square Heritage Management Inc.;
- One representative of Watson's Mill Manotick Inc.;
- A minimum of five City Council directors; and
- A maximum of two "directors at large".

#### Status as a "Local Board"

Section 203 of the *Municipal Act, 2001* and *Ontario Regulation 599/06* respecting Municipal Services Corporations, as amended, enable municipalities "to establish corporations" to provide a system, service or thing that the municipality itself could provide.

Subsection 21(1) of *Regulation 599/06* states that such corporations are **not** local boards for the purposes of any Act. However, Subsection 21(2) of *Regulation 599/06* states that such corporations **are** deemed to be local boards for the purposes of Subsection 270(2) of the *Act*, relating to mandatory policies for local boards, as well as other named pieces of legislation, including the *Municipal Conflict of Interest Act* ("MCIA"). This means that the MMQCDC is required to adopt and maintain policies with respect to the sale and disposition of land, the hiring of its employees and its procurement of goods and services.

Based on a review of relevant provisions and factors, it appears the MMQCDC is as follows:

- **Is not** a local board that is required to pass a procedure by-law in accordance with Subsection 238(2) of the *Municipal Act, 2001*;
- **Is** a local board that is required to adopt and maintain policies with respect to matters set out in Subsection 270(2) of the *Municipal Act, 2001*;
- **Is not** a local board that is subject to the open meeting requirements in Section 239 of the *Municipal Act, 2001* and the City's Meetings Investigator;
- **Is not** a local board that is subject to the requirements relating to codes of conduct for members of local boards, as set out in Section 223.2 of the *Municipal Act, 2001*, effective March 1, 2019; and
- **Is not** a "local board" for the purposes of the Integrity Commissioner's role as it relates to the MCIA, as set out in Section 223.3 of the *Municipal Act, 2001*, effective March 1, 2019. Specifically, although Subsection 21(2) of *Regulation*

599/06 states that such corporations are deemed to be local boards for the purposes of the MCIA, Section 223.1 of the *Municipal Act, 2001* states that “local board” for the purposes of the part of the *Municipal Act, 2001* relating to accountability and transparency, including the role of the Integrity Commissioner, does **not** include a corporation established in accordance with Section 203 of the *Municipal Act, 2001*; and

- **Is not** a “local board” for the purposes of the requirement under the *Municipal Elections Act, 1996*, for certain local boards to establish rules and procedures with respect to the use of board resources during the election campaign period.

**Table 6 – Manotick Mill Quarter Community Development Corporation – Status as a “Local Board”**

Subject to Procedure By-law Provisions	Subject to “Adopt and Maintain” Policy Provisions	Subject to Open Meeting Provisions	Subject to Code of Conduct Provisions	Subject to Integrity Commissioner provisions relating to <i>Municipal Conflict of Interest Act</i>	Subject to Election-related Rules and Procedures Provision of <i>Municipal Elections Act, 1996</i>
No	Yes	No	No	No	No

## G. Municipal Service Boards

Municipalities in Ontario are permitted under Section 196 of the *Municipal Act, 2001* to establish municipal service boards to control and manage a broad range of municipal services such as public utilities, waste management, transportation systems, parking, culture, parks and recreation and heritage facilities. Pursuant to Section 197(3) of the *Municipal Act, 2001*, municipal service boards are deemed to be “local boards of the municipality for all purposes.”

At the present time, the City of Ottawa has no municipal service boards.

Based on a review of relevant provisions and factors, it appears a municipal service board is as follows:

- **Is** a local board that is required to pass a procedure by-law in accordance with Subsection 238(2) of the *Municipal Act, 2001*;
- **Is** a local board that is required to adopt and maintain policies with respect to matters set out in Subsection 270(2) of the *Municipal Act, 2001*;
- **Is** a local board that is subject to the open meeting requirements in Section 239 of the *Municipal Act, 2001* and the City's Meetings Investigator;
- **Is** a local board that is subject to the requirements relating to codes of conduct for members of local boards, as set out in Section 223.2 of the *Municipal Act, 2001*, effective March 1, 2019;
- **Is** a "local board" for the purposes of the Integrity Commissioner's role as it relates to the *Municipal Conflict of Interest Act*, as set out in Section 223.3 of the *Municipal Act, 2001*, effective March 1, 2019; and
- **Is** a "local board" for the purposes of the requirement under the *Municipal Elections Act, 1996*, for certain local boards to establish rules and procedures with respect to the use of board resources during the election campaign period.

**Table 7 – Municipal Service Boards – Status as a "Local Board"**

Subject to Procedure By-law Provisions	Subject to "Adopt and Maintain" Policy Provisions	Subject to Open Meeting Provisions	Subject to Code of Conduct Provisions	Subject to Integrity Commissioner provisions relating to <i>Municipal Conflict of Interest Act</i>	Subject to Election-related Rules and Procedures Provision of <i>Municipal Elections Act, 1996</i>
Yes	Yes	Yes	Yes	Yes	Yes

## **H. Ottawa Community Housing Corporation**

### Mandate and Responsibilities

On [July 24, 2002](#), City Council, as Sole Shareholder of the Ottawa Community Housing Corporation ("OCHC"), passed a Shareholder Direction to define the relationship between OCHC and the City and to give instructions to the board of directors regarding



governance, accountability and the City's expectations for OCHC in the form of stated objectives and principles to be followed in doing business. This Shareholder Direction was described in the report titled, "[Recommended Shareholder Direction for the Ottawa Community Housing Corporation](#)." Among some of the issues addressed in the Direction were that OCHC should maintain an arm's length relationship with the City; however, it shall remain accountable to the City.

The Shareholder Direction further set out the "Shareholder Objectives" for the OCHC, which stated that the Corporation will:

- (a) utilize its assets for the purpose of providing quality, affordable, accessible, secure and appropriate housing primarily for households of low and modest income;
- (b) maintain its physical assets in good repair and maintain the usefulness of its assets over the long term;
- (c) act to mitigate financial and legal risks to the City as Shareholder while service standards and levels are maintained or enhanced; and
- (d) develop housing to meet the mandate of the Corporation through its existing resources and other sources of funding.

#### Size and Composition

The OCHC Board of Directors shall consist of no fewer than three and no more than 14 Directors, as determined by the Shareholder. Currently, the board is composed of 11 members, including as follows:

- The Mayor (ex officio);
- Four City Councillors;
- Six community representatives; and
- One tenant Board member.

#### Status as a "Local Board"

Subsection 26(b) of the *Housing Services Act, 2011* states that a local housing corporation is deemed **not** to be a local board of a service manager or of any municipality.

However, despite the general provision under Subsection 26(b) of the *Housing Services Act, 2011*, Subsection 269(d) of the *Municipal Act, 2001* – which sets out which local boards are required to adopt and maintain certain policies – explicitly includes, under the definition of “local board,” a “**local housing corporation as defined in the *Housing Services Act, 2011*, despite clause 26(b) of that Act**” [emphasis added]. Therefore, OCHC is required to adopt and maintain policies with respect to its sale and disposition of land, its hiring of employees and its procurement of goods and services, pursuant to the *Municipal Act, 2001*.

Based on a review of relevant provisions and factors, it appears OCHC is as follows:

- **Is not** a local board that is required to pass a procedure by-law in accordance with Subsection 238(2) of the *Municipal Act, 2001*;
- **Is** a local board that is required to adopt and maintain policies with respect to matters set out in Subsection 270(2) of the *Municipal Act, 2001*;
- **Is not** a local board that is subject to the open meeting requirements in Section 239 of the *Municipal Act, 2001* and the City’s Meetings Investigator;
- **Is not** a local board that is subject to the requirements relating to codes of conduct for members of local boards, as set out in Section 223.2 of the *Municipal Act, 2001*, effective March 1, 2019;
- **Is not** a “local board” for the purposes of the Integrity Commissioner’s role as it relates to the *Municipal Conflict of Interest Act*, as set out in Section 223.3 of the *Municipal Act, 2001*, effective March 1, 2019; and
- **Is not** a “local board” for the purposes of the requirement under the *Municipal Elections Act, 1996*, for certain local boards to establish rules and procedures with respect to the use of board resources during the election campaign period.

**Table 8 – Ottawa Community Housing Corporation – Status as a “Local Board”**

Subject to Procedure By-law Provisions	Subject to “Adopt and Maintain” Policy Provisions	Subject to Open Meeting Provisions	Subject to Code of Conduct Provisions	Subject to Integrity Commissioner provisions relating to <i>Municipal Conflict of Interest Act</i>	Subject to Election-related Rules and Procedures Provision of <i>Municipal</i>
---	---	---	--	---	---

					<b><i>Elections Act, 1996</i></b>
No	Yes	No	No	No	No

## I. Ottawa Community Lands Development Corporation

### Mandate and Responsibilities

On [October 10, 2007](#), Council considered the report titled, “[Community Lands Development Project – Implementation Strategy](#),” and approved the establishment of a Community Lands Development Corporation (holding company) for the Longfields Subdivision and CentrepoinTE Town Centre projects. As a result of the Auditor General’s report titled, “[Audit of Carp River Watershed Study and Related Projects](#),” the creation of the corporation was delayed as Council first required City staff to investigate best practice studies regarding the disposal and development of municipal properties.

The Ottawa Community Lands Development Corporation (“OCLDC”) was incorporated as a not-for-profit corporation on August 6, 2009, and the City of Ottawa is the sole shareholder. Some of the objects of the Corporation are to “promote and undertake community improvement in the City by planning, subdividing and developing sites owned or held by the City for residential, industrial, commercial, institutional, public, recreational, religious, charitable and other uses.” Additional objects of the OCLDC are to “improve, beautify and maintain municipally-owned land, buildings and structures in the City as designated and approved by the City for the benefit of the community.”

### Size and Composition

The board of directors of the OCLDC consists of as follows:

- The City Manager who is an *ex officio* non-voting director;
- A minimum of five City Council directors; and
- A maximum of three non-City Council directors.<sup>2</sup>

<sup>2</sup> It should be noted that the 2018-2022 Governance Review report includes a recommendation to change the composition of the Ottawa Community Lands Development Corporation.

### Status as a “Local Board”

Section 203 of the *Municipal Act, 2001* and *Ontario Regulation 599/06* respecting Municipal Services Corporations, as amended, enable municipalities “to establish corporations” to provide a system, service or thing that the municipality itself could provide.

Subsection 21(1) of *Regulation 599/06* states that such corporations are **not** local boards for the purposes of any Act. However, Subsection 21(2) of *Regulation 599/06* states that such corporations **are** deemed to be local boards for the purposes of Subsection 270(2) of the *Act*, relating to mandatory policies for local boards, as well as other named pieces of legislation, including the *Municipal Conflict of Interest Act* (“MCIA”). This means that the OCLDC is required to adopt and maintain policies with respect to the sale and disposition of land, the hiring of its employees and its procurement of goods and services.

Based on a review of relevant provisions and factors, it appears the OCLDC is as follows:

- **Is not** a local board that is required to pass a procedure by-law in accordance with Subsection 238(2) of the *Municipal Act, 2001*;
- **Is** a local board that is required to adopt and maintain policies with respect to matters set out in Subsection 270(2) of the *Municipal Act, 2001*;
- **Is not** a local board that is subject to the open meeting requirements in Section 239 of the *Municipal Act, 2001* and the City’s Meetings Investigator;
- **Is not** a local board that is subject to the requirements relating to codes of conduct for members of local boards, as set out in Section 223.2 of the *Municipal Act, 2001*, effective March 1, 2019; and
- **Is not** a “local board” for the purposes of the Integrity Commissioner’s role as it relates to the MCIA, as set out in Section 223.3 of the *Municipal Act, 2001*, effective March 1, 2019. Specifically, although Subsection 21(2) of *Regulation 599/06* states that such corporations are deemed to be local boards for the purposes of the MCIA, Section 223.1 of the *Municipal Act, 2001*, states that “local board” for the purposes of the part of the *Municipal Act, 2001* relating to accountability and transparency, including the role of the Integrity Commissioner, does **not** include a corporation established in accordance with Section 203 of the *Municipal Act, 2001*; and
- **Is not** a “local board” for the purposes of the requirement under the *Municipal Elections Act, 1996*, for certain local boards to establish rules and procedures

with respect to the use of board resources during the election campaign period.

**Table 9 – Ottawa Community Lands Development Corporation – Status as a “Local Board”**

Subject to Procedure By-law Provisions	Subject to “Adopt and Maintain” Policy Provisions	Subject to Open Meeting Provisions	Subject to Code of Conduct Provisions	Subject to Integrity Commissioner provisions relating to <i>Municipal Conflict of Interest Act</i>	Subject to Election-related Rules and Procedures Provision of <i>Municipal Elections Act, 1996</i>
No	Yes	No	No	No	No

#### **J. Ottawa Markets Municipal Services Corporation (“Ottawa Markets”)**

##### Mandate and Responsibilities

On April 12, 2017, Council considered the report titled, “[Revitalization of the ByWard and Parkdale Markets – New Management Model and Governance Structure](#),” and approved the establishment of a Municipal Services Corporation to assume management and operations of the ByWard and Parkdale Markets on January 1, 2018.

The Ottawa Markets Municipal Services Corporation (“Ottawa Markets”) has a number of objectives, mandates, and guiding principles that supplement the following mission statement as approved by Council in May 2016:

“The Municipal Service Corporation will maximize the ByWard and Parkdale Markets’ potential to be unique year-round gathering places and destinations to purchase local produce and goods as well as other services and products that meet the needs of local and city-wide residents and tourists alike.

The Corporation will build upon the rich heritage of the public markets communities and promote the importance of local food sustainability.

In an entrepreneurial manner, the Corporation will strive to build a creative and innovative retail and outdoor vending mix and work with partners to ensure that all public space is inviting and enhanced as opportunities are made available.”

### Size and Composition

The number of directors on the board is a minimum of three and a maximum of 11, with a recommended number of nine. The Mayor and each City Councillor have been collectively admitted to the membership of the Corporation and are considered *ex officio* members of the Board.

### Status as a “Local Board”

Section 203 of the *Municipal Act, 2001* and *Ontario Regulation 599/06* respecting Municipal Services Corporations, as amended, enable municipalities “to establish corporations” to provide a system, service or thing that the municipality itself could provide.

Subsection 21(1) of *Regulation 599/06* states that such corporations are **not** local boards for the purposes of any Act. However, Subsection 21(2) of *Regulation 599/06* states that such corporations **are** deemed to be local boards for the purposes of Subsection 270(2) of the *Municipal Act, 2001*, relating to mandatory policies for local boards, as well as other named pieces of legislation, including the *Municipal Conflict of Interest Act* (“MCIA”). This means that Ottawa Markets is required to adopt and maintain policies with respect to the sale and disposition of land, the hiring of its employees and its procurement of goods and services.

Based on a review of relevant provisions and factors, it appears Ottawa Markets is as follows:

- **Is not** a local board that is required to pass a procedure by-law in accordance with Subsection 238(2) of the *Municipal Act, 2001*;
- **Is** a local board that is required to adopt and maintain policies with respect to matters set out in Subsection 270(2) of the *Municipal Act, 2001*;
- **Is not** a local board that is subject to the open meeting requirements in Section 239 of the *Municipal Act, 2001* and the City’s Meetings Investigator;
- **Is not** a local board that is subject to the requirements relating to codes of conduct for members of local boards, as set out in Section 223.2 of the *Municipal Act, 2001*, effective March 1, 2019;

- **Is not** a “local board” for the purposes of the Integrity Commissioner’s role as it relates to the MCIA, as set out in Section 223.3 of the *Municipal Act, 2001*, effective March 1, 2019. Specifically, although Subsection 21(2) of *Regulation 599/06* states that such corporations are deemed to be local boards for the purposes of the MCIA, Section 223.1 of the *Municipal Act, 2001*, states that “local board” for the purposes of the part of the *Municipal Act, 2001* relating to accountability and transparency, including the role of the Integrity Commissioner, does **not** include a corporation established in accordance with Section 203 of the *Municipal Act, 2001*; and
- **Is not** a “local board” for the purposes of the requirement under the *Municipal Elections Act, 1996*, for certain local boards to establish rules and procedures with respect to the use of board resources during the election campaign period.

**Table 10 – Ottawa Markets Municipal Services Corporation (“Ottawa Markets”) – Status as a “Local Board”**

Subject to Procedure By-law Provisions	Subject to “Adopt and Maintain” Policy Provisions	Subject to Open Meeting Provisions	Subject to Code of Conduct Provisions	Subject to Integrity Commissioner provisions relating to <i>Municipal Conflict of Interest Act</i>	Subject to Election-related Rules and Procedures Provision of <i>Municipal Elections Act, 1996</i>
No	Yes	No	No	No	No

## **K. Ottawa Police Services Board**

### Mandate and Responsibilities

Under Section 27 of the *Police Services Act*, every municipality that maintains a police force is required to have a police services board, or one or more police services boards as provided in the *Police Services Act*. A police services board is responsible “for the provision of adequate and effective police services in the

municipality,” and has a number of specific responsibilities and duties under the *Police Services Act*.

### Size and Composition

The [Ottawa Police Services Board](#) has seven members, as follows:

- Three members of City Council;
- Three citizens appointed by the Province as community representatives; and
- One citizen appointed by City Council as a community representative.

### Status as a “Local Board”

Police services boards are specifically mentioned in Subsection 1(1) of the *Municipal Act, 2001* as being a “local board”. Therefore, the Ottawa Police Services Board qualifies as a “local board” of the City of Ottawa in general terms. However, police services boards are subsequently exempted from certain statutory requirements in the *Municipal Act, 2001*.

Based on a review of relevant provisions and factors, it appears the Ottawa Police Services Board is as follows:

- **Is not** a local board that is required to pass a procedure by-law in accordance with Subsection 238(2) of the *Municipal Act, 2001*. Specifically, Subsection 238(1) of the *Municipal Act, 2001* provides that police services boards are not local boards for the purposes of the Procedure By-law requirement;
- **Is not** a local board that is required to adopt and maintain policies with respect to matters set out in Subsection 270(2) of the *Municipal Act, 2001*. Specifically, Subsection 269(1)(a) of the *Municipal Act, 2001* excludes police services boards from the definition of “local board” for the purposes of Section 270;
- **Is not** a local board that is subject to the open meeting requirements in Section 239 of the *Municipal Act, 2001* and the City’s Meetings Investigator. Specifically, Subsection 238(1) of the *Municipal Act, 2001* provides that police services boards are not local boards for the purposes of the Section 239 open meeting requirements;
- **Is not** a local board that is subject to the requirements relating to codes of conduct for members of local boards, as set out in Section 223.2 of the *Municipal Act, 2001*, effective March 1, 2019. Specifically, Subsection 223.1 of the *Municipal Act, 2001* provides that a “local board” for the purposes of the



- part of the *Municipal Act, 2001* relating to accountability and transparency, including the code of conduct requirement, does **not** include a police services board established under the *Police Services Act*,
- **Is not** a “local board” for the purposes of the Integrity Commissioner’s role as it relates to the *Municipal Conflict of Interest Act* (“MCIA”), as set out in Section 223.3 of the *Municipal Act, 2001*, effective March 1, 2019. Specifically, although police services boards are included in the definition of “local board” under the MCIA, Section 223.1 of the *Municipal Act, 2001* states that “local board” for the purposes of the part of the *Municipal Act, 2001* relating to accountability and transparency, including the role of the Integrity Commissioner, does **not** include a police services board established under the *Police Services Act*, and
  - **Is** a “local board” for the purposes of the requirement under the *Municipal Elections Act, 1996*, for certain local boards to establish rules and procedures with respect to the use of board resources during the election campaign period. Specifically, the definition of a “local board” under the *Municipal Affairs Act* includes a “police services board.”

**Table 11 – Ottawa Police Services Board – Status as a “Local Board”**

Subject to Procedure By-law Provisions	Subject to “Adopt and Maintain” Policy Provisions	Subject to Open Meeting Provisions	Subject to Code of Conduct Provisions	Subject to Integrity Commissioner provisions relating to <i>Municipal Conflict of Interest Act</i>	Subject to Election-related Rules and Procedures Provision of <i>Municipal Elections Act, 1996</i>
No	No	No	No	No	Yes

## **L. Ottawa Public Library Board**

### Mandate and Responsibilities

The *Public Libraries Act* provides for municipalities to establish public libraries under the management and control of a board. Such boards have various powers and duties. Under Section 20 of the *Public Libraries Act*, a public library board “shall seek

to provide, in co-operation with other boards, a comprehensive and efficient public library service that reflects the community's unique needs," and "shall seek to provide library services in the French language, where appropriate," among other things.

Pursuant to the *City of Ottawa Act, 1999*, the public library boards of former municipalities were dissolved and all of their assets and liabilities accrued to the Ottawa Public Library Board when the amalgamated City of Ottawa was established on January 1, 2001.

### Size and Composition

The Ottawa Public Library Board consists of nine trustees, as follows:

- Four councillors; and
- Five members of the public.

### Status as a "Local Board"

Subsection 1(1) of the *Municipal Act, 2001* specifically refers to public library boards as being "local boards". Therefore, the Ottawa Public Library Board qualifies as a "local board" of the City of Ottawa in general terms. That said, public library boards are exempted from certain statutory requirements in the *Municipal Act, 2001*.

Based on a review of relevant provisions and factors, it appears the Ottawa Public Library Board is as follows:

- **Is not** a local board that is required to pass a procedure by-law in accordance with Subsection 238(2) of the *Municipal Act, 2001*. Specifically, Subsection 238(1) of the *Municipal Act, 2001* provides that public library boards are not local boards for the purposes of the Procedure By-law requirement;
- **Is** a local board that is required to adopt and maintain policies with respect to matters set out in Subsection 270(2) of the *Municipal Act, 2001*;
- **Is not** a local board that is subject to the open meeting requirements in Section 239 of the *Municipal Act, 2001* and the City's Meetings Investigator. Specifically, Subsection 238(1) of the *Municipal Act, 2001* provides that public library boards are not local boards for the purposes of the Section 239 open meeting requirements;
- **Is not** a local board that is subject to the requirements relating to codes of conduct for members of local boards, as set out in Section 223.2 of the

*Municipal Act, 2001*, effective March 1, 2019. Specifically, Subsection 223.1 of the *Municipal Act, 2001* provides that a “local board” for the purposes of the part of the *Municipal Act, 2001* relating to accountability and transparency, including the code of conduct requirement, does not include a board as established in Section 1 of the *Public Libraries Act*,

- **Is not** a “local board” for the purposes of the Integrity Commissioner’s role as it relates to the *Municipal Conflict of Interest Act* (“MCIA”), as set out in Section 223.3 of the *Municipal Act, 2001*, effective March 1, 2019. Specifically, although public library boards are included in the definition of “local board” under the MCIA, Section 223.1 of the *Municipal Act, 2001* states that “local board” for the purposes of the part of the *Municipal Act, 2001* relating to accountability and transparency, including the role of the Integrity Commissioner, does not include a board as established in Section 1 of the *Public Libraries Act*; and
- **Is** a “local board” for the purposes of the requirement under the *Municipal Elections Act, 1996*, for certain local boards to establish rules and procedures with respect to the use of board resources during the election campaign period. Specifically, the definition of a “local board” under the *Municipal Affairs Act* includes a “public library board.”

**Table 12 – Ottawa Public Library Board – Status as a “Local Board”**

Subject to Procedure By-law Provisions	Subject to “Adopt and Maintain” Policy Provisions	Subject to Open Meeting Provisions	Subject to Code of Conduct Provisions	Subject to Integrity Commissioner provisions relating to <i>Municipal Conflict of Interest Act</i>	Subject to Election-related Rules and Procedures Provision of <i>Municipal Elections Act, 1996</i>
No	Yes	No	No	No	Yes

## **M. Sparks Street Mall Authority**

### Mandate and Responsibilities

In 1965, a “pedestrian promenade authority” was established under By-law 207-65, pursuant to the *City of Ottawa Act, 1960*, as set out in the report titled, “[Sparks Street Business Improvement Area and Mall Authority Governance Review](#),” which was considered by Council on July 13, 2016.

The above-noted authority was later designated as the Sparks Street Mall Authority in 1986 pursuant to private legislation, the *City of Ottawa Act, 1984* as per By-law 201-86. The authority provided in this by-law was repealed by By-law 77-92 as amended by By-law 244-94, and specifies that the Mall Authority Board of Management is empowered “to control, operate and manage the Mall as established pursuant to By-law 200-86”.

Bylaw 200-86 establishes Sparks Street as the pedestrian promenade as amended by By-law 89-95 and describes the permits that may be issued by the Mall Authority. Pursuant to By-law 200-86, the Mall Authority has the ability to issue permits for parking, parades, exhibition and entertainment, refreshment vehicles and retail activities. In addition, Bylaw 200-86 authorizes the Mall Authority to place, or authorize the placing in or upon the mall of, trees, shrubs, flower beds, and pools. The Mall Authority also has the ability to place, or authorize the placing of, benches, chairs, tables, displays, exhibits, and other things for the convenience, comfort, education, refreshment or entertainment of pedestrians. Examples of operation and management activities undertaken by the Mall Authority include the maintenance, repair and replacement of specialized surfaces, street furniture, concrete planters, decorative pedestrian lights, and lampposts. In addition, the Mall Authority coordinates garbage pick-up for tenants on the north side of the street and regulates encroachments.

### Size and Composition

The Board of the Sparks Street Mall Authority includes six members appointed by City Council, as follows:

- A Member of Council (the Ward Councillor);
- The General Manager, Planning, Infrastructure and Economic Development (or designate appointed by the City Manager);
- A senior representative from the NCC;
- A senior representative from Public Services and Procurement Canada;
- A representative from the Sparks Street Business Improvement Area; and

- A representative from the Sparks Street Mall Authority Management Board area.

#### Status as a “Local Board”

As noted above, the Sparks Street Mall Authority was established by way of City by-law and designated pursuant to private legislation. Under By-law 77-92, the annual cost of maintenance and operation of the Sparks Street Mall as shown in the estimates of the Sparks Street Mall Management Board shall be levied against particular owners. This makes the board similar in function to a business improvement area board of management, which, as stated above, is a local board for all purposes pursuant to the *Municipal Act, 2001*.

Based on a review of relevant provisions and factors, it appears the Sparks Street Mall Authority is as follows:

- **Is** a local board that is required to pass a procedure by-law in accordance with Subsection 238(2) of the *Municipal Act, 2001*;
- **Is** a local board that is required to adopt and maintain policies with respect to matters set out in Subsection 270(2) of the *Municipal Act, 2001*;
- **Is** a local board that is subject to the open meeting requirements in Section 239 of the *Municipal Act, 2001* and the City’s Meetings Investigator;
- **Is** a local board that is subject to the requirements relating to codes of conduct for members of local boards, as set out in Section 223.2 of the *Municipal Act, 2001*, effective March 1, 2019;
- **Is** a “local board” for the purposes of the Integrity Commissioner’s role as it relates to the *Municipal Conflict of Interest Act*, as set out in Section 223.3 of the *Municipal Act, 2001*, effective March 1, 2019; and
- **Is** a “local board” for the purposes of the requirement under the *Municipal Elections Act, 1996*, for certain local boards to establish rules and procedures with respect to the use of board resources during the election campaign period.

**Table 13 – Sparks Street Mall Authority – Status as a “Local Board”**

Subject to Procedure	Subject to “Adopt and Maintain”	Subject to Open	Subject to Code of	Subject to Integrity Commissioner	Subject to Election-related Rules and

By-law Provisions	Policy Provisions	Meeting Provisions	Conduct Provisions	provisions relating to <i>Municipal Conflict of Interest Act</i>	Procedures Provision of <i>Municipal Elections Act, 1996</i>
Yes	Yes	Yes	Yes	Yes	Yes

**2. Entities that do not qualify as “local boards” of the City of Ottawa, in general or for the purposes of one or more provisions of the *Municipal Act, 2001* and/or *Municipal Elections Act, 1996* relating to procedure by-law, mandatory policies, codes of conduct for members of local boards and/or open meeting requirements, as well as rules and procedures with respect to the use of board resources during the election campaign period**

The following are those City-related entities that do **not** constitute “local boards” under the *Municipal Act, 2001*. It should be noted that some of the entities listed below may be considered to be “local boards” under the *Municipal Conflict of Interest Act* (“MCIA”).

**A. Advisory Committees**

The definition of “local board” set out in Subsection 1(1) of the *Municipal Act, 2001* states that an entity must be “established or exercising any power under the Act with respect to the affairs or purposes of one or more municipality” in order to be considered a local board. The City’s Advisory Committees act as consultative groups whose primary role is to provide advice on specific issues. As such, they do not have decision-making abilities. Therefore, it is determined that the City’s Advisory Committees do not fall under the category of “local board” pursuant to the *Municipal Act, 2001*.

**B. Central Canada Exhibition Association**

The Central Canada Exhibition Association (“CCEA”) does not satisfy the criteria required in order to qualify as a “local board” under Subsection 1(1) of the *Municipal Act, 2001*.

The CCEA works to encourage awareness of agriculture and related industries within the community. The CCEA does not, however, “exercise any power under any Act with respect to the affairs of the municipality”, as stipulated in the definition of “local board” under the *Municipal Act, 2001*. Although there are Members of Council who are

appointed to the CCEA board of directors, the CCEA lacks the connection to the City that is necessary to meet the “local board” common law test.

### **C. Children’s Aid Society Board of Directors**

The Children’s Aid Society Board of Directors (“CAS Board”) is regulated by the Ontario Ministry of Community and Social Services (the “Ministry”). Across Ontario, approximately 60 societies were established and governed by the *Child, Youth and Family Services Act, 2017* (the “CYFS”).

Subsection 25(c) of the CYFS states that the Minister may “provide funding, pursuant to agreements, to persons, agencies, municipalities” (i) “for the provision or coordination of services”. While the Minister may make agreements with municipalities for the provision of services, the Ottawa CAS is funded and controlled by the Government of Ontario and not the City, and it does not qualify as a “local board” under the *Municipal Act, 2001*.

Further, Subsection 34(4) of the CYFS specifically provides that “A society shall be deemed to be a local board of each municipality in which it has jurisdiction for the purposes of the *Ontario Municipal Employees Retirement System Act, 2006* and the *Municipal Conflict of Interest Act*.” Since it is only these two statutes that are expressly named, it is unlikely that the Legislature intended the CAS Boards to be considered a “local board” for the purposes of the *Municipal Act, 2001*. This conclusion is further borne out by a more detailed examination of the respective definitions for a “local board” in the revised *Municipal Act, 2001* as previously referenced in this report. For example, while the definition of local board in Subsection 1(1) of the *Municipal Act, 2001* does not mention the Children’s Aid Society, the definitions of local board in Subsection 10(6), Section 216, and Section 223.1 of the *Municipal Act, 2001* all expressly exclude a CAS.

### **D. Conservation Authorities**

Conservation authorities are expressly excluded from the definition of “local board” set out in Subsection 1(1) of the *Municipal Act, 2001*. Therefore, the Mississippi Valley Conservation Authority, the Rideau Valley Conservation Authority and the South Nation Conservation Authority are not considered “local boards” for the purposes of the *Municipal Act, 2001*.

This conclusion is further borne out by the respective definitions of “local board” in the *Municipal Act, 2001*. For example, Section 269 of the *Municipal Act, 2001* also expressly excludes a conservation authority from the definition of local board.

### **E. Hydro Ottawa Holding Inc.**

Hydro Ottawa Holding Inc. is not a “local board” under the *Municipal Act, 2001*. It is a privately held corporation incorporated under the Ontario *Business Corporations Act*, whose sole shareholder is the City of Ottawa. Moreover, its subsidiaries Hydro Ottawa Limited and Energy Ottawa Inc. are also not subject to the provisions of the *Municipal Act, 2001*.

Briefly, the *Electricity Act, 1998*, allowed municipalities to incorporate a corporation under the *Business Corporations Act* for the purpose of generating, transmitting, distributing or retailing electricity. However, Subsection 142(6) of the *Electricity Act, 1998* provides that such a corporation “...shall be deemed **not** to be a local board, public utilities commission or hydro-electric commission for the purposes of any Act” [emphasis added].

#### **F. Innovation Center at Bayview Yards**

On December 11, 2013, Council considered a report titled, “[Innovation Center at Bayview Yards: Concept and Governance Proposal](#).” A new non-profit corporation was subsequently established called “Innovation Center at Bayview Yards” (“Innovation Centre Corporation”) to oversee the construction, development and operation of an Innovation Center on City-owned lands at 7 Bayview Yards. The project is jointly funded by the Province of Ontario and the City of Ottawa, and the Innovation Centre Board of Directors for the Corporation includes the Mayor of the City of Ottawa.

While the Innovation Center Corporation is supported by the City of Ottawa, the Corporation operates independently from the City and is not considered a “local board” of the City.

#### **G. Invest Ottawa**

On July 14, 2010, Council approved the report titled, “[Refresh of the Economic Development Strategy](#),” which included a five-year Economic Development Strategy known as “Partnerships for Prosperity.” On July 13, 2011, Council approved the report titled, “[Economic Development Strategy Implementation Plan](#)”, which detailed the implementation and spending plan for a series of economic development initiatives and tools that resulted as part of the strategy. In 2011/2012, the Ottawa Centre for Regional Innovation (“OCRI”) was restructured into Invest Ottawa.



On its website, Invest Ottawa is described as “a non-profit organization that facilitates economic growth and job creation in the city of Ottawa.” It further describes its involvement with the municipal government as follows:

“The Mayor of the City of Ottawa is the co-chair of Invest Ottawa’s Board of Directors. Through its approved five-year Economic Development Strategy and its Economic Development Implementation Plan, the City led the development and implementation of Invest Ottawa. The City is the majority funder of Invest Ottawa and, through a multi-year agreement and annual operating plans, it will oversee Invest Ottawa’s execution of its mandate.”

While Invest Ottawa receives support from the City of Ottawa, the Corporation operates independently from the City and is not considered a “local board” of the City.

#### **H. Mohr’s Landing/Quyon Port Authority**

It is suggested that the Mohr’s Landing/Quyon Port Authority (“Port Authority”) does not fall under the category of “local board” under the *Municipal Act, 2001*. The Port Authority is a federally incorporated entity comprised of board members elected by both the City of Ottawa and the Municipality of Pontiac, in Quebec. The ferry service itself operates over a navigable waterway, between two different provinces. The property and business of the Port Authority is managed by the board of directors, which has a high degree of autonomy and decision-making authority. As such, it is an inter-provincial entity, which lacks a distinctly local/municipal character.

Furthermore, the operator of the ferry service receives all the user charges, as none are given to the municipalities. In addition, as of September 16, 1999, the Port Authority began to receive funding from the Government of Canada for a period of 20 years. The federal funding was obtained as a result of the divestiture of various ferry landings by the federal government, including Mohr’s Landing and Quyon Port.

Finally, there is no mention of whether a municipal by-law is required to dissolve the Port Authority. However, in the event of dissolution, all of the Port Authority’s remaining assets shall be distributed to the two municipalities in equal portions, and the Mohr’s Landing port facilities shall become the property of the City of Ottawa, while the Quyon port facilities shall become the property of the Municipality of Pontiac. For all of the above reasons, it is determined that this entity does not qualify as a local board under the *Municipal Act, 2001*.

#### **I. Osgoode Care Centre**

The Osgoode Care Centre (“OCC”) is a non-profit, charitable corporation, which essentially provides a local facility to accommodate elderly people requiring nursing home care. The OCC addresses community concerns to meet the needs of the aging population in the City of Ottawa. The entity therefore meets the test of “having a local or municipal character” required to be considered a local board under the *Municipal Act, 2001*.

Article 3 of the OCC by-law states that the OCC board of directors shall be composed of “one director who shall be an elected member of City of Ottawa Council”. Members are appointed to the board at the OCC’s annual meetings.

Given the other criteria required in order to fall under the category of “local board” under the *Act*, it would appear that the OCC does not qualify. The dissolution process for instance does not meet the requirement as set out in the *Municipal Act, 2001*. The OCC is not an entity that requires a City by-law in order to dissolve. Furthermore, the OCC by-law stipulates that the OCC board of directors may exercise all powers and may make any rules necessary for the management and operation of the OCC as required by the *Corporations Act* and consistent with the OCC by-law. There is no link to, or control by, the City of Ottawa. Further, the OCC was not created under provincial legislation or by-law, and is completely independent of the municipality in terms of operations and control of the OCC. In light of the above, the OCC does not qualify as a “local board” under the *Municipal Act, 2001*.

#### **J. Ottawa Tourism and Convention Authority, Inc.**

The Ottawa Tourism and Convention Authority, Inc. (“OTCA”) is a non-profit agency that assists the City in the delivery of the Economic Development Program as it relates to local tourism development in Ottawa. Essentially, the OTCA undertakes various initiatives in building the tourism industry in Ottawa as it develops promotional programs and services to attract tourism business to the City. While the OTCA does have a local/municipal character, it remains an independent entity that is not under the control of the City. As such, the OTCA does not qualify as a “local board” under the *Municipal Act, 2001*.

#### **K. Property Standards and License Appeals Committee**

On [December 8, 2010](#), Council established a License and Property Standards Committee through its approval of recommendations set out in the [2010-2014 Governance Review report](#).

Under the previous model, the City of Ottawa had a License Committee that reviewed cases relating to license suspensions, revocations, refusals and renewals brought forward by the Chief License Inspector, and made final and binding decisions respecting license suspensions and revocations as well as the imposition of conditions as a requirement for obtaining, continuing to hold or renewing a license.

The City also had a Property Standards Committee that conducted similar hearings for the purposes of considering appeals by property owners or occupants served with an order under the *Building Code Act* and who were not satisfied with the terms and conditions of the order.

The 2010-2014 Governance Review report recommended that the mandates of the two Committees be merged, and that a License and Property Standards Committee of five citizen members be established to hear cases with respect to both licensing and property standards appeals. The report provided that the Committee would be modeled after the Committee of Adjustment as a committee of qualified citizen members with specific rules of procedure tailored to the specific operation of the Committee.

The Property Standards and License Committee officially began its work in June 2012. On February 13, 2013, Council approved a recommendation in the [2010-2014 Mid-term Governance Review](#) to rename the Property Standards and License Committee as the Property Standards and License Appeals Committee, in recognition of its quasi-judicial nature.

The definition of “local board” within Subsection 1(1) of the *Municipal Act, 2001* includes any committee “established or exercising any power under any Act with respect to the affairs or purposes of one or more municipalities”. On this basis the City of Ottawa’s Property Standards and License Appeals Committee would appear to constitute a local board of the City. The Committee is a quasi-judicial tribunal appointed by City Council and is independent and autonomous from the City Administration, deriving its jurisdiction from the *Building Code Act, 1992*. Under Section 15.6 of the *Building Code Act, 1992*, “A by-law passed under section 15.1 [relating to property standards] shall provide for the establishment of a committee composed of such persons, not fewer than three, as the council considers advisable to hold office for such term and on such conditions as the by-law may establish.”

However, on August 28, 2017, a Divisional Court ruling found that the City of Hamilton’s Property Standards Committee [and Election Compliance Audit Committee] were **not** local boards under the *Municipal Act, 2001*. Specifically, the Court found that the

purpose of these entities, as defined in their respective enabling legislation and as established by Hamilton, is inconsistent with the City's authority to dissolve a local board and assume its functions. In both instances with the Hamilton committees, the Court determined that the Council could **not** dissolve those committees and take over the responsibilities of those entities. Accordingly, as the property standards mandate of this committee could **not** be dissolved and taken over by the City of Ottawa, the Property Standards and License Appeals Committee is considered **not** to be a local board of the City.